

Representative Bryan D. Holladay proposes to substitute the following bill:

ALLOWABLE USE OF COUNTY AND CITY RESOURCES

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: D. Chris Buttars

This act modifies provisions relating to the Utah Municipal Code and Counties to authorize city and county legislative bodies to allow services or other nonmonetary assistance to be provided to nonprofit entities. The act authorizes city and county legislative bodies to establish criteria for making a determination concerning certain appropriations of money or dispositions of property and establishes a presumption in favor of determinations using those criteria. The act also make technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

10-8-2, as last amended by Chapter 134, Laws of Utah 1993

17-50-302, as renumbered and amended by Chapter 133, Laws of Utah 2000

ENACTS:

17-53-228, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-8-2** is amended to read:

10-8-2. Appropriations -- Acquisition and disposal of property -- Providing services or other nonmonetary assistance -- Establishment of criteria for determining if an appropriation or disposition of property is corporate purpose -- Presumption.

(1) (a) A [~~board of commissioners or~~] city [~~council~~] legislative body may:

~~(a)~~ (i) appropriate money for corporate purposes only;

~~(b)~~ (ii) provide for payment of debts and expenses of the corporation;

~~(c)~~ (iii) purchase, receive, hold, sell, lease, convey, and dispose of real and personal



26 property for the benefit of the city, whether the property is within or without the city's corporate
27 boundaries; ~~and~~

28 ~~(d)~~ (iv) improve, protect, and do any other thing in relation to this property that an
29 individual could do[-]; and

30 (v) subject to Subsection (1)(b) and after first holding a public hearing, authorize city
31 services or other nonmonetary assistance to be provided to or waive fees required to be paid by a
32 nonprofit entity, whether or not the city receives consideration in return.

33 (b) The total of services or other nonmonetary assistance provided or fees waived under
34 Subsection (1)(a)(v) for any fiscal year may not exceed 1% of the city's budget for that fiscal year.

35 (2) It is considered a corporate purpose to appropriate money for any purpose that, in the
36 judgment of the ~~[board of commissioners or]~~ city ~~[council]~~ legislative body, provides for the
37 safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the
38 inhabitants of the city.

39 (3) (a) A city legislative body may establish criteria for determining whether an
40 appropriation of money is for a corporate purpose under Subsection (2) or whether a disposition
41 of property benefits the city under Subsection (1)(a)(iii).

42 (b) Criteria established under Subsection (3)(a) may allow a determination that a
43 disposition of public money or property is for a corporate purpose or benefits the city even though:

44 (i) the disposition is made without the city receiving in exchange a present benefit that
45 reflects the fair market value of what is disposed of;

46 (ii) the benefit received in exchange for the disposition extends over multiple years into
47 the future; or

48 (iii) some or all of the benefit received in exchange for the disposition is intangible in
49 nature.

50 (c) Each city legislative body's determination, applying criteria established under
51 Subsection (3)(a), that a disposition of public money or property is for a corporate purpose or
52 benefits the city shall be presumed to be valid unless the determination is established to be
53 arbitrary, capricious, or unreasonable at the time the determination was made.

54 Section 2. Section **17-50-302** is amended to read:

55 **17-50-302. General county powers.**

56 (1) A county may:

57 (a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and
58 collect special assessments for benefits conferred; and

59 (b) provide services, exercise powers, and perform functions that are reasonably related
60 to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by
61 statute.

62 (2) A county may:

63 (a) sue and be sued;

64 (b) acquire land, including at a tax sale, and hold it as necessary and proper for county
65 purposes;

66 (c) make such contracts and purchase and hold such personal property as may be necessary
67 to the exercise of its powers; and

68 (d) appropriate money and manage and dispose of its property as the interests of its
69 inhabitants may require.

70 Section 3. Section **17-53-228** is enacted to read:

71 **17-53-228. Authority to appropriate money and dispose of property -- Providing**
72 **services or other nonmonetary assistance to nonprofit entities -- Establishment of criteria for**
73 **determining if an appropriation or disposition of property is in the interests of county**
74 **inhabitants -- Presumption.**

75 (1) A county legislative body may appropriate money and dispose of county property as
76 the interests of county inhabitants may require.

77 (2) An appropriation of money or a disposition of property that, in the judgment of the
78 county legislative body, provides for the safety, health, prosperity, moral well-being, peace, order,
79 comfort, or convenience of county inhabitants is considered to be an appropriation or disposition
80 that is in the interests of county inhabitants.

81 (3) (a) Subject to Subsection (3)(b) and after first holding a public hearing, a county may
82 authorize county services or other nonmonetary assistance to be provided to or waive fees required
83 to be paid by a nonprofit entity, whether or not the county receives consideration in return.

84 (b) The total of services or other nonmonetary assistance provided or fees waived under
85 Subsection (3) for any fiscal period may not exceed 1% of the county's budget for that fiscal
86 period.

87 (4) (a) A county legislative body may establish criteria for determining whether an

88 appropriation of money or disposition of property is in the interests of county inhabitants under
89 Subsection (2).

90 (b) Criteria established under Subsection (4)(a) may allow a determination that a
91 disposition of public money or property is in the interests of county inhabitants even though:

92 (i) the disposition is made without the county receiving in exchange a present benefit that
93 reflects the fair market value of what is disposed of;

94 (ii) the benefit received in exchange for the disposition extends over multiple years into
95 the future; or

96 (iii) some or all of the benefit received in exchange for the disposition is intangible in
97 nature.

98 (c) Each county legislative body's determination, applying criteria established under
99 Subsection (4)(a), that a disposition of public money or property is in the interests of county
100 inhabitants shall be presumed to be valid unless the determination is established to be arbitrary,
101 capricious, or unreasonable at the time the determination was made.