

Central Wasatch Commission Funding Options

1. **Property Tax Levy**. Unlike a county, a municipality, or a special district, under UTAH CODE ANN. 11-13-204(1)(a)(iii) an interlocal entity cannot impose property taxes:

“An interlocal entity ... may not levy, assess, or collect ad valorem property taxes.”

2. **Fees for Services**. Under UTAH CODE ANN. 11-13-204(1)(a)(ii)(I), interlocal entities like the CWC may charge for its services, etc.:

“An interlocal entity ... may ... sell or contract for the sale of services, output, product, or other benefits provided by the interlocal entity to ... public agencies inside or outside the state ... and ... with respect to any excess services, output, product, or benefits, any person on terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity.”

The CWC’s power to charge fees or impose other revenue streams is limited, however, by Section VI(C)(5) of the May 30, 2017 “Central Wasatch Commission Interlocal Agreement” (the “ILA”), which provides:

“The Commission may not impose a fee or other revenue stream unless the fee or other revenue stream is approved by the legislative body of each Member.”

3. **Debt**. An interlocal entity may issue bonds or other debt instruments under UTAH CODE ANN. 11-13-204(1)(a)(ii)(G):

“An interlocal entity ... may ... borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides.”

According to Jason Burningham, the form of such debt instruments would be either (a) revenue bonds secured by a pledge of revenues, or fees derived under an interlocal agreement between the public agencies and the interlocal entity, or (b) lease bonds, secured by a capital facility or asset with annual lease payments from the public agencies to the interlocal entity.

The CWC’s power to issue debt instruments is affirmed in Section VI(B)(12) of the CWC ILA.

4. **Outside Funding**. The CWC may receive grants, gifts, and other types of voluntary funding from various sources under Section VI(B)(3) – (4) of the CWC ILA, which provides that the CWC is empowered:

“(3) To acquire, hold, utilize, spend, or dispose of its real or personal property, contributions, grants, and donations of real and personal property, funds, services, and other forms of assistance from persons, firms, corporation[s], and other private or governmental entities for projects or activities benefitting the [CWC’s] purposes and objectives.

(4) To act as an agency to receive and disburse federal and state grants, other grants, loans from Members, or funds from private organizations for all Board-approved planning and development programs and projects which are specifically intended to accomplish the [CWC’s] powers and objectives.”

The right of an interlocal entity like the CWC to receive voluntary funding from various sources is affirmed in various provisions of the Interlocal Cooperation Act, UTAH CODE ANN. Title 11, Chapter 13:

(a) *Federal and State Appropriations.* The power of the federal and state governments to make grants and to appropriate funds via legislative enactments to political subdivisions like the CWC is evident.

(b) *Funding from Related Governmental Entities.* Governmental entities may appropriate funds to an interlocal entity of which the donor is a “member:”

“A public agency entering into an agreement ... under which ... an interlocal entity is created may ... appropriate funds to the ... interlocal entity; ... sell, lease, give, or otherwise supply tangible and intangible property to the ... interlocal entity; and ... provide personnel or services for the ... interlocal entity as may be within its power to furnish.”
UTAH CODE ANN. 11-13-211.

(c) *Funding from Unrelated Governmental Entities.* Governmental entities also may share revenue with “unrelated” interlocal entities and other governmental bodies:

“A county, city, town, or other political subdivision may, at the discretion of the local governing body, share its tax and other revenues with other counties, cities, towns, or local political subdivisions, the state, or a federal government agency ... [pursuant to UTAH CODE ANN.] 11-13-202.5.”

(d) *Donations from Private Sources.* Like other governmental entities, an interlocal entity may receive voluntary, unrestricted donations from private, non-governmental sources, subject to applicable ethical considerations.