



Monday, March 07, 2016 4:20 PM ET Extra

Utah bill shifts funding for Oakland coal port; critics call it money 'laundering'

By Christopher Coats

A bill introduced in the final days of the Utah Legislature intended to move highway funds to a controversial port redevelopment project in Oakland, Calif., will shift the weight of a proposed loan package away from local communities and to the state.

Proposed by Republican majority whip, Sen. Stuart Adams, the bill places the responsibility for more than \$50 million in loans on the state, taking the place of four counties that were behind the original financial proposal.

The loan package was originally approved by the Utah Permanent Community Impact Fund Board, or CIB, in April 2015, clearing the way for \$53 million in local funds to be loaned to developers of a \$250 million shipping port project in Oakland. The project, should it be completed, will potentially open a new, international customer base for south central Utah coal.

However, the loans were soon challenged by a collection of environmental and community advocacy groups, who argued that the package violated state law, going so far as to send appeals to the Utah attorney general requesting a formal legal review of the proposal.

Dan Burton, spokesman for the attorney general, said he could not confirm the requests, but he said appeals from private organizations would not be considered as his office represents state entities rather than private groups.

Nic Dunn, spokesman for the Utah Department of Workforce Services and the CIB, said that the original applicant for the loan package has legal counsel of its own reviewing the loan package and a representative from the attorney general's office will be able to weigh in on the issue in the future should they choose to. However, for now, "no progress has been made" in completing that process.

Opponents say proposal amounts to money laundering

For state opponents of the legislation, the lack of clarity on the legality of the loan package has led to them to offer sharp criticism, including allegations that it amounts to money "laundering" and a financial "shell game."

"They're laundering the money," Earthjustice attorney Ted Zukoski said. "This legislation pops up at the last moment and they're laundering the money through the Transportation Department appropriations."

According to Zukoski and others, the use of highway funds would broaden the responsibility for the loan package, but change the legal status of the proposal.

"It's a shell game to make it look like the CIB has nothing to do with this money, but it does," Zukoski said.

Calling the proposal a "clear violation of Utah law," Tim Wagner, executive director of Utah Physicians for a Healthy Environment, suggested that the new legislation obscured where the money for the project would ultimately come from.

"It's still money coming from the CIB, but instead of the counties being on the hook for the money, the state will be," Wagner said.

Beyond the question of legality, critics have also focused on the waning global coal market as an argument for investing in a new export project.

"With China's coal consumption falling, and coal exports down more than 20%, this bill is a risky bet," Zukoski said. "Apparently, one of the few places it's legal to gamble in Utah is at the state legislature, where it's OK to raid taxpayers' wallets to wager on an industry in historic decline."


According to the U.S. Energy Information Administration, U.S. coal exports declined 23% in 2015, with the largest drops seen on the East Coast.

Adams did not respond to repeated requests for comment on the criticism. However, he did tell local media outlets that he was "dumbfounded" by opposition to the project, stating that critics are "narrow-sighted with blinders on if you can't see the value of what we are doing here." Adams and other supporters have suggested that the port may eventually be used to move a number of different Utah-produced products, creating a financial boon to the state.

For now, the legislation is enjoying support from Utah Gov. Gary Herbert, who told reporters last week that he expected the project to yield substantial revenues for the state. Herbert's office told S&P Global Market Intelligence that any expected revenue would come from broader economic growth rather than the loans themselves.


Legislative efforts in California seek to block the project

The project still faces significant resistance on the local and state level in California. While the Oakland City Council and the city's mayor, Libby Schaaf, have voiced strong opposition to the potential role of coal in the redevelopment project, state officials recently entered the

debate with proposed  legislation that would make it more challenging to win final approval.

In late February, state Sen. Loni Hancock, D-Oakland, introduced four bills aimed at limiting approval for the project, which could provide an avenue for shipping Utah-produced coal to the Asian market.

According to local news reports, the bills would "declare shipping coal through West Oakland a health and safety danger and prohibit shipment through the Oakland port; require extensive environmental reports for public agencies approving coal projects; prohibit public funds to build or operate coal-exporting ports located next to poor communities and require state-funded facilities to prohibit coal or participate in the state's cap-and-trade program."

Those state and local opponents have been bolstered by local  community and advocacy groups, including the Sierra Club, who have gone so far as to challenge the project in court, making an argument that it will eventually prove a threat to public safety and health.

The Utah legislative calendar for 2016 will conclude on March 10.

Copyright © 2016, SNL Financial LC
Usage of this product is governed by the License Agreement.

SNL Financial LC, One SNL Plaza, PO Box 2124, Charlottesville, Virginia 22902 USA, (434) 977-1600