

## Governmental Immunity

### EMERGENCY VEHICLE OPERATOR DUTY OF CARE

[HB 20](#)

Rep. Brad Dee

This legislation is a response to the State’s supreme court decision in *Torrie v. Weber County*. This bill states that the operators of a “marked authorized emergency vehicle” do not have a duty of care to the driver of a car that is the suspect in a crime and fleeing. However, the operators of the emergency vehicle may be held liable if they had “actual intent to cause harm” to the fleeing driver “in an act that was unrelated to the legitimate object of the arrest.”

There is a duty to the passengers if the passengers can demonstrate, by a preponderance of the evidence, that the passenger was there involuntarily.

Again, emergency vehicle operators still have a duty to innocent passengers as well as the traveling public.

AMENDS: 41-6a-212.

### PUBLIC DUTY DOCTRINE AMENDMENTS

[SB 250](#)

Sen. Curtis Bramble

This bill adds a provision to UCA 63G-7-202 providing that:  
*“A general duty that a governmental entity owes to the public does not create a specific duty to an individual member of the public, unless there is a special relationship between the governmental entity and the individual member of the public.”*

This is a restatement of the common law public duty doctrine, probably added in response to the Utah Supreme Court ruling in *Francis v. State*, 2013 UT 43 (2013), a/k/a “the bear case”. The supreme court in *Francis* discussed the public duty doctrine and said virtually the same thing:

Under the public duty doctrine, the general duty that the government owes to the public does not give rise to a specific duty of care to individuals “unless there is some [special relationship] between the government agency and the individuals that makes it reasonable to impose a duty.” *Id.* at ¶ 25.

AMENDS: 63G-7-202.

### GOVERNMENTAL IMMUNITY ACT AMENDMENTS

This bill amends provisions relating to the timeliness of a “notice of claim” against a governmental entity. It allows a claimant who in good faith files a notice of claim with an incorrect governmental entity an additional 30 days beyond the normal statutory time limit to refile the claim with the correct entity. The claimant has the burden to demonstrate that:

- (1) the incorrect filing was made in good faith,
- (2) was within the required statutory time limit, and
- (3) was within 30 days of the expiration of the time for filing.

The claimant must provide a copy of the notice of claim which was incorrectly filed and proof of the date on which it was filed.

AMENDS: 63G-7-401.

### *Peace Officers*

## PEACE OFFICER CERTIFICATES

This bill clarifies that a peace officer certification becomes inactive if a peace officer has not been actively engaged in performing the duties as a certified and sworn peace officer for 18 consecutive months; AND

It provides that a peace officer certification be designated as lapsed if a peace officer has not been actively engaged in performing the duties as a certified and sworn peace officer for four continuous years.

AMENDS: 53-6-208 and 53-6-211.5.

## PEACE OFFICER MERIT AMENDMENTS

Enacts new chapter 30a of Title 17, the "Peace Officer Merit System in Counties of the First Class Act." As the name of the act states, the bill applies only to law enforcement agencies in Salt Lake County, it being the only county of the 1<sup>st</sup> class. The bill is fairly lengthy and enacts a bunch of new code sections. Other than the highlights drawn from the long title, I won't go into detail. The new statute appears to be very comprehensive.

Law enforcement officers in Salt Lake County who need to be up on current merit system provisions and their legal advisors had better read the bill carefully.

As near as I can tell, the bill makes no changes in the current Peace Officer Merit System

for law enforcement agencies outside of Salt Lake County.

As summarized in the long title, this bill:

1. enacts the Peace Officer Merit System in Counties of the First Class Act, including provisions relating to the following:
  - a. definitions and application;
  - b. merit system commission powers and duties;
  - c. merit officer conditions of employment;
  - d. disciplinary actions and appeals; and
  - e. the sheriff's authority to appoint more than one chief deputy, deputy chief, or undersheriff, and
2. makes technical and conforming amendments.

AMENDS: 17-22-2, 17-30-2, 17-33-1 and 53-13-105.

ENACTS: Chapter 30a of Title 17.

## **Sheriffs**

### **REPORTS ON ALTERNATIVE SENTENCING**

**HB 48**

**Rep. Susan Duckworth**

County Sheriffs are mandated to keep records of the release status and the type of release program or alternative incarceration program for any prisoner released because the jail has reached its maximum operating capacity. (See 17-22-5.5(2)(b)(ii).) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

- The bill requires that presentence investigation reports prepared by AP&P shall include:
  - the number of days since the commission of the offense that the offender has spent in the custody of the jail, and
  - the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

AMENDS: 17-22-5.5, 63M-7-303, and 77-18-1.

### **INVOLUNTARY FEEDING & HYDRATION OF INMATES AMENDMENTS**

**HB 50**

**Rep. Richard Greenwood**

This bill adds juveniles that are in a secure facility, or who have been committed to the

custody of the Division of Juvenile Justice Services, to the definition of a correctional facility found in Chapter 77-16b – which is the chapter that allows for a petition to seek and enforce involuntary feeding or hydration of a person in custody. So, this is involuntary feeding and hydration of children in custody who refuse to eat or drink.

AMENDS: 76-16b-102.

## **LAW ENFORCEMENT VOLUNTEERS**

[HB 304](#)

**Rep. Richard Greenwood**

This is an amendment to UCA 67-20-4, which has provided that no agency may accept the services of a volunteer unless approved by *both* the agency’s executive officer *and* the personnel office with jurisdiction over the agency. This amendment allows the sheriff alone to approve a volunteer to assist in a search and rescue operation.

AMENDS: 67-20-4.

## **LAW ENFORCEMENT EXEMPTION FOR MEDICAL INFORMATION**

[SB 198](#)

**Sen. Stuart Adams**

Sheriffs and jail commanders and their legal advisors will want to be aware of this bill.

### **17-22-8.1. Disclosure of detainee medical clearance.**

(1) A health care provider, as defined in Section 78B-3-403, who provides health care to a detainee before the detainee is booked into a county jail by a competent authority, is authorized to disclose to the competent authority whether a detainee is medically cleared for incarceration.

ENACTS: 17-22-8.1.

## **COUNTY JAIL CONTRACTING AMENDMENTS**

[SB 241](#)

**Sen. Scott Jenkins**

This legislation states that a county may release inmates from its jail—either probationers or persons on parole—if the state does not provide adequate funding to house those prisoners. The current law defines the adequate amount of funding as being the amount necessary to house the prisoners at 50% of the daily state incarceration rate. Essentially, the legislation says that a county may only be required to house inmates to the extent the Legislature appropriates funds to pay for their housing.

The legislation is the next step in a long term battle over the burden of caring for “state” inmates. Under current practice, jail management is left to the Sheriff who is authorized (sometimes required) to release inmates to address jail space issues. This legislation will enable a Sheriff, or jail commander to release inmates due also to lack of funding by the State.

AMENDS: 64-13e-104 and 64-13e-105.

### Local Regulations

## **ELECTRIC VEHICLE BATTERY CHARGING SERVICE**

[HB 19](#)

**Rep. Patrice M. Arent**

With the environmental push to go green, electric vehicles are gaining in popularity. State and local governments that encourage this go-green effort by offering battery charging services, might otherwise be subject to regulatory oversight by the Public Service Commission. This short bill amends Title 54, Public Utilities to provide that the definitions of "electrical corporation" and "public utility" *do not* include certain entities that sell electric vehicle battery charging services unless they are otherwise subject to regulation. Local governments offering this service to employees and others, should consider income and sales tax implications.

*54-2-1(7)(b) "Electrical corporation" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.*

*54-2-1(16)(j) "Public utility" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.*

AMENDS: 54-2-1.

## **LIMITATION ON LOCAL GOVERNMENT REGULATION OF ANIMALS**

[HB 97](#)

**Rep. Brian King**

The bill prohibits a municipality from adopting or enforcing any breed-specific ordinance or regulation regarding dogs.

AMENDS: 10-8-65.

ENACTS: 18-2-1.

EFFECTIVE DATE: January 1, 2015.

## **SERVICE ANIMALS**

[HB 217](#)

**Rep. Ryan Wilcox**

Counties and cities are required to increase their respective limits on the number of domestic animals that can be kept in order to accommodate "a service animal, a retired service

animal, or both.”

AMENDS: 10-8-65.

## **LOCAL GOVERNING BODY VOTING AMENDMENTS**

**[HB 262](#)**

**Rep. Kraig Powell**

This bill requires that a municipal legislative body pass all votes by a majority of all voting members on the legislative body, not a majority of a quorum present.

AMENDS: 10-3-507.

## **OFF-HIGHWAY VEHICLE AMENDMENTS**

**[HB 148](#)**

**Rep. Michael Noel**

This is a continuation in a multi-year series of bills that specifies off highway vehicles which, if they have the mandated safety features and instrumentation, may qualify as street legal and may be operated on most roads and highways in the state, except freeways and limited access highways.

(See the summary for [SB 154](#) for changes in cities’ authority to restrict ATV use on city streets and about special provisions for Salt Lake County and cities in Salt Lake County.)

This bill address use of “Full-sized all-terrain vehicles.” The bill:

- provides and amends definitions;
- provides that a full-sized all-terrain vehicle that meets certain requirements may be operated as a street-legal all-terrain-vehicle on streets and highways, unless the highway is an interstate freeway or a limited access highway; and
- specifies equipment requirements for a full-sized all-terrain vehicle to qualify as a street-legal all-terrain vehicle.

For the full list of off highway vehicles that may be made street legal, and the regulations that apply to such vehicles when driven on public highways and roads, go to the list of sections amended by this bill, particularly Parts 15 and 16 of Chapter 6a, Title 41.

§41-6a-1509(1)(b) allows counties of the 1<sup>st</sup> class (Salt Lake County), cities within counties of the 1<sup>st</sup> class and cities with a population of 7,500 or greater to regulate the use of street legal off highway vehicles on the streets of those jurisdictions.

AMENDS: 41-1a-205, 41-6a-102, 41-6a-1509, 41-6a-1629 and 41-22-2.

## **ALL-TERRAIN VEHICLE AMENDMENTS**

**[SB 154](#)**

**Sen. Scott Jenkins**

This bill removes from cities with a population of 7,500 or greater the authority to restrict

the use of street legal all-terrain vehicles on the streets and highways of the city. With this amendment, as near as I can tell, street legal ATVs may be used on any road, street or highway in the state, except limited access highways and interstate freeways, and there is nothing local government can do about it.

**SPECIAL RULES FOR SALT LAKE COUNTY:** The bill leaves in effect the provision that street legal ATVs may not be used on streets and highways in counties of the 1<sup>st</sup> Class (Salt Lake County), and in cities within counties of the 1<sup>st</sup> class, unless the county or city has specifically designated the street or highway for use by street legal ATVs.

AMENDS: 41-6a-102 and 41-6a-1509.

## **Federalism**

### **CONTINUING EDUCATION ON FEDERALISM**

**HB 120**

**Rep. Kent Ivory**

This bill requires that the Commission on Federalism create a course of education regarding constitutional federalism principles, with a curriculum established by the bill. Attendance is mandatory once every two years for an employee designated by local governments, state agencies, the attorney general's office and the Legislature's office of general counsel.

AMENDS: 63C-4a-303.

ENACTS: 63C-4a-306.

### **PEACE OFFICER AGREEMENTS WITH FEDERAL AGENCIES**

**HB 147**

**Rep. Richard Greenwood**

This bill provides a definition of a federal agency and a federal employee; specifies the terms under which a federal agency may enter into an agreement with a county sheriff to enforce federal laws and state and local laws; and requires specified training for federal employees in order for them to participate in the agreement. (See also HB 149 below.)

- For purposes of this bill, "Federal agency" means:
- the United States Bureau of Land Management;
  - the United States Forest Service;
  - the National Park Service;
  - the United States Fish and Wildlife Service;
  - the United States Bureau of Reclamation;
  - the United States Environmental Protection Agency; and
  - the United States Army Corps of Engineers.
- "Federal employee" means an employee of a federal agency.

**IMPORTANT NOTE:** Both this bill and HB 149 specifically exclude the following federal

law enforcement agents from the provisions of the bills:

- special agents of the Federal Bureau of Investigation;
- special agents of the United States Secret Service;
- special agents of the United States Department of Homeland Security, unless the employee is a customs inspector or detention removal officer;
- special agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;
- special agents of the United States Drug Enforcement Administration;
- United States marshals, deputy marshals, or special deputy United States marshals; or
- postal inspectors of the United States Postal Inspection Service.

The provides in newly amended 53-13-106(1)(d)(ii) that Federal agencies and federal employees may exercise law enforcement authority related to misdemeanor and felony offenses under Utah law only as established by an agreement as provided in Subsection (1)(d)(iii) and as provided in Section 53-13-106.9 or pursuant to Section 53-13-106.7.

53-13-106(1)(d)(iii) is amended to read, “Consistent with Section 53-13-106.9, county sheriffs may enter into agreements with federal agencies that allow concurrent authority to enforce federal laws and state and local laws, provided that:

(A) the agreement is limited to a term of not more than two years; and

(B) the officers granted authority under the agreement have completed a 20-hour training course that is focused on Utah criminal law and procedure and that is approved by the director of the Peace Officer Standards and Training Division.”

The subject matter of this bill is closely intertwined with HB 149 (see below) and the two bills should be read together. In fact, this bill includes a coordination clause that changes some of the bill’s language should both this and HB 149 pass. The above includes the language mandated by the coordination clause.

AMENDS: 53-13-106

## **AMENDMENTS TO FEDERAL LAW ENFORCEMENT**

**[HB 149](#)**

**Rep. Michael Noel**

Last year the legislature passed Rep. Noel’s HB 155, which purported to put extensive limitations on the authority of agents of certain federal land management agencies to exercise law enforcement authority within the state of Utah. The bill was immediately challenged in federal court by the United States Attorney’s Office. At the request of the US Attorney, the US District Court for Utah issued an order enjoining enforcement of the bill pending the resolution of the case. Before the legal action went any further, the legislature met in special session and repealed 2013’s HB 155.

This bill, in a somewhat kinder and gentler way, addresses many of the same issues that were the catalyst for the 2013 bill. It is yet to be seen whether the US Attorney feels this bill unlawfully treads on the prerogative of the federal government to exercise law enforcement authority in Utah. Stay tuned.

Here are the provisions of the bill as set out in the long title.

The bill:

- defines the exercise of law enforcement authority, including on state land, private land, and federal land;
- defines federal employee for the purposes of this bill (see \* below);
- defines proprietary jurisdiction of federally managed land;
- describes when state and local law enforcement officers may recognize a federal employee's exercise of law enforcement authority;
- describes the scope of law enforcement action as it relates to the federal Assimilative Crimes Act, and proprietary jurisdiction federally managed land;
- provides that state and local law enforcement officers may not recognize a federal employee's exercise of law enforcement authority when the exercise is based on a state or local law or ordinance;
- authorizes state and local law enforcement to assist a federal agency or employee under specified circumstances;
- addresses federal authority on federally managed land regarding violation of a state or local law in the case of an emergency;
- prohibits a federal agency's use of state or local law enforcement correctional or communication facilities without consent of the state or local law enforcement agency;
- provides procedures, requirements, and duration regarding entering into agreements with federal employees to exercise law enforcement powers regarding state and federal law;
- allows county sheriffs to enter into agreements with federal agencies requiring fair compensation for assisting the federal agency; and
- requires that county sheriffs regularly review the duties and activities of federal agencies that have law enforcement responsibilities and are acting within the jurisdictional area of a county.

Those who need or want to know the full details of the bill had better read it carefully. I'm certain the Sheriffs' Association will be educating its members with much greater particularity. County Attorneys in counties where there has been conflict between the sheriff and agents of the listed federal land management agencies (you know who you are), should also read the bill carefully.

\* The bill seeks to address the activities of employees of only the following federal agencies:

- the United States Bureau of Land Management;
- the United States Forest Service;
- the National Park Service;
- the United States Fish and Wildlife Service;
- the United States Bureau of Reclamation;
- the United States Environmental Protection Agency; and
- the United States Army Corps of Engineers.

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- special agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;
- special agents of the United States Drug Enforcement Administration;
- United States marshals, deputy marshals, or special deputy United States marshals; or
- postal inspectors of the United States Postal Inspection Service.

ENACTS: 53-13-106.1, 53-13-106.2, 53-13-106.3, 53-13-106.4, 53-13-106.6, 53-13-106.7, 53-13-106.8, 53-13-106.9 and 53-13-106.10.

## **PRIMARY LAW ENFORCEMENT DUTIES FOR SHERIFFS**

**HB 225**

**Rep. Paul Ray**

Short and sweet. The entire substantive portion of the bill reads:

**“17-22-31. Sheriff – Primary law enforcement authority.**

The sheriff is the primary law enforcement authority of state law on federal land except as otherwise assigned by law to the authority of a state or municipal law enforcement agency.”

ENACTS: 17-22-31.

### **Open Meetings**

## **PUBLIC MEETINGS AMENDMENTS**

**SB 113**

**Sen. Karen Mayne**

This bill amends the public meetings act by creating a new classification of public body. A “specified body” is a group that would not be otherwise defined as an OPMA public body but is an administrative, advisory, executive or legislative group consisting of 3 or more members and including at least one legislator appointed by the legislature or the governor. Such a body becomes subject to the OPMA. The bill also repealed an exception that treated a discussion of administrative or operational matters as exempt from the act.

AMENDS: 52-4-102 and 52-4-202.

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administrative or operational matters as exempt from the act.

AMENDS: 52-4-102 and 52-4-202.

## **Elections / Voting**

### **ELECTION LAW – INDEPENDENT EXPENDITURES**

**HB 39**

**Rep. Douglas Sagers**

This bill enacts a new subchapter in the election code which pertains to “independent expenditures,” defined as expenditures “expressly advocating the success or defeat of a clearly identified candidate or ballot proposition”. Expenditures are independent if they are not in any way coordinated with a candidate or a campaign manager, etc. Any entity making expenditures totaling \$1,000 or more during an election cycle\* must file a report within 30 days of the expenditures. The report must detail to whom and for what the expenditure was made, with names and addresses of any person or entity donating a total of \$1,000 or more to the filer of the Detailed records of expenditures, including invoices, must be maintained for two years. Violators are subject to a fine of \$100.

\*NOTE: The term “election cycle,” which is important to this new law, is not defined in the law nor apparently in any other provision of the code.

ENACTS: 20A-11-1701, 20A-11-1702, 20A-11-1703, 20A-11-1704, 20A-11-1705 and 20A-11-1706

### **COUNTY OFFICER ELECTION REVISIONS**

**HB 99**

**Rep. Jack Draxler**

This legislation provides authority for a county legislative body to pass an ordinance to define the election schedule for county offices when offices have been consolidated. The bill was offered to address a conflict created by legislation from 2011 that put county offices on staggered election schedules.

The legislation should not be needed beyond this year, but it does provide counties the opportunity to define election cycles for combined offices should that be necessary in future.

AMENDS: 17-16-6.

EFFECTIVE DATE: March 6, 2014, upon being signed by the Governor.

### **MUNICIPAL ELECTION AMENDMENTS**

**HB 272**

**Rep. John Knotwell**

This bill requires the city recorder or town clerk to be open 8 a.m. to 5 p.m. from June 1 through June 7 during the years in which people can file for municipal elected offices. The offices don't need to be open if it is a Saturday, Sunday, or state holiday.

AMENDS: 10-3-301 and 20A-9-203.

## **AMENDMENTS TO ELECTION LAWS**

**HB 282**

**Rep. Kraig Powell**

This bill makes changes in the qualifications of those who may be appointed to serve as counting judges, receiving judges, and poll workers in elections.

Receiving Judges:

For regular general elections, a "receiving judge" who is 16 or 17 years of age may be appointed, with the condition that two other registered voters serve in the same capacity, at least one of whom must be 21 years of age or older.

For regular primary elections and the Western States Presidential Primary, a receiving judge who is 16 or 17 year old may be appointed if at least one other registered voter 21 years or older is also appointed in the same capacity.

Counting Judges:

In regular general elections, "counting judges" must be registered voters.

For regular primary elections and the Western States Primary, a person may be appointed as a counting judge if he/she is 17 years of age and will be 18 by the date of the next regular general election, and provided at least one other appointee is a registered voter.

Poll Workers Generally:

No poll workers may be appointed in a precinct who are the parents, siblings, spouses, children or in-laws of any candidate whose name appears on the ballot in that precinct.

AMENDS: 20A-1-102, 20A-5-601 and 20A-5-602.

## **INCORPORATION ELECTION AMENDMENTS**

**HB 344**

**Rep. Jon Cox**

This bill amends the municipal incorporation election process to permit an incorporation election proposition to be on the ballot in both the November general and June primary election days and in both even and odd numbered years, at the discretion of the county legislative body, but no sooner than 65 days after the incorporation petition is certified. The bill deletes a provision in the election code that permitted a government entity to provide an unbiased and factual voter information pamphlet regarding an election proposition.

AMENDS: 10-2-111, 10-2-127, 20A-1-203, 20A-11-101 and 20A-11-1203.

## **TRANSPARENCY OF BALLOT PROPOSITIONS**

**HB 379**

**Rep. Ryan Wilcox**

This bill provides for submission and publication of arguments both for and against any ballot proposition. The governing body of a taxing entity must submit an argument (500 words or less) for the ballot proposition. Any eligible voter may submit an argument against the proposition. Each side is then provided an opportunity to submit a rebuttal (250 words or less). Once all arguments are submitted, they must be posted on the Statewide Electronic Voter Information Website at least 30 days prior to “the determination date.” Arguments must also be posted on the taxing entity’s website and in any newsletter or periodical the entity publishes.

The taxing entity must also hold a public meeting between four and fourteen days before the determination date. Equal time is required to allow arguments for and against the proposition. A recording of the meeting must be made available on the taxing entity’s website or provided to members of the public.

One touchy issue: If more than one eligible voter submits an argument against the proposition, the election officer must designate only one who is to provide the published submission.

AMENDS: 11-14-201.

ENACTS: 59-1-1601, 59-1-1602, 59-1-1603, 59-1-1604 and 59-1-1605.

## **ELECTION REQUIREMENTS AMENDMENTS**

**HB 408**

**Rep. Kay Christofferson**

Clarifies requirements for write-in ballots, mainly by specifying that a space for write-in candidates on ballots is only required in races in which a write-in candidate has qualified. Write-in candidates to be qualified must file a declaration of candidacy no later than 60 days before the general election.

AMENDS: 20A-6-101, 20A-6-102, 20A-6-301, 20A-6-402 and 20A-9-601.

## **LOCAL AND SPECIAL SERVICE DISTRICT ELECTIONS AMENDMENTS**

**HB 415**

**Rep. Steve Eliason**

This bill amends existing legislation to permit a local district board, or the administrative control board of a special service district that has elected members on the board, to hold elections in even-numbered years, with the approval of the lieutenant governor. The bill sets forth the application requirements and criteria for approval for a switch from odd-numbered to even-numbered year elections, as well as the procedure and requirements for switching back to odd-number year elections. Finally, the bill permits the lieutenant governor to increase a board member's term to adjust for a change in election year.

AMENDS: 17B-1-301, 17B-1-303, 17B-1-305, 17B-1-306, 17B-2a-404, 17D-1-106, 20A-1-102, 20A-1-201, 20A-1-202 and 20A-5-101.

## **ELECTION OFFENSE AMENDMENTS**

**SB 11**

**Sen. Margaret Dayton**

This bill enacts new Part 8 of Chapter 1, Title 20A, "Civil Action for Election Code Violation."

A number or terms used in the new part are defined.

The bill then provides that any registered voter may file a verified petition alleging a violation of any provision of Title 20A, if the registered voter a) has information relating to the alleged violation; and b) the allegation is against a candidate for whom the registered voter had the right to vote, a personal campaign committee of that candidate, or a member of a personal campaign committee of that candidate.

Regardless, it appears, of the office for which the candidate is running, or the level of government in which the election is being held, the registered voter shall file the verified petition with the:

- (a) the lieutenant governor, unless the verified petition alleges a violation by the governor, the lieutenant governor, or an employee of the lieutenant governor's office; or
- (b) the attorney general, if the petition alleges a violation by the governor, the lieutenant governor, or an employee of the lieutenant governor's office.

Upon receipt of the verified petition, the lieutenant governor (or another person in the event of a conflict) must review the petition to determine whether a special investigation is necessary. The bill sets out a number of factors to be considered by the reviewing official in determining whether a special investigation is necessary.

If the reviewing official determines that a special investigation is necessary, the matter shall be referred to the attorney general, who shall appoint special counsel. If the petition alleges misconduct by the attorney general, or if the reviewing official determines that the Attorney General has a conflict of interest, the reviewing official shall appoint a person who is not an employee of the Office of the Attorney General as special counsel.

The duties of any special counsel are describes, as well as the time deadlines within which the special counsel must issue a report. The act then provides a procedure whereby the reviewing official may authorize the special counsel to file a civil action.

If a civil action is filed and the court finds that the candidate, the candidate's personal campaign committee, or a member of the candidate's personal campaign committee committed a significant violation of any provision of the title, the judge shall enter an order:

- (i) declaring void the election of the candidate to that office;
- (ii) ousting and excluding the candidate from office; and

(iii) declaring the office vacant.

If the candidate against whom the complaint is made is a candidate for the legislature, the court shall forward its findings to the Lieutenant Governor, who shall forward the court's findings to the legislative house for which the candidate is running.

Appeals from the verdict of the court are done as in any other civil action.

The act provides for awards of costs and attorney fees to the prevailing party. It also provides for compensation of special counsel. The compensation is to be paid out of the state treasury.

The bill provides no criminal sanctions for violations of the act.

ENACTS: 20A-1-801, 20A-1-802, 20A-1-803, 20A-1-805 and 20A-1-806.

RENUMBERS AND AMENDS: 20A-1-804, 20A-1-807 and 20A-1-808.

REPEALS: 20A-1-703.

## CANDIDATE CERTIFICATION AMENDMENTS

[SB 25](#)

**Sen. Deidre Henderson**

This bill amends the Election Code's deadlines for certifying a candidate for a primary election. For calendar year 2014 only, the deadline for a registered political party to certify its candidates for a primary election is 5 p.m. on April 28, 2014. Similarly, the 2014 deadline for the lieutenant governor to certify to county clerks the candidates appearing on the primary ballot shall be 5 p.m. on April 29, 2014. The provisions of this bill automatically repeal on January 1, 2015.

AMENDS: 63I-2-220.

ENACTS: 20A-9-403.1.

EFFECTIVE DATE: February 13, 2014, upon being signed by the Governor.

## ELECTIONS AMENDMENTS

[SB 54](#)

**Sen. Curtis Bramble**

Sparking hot commentary, this bill represents a compromise in the ideological debate this session between the proponents of Count My Vote campaign and proponents of the Caucus system. This bill amends provisions of the Election Code relating to nomination of candidates, primary and general elections, and ballots. It makes important changes in how a person runs for office. Generally, it permits a member of a registered political party to seek the registered political party's nomination for any elective office by seeking the nomination through the registered political party's convention process, by seeking the nomination by collecting signatures, or both. For those planning to seek political office, this 58 page bill is a must read.

AMENDS: 20A-1-102, 20A-1-501, 20A-5-101, 20A-6-301, 20A-6-302, 20A-6-303, 20A-6-304, 20A-6-305, 20A-9-101, 20A-9-201, 20A-9-202, 20A-9-403 and 20A-9-701.  
ENACTS: 20A-1-103, 20A-9-405, 20A-9-406, 20A-9-407, 20A-9-408, 20A-9-409 and 20A-9-410.

EFFECTIVE DATE: January 1, 2015.

## **RESIDENCY AMENDMENTS**

**SB 90**

**Sen. Todd Weiler**

This bill amends the definitions of terms that relate to the determination of residency for voting and other purposes. It defines “principal place of residence” as the single location where a person's habitation is fixed and to which, when absent, the person intends to return; a “resident” is a person whose principal place of residence is within a specific Utah voting precinct. The bill also sets forth the factors an election official or judge shall use when determining a person's principal place of residence.

AMENDS: 20A-2-105.

## **POLL WORKER AMENDMENTS**

**SB 116**

**Sen. Margaret Dayton**

This bill provides for county legislative bodies to appoint poll workers and election judges in statewide special elections, countywide special elections and regular county elections.

First, the bill requires the county legislative body to appoint poll workers for statewide and countywide special elections in addition to general elections and primary elections. It then makes the existing requirements for appointing poll workers and receiving, counting and canvassing judges applicable to statewide and countywide special elections. These requirements include the party requirements for receiving and counting judges.

Second, the bill allows a county legislative body to appoint inspecting judges at statewide and countywide special elections in addition to their appointment at the regular general election.

Third, the bill defines a “regular county election” to be a local election, in addition to municipal, district, special and bond elections, and includes the county legislative body as an entity that is required to appoint poll workers and receiving judges for local elections. It restricts the county legislative body’s appointment of poll workers who are related to a candidate.

Finally, a county legislative body is also now included in the entities that may compensate poll workers.

AMENDS: 20A-1-102, 20A-5-601 and 20A-5-602.

## **ONLINE VOTER REGISTRATION REVISIONS**

**SB117**

**Sen. Margaret Dayton**

Previously, registering or requesting an absentee ballot online required an individual to have a driver license or identification card signature on file with the Driver's License Division. This bill now allows an individual to register to vote or request an absentee ballot if the individual has a signature on file in the lieutenant governor's statewide voter registration database as well.

The lieutenant governor may now send information to the voter's county clerk upon receiving:

- (1) all information from an applicant and either;
- (2a) receiving all information from the Driver's License Division; or
- (2b) ensuring that the applicant's signature is on file in the statewide voter registration database.

AMENDS: 20A-2-206.

## **VOTER REGISTRATION AMENDMENTS**

**SB135**

**Sen. Scott Jenkins**

While voter registration generally closes 30 days prior to an election, this bill provides for exceptions to this requirement for individuals who register in person at a county clerk's office, individuals who register electronically, and individuals whose registration is not timely filed by someone else.

The deadlines for persons qualified to vote who register in-person at the county clerk's office are as follows:

- after the 30-day deadline but at least 15 calendar days prior to the election the person may vote;
- between 14 calendar and 8 calendar days prior to the election the person may vote on election day;
  - but clerk must tell person no early voting;
- 7 or fewer calendar days prior to the election the person is registered to vote but may not vote in the pending election.

For those who register to vote in the lieutenant governor's electronic system, the deadlines are similar with one exception:

- between 14 calendar and 7 days prior to the election the person may vote on election day but no early voting;
- 6 or fewer calendar days prior to election the person is registered to vote but may not vote in pending election.

Electronic registration requires that the person have authorized use of the applicant's driver license or identification card signature for voter registration purposes or have a signature on file (see SB117).

This bill also requires a provisional ballot to be counted if an election officer receives the voter's registration at least one day prior to the election and the election officer determines that the registration form was completed at least 8 days prior to the election but the sole reason the

voter registration was late is that it was given to someone else to file.

AMENDS: 20A-2-102.5, 20A-2-201, 20A-2-206 and 20A-4-107.

## **INTERNET VOTING PILOT PROJECT AMENDMENTS**

[SB245](#)

**Sen. Curtis Bramble**

Previously 20A-6-103 allowed counties selected by the Department of Defense to allow some overseas voters—those serving in the military, Public Health Service, Merchant Marine, and National Oceanic and Atmospheric Administration, and their spouses—and some other similar voters who meet the state’s eligibility requirements, to register to vote and to vote electronically as part of the Federal Voting Assistance Program pilot project, regardless of other state requirements. The amendments to 20A-6-103 delete the reference to the Federal Voting Assistance Program and provide that any county may allow these same voters and voters who have a disability, as defined in 42 USC § 12102(1), to register to vote and to vote electronically.

AMENDS: 20A-6-103.

### **Initiative / Referendum**

## **INITIATIVE AND REFERENDUM PETITION AMENDMENTS**

[HB 192](#)

**Rep. Jon Stanard**

Petitions for initiatives or referendums must now contain language on the signature page that the signer has read and understands the law proposed or the law to be overturned.

AMENDS: 20A-7-203, 20A-7-303, 20A-7-503 and 20A-7-603.

## **LOCAL REFERENDUM REQUIREMENTS AMENDMENTS**

[HB 238](#)

**Rep. Kraig Powell**

This bill addresses a situation in which a county or city imposes a tax or payment obligation, but it does not affect the entire jurisdiction. This bill refers to the affected area as a “subjurisdiction.” Those subjurisdiction residents then have a proportionally reduced requirement in obtaining signatures for a referendum to challenge the legislation imposing the tax or payment in their subjurisdiction.

AMENDS: 20A-7-601.

## **INITIATIVE AND REFERENDUM IMPACT DISCLOSURE**

**HB 422**

**Rep. Brad Last**

This bill amends the initiative and referendum processes in local government by requiring the government to prepare both financial and legal impact statements. Both statements are prepared by the local government's budget and legal officers and must be unbiased and in good faith. The financial impact statement sets out the fiscal impact in increased or decreased taxes, change in status of bonds, sources of funding affected, and costs and savings that will result if the initiative or referendum is passed. The legal impact statement sets out the potential legal effects on vested property rights, other laws and ordinances, or potential increased legal liabilities. The impact statements must be prepared within 25 days after receiving notice of the proposition from the clerk.

AMENDS: 20A-7-101, 20A-7-502.5 and 20A-7-513.

ENACTS: 20A-7-602.5.

## **TAXATION RELATED REFERENDUM AMENDMENTS**

**SB 134**

**Sen. John Valentine**

This bill provides time periods for actions regarding a referendum petition for property tax increases, exempts property tax referendum petitions from the voter information pamphlet requirement, and addresses the tax rate if the referendum passes or fails. There were two primary issues the legislature was attempting to address with this bill. First, although the election code gives referendum sponsors 45 days from when the referred law is passed to gather petition signatures, much of that time is taken up by the government in preparing the referendum process. This bill addresses that by compressing the time the government has to complete its statutory duties and by giving the sponsors 40 days to gather signatures from the time the sponsors receive the referendum packets from the local clerk rather than from when the law was passed. The compressed time period includes only 10 working days for the county clerk to verify that each petition signer is a registered voter.

The second issue the legislature wanted to address is that because of truth-in-taxation time frames, a referendum on a property tax increase might not be heard until the next year's election, which means the referendum will not be voted on until a significant amount of the money has already been spent. The bill addresses this by requiring that a qualifying referendum must appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called. It should also be noted that these compressed time frames only apply if the fiscal year taxing entity is seeking to impose a tax rate that exceeds the certified tax rate. If the taxing entity is simply going to adopt the certified tax rate, these compressed time frames will not apply.

ENACTS: 20A-7-613.

## LOCAL ELECTIONS AMENDMENTS

[SB136](#)

**Sen. Howard Stephenson**

These amendments modify the deadline for delivering a signed and verified referendum packet for both local tax laws and other laws and the deadline for certifying the referendum signatures. The amendments also provide that a referendum challenging a local tax law, those that increase a tax or impose a new tax, may be but are not required to be conducted entirely by absentee ballot. Previously, the deadline for submitting referendum packets to the county clerk varied from 45 days to 100 days from the dates the law was passed. The new deadline for the submission of all referenda packets is 45 days, and the deadlines are shortened for the county clerk to check the names (down from 60 days to 15 days) and certify the names (down from 75 days to 30 days). The new deadline for a local clerk who receives a referendum packet from a county clerk to determine whether the number of certified signatures on a referendum packet is sufficient is 15 days after receipt.

Unlike referenda on other laws, which are decided at the next regular general election, municipal general election, or at a special election, the election date for a referendum challenging a local tax law may be conducted entirely by absentee ballot. If the referendum is conducted entirely by absentee ballot, the election date must be set within 30 days of the date the election referendum qualifies for the ballot. In addition, the election officer must obtain, in person, the signatures of each voter or each signature from the county clerk, compare the signatures obtained with the signature on each absentee ballot, and then determine the authenticity of the signature.

AMENDS: 20A-7-101, 20A-7-606, 20A-7-607, 20A-7-609 and 20A-7-609.5.

### **Land Use**

## EMINENT DOMAIN AMENDMENTS

[HB 25](#)

**Rep. Lee Perry**

Modifies the authority of the Office of the Property Rights Ombudsman and amends the notice provisions of the existing Eminent Domain Statute.

In 2006, the Office of the Property Rights Ombudsman was authorized by statute to prepare written advisory opinions concerning land use decisions or impact fees. This bill expands the Ombudsman's authority to include the preparation of written advisory opinions concerning whether a condemnor is occupying property for a public use without colorable legal or equitable authority. Once an advisory opinion concludes that a condemnor is illegally occupying private property, a party may obtain an award of attorney fees if an action is brought in district court and the court finds that the condemnor continued to occupy private property without payment of just compensation in disregard of the advisory opinion.

This bill specifies and expands form language that must be included in the written notice

sent to affected property owners. Although the language need not be exact (the statute only requires that the information be “in substantially the following form”), condemnors will probably want to copy the language from the statute into the written statement sent out to property owners. A condemnor is now prohibited from bringing legal action to acquire property until thirty days after the required notice has been provided to the property owner.

Finally, the bill deletes a few public uses for which eminent domain may be exercised because the uses are archaic or no longer necessary. Eminent domain can no longer be used to acquire property for the floating of logs and lumber on streams, for telegraph purposes (although the term “telecommunications” and the “transmission of broadcast signals from a station” licensed by the FCC has been added), or for pipelines conducting liquids connected with processing of sugar beets.

AMENDS: 10-8-2, 11-13-314, 13-43-204, 13-43-205, 13-43-206, 78B-6-501, 78B-6-505 and 78B-6-522.

## **SUBSTANCE ABUSE AMENDMENTS**

**HB 211**

**Rep. Michael Kennedy**

This legislation provides authority for the Division of Substance Abuse and Mental Health within the Department of Human Services to license businesses defined as “recovery residences.” The definition included in the legislation provides the authority over homes that are run as a business, provide supervised living, and provide therapeutic intervention either at the home or off-site. It also directs the Division to provide materials to the residences that outline effective treatment and intervention practices. Finally, it creates a committee within the Utah Substance Abuse Advisory Council to study issues relating to recovery residences.

This legislation arose out of long discussions on how local governments can exert some control over group living homes which house people in recovery from substance use. The bill is narrowly drafted and seeks to avoid any conflict with Federal fair housing law by focusing on group living situations that are in fact businesses. This legislation is a step toward some control of these businesses but it cannot be seen as any limitation on housing choices for recovering addicts. There is nothing here that challenges Fair Housing Act law and attorneys should try to ensure elected officials do not try to use the authority more broadly than allowed by the language of the legislation. AMENDS: 62A-2-101, 62A-2-108.2 and 62A-15-103.

REPEAL DATE: Uncodified Section 4 of the bill, which creates the Recovery Residences and Substance Abuse Treatment Committee, and Uncodified Section 5, Duties and Interim report, are repealed on November 30, 2014.

## **LAND USE AMENDMENT**

**HB 220**

**Rep. Gage Froerer**

In addition to clarifying that a legislative body can be the land use authority, this bill requires a substantive review of an application for which fees have been paid, and that is complete.

The most significant change is that before acting upon a petition to vacate, alter or amend a subdivision, notice must be sent to each affected entity that provides service to the portion of the subdivision to be vacated, altered, or amended. The notice must be made at least 10 calendar days before action can be taken on the petition. Finally, it clarifies that any such plat, when filed, will supersede and replace anything contrary in the prior filings.

AMENDS: 10-9a-103, 10-9a-509, 10-9a-608, 10-9a-609, 17-27a-103, 17-27a-508, 17-27a-608 and 17-27a-609.

### **RDA**

## **REDEVELOPMENT AGENCY MODIFICATIONS**

**SB 275**

**Sen. Curtis Bramble**

This bill repeals a provision that restricts the Utah State Department of Transportation from closing or prohibiting a public road or highway crossing by a railroad or street railroad located within the boundaries of an urban renewal area that includes some or all of an inactive industrial site unless the Department of Transportation obtained advance written consent from the agency that created the urban renewal area.

This bill does not appear to be material to redevelopment agencies, counties, or municipalities.

REPEALS: 17C-2-701.

### **Special Districts**

## **ASSESSMENT AREA AMENDMENTS**

**HB 102**

**Rep. Curt Webb**

VETOED

## **LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES**

**HB 382**

**Rep. Brad Dee**

This bill amends the process to appoint or elect improvement district trustees and allows a county legislative body to appoint up to 3 of its members as trustees under certain conditions. It also classifies a special service district as a political subdivision of the state.

AMENDS: 17B-2a-404 and 17D-1-10.

### **Rural Areas**

## **RURAL WASTE DISPOSAL**

**HB 13**

**Rep. Rhonda Rudd Menlove**

Adds a new section to the Solid and Hazardous Waste Act that allows individuals to bury nonhazardous solid waste on their own property. It allows for such burials only where:

- (a) the individual lives in an area where no public or duly licensed waste disposal service is available;
- (b) the individual owns the nonhazardous solid waste; and
- (c) the nonhazardous solid waste is generated on the individual's private property.

Additionally, the bill authorizes the Solid and Hazardous Waste Control Board to make rules to administer this section.

ENACTS: 19-6-124.

## **GRAZING AND TIMBER AGRICULTURAL COMMODITY ZONES IN UTAH**

**HB 158**

**Rep. Mike Noel**

Identifies parcels of public land in San Juan, Kane, Garfield, Wayne, Sevier, Emery, Sanpete, Piute, Iron and Beaver Counties and establishes those areas as agricultural or timber commodity zones, setting forth policy goals to manage those lands for the enhancement of their long established grazing and timber values.

AMENDS: 63J-8-102, 63J-8-105, 63J-8-105.5, 63J-8-105.7, 63J-8-105.8 and 63J-8-105.9.

REPEALS: 63J-8-105.6.

ENACTS: 63J-8-105.8 and 63J-8-105.9.

## **LOCAL FUNDING FOR RURAL HEALTH CARE AMENDMENTS**

**SB 176**

**Sen. Ralph Okerlund**

This legislation creates for counties of the fifth class the authority to use a portion of the county sales tax to fund specific health care functions. This authority is already provided to counties of the sixth class. The legislation also authorizes a percent of the local sales tax to be imposed and the collections from that tax to be used to fund a long term care facility owned by a special service district. Current law allows that tax to be imposed and to be used to fund a facility owned by the county. As a result, the impact of the legislation is narrow and does not create a new taxing authority or process. The bill is needed in some smaller counties to assist with some social costs that fall to the county government.

AMENDS: 26-9-4, 59-12-801, 59-12-802, 59-12-804 and 59-12-805.

REPEALS: 59-12-803.

## Taxes

### **PROPERTY TAX ASSESSMENT AMENDMENTS**

[HB 93](#)

**Rep. Brian Greene**

Requires a county assessor to consider whether a property has “diminished productive value” when assessing the fair market value of property for property tax purposes. The statute defines “diminished productive value” as meaning that the property has a significantly reduced ability to generate income because of a parcel size requirement established under a land use ordinance or zoning map or because of one or more easements burden the property. Regarding the requirement to consider the effect on value of an easement burdening a property, it is important to remember that although an easement often lowers the value of the servient property, the dominant property’s value is often increased because of the easement. Because easements are tangible taxable property, a county assessor should insure that the value of the easements is assessed.

ENACTS: 59-2-301.6.

### **EXTENSION OF SALES AND USE TAX EXEMPTION**

[HB 209](#)

**Rep. Ryan Wilcox**

This bill extends the sales and use tax exemption indefinitely for replacement parts used in the equipment of steel mills as found in Section 59-12-104(29). Local entities will lose \$92,000 in sales and use tax annually.

AMENDS: 59-12-104.

### **PROPERTY TAX RESIDENTIAL EXEMPTION AMENDMENTS**

[HB 273](#)

**Rep. Lowry Snow**

This bill allows part-year residential property to qualify for the residential exemption if it was acquired after January 1, of the tax year and the property is occupied as a primary residence for more than 183 days. **Taxpayers are still limited to one residential exemption per household.\*** To qualify for a part-year residential exemption, the owner must file an application no later than November 30 in the year the exemption applies. The board of equalization may charge a fee of \$50.00 if it is filed after May 1 in the year the exemption applies. The residential exemption should apply only in rare circumstances. It may apply where a taxpayer acquires property during the tax year that previously had not qualified for the primary exemption and uses that as his primary residence. In cases where a taxpayer is changing his primary residence from one property to another property in Utah, Assessors need to make sure that the former home, if retained as a second home, is no longer allowed an exemption.

\*Because of administrative reasons, a taxpayer who makes a change in his primary residence during the tax year may receive the residential exemption on two properties. However,

this should only occur in the year of change.

AMENDS: 17-41-101, 59-2-102, 59-2-103, 59-2-103.5, 59-2-804 and 59-7-302.

EFFECTIVE DATE: January 1, 2015.

## **REVISIONS TO PROPERTY TAX**

**SB 61**

**Sen. Deidre Henderson**

This is primarily a county and district bill. It eliminates the requirement to hold a Truth-in-Taxation public hearing in August for calendar year entities. Instead, taxing entities are required to announce a tax increase in a public meeting that is held 14 days before the date of a regularly scheduled general or municipal election, giving due notice on the agenda for such announcement. Taxing entities must also provide mailed notice of the tax increase and public hearing (allowed through the treasurer's tax notice); advertise the tax increase with large borders and font size (traditional truth-in-taxation style); and hold a public hearing in December. An exception to the general requirement is made for a county executive calendar year taxing entity. This bill also amends the timing for a public hearing held for the purpose of considering the imposition of a judgment levy. This bill provides revisor instructions.

AMENDS: 59-2-918.5, 59-2-919, 59-2-919.1 and 63I-2-259.

UTAH CODE SECTIONS

AFFECTED BY REVISOR INSTRUCTIONS: 59-2-919 and 59-2-919.1.

EFFECTIVE DATE: Except as provided BELOW, this bill takes effect on May 14, 2014.  
The actions affecting Section 59-2-918.5 take effect on January 1, 2015.

## **SALES AND USE TAX EXEMPTION MODIFICATIONS**

**SB 65**

**Sen. Howard Stephenson**

This bill amends the mining and manufacturing equipment sales exemption. The fiscal impact of the bill is \$104,000 per year to local entities. It is one small step forward in exempting all business inputs from sales and use tax. The significant change relates to mining operations. Machinery that moves dirt is now exempt from sales tax.

AMENDS: 59-12-102, 59-12-103 and 59-12-104.

EFFECTIVE DATE: July 1, 2014.

## **LOCAL OPTION SALES TAX AMENDMENTS**

**SB 188**

**Sen. Deidre Henderson**

This bill expands the use of local option sales and use taxes for airports, highways, and systems for public transit. Additional uses include class B and C roads, and traffic and pedestrian safety. It also provides that certain uses of a county, city, or town option sales and use tax for

airports, highways, and systems for public transit must first be recommended by a metropolitan planning organization or council of governments. This bill takes effect on July 1, 2014.

AMENDS: 59-12-2218.

EFFECTIVE DATE: July 1, 2014.

### **TAX, FEE, OR CHARGE OFFENSE AND PENALTY AMENDMENTS**

**SB 206**

**Sen. Curtis Bramble**

The bill clarifies the 3<sup>rd</sup> degree felony penalty language for failing to sign, file or otherwise do as required with a state tax return. Here is the amended language.

#### **76-8-1101. Criminal offenses and penalties relating to revenue and taxation – Rulemaking authority – Statute of limitations.**

- (1) (a) As provided in Section 59-1-401, criminal offenses and penalties are as provided in Subsections (1)(b) through (e).
- (c) (i) ~~Any person who, with intent to evade any tax, fee, or charge as defined in Section 59-1-401 or requirement of Title 59, Revenue and Taxation, or any lawful requirement of the State Tax Commission;~~ With respect to a tax, fee, or charge as defined in Section 59-1-401, any person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify any return within the time required by law or to supply any information within the time required by law, or who makes, renders, signs, or verifies any false or fraudulent return or statement, or who supplies any false or fraudulent information, is guilty of a third degree felony.
- (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(c)(i), the penalty may not:
- (A) be less than \$1,000; or
  - (B) exceed \$5,000.

AMENDS: 59-1-401 and 76-8-1101.

### **URBAN FARMING AMENDMENTS**

**SB 237**

**Sen. J. Stuart Adams**

In the 2012, the Legislature enacted the Urban Farming Assessment Act, patterned after Utah's Farmland Assessment Act which allows agricultural property (5 acres or more) to be valued for property tax purposes at a reduced rate based on its agricultural use, subject to a rollback tax should the status of the property change. The Urban Farming Assessment Act applies to parcels 2 acres or more in size. This bill modifies the Urban Farming Assessment Act to include certain counties of the second class and makes other technical changes.

AMENDS: 59-2-1702, 59-2-1703 and 59-2-1705.

## **MODIFICATIONS TO PROPERTY TAX**

[SB 244](#)

**Sen. Aaron Osmond**

Would you like to receive your tax notice by email? Done. Through the persistent efforts of many – starting late in the legislative session – and with thanks to Senator Osmond, you can now elect to receive an electronic copy. This bill addresses the contents of certain property tax notices and authorizes a county treasurer to provide certain property tax notices by electronic mail if a taxpayer elects to receive the property tax notice by electronic mail.

AMENDS: 59-2-327, 59-2-506, 59-2-913, 59-2-924.1, 59-2-1317, 59-2-1331 and 59-2-1705.

## **Counties**

### **SYSTEM OF CARE FOR MINORS IN STATE CUSTODY**

[HB 21](#)

**Rep. Dean Sanpei**

This legislation directs counties, through their mental health and substance abuse authorities, to cooperate with the state in the development and implementation of a “system of care” for children in the custody of the State and who are at risk for developing complex behavioral and emotional needs. The bill defines a “system of care” as, in part, providing a “broad flexible array of services.” The bill includes a limitation on that requirement, which provides some protection to counties. These services, and presumably the cooperation, must only be provided within appropriations from the legislature and available county funds.

The bill is intended to support a goal of bringing services together more coherently for children who are in care or under supervision of the state and, frequently, the court. At this point in time the language is a concept without specific requirements. It is important to keep in mind that the responsibilities for county providers are spelled out elsewhere in statute and that this does not expand those duties. Consequently, there was no additional costs estimated for this legislation. There may be actual expectations and costs developed over time as this concept takes shape.

AMENDS: 17-43-201, 17-43-301, 62A-1-104 and 62A-1-111.

## **COUNTY BUDGET AMENDMENTS**

[HB 339](#)

**Rep. Jennifer Seelig**

This bill permits a county to make donations to non-profit and to for-profit entities, upon meeting certain standards and following required procedures. To make a donation to a for-profit entity, a county must study the proposal; may consider tangible and intangible benefits related to the

health, safety and well-being of county residents; may establish the criteria to evaluate the proposal; shall determine the need for county participation; must prepare a written report; must publish the report and provide notice of a public hearing, including on the state website, to be held to consider the proposal; and finally, must make a decision, taking into consideration the report and the public response. The donation decision may be appealed to district court.

AMENDS: 17-50-303.

## **EMERGENCY FISCAL PROCEDURES FOR COUNTIES**

**SB 174**

**Sen. Deidra Henderson**

This bill amends the county fiscal procedures act to permit a county, in responding to a natural disaster or fiscal emergency, to promptly amend the budget in a time frame permitted by the open meetings act. The county is required to provide newspaper notice and conduct a public hearing on the changes as soon as possible after the fact and adopt a resolution retroactively approving the emergency budget changes.

AMENDS: 17-36-27.

## **INDIGENT COUNSEL IN JUVENILE COURT**

**SB 221**

**Sen. Todd Weiler**

As a result of a choice by the drafting attorney at Office of Legislative Research this bill appears to be broad new language because of the “repeal” and “reenact” language. In reality, the scope of the bill is quite narrow. The legislation defines who is entitled to have counsel in juvenile court proceedings, and who is entitled to have court-appointed counsel in those proceedings. Under current law, the scope to the right to counsel is defined broadly and includes both the minor, and any adult who is involved with the case as a parent, guardian or custodian. The legislation will change that so that a court may appoint counsel only to a parent or legal guardian who is deemed to be indigent under Utah law. The legislation further limits the right to have counsel appointed to only those cases which are initiated by or are directly related to actions by the state or a political subdivision.

Counties pay for the appointed indigent defense counsel for parents and minors in juvenile court proceedings and this legislation is intended to narrow the use of the lawyers to just those cases where a parent or child should be considered “entitled” to defense counsel.

The bill drafters tried to delve into a complex area of law and court process and make some small changes. Consequently, the language of the bill is substantially different from the current language although the effect should be minor. It will probably be challenged frequently in court proceedings and the section will need additional work to focus its effect. Nevertheless, the legislation should require very limited involvement by county counsel.

AMENDS: 78A-6-317.

REPEALS AND REENACTS: 78A-6-1111

**County Recorders**

**COUNTY RECORDER INDEX AMENDMENTS**

**HB 29**

**Rep. Curt Webb**

This legislation requires a county recorder to keep an index of water right numbers that are included in a recorded document and include the date and time of the recording of the right. The legislation does not require any such recording prior to May 13, 2014.

This legislation seeks to get a record of water rights not already maintained and to ensure that rights connected to property are recorded with the property. It is another step in the process of developing improved clarity around over-appropriation of water rights.

AMENDS: 17-21-6.

**CONDOMINIUM AND COMMUNITY ASSOCIATION  
LIEN AMENDMENTS**

**HB 115**

**Rep. Carol Spackman Moss**

Amends the information that must be included on a notice of lien submitted for recording. If a lien is based on an unpaid assessment or fine under the Condominium Ownership Act (Title 57, Chapter 8) or the Community Association Act (Title 57, Chapter 8a), the notice of lien must now include the amount of the unpaid assessment or fine. The notice of lien must now include (in addition to the name and address which was already required) the phone number of the lien claimant, or the lien claimant must provide the name, address, and phone number of the lien claimant's representative. This amendment clarifies that when a copy of the notice of lien is mailed to the person against whom it is filed, the notice of lien must include the date the notice of lien was "submitted for recording" and the article number on the certified mail receipt but that information is not required when the notice of lien is first recorded.

AMENDS: 38-12-102.

**WATER AND IRRIGATION AMENDMENTS**

**SB 17**

**Sen. Margaret Dayton**

While most of the changes are technical and stylistic, the significant change is that documents transferring ownership of water rights are to be filed in the applicable county recorder's office. Prior to this, they were to be filed with the State Engineer. This bill also clarifies the State Engineer's authority regarding streams and other waterways - permits must be obtained before any work is done within streams and other waterways. (This is separate from any permits required by the Corps.)

AMENDS: 73-2-25, 73-3-18, 73-3-26, 73-3-29 and 73-5-3.

## **UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT**

**SB 79**

**Sen. Lyle Hillyard**

Amends the authority of county recorders to include establishing procedures and guidelines governing electronic submission of documents for recording and requires that such procedures will be established by July 1, 2016 for first and second class counties, by July 1, 2017 for third and fourth class counties and by July 1, 2018 for fifth and sixth class counties.

Permits county recorders to charge a surcharge for electronically submitted documents in addition to any other recording fee that is calculated to recover the costs of complying with the Uniform Real Property Electronic Recording Act (“Uniform Act”) but does not exceed 10% of the cost before the surcharge.

Allows an electronic document to be recorded to satisfy any requirement at law that a recorded document be on paper. Documents can be recorded if they contain electronic signatures. Electronic signatures of notaries or witnesses are sufficient as long as they are accompanied by all other required information, and a physical or electronic stamp or seal is not required. Paper documents shall still be accepted for recording and may be converted into electronic form.

Creates the Utah Electronic Recording Commission consisting of six members, five of whom are appointed by the governor (four county recorders and someone nominated by the Utah Land Title Association) with the remaining member (who must be an “elected county commissioner”) selected by the first five. The purpose of the commission is to adopt standards for implementing electronic recording of documents, to keep the standards and practices of the county recorders in harmony with the standards and practices of other states that have also enacted this uniform law, and to keep the technology used for recording documents compatible with technology used by other states that have also enacted this uniform law.

AMENDS: 17-21-1, 17-21-18.5, 17-21-20 and 57-3-106.

ENACTS: 17-21a-101, 17-21a-102, 17-21a-201, 17-21a-202, 17-21a-203, 17-21a-301, 17-21a-302, 17-21a-401, 17-21a-402 and 17-21a-403.

EFFECTIVE DATE: Except as provided below, this bill takes effect on July 1, 2015.

Section 17-21a-302 takes effect on May 13, 2014.

### **Public Lands**

## **UTAH WILDERNESS ACT**

**HB 160**

**Rep. Steve Handy**

Provides a procedural framework for mapping, evaluating and proposing wilderness designations to the state legislature for the legislature's possible designations of wilderness in some of the public lands that may be transferred from the United States to the State of Utah.

ENACTS: 63L-7-101 through 63L-7-109.

## **INTERSTATE COMPACT ON TRANSFER OF PUBLIC LANDS**

[HB 164](#)

**Rep. Kevin Stratton**

Provides legislative authorization for Utah to enter into an interstate compact with other western public lands states regarding the transfer of public lands from federal to state control. Establishes the substantive interstate compact itself and provides for the administration thereof. Provides the compact shall take effect when 2 or more states enter into it and Congress votes to consent to the compact pursuant to the U.S. Constitution Art I, Section 10.

ENACTS: 63L-6-105.

## **FEDERAL LAND EXCHANGE AND SALE AMENDMENTS**

[HB 183](#)

**Rep. Mike Noel**

Sets forth the State's policy expectation that federal land management agencies shall act responsibly to expedite the exchange of federal land parcels of SITLA land parcels and move that process forward as expeditiously as possible.

AMENDS: 63J-8-104 and 63L-2-201.

## **STATE OF UTAH TRANSPORTATION PLAN FOR DIXIE NATIONAL FOREST**

[HB 412](#)

**Rep. Mike Noel**

Identifies long established network of roads in four of five ranger districts in Dixie National Forest in Iron, Kane, Garfield and Wayne Counties and declares them to be a State approved transportation network. Urges Dixie National Forest to recognize this transportation plan and conform its transportation plan to the State's.

ENACTS: 63J-8-105.9.

### ***Federal Lands***

## **POLITICAL SUBDIVISION JURISDICTIONAL AMENDMENT (FEDERAL LANDS)**

[HB 67](#)

**Rep. Marc Roberts**

Last year the legislature granted local governments the authority to address problems on federal lands that were creating an imminent danger for the local government. This bill expands the definition of federal lands by including national monuments and national recreation areas.

The bill also requires a county official, including a sheriff, to coordinate with the respective federal land management agency and the Utah Attorney General's Office before taking action on federal land to protect the health, safety and welfare of the county's citizens in the face of imminent

threat to such due to a condition on public lands.”

AMENDS: 11-51-102 and 11-51-103.

## **CONTINGENT MANAGEMENT FOR FEDERAL FACILITIES**

**HB 133**

**Rep. David Lifferth**

Authorizes the Governor, with Congressional approval, to work with the federal government to operate and maintain national parks, monuments, forests and recreation areas in Utah during a fiscal emergency. Statement of intent of the Legislature to appropriate funds to reimburse state governmental entities for money operating such federal areas.

AMENDS: 63G-6a-107, 63I-2-265, 65A-5-1 and 65A-5-2.

ENACTS: 79-4-1101, 79-4-1102 and 79-4-1103.

### **Personnel**

## **WORKFORCE SERVICES JOB LISTING AMENDMENTS**

**SB 22**

**Sen. Peter Knudsen**

This bill requires that local governments advertise job openings on a website operated by workforce services. State agencies are also required to do the same for job opportunities among state contractors.

AMENDS: 35A-1-102, 35A-2-203 and 63G-6a-402.

### **Finance**

## **STATE LABORATORY DRUG TESTING ACCOUNT AMENDMENTS**

**HB 291**

**Rep. Ronda Menlove**

This bill:

- increases the administrative fee for license reinstatement after an alcohol-related or drug-related offense from \$170 to \$230;
- increases by a little more than double the amount deposited into the State Laboratory Drug Testing Account from that increased alcohol-related DL reinstatement fee.

Maybe the Crime Lab and/or the Tox Lab will be able to hire another technician or two.

AMENDS: 53-3-105 and 53-3-106.

EFFECTIVE DATE: July 1, 2014.

## LOCAL GOVERNMENT INTERFUND LOANS

**HB 381**

**Rep. John Knotwell**

This bill impacts the fiscal operations of cities, counties and districts. Concern has been expressed by the State Auditor's Office over loans between government funds that are not paid back. This bill requires that certain interfund loan be in writing, and approved by ordinance or resolution in a public meeting. It places restrictions on the interest rates and the length of the loan. Importantly, the bill does not apply to interfund loans from the general fund to any other funds, nor does it apply to short-term advances from the entity's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

The bill coordinates with S.B. 18, Local Government General Fund Amendments, by providing technical amendments.

AMENDS: 10-5-120, 10-6-106, 10-6-132, 17-36-3, 17-36-30, 17B-1-601 and 17B-1-626.

ENACTS: 10-5-102.5.

UTAH CODE SECTIONS

AFFECTED BY COORDINATION CLAUSE: 10-5-102.5, 10-6-106 and 17-36-3.

## LOCAL GOVERNMENT GENERAL FUND AMENDMENTS

**SB 18**

**Sen. Daniel Thatcher**

This bill amends provisions related to a town, city, or county general fund. Prior to the amendments, the statutes referred to the "general fund" and there was some confusion as to whether to that referred to the state's general fund or the municipality's general fund. The bill amends the applicable statutes to clarify that the term refers to a town, city, or county general fund rather than to the state general fund.

The bill also clarifies the limitation that the accumulation of a fund balance in a town, city, or county's general fund may not exceed 75% of the total revenue of the general fund. In making this calculation, many municipalities were using estimates for the total revenue of the next fiscal period rather than the current fiscal period and then using those estimates to compare to the actual fund balances for the current fiscal year. This allowed a municipality to estimate high on the future revenues, providing a larger cushion to meet the 75% limitation. This bill clarifies that total revenue for purposes of the calculation is the current fiscal period and not the future fiscal period.

AMENDS:

10-1-302	10-6-116	17-27a-403	17-36-16
10-5-106	10-6-117	17-31-3	17-36-26
10-5-113	10-6-129	17-36-3	17-36-27
10-5-118	10-6-131	17-36-3	17-36-29
10-5-119	10-6-133	17-36-6	17-36-31
10-6-106	10-18-302	17-36-8	17-36-36
10-6-109	17-16-18	17-36-9	17-36-37

17-36-51

17-36-52

17-36-53

17-36-54

ENACTS: 10-5-102.5.

### **Underground Storage Tanks**

## **UNDERGROUND PETROLEUM STORAGE TANK AMENDMENTS**

**HB 138**

**Rep. Steve Eliason**

While this bill makes several technical changes and authorizes the liening of property to pay for cleanup costs, the important part for local governments is that a fund is created from which a loan can be obtained for upgrading your underground storage tanks.

AMENDS: 19-6-402, 19-6-404, 19-6-405.7, 19-6-408, 19-6-409, 19-6-410.5, 19-6-411, 19-6-414, 19-6-420, 19-8-119, 63B-1b-102 and 63B-1b-202.

EFFECTIVE DATE: Except as provided below, this bill takes effect on May 13, 2014.  
The amendments to Section 19-6-409 take effect on July 1, 2014.  
The amendments to Section 19-6-410.5 take effect on January 1, 2015.  
The amendments to Section 19-6-420 take effect on July 1, 2015.

### **GRAMA / State Web Site**

## **STATE DATA PORTAL AMENDMENTS**

**SB 70**

**Sen. Deidra Henderson**

This bill amends the duties and membership of the transparency advisory board to improve the information on the state website to better inform residents and to prioritize government information that would be valuable for public access. It provides that, by January 2016, the state website will be a point of access for GRAMA requests for persons seeking information from counties, cities and school districts – special and local districts are affected by 2017.

AMENDS: 63A-3-403 and 63A-3-404.

### **Vehicle Impound Storage Fees**

## **VEHICLE IMMOBILIZATION AND IMPOUND AMENDMENTS**

**HB 314**

**Rep. R. Curt Webb**

This bill provides that the owner of an impounded vehicle may not be charged a fee by an impound yard or by a county or municipal legislative body for the storage of an impounded vehicle, vessel, or outboard motor if:

- (1) it is being held as evidence; and

- (2) it is not being released to the registered owner, lien holder, or owner's agent even if the registered owner, lien holder, or the owner's agent has satisfied all the release requirements in Section 41-6a-1406(6).

This bill also provides that a vehicle immobilizer may not charge a fee for any period in which the vehicle has been towed and custody of the vehicle has been transferred to a vehicle impound yard.

AMENDS: 41-6a-1406, 41-6a-1409, 72-9-603 and 72-9-604.

### **Building Inspections**

#### **LOCAL GOVERNMENT INSPECTION AMENDMENTS**

**SB 184**

**Sen. J. Stuart Adams**

If a city or county collects an inspection fee, it must conduct that inspection within 3 business days or use the fees to hire an inspector to do so. If a town collects an inspection fee, the inspection must occur within a 'reasonable time.' This bill also disallows the rejection of a building permit unless you inform the applicant of the code provisions with which the application does not comply, and describe how it does not comply. Additionally, a certificate of occupancy cannot be withdrawn unless additional changes are made to the project that would require a building permit.

AMENDS: 10-5-132, 10-6-160, 15A-1-104 and 17-36-55.

### **Interlocal Agreements**

#### **INTERLOCAL ACT AMENDMENTS**

**HB 17**

**Rep. Johnny Anderson**

The bill amends provisions of the interlocal cooperation act regarding the creation of a new entity. An entity is governed by the state statutes that apply to the governments creating the new entity, requires an entity to adopt rules and regulations that conform to those statutes, and permits a choice between two or more governing laws, if those laws are binding on the creating entities and conflict with one another. If a new entity's meetings would be subject to the open meetings act, compliance with that act is mandatory. The IPP is exempt from the new provisions regarding adoption of rules.

AMENDS: 11-13-204, 11-13-223 and 11-13-315.

EFFECTIVE DATE: May 12, 2014.

## Procurement

### PROCUREMENT REVISIONS

[SB 179](#)

Sen. Scott Jenkins

This is a lengthy bill (153 pages when printed out). It makes a number of changes to the procurement code as follows:

- 11-39-107 is amended in regards to “design-build” contracts, with restrictions on such contracts loosened (Lines 294-298).
- 52-4-205 is amended to allow closed meetings in certain procurement proceedings (364-382).
- 63G-6a-103 is amended to add new definitions for “architect-engineer services” (1180), “conducting procurement unit” (1190), “issuing procurement unit” (1308), “request for statement of qualifications” (1369), “sole source contract” (1395), “sole source procurement” (1396), “solicitation” (1399), and “statement of qualifications” (1417). Also, “responsible” is redefined to include financial solvency (1378).
- 63G-6a-104 is amended to include a definition for “cooperative purchasing organization”, which is an alliance of purchasers who combine their purchasing power (1480).
- 63G-6a-106 is amended to liberalize the procurement authority of local entities (1574-1598).
- 63G-6a-403 is amended to include definitions for “closed-ended prequalification process” and “open-ended prequalification process” and allows such processes in regards to architects, engineers and other professionals (1795-1815). There is also new language on information that is to be considered in the prequalification process (1840-1863).
- 63G-6a-406 is amended, with changes in (1) the information that must be provided in a public notice in connection with a solicitation, and (2) the manner of providing notice (1932-2004).
- 63G-6a-408 is amended to include penalties for abuses of the “small purchase” provisions (2082-2091). This is really meant to replace current 63G-6a-2305, which is repealed by this bill.
- 63G-6a-704 is amended to include a provision on rejecting proposals deemed non-responsive or irresponsible (2313).
- 63G-6a-707 is amended to include provisions allowing an individual who is not a member of the evaluation committee to review the scoring of the evaluation committee for errors. There is also an emphasis on “responsive and responsible” proposals (2359-2374). Changes are made to the manner of selecting a general contractor for construction projects (2382). Also, deliberations of the evaluation committee may be closed (2393).
- 63G-6a-705 is renumbered as 707.5 and amended to allow the evaluation committee “at any time” during the evaluation process to request and evaluate best and final offers from responsible offerors (2414).
- 63G-6a-708 is amended to add new language on information to be included in the justification statement, with an emphasis on the proposal that provides the “best value” (2433-2443). The new language also allows, in some circumstances, waivers of evaluation criterion (2484-2493).
- 63G-6a-709 is amended and allows the head of the procurement unit some flexibility in determination of a contract award (2506).

- 63G-6a-709.5 is amended to require publication of the justification statement and cost-benefit analysis (2543).
- 63G-6a-802 is amended to allow “trial use contracts” (i.e., items for trial use or testing to determine whether they will be of value) to be awarded without competition (2571). Such contracts may generally not exceed 18 months (2601).
- 63G-6a-904 is amended to include new requirements a procurement officer must meet before a vendor can be debarred or suspended from bids (2659-2721) and to add new language on rights of appeal (2743-2755).
- 63G-6a-1202 is repealed and reenacted to encourage standard contract clauses.
- 63G-6a-1205 is amended to add “a contract based on a rate table in accordance with industry standards” as an acceptable contract type (2920).
- 63G-6a-1502, 1503 and 1505 are amended to include some clarification on procurement of architect-engineer services (3082-3137).
- 63G-6a-1602 is amended in regards to the filing of protests, including some changes as to the time for filing a protest (3139).
- 63G-6a-1603 is amended, with changes on procedures the protest officer is to follow. The discretion of the protest officer in deciding whether to hold a hearing is reduced in such matters. Provisions are also added to (1) allow the officer’s deliberations to be held in private, (2) increase the amounts of bonds or security deposits (see 63G-6a-1703, below) and (3) emailing of notice of the decision (3185-3278).
- 63G-6a-1702 is amended to add new requirements for a person appealing a decision of a protest officer and allowing the proceedings of the appeals panel to be held in private (3281-3380).
- 63G-6a-1703 is amended in regards to security deposits, which now range from a minimum of \$20,000 to a maximum \$10,200,000, depending on the matter under appeal and the size of contract at issue (3383-3476).
- 63G-6a-1706 is amended to mandate dismissal of an appeal which fails to meet certain requirements (3477).
- 63G-6a-1802 is amended to add new language regarding an appeal from a decision of a procurement appeals panel to the Utah Court of Appeals. Among other changes, a person may not base an appeal on a ground not specified in the proceeding from which the appeal is taken (3486-3529).
- 63G-6a-2103 is amended to specify that one procurement unit may purchase any procurement item from another procurement unit without using a standard procurement process (3648-3677).
- Part 23 of the current code titled “Unlawful Conduct and Penalties” is repealed. Part 24 with the same title is enacted by SB 179 (3767-399). Those interested in determining the specific differences between the old and new provisions should review both. It appears many are similar or identical. However, one change relates to the validity of contracts entered into in violation of these provisions. Current 63G-6a-2307 provides that a contract “is void and unenforceable” if it was awarded to a person who intentionally violated the provisions of the law. The new provisions in 63G-6a-2405 indicate that the governing body has discretion in such circumstances to declare a contract void and unenforceable (3953-3971)

AMENDS:

11-13-315	63B-9-103	63G-6a-406	63G-6a-709.5
11-39-103	63B-11-202	63G-6a-408	63G-6a-802
11-39-107	63F-1-205	63G-6a-603	63G-6a-904
52-4-205	63G-6a-102	63G-6a-606	63G-6a-1103
63B-2-102	63G-6a-103	63G-6a-607	63G-6a-1105
63B-3-102	63G-6a-104	63G-6a-609	63G-6a-1204
63B-4-102	63G-6a-106	63G-6a-611	63G-6a-1205
63B-5-102	63G-6a-107	63G-6a-612	63G-6a-1206
63B-6-102	63G-6a-108	63G-6a-702	63G-6a-1402
63B-6-402	63G-6a-204	63G-6a-703	63G-6a-1502
63B-7-102	63G-6a-303	63G-6a-704	63G-6a-1503
63B-7-402	63G-6a-402	63G-6a-707	63G-6a-1505
63B-8-102	63G-6a-403	63G-6a-708	63G-6a-1602
63B-8-402	63G-6a-404	63G-6a-709	63G-6a-1603

### *Salt Lake County Specials*

## PEACE OFFICER MERIT AMENDMENTS

[HB 433](#)

**Rep. Brad Dee**

Enacts new chapter 30a of Title 17, the "Peace Officer Merit System in Counties of the First Class Act." As the name of the act states, the bill applies only to law enforcement agencies in Salt Lake County, it being the only county of the 1<sup>st</sup> class. The bill is fairly lengthy and enacts a bunch of new code sections. Other than the highlights drawn from the long title, I won't go into detail. The new statute appears to be very comprehensive.

Law enforcement officers in Salt Lake County who need to be up on current merit system provisions and their legal advisors had better read the bill carefully.

As near as I can tell, the bill makes no changes in the current Peace Officer Merit System for law enforcement agencies outside of Salt Lake County.

As summarized in the long title, this bill:

- enacts the Peace Officer Merit System in Counties of the First Class Act, including provisions relating to the following:
  - definitions and application;
  - merit system commission powers and duties;
  - merit officer conditions of employment;
  - disciplinary actions and appeals; and
  - the sheriff's authority to appoint more than one chief deputy, deputy chief, or undersheriff, and
- makes technical and conforming amendments.

AMENDS: 17-22-2, 17-30-2, 17-33-1 and 53-13-105.

ENACTS: Chapter 30a of Title 17.

## POLITICAL SUBDIVISION REVISIONS

[SB 216](#)

Sen. Karen Mayne

This bill applies to a county of the first class and addresses the status of the county's unincorporated areas. It temporarily suspends annexation and incorporation until Nov 2015; requires that SLCo study unincorporated area services, funding, and governance by December 2014; adds animal services, storm drains, traffic engineering, business licensing and building permits to the list of municipal-type services requiring funding solely from the unincorporated area; establishes a new local district to provide municipal services in SLCo; and provides for funding those services.

AMENDS: 17-34-1, 17B-1-213, 17B-1-214, 17B-1-502, 63I-2-210 and 63I-2-217.

ENACTS: 10-2-130, 17-15-30, 17B-2a-1101 to 1109.

### Background Checks

## BACKGROUND CHECK AMENDMENTS

[SB 145](#)

Sen. Curtis Bramble

The Criminal Investigations and Technical Services Division may not disseminate criminal history record information to *qualifying entities* regarding employment background checks if the information is related to charges:

- (a) that have been declined for prosecution;
- (b) that have been dismissed; or
- (c) regarding which a person has been acquitted.

"Qualifying entity" means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:

- (a) national security interests;
- (b) care, custody, or control of children;
- (c) fiduciary trust over money;
- (d) health care to children or vulnerable adults; or
- (e) the provision of any of the following to a vulnerable adult:
  - (i) care;
  - (ii) protection;
  - (iii) food, shelter, or clothing;
  - (iv) assistance with the activities of daily living; or
  - (v) assistance with financial resource management.

AMENDS: 53-10-108.

### UCAN / 911 Committee

## UTAH COMMUNICATIONS AGENCY NETWORK

## AND UTAH 911 COMMITTEE AMENDMENTS

[HB 155](#)

**Rep. Brad Dee**

This bill reorganizes the state agencies responsible for the provision, administration and coordination of emergency radio and 911 services in Utah.

- It renames and organizationally relocates the communications agency network as the new Utah Communications Authority and makes changes in its duties and membership.
- It also creates the office of 911 program manager to provide staff and support to the Utah 911 Committee; that committee's duties and membership are modified.
- Lastly, the bill creates the following support entities: the radio network division, the office of statewide interoperability coordinator, and the computer-aided dispatch restricted account.

AMENDS: 26-8b-102, 59-1-403, 63A-4-205.5, 63E-1-102, 63G-2-305, 63I-1-269, 63I-4a-102, 63J-1-201, 63J-7-102, 69-2-2, 69-2-3, 69-2-4, 69-2-5 and 69-2-5.7.

ENACTS: 63H-7-301, 63H-7-308, 63H-7-309 and 63H-7-310.

EFFECTIVE DATE: Except as provided below, the bill takes effect on July 1, 2014.

Uncodified Section 46, Transition of Utah 911 Committee, takes effect on May 13, 2014.

### **Local District Boundary**

## LOCAL DISTRICT BOUNDARY ADJUSTMENTS

[HB 340](#)

**Rep. Jeremy Peterson**

This bill amends provisions regarding the process by which a local district and a municipality may adjust their mutual boundaries, including within the expansion area defined by the municipality's annexation plan.

AMENDS: 17B-1-503.

### **Temporary Homeless Youth**

## TEMPORARY HOMELESS YOUTH SHELTER AMENDMENTS

[HB 132](#)

**Rep. Gage Froerer**

This bill provides a legal mechanism for creating a temporary shelter for homeless persons under age 18. In order to achieve that goal, the law relating to reporting a minor as a "runaway" and the law relating to harboring a runaway had to be changed also. In order to provide the authority to shelter the minor, the legislation provides authority for a temporary homeless youth shelter to 1) notify a parent of the runaway status of a youth from the time the shelter learns the individual is a runaway (current law requires "prompt" notification), or 2) to refrain from notifying a parent if there is a court order issued to take the minor into custody. The legislation also provides authority to notify law enforcement that the minor is a runaway but does not require notification to a parent.

This legislation is important for the effort to provide shelter to homeless youth. It is important to public attorneys mainly because the shelter facilities will be operating under the provisions that allow, but do not require, the harboring of a runaway. This is a shift in current public policy that may lead to questions about when an individual must report or stop harboring a runaway against a parent's wishes.

AMENDS: 62A-4a-501.  
ENACTS: 62A-2-108.8

### *Animal Shelters*

#### **SHELTER ANIMAL VACCINE AMENDMENTS**

[SB 120](#)

**Sen. Scott Jenkins**

This bill exempts an employee of an animal shelter from the requirement to be licensed as a veterinarian for the purpose of administering a rabies vaccination to a shelter animal if the employee is under the indirect supervision of a veterinarian under contract with the animal shelter.

The bill also exempts an animal shelter operating under the indirect supervision of a veterinarian from the requirement to obtain a pharmacy license in order to handle, store, or administer a rabies vaccination or a drug used for animal euthanasia.

AMENDS: 58-17b-309 and 58-28-307.

### *Judgment Liens*

#### **JUDGMENT LIEN AMENDMENTS**

[HB 315](#)

**Rep. Curt Webb**

This bill requires a separate sheet be filed with a judgment lien that contains: (i) the correct name and last-known address of each judgment debtor and the address at which each judgment debtor received service of process; (ii) the name and address of the judgment creditor; (iii) the amount of the judgment as filed in the Registry of Judgments; (iv) if known, the judgment debtor's Social Security number, date of birth, and driver's license number if a natural person; and (v) whether or not a stay of enforcement has been ordered by the court and the date the stay expires.

**PRACTICE NOTE: It is strongly recommended that you review state and federal law before you record a document containing the debtor's social security number and driver's license number. It may be criminal violation, unless such numbers are properly redacted.**

AMENDS: 57-3-106, 78A-7-105, 78B-5-201 and 78B-5-202.

### *Utility Relocation*

#### **UTILITY RELOCATION ON HIGHWAY PROJECTS**

While this bill only affects projects by UDOT on state roadways, local entities need to be aware, as it may happen to us. This bill requires the State to reimburse utility companies for the relocation of their facilities during a road project even if the utilities are in the public's right-of-way. Make sure your franchise agreements are up to date.

AMENDS: 72-6-116.

**Retirement Amendments**

**PUBLIC SAFETY RETIREMENT CONVERSION WINDOW**

[HB 194](#)

Rep. Lee Perry

This bill modifies the Utah State Retirement and Insurance Benefit Act by creating a conversion window between the Public Safety Contributory Retirement System and the Public Safety Noncontributory Retirement System. The conversion window will be in effect from July 1, 2014, through December 31, 2014. While in effect, the window makes a person converting to the noncontributory system all of the rights, limitations, terms, and conditions of the Public Safety Noncontributory Retirement Act.

AMENDS: 49-15-204.

**RETIREMENT PARTICIPATION MODIFICATIONS**

[HB 426](#)

Rep. Don Ipson

This bill modifies Title 49—the Utah State Retirement and Insurance Benefit Act—to allow a “withdrawing entity” to withdrawal its future employees from the Utah retirement system or plan. Specifically, the bill provides that “a withdrawing entity . . . may elect to:

- (a) continue its participation for all current employees of the withdrawing entity, who are covered by a system or plan as of [a specified date that is no later than January 1, 2017]; and
- (b) withdraw from participation in all systems or plans for all persons initially entering employment with the withdrawing entity, beginning on the [specified date].”

- A “withdrawing entity” is defined narrowly to mean “an entity that:
- (a) participates in a system or plan under [Title 49] prior to July 1, 2014;
  - (b) provides mental health and substance abuse services for a county under Section 17-50-318;
  - (c) after beginning participation with a system or plan under [Title 49], has modified its federal tax status to a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code; and
  - (d) is not a state institution of higher education[.]”

It seems likely this narrow definition of “withdrawing entity” was used to allow a particular entity to withdraw from a Utah retirement system or plan going forward.

One other thing to note is that the bill states that “an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude new employees from participation in this system” is not eligible for service credit in the system. If we take the language of this provision literally, it appears that any employee of a withdrawing entity that has made the election to withdraw would not be eligible for service credit—not just new employees.

I don’t believe the legislature intended this result. I believe the legislature intended to say that new employees—not existing employees—of a withdrawing entity would not be eligible for service credit in the system after having made the election under this bill. Thus, the legislature should have worded this provision more carefully, such as “an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude new employees from participation in this system” is not eligible for service credit in the system “*if the employee was hired after the [specified date].*”

While this provision does not impact counties and municipalities, it could signal a trend and willingness to allow entities that participate in a Utah retirement system or plan to make an election to withdraw from the system or plan in the future.

ENACTS: 49-11-623.  
AMENDS: 49-12-203, 49-13-203 and 49-22-203.

## UTAH RETIREMENT AMENDMENTS

### [SB 28](#)

Sen. Todd Weiler

Makes numerous technical corrections to the Utah State Retirement and Benefits Act. Some of the highlights include:

- Timing deadlines for a beneficiary to claim monthly benefits
- Clarifies reporting provisions for participating employers regarding accrual of service credit.
- Limits service credit accrual during disability.

#### AMENDS:

49-11-102	49-13-102	49-15-401	49-19-201
49-11-201	49-13-201	49-15-501	49-19-401
49-11-403	49-13-202	49-15-504	49-21-102
49-11-505	49-13-203	49-16-201	49-22-201
49-11-603	49-13-204	49-16-401	49-22-203
49-11-610	49-13-401	49-16-504	49-22-204
49-12-201	49-13-402	49-17-401	49-22-304
49-12-202	49-14-201	49-17-402	49-23-201
49-12-203	49-14-501	49-17-502	49-23-303
49-12-204	49-14-504	49-18-401	49-23-503
49-12-401	49-15-201	49-18-402	67-19-43
49-12-402	49-15-202	49-18-502	

ENACTS: 49-21-408.

EFFECTIVE DATE: March 3, 2014, upon being signed by the Governor.