

Effective 3/16/2021

**Chapter 14
Colorado River Authority of Utah Act**

**Part 1
General Provisions**

63M-14-101 Title.

This chapter is known as the "Colorado River Authority of Utah Act."

Enacted by Chapter 179, 2021 General Session

63M-14-102 Definitions.

As used in this chapter:

- (1) "Appointing authority" means an authority named in Section 63M-14-202 that appoints an authority member for a Colorado River authority area.
- (2) "Authority" means the Colorado River Authority of Utah created by Section 63M-14-201.
- (3) "Authority member" means a person appointed as a member of the authority under Section 63M-14-202 or designated as a member of the authority.
- (4) "Chair" means the chair of the authority.
- (5) "Colorado River Basin States" means Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming.
- (6) "Colorado River authority area" means the geographic area designated by Subsection 63M-14-202(2).
- (7) "Colorado River system" means the entire drainage of the Colorado River in Utah including both the main stem of the Colorado River and the Colorado River's tributaries.
- (8) "Law of the river" means the compacts, federal laws, treaties, court decisions and decrees, contracts, and regulatory guidelines that underlie and authorize the management and operation of the Colorado River.
- (9) "Restricted account" means the Colorado River Authority Restricted Account created in Section 63M-14-501.
- (10) "River commissioner" means the person appointed under Section 63M-14-301.

Enacted by Chapter 179, 2021 General Session

63M-14-103 Scope of chapter.

- (1) This chapter may not be interpreted to override, supersede, or modify any water right within the state, or the role and authority of the state engineer.
- (2) The Division of Water Resources shall coordinate with the authority and river commissioner in the implementation of this chapter.

Enacted by Chapter 179, 2021 General Session

**Part 2
Authority**

63M-14-201 Authority created.

There is created within the governor's office the Colorado River Authority of Utah.

Enacted by Chapter 179, 2021 General Session

63M-14-202 Organization of the authority -- Annual conflict of interest disclosure statement -- Penalties.

- (1) The authority is composed of seven authority members:
 - (a) five authority members who represent Colorado River authority areas;
 - (b) one authority member who represents the governor; and
 - (c) one authority member who represents tribal interests.
- (2) The five Colorado River authority areas, defined by existing county boundaries that reflect the historic and current use of the Colorado River system, include:
 - (a) the Central Utah Area composed of Salt Lake, Utah, Juab, Sanpete, Summit, Wasatch, Duchesne, and Uintah counties, located within the service area of the Central Utah Water Conservancy District;
 - (b) the Uintah Basin Area composed of Duchesne and Uintah counties, notwithstanding that these counties fall within the Central Utah Area, and Daggett county;
 - (c) the Price and San Rafael Area composed of Carbon and Emery counties;
 - (d) the Virgin River Area composed of Kane and Washington counties; and
 - (e) the State of Utah Area that represents:
 - (i) the remaining counties using the Colorado River system;
 - (ii) the Department of Natural Resources and the Department of Natural Resources' divisions; and
 - (iii) the users of the Colorado River system that are not specifically included in the other four Colorado River authority areas and include Garfield, Grand, San Juan, and Wayne counties.
- (3) The members of the authority are:
 - (a) four members appointed as follows:
 - (i) a representative of the Central Utah Area appointed by the board of trustees of the Central Utah Water Conservancy District;
 - (ii) a representative of the Uintah Basin Area appointed jointly by the boards of trustees of the Duchesne County and Uintah Water Conservancy Districts;
 - (iii) a representative of the Price and San Rafael Area appointed jointly by the county commission of Carbon County and the board of trustees of the Emery Water Conservancy District; and
 - (iv) a representative of the Virgin River Area appointed by the board of trustees of the Washington County Water Conservancy District;
 - (b) the director of the Division of Water Resources as the representative of the State of Utah Area created in Subsection (2)(e);
 - (c) the executive director of the Department of Natural Resources as the representative of the governor; and
 - (d) a representative of tribal interests who is:
 - (i) appointed by the governor; and
 - (ii) a member of a federally recognized Indian tribe if the tribe is, in whole or in part, located within the state and within the Colorado River system.
- (4) A joint appointment required under Subsection (3) requires the agreement of both appointing authorities before the authority member seat is filled.
- (5) An authority member who is appointed under Subsection (3) shall:

- (a) be a resident of the state; and
 - (b) have experience and a general knowledge of:
 - (i) Colorado River issues and the use of the Colorado River system in the member's respective Colorado River authority area;
 - (ii) the development of the use of the waters of the Colorado River system; and
 - (iii) the rights of this state concerning the resources and benefits of the Colorado River system.
- (6)
- (a) An appointing authority shall notify the chair of:
 - (i) the appointing authority's initial appointment to the authority; and
 - (ii) the appointment of a new member or when a vacancy is being filled.
 - (b) An appointment of an authority member is effective when received by the chair.
 - (c) The initial term of an appointed authority member expires June 30, 2027. Before June 30, 2027, the authority shall adopt a system to stagger the terms of appointed authority members beginning July 1, 2027, and notify each appointing authority of the duration of the term of the appointing authority's authority member. The staggering of terms after July 1, 2027, shall result in approximately one-third of the appointed authority members' terms expiring every two years. After the respective terms of adjustment are complete, subsequent authority members shall be appointed by an appointing authority for six-year terms.
 - (d) An authority member term shall end on June 30. New terms commence on July 1.
 - (e) An authority member whose term has expired shall serve until replaced or reappointed by the applicable appointing authority.
 - (f) An appointing authority may at any time remove the appointing authority's authority member for neglect of duty or malfeasance in office. If the authority member is jointly appointed, the authority member may only be removed by joint agreement of both appointing authorities.
- (7) In the event of a vacancy in the authority, the chair shall notify the appointing authority of the vacancy and ask that an authority member be promptly appointed.
- (8)
- (a) An authority member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Department of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
 - (b) If an authority member is a full-time employee with either the state or a water conservancy district, the authority member is not eligible for the per diem compensation.
- (9) The executive director appointed under Section 63M-14-401 shall provide staff services to the authority.
- (10) An authority member shall, no sooner than January 1 and no later than January 31 of each year during which the authority member holds office on the authority:
- (a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and
 - (b) submit the written disclosure statement to the administrator or clerk of the authority.
- (11)
- (a) No later than 10 business days after the date on which the authority member submits the written disclosure statement described in Subsection (10) to the administrator or clerk of the authority, the administrator or clerk shall:
 - (i) post a copy of the written disclosure statement on the authority's website; and
 - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (11)(a)(i).

- (b) The administrator or clerk shall ensure that the authority member's written disclosure statement remains posted on the authority's website until the authority member leaves office.
- (12) The administrator or clerk of the authority shall take the action described in Subsection (13) if:
 - (a) an authority member fails to timely file the written disclosure statement described in Subsection (10); or
 - (b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).
- (13) If a circumstance described in Subsection (12) occurs, the administrator or clerk of the authority shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the authority member of the violation and direct the authority member to submit an amended written disclosure statement correcting the problem.
- (14)
 - (a) It is unlawful for an authority member to fail to submit or amend a written disclosure statement within seven days after the day on which the authority member receives the notice described in Subsection (13).
 - (b) An authority member who violates Subsection (14)(a) is guilty of a class B misdemeanor.
 - (c) The administrator or clerk of the authority shall report a violation of Subsection (14)(a) to the attorney general.
 - (d) In addition to the criminal penalty described in Subsection (14)(b), the administrator or clerk of the authority shall impose a civil fine of \$100 against an authority member who violates Subsection (14)(a).
- (15) The administrator or clerk of the authority shall deposit a fine collected under this section into the authority's account to pay for the costs of administering this section.

Amended by Chapter 443, 2024 General Session

63M-14-203 Authority operation -- Participation of the Department of Natural Resources -- Consultation with tribes.

- (1) An authority member has one vote on authority matters.
- (2)
 - (a) Four members of the authority constitute a quorum to conduct authority business.
 - (b) A vote of four members is needed to pass authority business.
- (3)
 - (a)
 - (i) The river commissioner appointed by the governor before March 16, 2021, shall serve as the chair of the authority until June 30, 2027, if the river commissioner is a member of the authority.
 - (ii) Beginning on July 1, 2027, the river commissioner shall be appointed under Section 63M-14-301 and shall serve as chair of the authority for a term of six years in accordance with Section 63M-14-302.
 - (b) The authority may elect other officers such as vice chair, secretary, and treasurer.
 - (c) The chair, vice chair, secretary, and treasurer are required to be authority members.
 - (d) Other officers of the authority are not required to be authority members. The authority shall adopt, by resolution, job responsibilities and terms of offices for the officers appointed under this Subsection (3)(d).
 - (e) If an authority officer no longer serves as an officer of the authority, the authority shall fill the vacancy for the unexpired term of the officer who is no longer serving.
- (4)

- (a) The Department of Natural Resources shall cooperate with the authority.
- (b) At the request of the authority, the executive director of the Department of Natural Resources shall:
 - (i) provide to the authority data or information collected by the Department of Natural Resources; and
 - (ii) ensure that the Department of Natural Resources present information to the authority.
- (5) The authority shall seek an appropriate government-to-government relationship on matters directly related to the authority's general powers and mission as set forth in Section 63M-14-204 with all federally recognized Indian tribes located, in whole or in part, within the state and within the Colorado River system.

Amended by Chapter 98, 2022 General Session

63M-14-204 Authority's general powers and mission -- Management plan.

- (1) The authority may advise, support, gather information, and provide input to the river commissioner.
- (2) The mission of the authority is to protect, conserve, use, and develop Utah's waters of the Colorado River system.
- (3) The authority may develop a management plan to ensure that Utah can protect and develop the Colorado River system and to work to ensure that Utah can live within the state's apportionment of the Colorado River system.

Enacted by Chapter 179, 2021 General Session

63M-14-205 Records.

- (1) The records of the authority and the river commissioner shall be maintained by the authority.
- (2) The authority may classify a record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, including a record described in Subsection 63G-2-305(81).

Amended by Chapter 135, 2024 General Session

63M-14-207 Reports.

- (1) The authority shall prepare an annual report of the authority's and river commissioner's activities and submit the report to the following:
 - (a) the governor; and
 - (b) the Legislative Management Committee.
- (2) The authority shall respond to and participate in meetings as requested by a legislative committee or by the governor.

Enacted by Chapter 179, 2021 General Session

63M-14-208 Authority meetings.

The authority shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding meetings.

Enacted by Chapter 179, 2021 General Session

63M-14-209 Advisory councils authorized -- Consultations.

- (1)
 - (a) The authority may create authorized advisory councils of interested persons for consultations with the authority.
 - (b) The authority shall by resolution adopt policies governing:
 - (i) authorized advisory councils;
 - (ii) authorized advisory council members;
 - (iii) authorized advisory council leadership; and
 - (iv) authorized topic areas of interest for each authorized advisory council that directly relate to the mission and objectives of the authority.
 - (c) The authority may consult with authorized advisory councils and consider data, information, and input from these authorized advisory councils relevant to the mission and objectives of the authority.
- (2) The authority may consult with relevant watershed councils created under Title 73, Chapter 10g, Part 3, Watershed Councils Act.

Amended by Chapter 98, 2022 General Session

63M-14-210 Application of state laws.

- (1)
 - (a) The authority is not an executive branch procurement unit under Title 63G, Chapter 6a, Utah Procurement Code, and is not subject to that chapter.
 - (b) The authority shall by resolution adopt a procurement procedure substantially similar to Title 63G, Chapter 6a, Utah Procurement Code, or a procurement code adopted by an appointing authority.
 - (c) The authority may contract with an appointing authority that has a local procurement procedure to deal with procurement in manner consistent with the resolution adopted under Subsection (1)(b).
- (2)
 - (a) The authority shall comply with Title 63A, Chapter 17, Utah State Personnel Management Act, except as provided in this Subsection (2).
 - (b)
 - (i) The authority may approve, upon recommendation of the chair, that exemption for specific positions under Subsections 63A-17-301(1) and 63A-17-307(2) is required to enable the authority to efficiently fulfill the authority's responsibilities under the law.
 - (ii) The chair shall consult with the executive director of the Division of Human Resource Management before making a recommendation under Subsection (2)(b)(i).
 - (iii) The position of executive director is exempt under Subsections 63A-17-301(1) and 63A-17-307(2).
 - (c)
 - (i) The executive director shall set salaries for exempted positions, except for the executive director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the authority. The chair shall set the salary of the executive director.
 - (ii) The authority and executive director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.
- (3) In adopting a policy under this chapter, the authority:
 - (a) is not required to comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) shall adopt the policy by resolution of the authority.

Amended by Chapter 98, 2022 General Session

Part 3 River Commissioner

63M-14-301 Appointment of river commissioner.

- (1)
 - (a) If the governor appoints the river commissioner before March 16, 2021, that appointment expires on June 30, 2027.
 - (b) If the river commissioner appointed by the governor is also appointed as a member of the authority, the river commissioner shall serve as the chair of the authority for a term expiring June 30, 2027.
 - (c) After June 30, 2027, the authority shall elect a chair, who shall also serve, subject to the approval of the governor, as the river commissioner.
- (2) The term of a river commissioner runs concurrently with the term of the chair as provided in Sections 63M-14-203 and 63M-14-302.
- (3) If the river commissioner no longer serves as river commissioner, the authority shall fill the vacancy in accordance with Section 63M-14-203.
- (4) Notwithstanding Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, a river commissioner may hold another government position at the same time as being a river commissioner without creating a conflict of interest.

Revisor instructions Chapter 179, 2021 General Session
Enacted by Chapter 179, 2021 General Session

63M-14-302 Term -- Removal of river commissioner.

- (1) The term of the river commissioner is six years.
- (2) The authority, with the consent of the governor, may remove the river commissioner if the authority finds that the river commissioner has engaged in neglect of duty or malfeasance in office. If the river commissioner is removed under this Subsection (2), the removed river commissioner may not serve as chair of the authority or as a member of the authority.

Enacted by Chapter 179, 2021 General Session

63M-14-303 Compensation.

The river commissioner shall serve without compensation, but may receive travel expenses in accordance with:

- (1) Section 63A-3-107; and
- (2) rules made by the Division of Finance pursuant to Section 63A-3-107.

Enacted by Chapter 179, 2021 General Session

63M-14-304 Duties and powers.

- (1) Before legal action on behalf of the state or the users of the waters of the Colorado River system may be taken under this chapter, the river commissioner shall request that the governor and attorney general take legal action on behalf of the state and the users of the waters of the Colorado River system to assure, conserve, protect, and preserve Utah's allocation of the waters of the Colorado River system as authorized by the law of the river.
- (2) Except as provided in Section 63M-14-402, the attorney general shall represent the river commissioner and the authority, including the authority's members and officers, in all matters related to the Colorado River. At the request of the authority or the river commissioner, the attorney general may institute or join legal actions against any party to enforce or defend the state's rights in matters related to the Colorado River.
- (3) The river commissioner shall act for the state and the Utah Colorado River users in consultations or negotiations with:
 - (a) the Upper Colorado River Commission;
 - (b) the states in the Colorado River Compact; and
 - (c) the government of the United States.
- (4) The river commissioner may make and enter into a compact between Utah and Colorado River Basin States, either jointly or severally. A compact that defines the rights of the states or of the United States in the waters of the Colorado River system is not binding on Utah until ratified and approved by:
 - (a) the Utah State Legislature by joint resolution;
 - (b) the governor of this state; and
 - (c) the appropriate federal agency when the federal agency's approval is required.
- (5) The river commissioner within the limits of the river commissioner's authority shall:
 - (a) represent and act for the state in consultation with other states, the United States, foreign countries, and private persons, and negotiate and enter into agreements between the state and those entities, jointly or severally;
 - (b) represent and act for the state as a member of an interstate or international commission or other body as may be established relating to the Colorado River system in transactions with Colorado River Basin States, the federal government, or a foreign country; and
 - (c) report to the governor the measures or legislative actions that the river commissioner considers necessary to carry out the provisions of any law relating to the powers and duties of the authority.
- (6) The river commissioner shall perform the duties imposed by this chapter and perform all other things the river commissioner considers necessary or expedient to carry out the purposes of this chapter.

Enacted by Chapter 179, 2021 General Session

63M-14-305 Authority consultation with river commissioner.

- (1) The river commissioner shall consult with the authority in exercising the powers and performing the duties of the river commissioner enumerated in this chapter.
- (2) The river commissioner shall report and make recommendations to the authority at the request of the authority or when the river commissioner considers it proper.
- (3) The purpose of consulting with and reporting to the authority is to safeguard and protect the rights and interests of Utah, Utah's agencies, and Utah's citizens in respect of the waters of the Colorado River system.

Enacted by Chapter 179, 2021 General Session

63M-14-306 Investigative powers -- Storage of data relating to the use of the Colorado River system.

- (1) The river commissioner may investigate past, present, and potential uses of the water of the Colorado River system within and without the state.
- (2) The river commissioner shall investigate, coordinate, collate, and preserve information, facts, and data bearing upon the claims of states and of public or private agencies within and without the state to and in respect of the water and the use of water of the Colorado River system.

Enacted by Chapter 179, 2021 General Session

**Part 4
Employees of the Authority**

63M-14-401 Executive director.

- (1) The chair may hire an executive director.
- (2) The executive director:
 - (a) is responsible for the administering and carrying out the policies of the authority;
 - (b) shall direct and supervise the technical and administrative activities of the authority;
 - (c) subject to the supervision of the chair, is responsible for the conduct of the administrative function of the river commissioner and the authority; and
 - (d) shall perform any lawful act necessary to carry out the duties of the authority.
- (3) The executive director shall, within the limits of available funding, employ the employees necessary to carry out the functions and duties of the executive director. The employees have the duties prescribed by the executive director.

Enacted by Chapter 179, 2021 General Session

63M-14-402 Consultants or other professionals.

To advise the authority on matters relating to the authority, the executive director may:

- (1) employ one or more consultants or other professionals; and
- (2) employ or retain legal counsel, with the consent of the attorney general, to advise the authority or river commissioner on matters relating to the authority's or river commissioner's operations.

Enacted by Chapter 179, 2021 General Session

**Part 5
Financial Operation**

63M-14-501 Colorado River Authority Restricted Account.

- (1) There is created a restricted account in the General Fund known as the "Colorado River Authority Restricted Account."
- (2) The restricted account shall consist of:
 - (a) money contributed by the following users of the Colorado River system in an amount that the respective governing bodies considers advisable:

- (i) an irrigation district;
 - (ii) a nonprofit corporation;
 - (iii) a water conservancy district;
 - (iv) a municipality; or
 - (v) a metropolitan water district;
 - (b) appropriations of the Legislature;
 - (c) contributions from other sources, including federal funding; and
 - (d) interest or earnings on the restricted account.
- (3)
- (a) The state treasurer shall invest money in the restricted account according to Title 51, Chapter 7, State Money Management Act.
 - (b) The state treasurer shall deposit interest or other earnings derived from investment of restricted account money into the restricted account.
- (4) Subject to appropriation by the Legislature, money in the restricted account is for the use of the authority to:
- (a) fill the authority's statutory duties related to Utah's allocation of water from the Colorado River system;
 - (b) pay the compensation of employees, consultants, and legal counsel; and
 - (c) pay the travel expenses of the river commissioner.
- (5) In addition to money contributed by the users of the Colorado River system described in Subsection (2)(a), a user may provide in-kind goods and services to the authority.

Enacted by Chapter 179, 2021 General Session

63M-14-502 Budgeting process.

- (1) Within the legislative appropriations and in-kind goods and services received by the authority, the authority shall prepare an annual budget of revenues and expenditures for the authority for each fiscal year.
- (2) The authority may not make expenditures in excess of the total expenditures established in the annual budget as the budget is adopted or amended.

Enacted by Chapter 179, 2021 General Session