



Kate Bradshaw

Director of Government Affairs
801.799.5711
Salt Lake City
kabradshaw@hollandhart.com

Utah Legislative Update: September/October 2017

Insight — October 18, 2017

Fireworks:

Utah has a long firework season considering it is the second driest state in the nation. With Independence Day and Pioneer Day falling in close proximity to each other, Utahns have a lot of celebrating to do and much of it is done with fireworks. This year we had several fires caused by fireworks (some used legally and some illegally) and we were also the downwind recipients of a lot of smoke from wildfires burning in other states. Some of the out-of-state fires were attributed to fireworks as well. The incidents and impacts from the fires and smoke caused many to urge a review of Utah's fireworks laws, especially the discharge of aerial fireworks whose use has only been allowed in Utah since 2011. Aerial fireworks are the bigger, louder fireworks that shoot into the air and explode. In addition to posing a fire risk, they are often disconcerting and frightening to veterans suffering from PTSD and to pets.

Rep. Jim Dunnigan (R-Taylorsville) has been meeting with groups throughout the summer to examine these issues. The group has been discussing changes including:

- Dates and times of permissible discharge of fireworks;
- Providing a more substantial buffer zone between urban and wildland interfaces where fireworks will not be permitted;
- Addressing areas of high fire risk in the middle of an existing urban area;
- Increasing civil and criminal liability for illegally discharging or negligently using fireworks;
- Fees or taxes on fireworks to create a fire fund that could help local governments cover the costs associated with fires caused by fireworks; and
- Clarifying local authority to restrict or ban the discharge of fireworks.

While no draft legislation has been released publically, I think some of the items listed above are more likely than others to be included in a 2018 session bill. For instance, the narrowing of the time windows for fireworks discharge; giving local governments more ability to control urban/wildland interfaces; and giving local governments the ability to enact restrictions greater than state restrictions seem to have broadest support and appeal. Stay tuned for further updates during the 2018 Session that might impact your July holiday celebrations.

Transportation Governance Task Force:

From time to time, the Legislature authorizes special task forces to study an issue during the off-season. This year, transportation governance and funding was the topic of a Task Force study. The Transportation Governance Task Force has been meeting throughout the year and has spun off three subgroups to focus on: funding, governance structures, and a catch-all group for economic development, land use, rural issues, and active transportation issues. In early October, the subgroups reported their findings to the entire Task Force membership. The next phase will include a survey of members of the task force's responses to the subgroup proposals and voting on a final Task Force report at the end of October.

While each of the reports from the subgroups identified some easy, low hanging fruit-type solutions, many of the recommendations in the funding and governance structure reports are somewhat controversial. For instance, the suggestion to move governance of Utah Transit Authority (UTA) to state control; changes to restrict local land use authority; and the creation of new taxing district that would operate like a transit-RDA just to name a few. The Task Force membership includes local elected officials, a current UTA board member, business representatives, and legislators so the outcome of the survey results should be very interesting given the variety of interests and the sacred cows up for discussion. When the final report is adopted, we will provide a detailed analysis.

Is Now the Time for Tax Reform?:

In addition to transportation issues receiving extra attention, the Revenue & Taxation Interim Committee was authorized to hold extra hearings to study a variety of tax reform proposals before the 2018 session. Some of these tax reform ideas might overlap or cause turf battles with the Transportation Task Force's objectives to raise funds for transportation needs. The Revenue & Taxation Interim Committee hasn't yet adopted any committee bills, but has put forth a series of tax principles. Topics that have received hearings so far include: legislation to eliminate the "3-year life test" for sales tax on business inputs; legislation to move Utah to a single-sales factor formula for calculation of business income taxes; and discussion of the current bifurcated rate on the sales tax as it related to food vs. non-food items.

With several meetings still planned, the Revenue & Taxation Interim Committee is focused on ways to incentivize economic development, which often means lower rates or tax schemes that compare well with surrounding states. This focus does not necessarily align with the objectives of the Transportation Governance Task Force, which has identified transportation funding shortfalls, particularly those tied to state and local budgets that are derived from sales tax which would be further reduced by some tax reform proposals.

In addition, a ballot initiative effort is underway to increase both income and sales taxes and dedicate those funds to Public Education. Not to mention, legislators will be heading into an election cycle in 2018 and the prospects for complex tax reform always seem to dim around re-election time. However, for those hoping to see tax reform, there is some hope based on past experience. The 2007 tax reform efforts took 3 years to come to fruition, and this current effort is only at the 2-year mark. We will

provide an update when the committee wraps up its interim work and advise whether any committee bills will advance during the 2018 session.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.