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Utah Legislative Update: January 2016

Insight — January 6, 2016

Utah's annual legislative session begins at the end of the month (January 25th) and will run for the next 45-calendar days. The session is what I like to call a marathon-sprint. The days during the legislative session are very long, starting before dawn and ending long after dusk. However, because all the bills and budgets have to complete the political process before midnight on the 45th day, it can often feel like you are sprinting to ensure bills finish before the deadline. A test of political endurance and speed!

Several of Utah's neighboring states will go into session about the same time, although the session length varies state to state. Holland & Hart has government affairs teams in place in each state in our footprint. We have a cross-disciplinary team that includes attorneys in several practice areas, as well as non-lawyer lobbyists who work full-time on political issues relevant to our clients' businesses (visit www.governmentaffairswest.com to see our entire team). We can assist any client with their government affairs needs on issues from tax to healthcare to energy policy, and more. Keep us in mind as another tool from our legal services toolbox you can offer clients in need of creative solutions.

The Utah Government Affairs team is providing a Pre-Session Update in our Salt Lake office for clients on Thursday, January 21st, at 8:00 am, for any clients interested in the hot political topics this year. This time of year, I'm often at the Capitol, so please feel free to reach me by email (kabradshaw@hollandhart.com) or mobile phone (801-599-9017) if you have a legislative issue for a client. If you have specific bills you would like me to monitor or lobby for clients, please let me know as soon as possible.

Budget: Where's the money and how to get some

Utah's state budget now totals about \$14.3 billion dollars. Budgets have recovered to pre-recession levels and the state has had surplus the past two years. However, due to the recession there are many delayed needs and some interesting dynamics at play on how and for what the surplus revenues can be spent.

Utah has essentially two budget accounts. The Education Fund (EF) is funded by income tax collections and is used exclusively for Public and Higher Education appropriations. The General Fund (GF) is funded by all other taxes, fees, or revenue other than income tax. The GF must cover every department and funding area outside of education. Inside each fund, revenues are divided into on-going revenues and one-time revenues. The state works hard to pair various funding needs with either the on-going or one-time monies, depending on the nature of the item being funded. The Utah Legislature prides itself on having as low a structural imbalance as

possible.

Utah uses revenue forecasting to craft and balance the state budget. Estimates are on the conservative side, but the forecast for the 2016 General Session marks the first time the state's economist completed a comprehensive review of the budget forecast using stress testing and trend analysis (lessons from the Great Recession). The forecast shows revenue growth of \$560 million, although \$53 million of that total (\$16 million GF and \$37 million EF) is associated with expansion in the business cycle and should be treated with caution when establishing long-term obligations.

The division of new monies available for appropriation breaks down as follows.

Education Fund	General Fund
+\$219 Million One-time	-\$39 million One-time
+\$313 Million On-going	+\$67 million On-going

Income tax collections continue to exceed expectations (which contributes to the growth in the EF), while oil and gas severance taxes have dropped, and sales tax collections are stagnant due to on-line purchases and conservative spending post-recession. What does this mean for clients seeking appropriations? Clients with appropriations requests in Public or Higher Education will find reasonable requests for educational hardware, software, programs, or supplies are entertained as new building requests are being kept to a minimum. Appropriations requests in the GF will find it a difficult session given the shift of funds that will be required to cover the lower-than-projected, one-time fund balance. In addition, known needs in the Medicaid and criminal justice budgets will likely consume the remaining GF on-going balances.

Stream Access: The once-in-a-generation issue that won't quit

In November, 4th District Judge Derek Pullan overturned the State's stream access law that was passed in 2010. The law passed in 2010, was a response to a 2008 Utah Supreme Court Case that had overturned earlier stream access laws. This is a complicated issue involving access to public waterways and private property rights. When the 2010 law was passed, it was the result of two legislative sessions of intense lobbying from property owners, anglers, and other recreationists. The Capitol rotunda was packed at times with fisherman in waders with fly rods.

The various camps of water experts are already rumored to be drafting legislative fixes to either solidify their court wins or to push the pendulum back in favor of the private property owner. Clients with concerns about the next iteration of stream access laws would be wise to engage in the policy process. Who knows? This might be the year a stream access law finally passes constitutional muster and determines stream access for a generation or more.

Kate's Favorite Wacky Bill for 2016 Legislative Session

Each year there are a handful of bills that remind me to keep a sense of humor about the political process and serve as a reminder that ANYTHING can be legislated. One year it was a SB 84 about which life vest needed to be worn in water skiing competitions (<http://le.utah.gov/~2012/bills/static/SB0084.html>). Last year it was SB 45 (<http://le.utah.gov/~2015/bills/static/SB0045.html>), which clarified that a crossbow was legal to use in an archery hunt.

Because there are still so many bills in protected status, my favorite wacky bill could evolve several times. But at this early date, it is likely HB 38 Unconventional Vehicle Amendments (<http://le.utah.gov/~2016/bills/static/HB0038.html>). It requires the operator of an autocycle (3-wheeled vehicle that is driven while seated and has a steering wheel) to wear a helmet if the operator is under the age of 18. I'm still trying to figure out what an autocycle is (Hint: it is NOT a 3-wheeled motorcycle) and why anyone would want to let a kid drive one with or without a helmet anyway. Rest assured, the Legislature will get to the bottom of autocycle safety by the end of the session!

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