

**February 28, 2018**

**Water-Related Bills – HB 135 (Noel); HB 136 (Noel); HB 124 (Coleman); HJR015 (Stratton)**

*Contact: Laura Briefer, Director, Salt Lake City Department of Public Utilities*

*Office Phone: 801.483.6741; Cell Phone: 801.541.0214*

A package of water-related bills have been introduced that are targeted toward the Wasatch Front, but could have unintended consequences across the state. These bills include HB 135 (Noel) on municipal extraterritorial jurisdiction over sources of drinking water; HB 136 (Noel) on federal designations; HB 124 (Coleman) on reporting for surplus water provision; and HJR015 (Stratton) proposing an amendment to the state constitution to allow municipalities to lease water to others outside municipal boundaries (leasing and divesting of municipal water rights is currently constitutionally prohibited).

**The House Natural Resources Committee did not pass HJR015 out of committee (<https://le.utah.gov/~2018/bills/static/HJR015.html>).** Instead, HJR015 will be studied during the interim to better define whether any compelling public interest problems exist in the state constitution, and if so, whether there are appropriate fixes to either state law or the state constitution. **The rest of these bills should also be similarly studied together during the interim.**

It should be noted that it appears these bills were packaged together, and appear to be championed primarily by special interests. Interim study would ensure vetting of problems and solutions in a larger and more inclusive process to reflect state-wide needs. The Utah League of Cities and Towns has listed HB 124 and HB 135 as priority bills to oppose - [http://www.ulct.org/wp-content/uploads/sites/4/2018/02/Priority-Bills\\_Updated\\_2.27.pdf](http://www.ulct.org/wp-content/uploads/sites/4/2018/02/Priority-Bills_Updated_2.27.pdf).

**HB 124 – Water Holdings Accountability and Transparency (Coleman) – Status as of Feb. 28 - House Floor: <https://le.utah.gov/~2018/bills/static/HB0124.html>**

- 1) HB 124 requires first class cities to post certain information related to water provided outside a municipality's corporate boundaries.
- 2) The problem to be resolved is unclear. Committee testimony indicates that the driving concern is that Salt Lake City could terminate water service to all of its water customers outside its municipal boundaries within the cities of Mill Creek, Cottonwood Heights, Holladay, and unincorporated Salt Lake County with 30 days' notice based on surplus contract language. This is not true. Salt Lake City's service area has included the east bench of Salt Lake County since the 1920's (almost 100 years). Salt Lake City does not have surplus contracts or revocable water agreements in place for any of its water customers within this service area. Long term water supply planning and water rights include and account for the entire service area, within and outside of Salt Lake City.
- 3) In keeping with the state constitution, Salt Lake City does have surplus, revocable water contracts outside of its service area with ski resorts, cabin owners, the Town of Alta, and the US Forest Service. These agreements have been in place for more than 40 years.
- 4) The State Engineer has testified that data regarding surplus water agreements is needed. Cities have all agreed that transparency and accountability related to water are important.
- 5) However, there are varied situations among all first class cities related to provision of water outside their municipal boundaries that should be evaluated in the interim to make sure changes to reporting requirements align with the reality of municipal water provision.

**HB 135 – Extraterritorial Jurisdiction (Noel) – Status as of Feb. 28 - House Floor: <https://le.utah.gov/~2018/bills/static/HB0135.html>**

- 1) HB135 significantly modifies a section of state code (10-8-15) that gives first class cities jurisdiction to protect their sources of culinary water from pollution when those municipal water sources are located outside a city's corporate boundaries. This jurisdiction is also referred to as extra-territorial jurisdiction.
- 2) HB 135 removes the jurisdiction of first class cities over the entire watershed, and reduces this jurisdiction to 300 feet on either side of the stream in which water is taken.
- 3) HB 135 would put drinking the water sources for more than 340,000 people in Salt Lake City's culinary water service area along the East Bench of Salt Lake County at risk for pollution.
- 4) HB 135 restricts local control. Limiting municipal authority to protect water from pollution to 300 feet on either side of the stream does not account for all of the identified pollution vulnerabilities. It takes just a few short hours for pollutants anywhere in the Big Cottonwood and Little Cottonwood watersheds to reach the City's treatment plants. This is due to the steepness and geology of these watersheds. Pollution vulnerabilities in these watersheds are also increasing due to multiple factors, including the fact that recreational visitation in the areas is rapidly increasing - the watersheds are visited by several million people each year.
- 5) Proponents of HB 135 have stated as part of their argument that Salt Lake City intends to regulate many watersheds outside of Salt Lake County, including in Utah County, Duchesne County, and Juab County. This is simply not true, and it is questionable whether the law as currently written would support this.
- 6) While water quality vulnerabilities are increasing in our watersheds, our population that relies on clean water is growing. For example, Salt Lake City will need to provide water for the new state correctional facility and significant growth planned in the City's Northwest Quadrant.

**HB 136 – Federal Designations (Noel) – Status as of Feb.28- Senate Floor:** <https://le.utah.gov/~2018/bills/static/HB0136.html>

- 1) HB136 requires government entities and persons employed by and representing government entities that advocate or lobby for a federal designation within the state to bring the proposal to the Natural Resources, Agriculture, and Environment interim committee for feedback.
- 2) The definition of "federal designation" is sweeping, and includes a national monument, national conservation area, national recreation area, research natural area, wilderness area/wilderness study area, and an "area of critical environmental concern."
- 3) HB 136 could impede, the local initiative to create the Central Wasatch National Conservation and Recreation Area (CWNCRA) Act, introduced by Congressman Jason Chaffetz in 2016, and up for possible reintroduction by Congresswoman Mia Love. Based on committee testimonies, it appears that HB136 is directly targeting the CWNCRA. The CWNCRA is a locally supported outcome of the Mountain Accord process – [www.mountainaccord.com](http://www.mountainaccord.com).