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Utah Legislative Update: December 2016

Insight — 12/16/2016

Election Canvass and the Final Results:

Last month I included election results in my newsletter for state and local races. A few of the races were so close in the early hours of November 9, that I suspected they might be overturned once the final election canvass was completed. On November 28, the Lt. Governor reported on the final canvass and certified our election results. None of the final results changed outcomes in our State Senate, but the makeup of the State House did change. What at first looked like a four-seat pickup for the Democratic party was reduced to a one-seat pick-up.

One seat, House District 32 in the Draper/Sandy area went all the way to a recount. Challenger Suzanne Harrison (D) appeared to have defeated incumbent LaVar Christensen (R) by 235 votes in the wee hours post-election, but by the final canvass tally, Christensen held a 3-vote margin. Given the super-thin margin on this race, the Democratic party requested a recount of this race which ended the speculation by giving Christensen the final 5-vote margin of victory after the recount. The balance of power in the State Senate will continue to be 24 Republicans to 5 Democrats and the State House will shift by one, 62 Republicans to 13 Democrats.

Leadership Election Results:

Leadership elections for the State House and State Senate take place in the weeks following the General Elections. These are closed elections that occur inside the four caucuses by the newly elected legislators. In political circles, this is the election everyone is really interested in because of the power leadership holds over committee assignments and the floor process. The Speaker of the House and the President of the Senate set the committee assignments and assign the committee chairperson. The makeup of a particular committee can play a very important role in whether an issue advances beyond a bill hearing. Every Speaker or President has what is known unofficially as their “kill committee” where bills they don’t like are sent to die. Not to mention the Speaker and President hold a little known, but deadly if used, power to not read bills into the floor debate. In general, a bill will advance with a favorable vote from committee to floor debate and then switch chambers to repeat the process. However, if a bill is not “read in” as it transitions from committee to the floor, it is essentially lost in limbo until the Speaker or President decides to allow the bill to advance by reading it in. The speed and pace of action is also set by leadership. In Utah’s short session, this can make a huge difference to how many bills pass each year.

Utah didn’t experience any drastic changes in legislative leadership this

year as the Speaker, President, and both minority leaders were all re-elected to their posts. The Senate Republicans elected the exact same leadership team as the past two years, while the other caucuses had some minor shifts. The full leadership roster is below.

Senate Majority	Senate Minority	House Majority
President Wayne Niderhauser	Minority Leader Gene Davis	Speaker Greg Hughes
Majority Leader Ralph Okerlund	Minority Whip Karen Mayne	Majority Leader Brad Wilson
Majority Whip Stuart Adams	Minority Assistant Whip Luz Escamilla	Majority Whip Francis Gilman
Majority Assistant Whip Pete Knudsen	Minority Caucus Manager Jani Iwamoto	Majority Assistant Whip Knotwell

The 2017 Session is Just Around the Corner:

The start of Utah's annual 45-day legislative session is just six short weeks away. I will be engaged in a number of issues for clients and we will be offering a Session Preview for clients on January 12th (a firmwide invite will be coming out soon). At this point most bills are in protected status, which means only the legislator and select insiders know whether a bill exists. In a few weeks, public bills will begin to be numbered, but a bill can remain in protected status for weeks after the session has started until its first committee hearing. Some of the big issues framing the session will be:

- **Tight Budgets:** The state ended its July 1 fiscal year on budget, but projections for the 2017 fiscal year are either a \$125 million shortfall or a \$115 million surplus. Sales tax collections are moderate and severance tax collections continue to be extremely weak. This is a pretty wide spread and will lead legislators to spend very conservatively.
- **Medical Marijuana:** Two bills were considered last year with the more conservative option falling just short of passage. Various tweaks were considered over the interim and we expect one or more medical marijuana bills to be heard again this year.
- **Sales Tax Collections for Online Purchases:** The State continues to lose about \$200 million each year in sales tax that is owed but isn't collected by online retailers or paid as use tax by purchasers. A bill to force online retailers to collect and remit sales tax will be considered again this year.
- **Non-Compete Agreements:** One of the most controversial bills last year dealt with the use of non-compete agreements by employers. The bill that passed was significantly watered down from what was originally introduced, but it is expected that this issue could resurface and might be expanded to include non-solicitation agreements or be applied differently in certain economic sectors.

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