

LOCAL DISTRICT TAXING AUTHORITY

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to a metropolitan water district and a water conservancy district.

Highlighted Provisions:

This bill:

- ▶ amends provisions relating to a metropolitan water district board of trustees;
- ▶ prohibits, with certain exceptions, a metropolitan water district board of trustees from collecting a property tax;
- ▶ amends provisions relating to a water conservancy district board of trustees;
- ▶ prohibits, with certain exceptions, a water conservancy district board of trustees from collecting a property tax; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-604, as enacted by Laws of Utah 2007, Chapter 329



28 17B-2a-1005, as last amended by Laws of Utah 2008, Chapter 360

29 17B-2a-1006, as enacted by Laws of Utah 2007, Chapter 329

30 ENACTS:

31 17B-2a-608, Utah Code Annotated 1953

32 17B-2a-1009, Utah Code Annotated 1953



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

35 Section 1. Section 17B-2a-604 is amended to read:

36 **17B-2a-604. Metropolitan water district board of trustees.**

37 (1) Members of the board of trustees of a metropolitan water district shall be
38 ~~[appointed as provided in this section.];~~

39 (a) elected in accordance with:

40 (i) the petition or resolution that initiated the process of creating the metropolitan water
41 district; and

42 (ii) Section 17B-1-306;

43 (b) appointed in accordance with Subsection (2); or

44 (c) elected under Subsection (3)(a).

45 (2) (a) This Subsection (2) shall apply to an appointed board of trustees of a
46 metropolitan water district.

47 ~~[(2)] (b)~~ If a district contains the area of a single municipality:

48 ~~[(a)] (i)~~ the legislative body of that municipality shall appoint each member of the
49 board of trustees; and

50 ~~[(b)] (ii)~~ one member shall be the officer with responsibility over the municipality's
51 water supply and distribution system, if the system is municipally owned.

52 ~~[(3)] (c)~~ If a district contains some or all of the retail water service area of more than
53 one municipality:

54 ~~[(a)] (i)~~ the legislative body of each municipality shall appoint the number of members
55 for that municipality as determined under Subsection ~~[(3)(b)] (2)(c)(ii)~~;

56 ~~[(b)] (ii)~~ subject to Subsection ~~[(3)(c)] (2)(c)(iii)~~, the number of members appointed by
57 each municipality shall be determined:

58 ~~[(1)] (A)~~ by agreement between the metropolitan water district and the municipalities,

59 subject to the maximum stated in Subsection 17B-1-302(2); or

60 ~~[(ii)]~~ (B) as provided in Chapter 1, Part 3, Board of Trustees; and

61 ~~[(c)]~~ (iii) at least one member shall be appointed by each municipality.

62 ~~[(4) Each member of the board of trustees of a metropolitan water district shall be:]~~

63 ~~[(a) a registered voter;]~~

64 ~~[(b) a property taxpayer; and]~~

65 ~~[(c) a resident of:]~~

66 ~~[(i) the metropolitan water district; and]~~

67 ~~[(ii) the retail water service area of the municipality whose legislative body appoints~~
68 ~~the member.]~~

69 ~~[(5)]~~ (d) Each trustee shall be appointed without regard to partisan political affiliations
70 from among citizens of the highest integrity, attainment, competence, and standing in the
71 community.

72 (3) (a) Members of the board of trustees of a metropolitan water district shall be
73 elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):

74 (i) three-fourths of all members of the board of trustees of the metropolitan water
75 district vote in favor of changing to an elected board; and

76 (ii) the legislative body of each municipality that appoints a member to the board of
77 trustees adopts a resolution approving the change to an elected board.

78 (b) A change to an elected board of trustees under Subsection (3)(a) may not shorten
79 the term of any member of the board of trustees serving at the time of the change.

80 (4) A member of the board of trustees of a metropolitan water district shall be:

81 (a) a registered voter;

82 (b) a property taxpayer; and

83 (c) a resident of:

84 (i) the metropolitan water district; and

85 (ii) the retail water service area of the municipality that:

86 (A) elects the member; or

87 (B) the member is appointed to represent.

88 ~~[(6)]~~ (5) (a) Except as provided in Subsection ~~[(8)]~~ (7), a member shall immediately
89 forfeit the member's seat on the board of trustees if [a] the member becomes elected or

90 appointed to office in or becomes an employee of the municipality whose legislative body
91 appointed the member~~[-, the member shall immediately forfeit the office, and the member's~~
92 ~~position on the board]~~ under Subsection (2).

93 (b) The position of the member described in Subsection (5)(a) is vacant until filled as
94 provided in Section 17B-1-304.

95 ~~[(7)]~~ (6) Except as provided in Subsection ~~[(8)]~~ (7), the term of office of each member
96 of the board of trustees is as provided in Section 17B-1-303.

97 ~~[(8)]~~ (7) Subsections (4), ~~[(6), and (7)]~~ (5)(a), and (6) do not apply to a member who is
98 a member under Subsection (2)(b)(ii).

99 Section 2. Section **17B-2a-608** is enacted to read:

100 **17B-2a-608. Limit on property tax authority -- Exceptions.**

101 (1) As used in this section, "elected official" means a metropolitan water district board
102 of trustee member who is elected to the board of trustees by metropolitan water district voters
103 at an election held for that purpose.

104 (2) (a) The board of trustees of a metropolitan water district may not collect a property
105 tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified
106 tax rate under Section 59-2-924 unless:

107 (i) the members of the board of trustees are all elected officials;

108 (ii) the proposed tax levy has previously been approved by:

109 (A) metropolitan water district voters at an election held for that purpose; or

110 (B) the legislative body of each municipality that appoints a member to the board of
111 trustees under Section 17B-2a-204; or

112 (iii) subject to Subsection (2)(b), the board of trustees pledged before May 12, 2014,
113 revenue from a property tax to pay for bonds, other obligations, or the refunding of a bond or
114 other obligation of the metropolitan water district.

115 (b) The board of trustees of a metropolitan water district may levy and collect a
116 property tax for a pledge described in Subsection (2)(a)(iii) only to the extent that the revenue
117 from the property tax was pledged.

118 Section 3. Section **17B-2a-1005** is amended to read:

119 **17B-2a-1005. Water conservancy district board of trustees -- Selection of**
120 **members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.**

121 (1) Members of the board of trustees for a water conservancy district shall be:

122 (a) elected in accordance with:

123 (i) the petition or resolution that initiated the process of creating the water conservancy
124 district; and

125 (ii) Section 17B-1-306;

126 (b) appointed in accordance with Subsection (2); or

127 (c) elected under Subsection (4)(a).

128 ~~[(1)-(a) Within]~~ (2) (a) If the members of the board of trustees are appointed, within 45
129 days after [the creation of] the day on which a water conservancy district is created as provided
130 in Section 17B-1-215, the board of trustees shall be [selected] appointed as provided in this
131 Subsection [(1)] (2).

132 (b) For a district located entirely within the boundaries of a single county, the county
133 legislative body of that county shall appoint each trustee.

134 (c) (i) For a district located in more than a single county, the governor, with the consent
135 of the Senate, shall appoint each trustee from nominees submitted as provided in this
136 Subsection ~~[(1)]~~ (2)(c).

137 (ii) (A) Except as provided in Subsection ~~[(1)]~~ (2)(c)(ii)(B), in a division composed
138 solely of municipalities, the legislative body of each municipality within the division shall
139 submit two nominees per trustee.

140 (B) ~~[Notwithstanding Subsection (1)(c)(ii)(A), the]~~ The legislative body of a
141 municipality may submit fewer than two nominees per trustee if the legislative body certifies in
142 writing to the governor that the legislative body is unable, after reasonably diligent effort, to
143 identify two nominees who are willing and qualified to serve as trustee.

144 (iii) (A) Except as provided in Subsection ~~[(1)]~~ (2)(c)(iii)(B), in all other divisions, the
145 county legislative body of the county in which the division is located shall submit three
146 nominees per trustee.

147 (B) ~~[Notwithstanding Subsection (1)(c)(iii)(A), the]~~ The county legislative body may
148 submit fewer than three nominees per trustee if the county legislative body certifies in writing
149 to the governor that the county legislative body is unable, after reasonably diligent effort, to
150 identify three nominees who are willing and qualified to serve as trustee.

151 (iv) If a trustee represents a division located in more than one county, the county

152 legislative bodies of those counties shall collectively compile the list of three nominees.

153 (v) For purposes of this Subsection ~~[(+)]~~ (2)(c), a municipality that is located in more
154 than one county shall be considered to be located in only the county in which more of the
155 municipal area is located than in any other county.

156 (d) In districts where substantial water is allocated for irrigated agriculture, one trustee
157 appointed in that district shall be a person who owns irrigation rights and uses those rights as
158 part of that person's livelihood.

159 ~~[(2)(a) The board of trustees of a water conservancy district shall consist of:]~~

160 ~~[(i) except as provided in Subsection (2)(a)(ii), not more than 11 persons who are~~
161 ~~residents of the district; or]~~

162 ~~[(ii) if the district consists of five or more counties, not more than 21 persons who are~~
163 ~~residents of the district.]~~

164 ~~[(b)]~~ (3) (a) At least 90 days before expiration of [a] an appointed trustee's term, the
165 board shall give written notice of the upcoming vacancy and the date when the trustee's term
166 expires to the county legislative body in single county districts and to the nominating entities
167 and the governor in all other districts.

168 ~~[(c)]~~ (b) (i) Upon receipt of the notice of the expiration of [a] an appointed trustee's
169 term or notice of a vacancy in the office of an appointed trustee, the county or municipal
170 legislative body, as the case may be, shall nominate candidates to fill the unexpired term of
171 office pursuant to Subsection ~~[(+)]~~ (2).

172 (ii) If a trustee is to be appointed by the governor and the entity charged with
173 nominating candidates has not submitted the list of nominees within 90 days after service of
174 the notice, the governor shall make the appointment from qualified candidates without
175 consultation with the county or municipal legislative body.

176 (iii) If the governor fails to appoint, the incumbent shall continue to serve until a
177 successor is appointed and qualified.

178 (iv) Appointment by the governor vests in the appointee, upon qualification, the
179 authority to discharge the duties of trustee, subject only to the consent of the Senate.

180 ~~[(+)]~~ (c) Each trustee shall hold office during the term for which appointed and until a
181 successor is duly appointed and has qualified.

182 (4) (a) Members of the board of trustees of a water conservancy district shall be

183 elected, if, subject to Subsection (4)(b):

184 (i) two-thirds of all members of the board of trustees of the water conservancy district
185 vote in favor of changing to an elected board; and

186 (ii) the legislative body of each municipality or county that appoints a member to the
187 board of trustees adopts a resolution approving the change to an elected board.

188 (b) A change to an elected board of trustees under Subsection (4)(a) may not shorten
189 the term of any member of the board of trustees serving at the time of the change.

190 (5) (a) The board of trustees of a water conservancy district shall consist of:

191 (i) except as provided in Subsection (5)(a)(ii), not more than 11 persons who are
192 residents of the district; or

193 (ii) if the district consists of five or more counties, not more than 21 persons who are
194 residents of the district.

195 (6) If an elected trustee's office is vacated, the vacated office shall be filled in
196 accordance with Section 17B-1-303.

197 [~~3~~] (7) Each trustee shall furnish a corporate surety bond at the expense of the district,
198 conditioned for the faithful performance of duties as a trustee.

199 [~~4~~] (8) (a) The board of trustees of a water conservancy district may:

200 (i) make and enforce all reasonable rules and regulations for the management, control,
201 delivery, use, and distribution of water;

202 (ii) withhold the delivery of water with respect to which there is a default or
203 delinquency of payment;

204 (iii) provide for and declare a forfeiture of the right to the use of water upon the default
205 or failure to comply with an order, contract, or agreement for the purchase, lease, or use of
206 water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has
207 been declared;

208 (iv) allocate and reallocate the use of water to lands within the district;

209 (v) provide for and grant the right, upon terms, to transfer water from lands to which
210 water has been allocated to other lands within the district;

211 (vi) create a lien, as provided in this part, upon land to which the use of water is
212 transferred;

213 (vii) discharge a lien from land to which a lien has attached; and

214 (viii) subject to Subsection [(4)] (8)(b), enter into a written contract for the sale, lease,
215 or other disposition of the use of water.

216 (b) (i) A contract under Subsection [(4)] (8)(a)(viii) may provide for the use of water
217 perpetually or for a specified term.

218 (ii) (A) If a contract under Subsection [(4)] (8)(a)(viii) makes water available to the
219 purchasing party without regard to actual taking or use, the board may require that the
220 purchasing party give security for the payment to be made under the contract, unless the
221 contract requires the purchasing party to pay for certain specified annual minimums.

222 (B) The security requirement under Subsection [(4)] (8)(b)(ii)(A) in a contract with a
223 public entity may be met by including in the contract a provision for the public entity's levy of a
224 special assessment to make annual payments to the district.

225 Section 4. Section 17B-2a-1006 is amended to read:

226 **17B-2a-1006. Limits on water conservancy district property tax levy -- Additional**
227 **levy.**

228 (1) Except as provided in Subsection (2), and subject to Subsection (3) and Section
229 17B-2a-1009, the property tax levy of a water conservancy district for all purposes may not
230 exceed:

231 (a) .0001 per dollar of taxable value of taxable property in the district, before the
232 earliest of:

233 (i) the planning or design of works;

234 (ii) the acquisition of the site or right-of-way on which the works will be constructed;

235 or

236 (iii) the commencement of construction of the works; and

237 (b) .0002 per dollar of taxable value of taxable property in the district, after the earliest
238 of the events listed in Subsection (1)(a).

239 (2) [~~Notwithstanding Subsection (1) and subject~~] Subject to Subsection (3) and Section
240 17B-2a-1009:

241 (a) in a district that contains land located within the Lower Colorado River Basin, the
242 levy after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum
243 of .001 per dollar of taxable value of taxable property in the district; and

244 (b) in a district to be served under a contract, water appropriation, water allotment, or

245 otherwise by water apportioned by the Colorado River Compact to the Upper Basin, the levy
 246 after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum of
 247 .0004 per dollar of taxable value of taxable property.

248 (3) ~~[Notwithstanding the limits on the rate of property tax levies under Subsections (1)~~
 249 ~~and (2), a]~~ A water conservancy district may impose an additional property tax levy, not to
 250 exceed .0001 per dollar of taxable value of taxable property in the district, if the additional levy
 251 is necessary to provide adequate funds to pay maturing bonds or other debts of the district.

252 Section 5. Section **17B-2a-1009** is enacted to read:

253 **17B-2a-1009. Limit on property tax authority -- Exceptions.**

254 (1) As used in this section, "elected official" means a water conservancy district board
 255 of trustee member who:

256 (a) is elected to the board of trustees by water conservancy district voters at an election
 257 held for that purpose;

258 (b) holds, at the time of appointment to the board of trustees, an elected position with a
 259 municipality, county, or local district that is partially or completely included within the
 260 boundaries of the water conservancy district; or

261 (c) is appointed in accordance with Subsection 17B-1-306(4)(g) after running as the
 262 only candidate in an election for a water conservancy district board of trustee.

263 (2) (a) The board of trustees of a water conservancy district may not collect a property
 264 tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified
 265 tax rate under Section 59-2-924 unless:

266 (i) the members of the board of trustees are all elected officials;

267 (ii) the majority of the board of trustees are elected officials;

268 (iii) the proposed tax levy has previously been approved by:

269 (A) water conservancy district voters at an election held for that purpose; or

270 (B) for a district described in Subsection 17B-2a-1005(2)(b), the appointing authority;

271 or

272 (iv) subject to Subsection (2)(b), the board of trustees pledged before May 12, 2014,
 273 revenue from a property tax to pay for bonds, other obligations, or the refunding of a bond or
 274 other obligation of the water conservancy district.

275 (b) The board of trustees of a water conservancy district may levy and collect a

276 property tax for a pledge described in Subsection (2)(a)(iv) only to the extent that the revenue
277 from the property tax was pledged.

Legislative Review Note
as of **2-8-10 4:15 PM**

Office of Legislative Research and General Counsel

S.B. 172 - Local District Taxing Authority Amendments

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
