

**Senator Curtis S. Bramble** proposes the following substitute bill:

**LOCAL DISTRICT TAXING AUTHORITY**

**AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to the taxing authority of local districts.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits local districts that do not have elected boards from levying and collecting a property tax in certain circumstances;
- ▶ 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:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **17B-1-1001**, as enacted by Laws of Utah 2007, Chapter 329

30 **17B-2a-604**, as enacted by Laws of Utah 2007, Chapter 329

31 **17B-2a-817**, as enacted by Laws of Utah 2007, Chapter 329

32 **17B-2a-905**, as last amended by Laws of Utah 2009, Chapters 103 and 218

33 **17B-2a-1005**, as last amended by Laws of Utah 2008, Chapter 360

34 **17B-2a-1006**, as enacted by Laws of Utah 2007, Chapter 329

35 ENACTS:

36 **17B-2a-608**, Utah Code Annotated 1953

37 **17B-2a-1009**, Utah Code Annotated 1953

38 REPEALS:

39 **17B-2a-908**, as enacted by Laws of Utah 2009, Chapter 103



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

42 Section 1. Section **17B-1-1001** is amended to read:

43 **17B-1-1001. Provisions applicable to property tax levy.**

44 (1) Each local district that levies and collects property taxes shall levy and collect them  
45 according to the provisions of Title 59, Chapter 2, Property Tax Act.

46 (2) As used in this section, "elected official" means a local district board of trustees  
47 member who:

48 (a) is elected to the board of trustees by local district voters at an election held for that  
49 purpose, including a member elected under Subsection (4);

50 (b) holds, at the time of appointment to the board of trustees, an elected position with a  
51 municipality, county, or another local district that is partially or completely included within the  
52 boundaries of the local district; or

53 (c) is appointed in accordance with Subsection 17B-1-303(5), 17B-1-306(4)(f), or (g).

54 (3) (a) Except as provided in Subsection (3)(b), a local district may not levy or collect  
55 property tax revenue that exceeds the certified tax rate during a taxable year that begins on or  
56 after January 1, 2011.

57 (b) Notwithstanding Subsection (3)(a), a local district may levy or collect property tax  
58 revenue that exceeds the certified tax rate during a taxable year that begins on or after January  
59 1, 2011 if:

60 (i) and to the extent that the revenue from the property tax was pledged before January  
61 1, 2011, to pay for bonds or other obligations of the local district;

62 (ii) the members of the board of trustees are all elected officials;

63 (iii) the majority of the board of trustees are elected officials; or

64 (iv) the proposed tax or increase in the property tax rate has been approved by:

65 (A) a majority of the registered voters within the local district at an election held for  
66 that purpose;

67 (B) the legislative body of the appointing authority; or

68 (C) the legislative body of:

69 (I) each municipality partially or completely included within the boundary of the  
70 specified local district; or

71 (II) the county in which the specified local district is located, if the county has some or  
72 all of its unincorporated area included within the boundary of the specified local district.

73 (4) (a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions  
74 Applicable to Different Types of Local Districts, and for purposes of Subsection (3)(b),  
75 members of the board of trustees of a local district shall be elected, if, subject to Subsection  
76 (4)(b):

77 (i) two-thirds of all members of the board of trustees of the local district vote in favor  
78 of changing to an elected board; and

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

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

83 (5) Subsections (2), (3), and (4) do not apply to:

84 (a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act; or

85 (b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

86 Section 2. Section **17B-2a-604** is amended to read:

87 **17B-2a-604. Metropolitan water district board of trustees.**

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

90 (a) elected in accordance with:

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

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

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

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

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

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

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

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

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

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

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

109 ~~[(i)]~~ (A) by agreement between the metropolitan water district and the municipalities,  
110 subject to the maximum stated in Subsection 17B-1-302(2); or

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

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

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

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

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

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

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

118 ~~[(ii) the retail water service area of the municipality whose legislative body appoints]~~

119 ~~the member.]~~

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

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

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

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

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

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

132 (a) a registered voter;

133 (b) a property taxpayer; and

134 (c) a resident of:

135 (i) the metropolitan water district; and

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

137 (A) elects the member; or

138 (B) the member is appointed to represent.

139 ~~[(6)]~~ (5) (a) Except as provided in Subsection ~~[(8)]~~ (7), a member shall immediately  
140 forfeit the member's seat on the board of trustees if [a] the member becomes elected or  
141 appointed to office in or becomes an employee of the municipality whose legislative body  
142 appointed the member[; the member shall immediately forfeit the office, and the member's  
143 position on the board] under Subsection (2).

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

146 ~~[(7)]~~ (6) Except as provided in Subsection ~~[(8)]~~ (7), the term of office of each member  
147 of the board of trustees is as provided in Section 17B-1-303.

148 ~~[(8)]~~ (7) Subsections (4), ~~[(6), and (7)]~~ (5)(a), and (6) do not apply to a member who is  
149 a member under Subsection (2)(b)(ii).

150 Section 3. Section **17B-2a-608** is enacted to read:

151 **17B-2a-608. Limit on property tax authority -- Exceptions.**

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

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

158 (a) the members of the board of trustees are all elected officials; or

159 (b) the proposed tax levy has previously been approved by:

160 (i) a majority of the metropolitan water district voters at an election held for that  
161 purpose; or

162 (ii) the legislative body of each municipality that appoints a member to the board of  
163 trustees under Section 17B-2a-204.

164 Section 4. Section **17B-2a-817** is amended to read:

165 **17B-2a-817. Voter approval required for property tax levy.**

166 [In] Notwithstanding the provisions of Section 17B-1-1001 and in addition to a  
167 property tax under Section 17B-1-1103 to pay general obligation bonds of the district, a public  
168 transit district may levy a property tax, as provided in and subject to Chapter 1, Part 10, Local  
169 District Property Tax Levy, if:

170 (1) the district first submits the proposal to levy the property tax to voters within the  
171 district; and

172 (2) a majority of voters within the district voting on the proposal vote in favor of the  
173 tax at an election held for that purpose.

174 Section 5. Section **17B-2a-905** is amended to read:

175 **17B-2a-905. Service area board of trustees.**

176 (1) (a) Except as provided in Subsection (2):

177 (i) the initial board of trustees of a service area located entirely within the  
178 unincorporated area of a single county may, as stated in the petition or resolution that initiated  
179 the process of creating the service area:

180 (A) consist of the county legislative body;

181 (B) be appointed, as provided in Section 17B-1-304; or  
182 (C) be elected, as provided in Section 17B-1-306;  
183 (ii) if the board of trustees of a service area consists of the county legislative body, the  
184 board may adopt a resolution providing for future board members to be appointed, as provided  
185 in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and  
186 (iii) members of the board of trustees of a service area shall be elected, as provided in  
187 Section 17B-1-306, if:  
188 (A) the service area is not entirely within the unincorporated area of a single county;  
189 (B) a petition is filed with the board of trustees requesting that board members be  
190 elected, and the petition is signed by registered voters within the service area equal in number  
191 to at least 10% of the number of registered voters within the service area who voted at the last  
192 gubernatorial election; or  
193 (C) an election is held to authorize the service area's issuance of bonds[; ~~or~~].  
194 [~~(D) (i) two-thirds of all members of the board of trustees of the service area vote in~~  
195 ~~favor of changing to an elected board; and]~~  
196 [~~(H) the legislative body of each county and municipality that appoints a member to the~~  
197 ~~board of trustees adopts a resolution approving the change to an elected board.]  
198 (b) If members of the board of trustees of a service area are required to be elected  
199 under Subsection (1)(a)(iii)(C) because of a bond election:  
200 (i) board members shall be elected in conjunction with the bond election;  
201 (ii) the board of trustees shall:  
202 (A) establish a process to enable potential candidates to file a declaration of candidacy  
203 sufficiently in advance of the election; and  
204 (B) provide a ballot for the election of board members separate from the bond ballot;  
205 and  
206 (iii) except as provided in this Subsection (1)(b), the election shall be held as provided  
207 in Section 17B-1-306.  
208 [~~(c) A change to an elected board of trustees under Subsection (1)(a)(iii)(D) may not~~  
209 ~~shorten the term of any member of the board of trustees serving at the time of the change.]  
210 (2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003 if:  
211 (i) the service area was created to provide:~~~~

212 (A) fire protection, paramedic, and emergency services; or

213 (B) law enforcement service; and

214 (ii) in the creation of the service area, an election was not required under Subsection  
215 17B-1-214(3)(c).

216 (b) (i) Each county whose unincorporated area is included within a service area  
217 described in Subsection (2)(a), whether in conjunction with the creation of the service area or  
218 by later annexation, shall appoint three members to the board of trustees.

219 (ii) Each municipality whose area is included within a service area described in  
220 Subsection (2)(a), whether in conjunction with the creation of the service area or by later  
221 annexation, shall appoint one member to the board of trustees.

222 (iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or  
223 (ii) shall be an elected official of the appointing county or municipality, respectively.

224 (c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of  
225 trustees of a service area described in Subsection (2)(a) shall be the number resulting from  
226 application of Subsection (2)(b).

227 Section 6. Section **17B-2a-1005** is amended to read:

228 **17B-2a-1005. Water conservancy district board of trustees -- Selection of**  
229 **members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.**

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

231 (a) elected in accordance with:

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

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

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

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

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

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



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

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

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

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

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

260 (iv) If a trustee represents a division located in more than one county, the county  
 261 legislative bodies of those counties shall collectively compile the list of three nominees.

262 (v) For purposes of this Subsection ~~[(1)]~~ (2)(c), a municipality that is located in more  
 263 than one county shall be considered to be located in only the county in which more of the  
 264 municipal area is located than in any other county.

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

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

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

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

273 ~~[(b)]~~ (3) (a) At least 90 days before expiration of [a] an appointed trustee's term, the

274 board shall give written notice of the upcoming vacancy and the date when the trustee's term  
275 expires to the county legislative body in single county districts and to the nominating entities  
276 and the governor in all other districts.

277 ~~[(c)]~~ (b) (i) Upon receipt of the notice of the expiration of ~~[a]~~ an appointed trustee's  
278 term or notice of a vacancy in the office of an appointed trustee, the county or municipal  
279 legislative body, as the case may be, shall nominate candidates to fill the unexpired term of  
280 office pursuant to Subsection ~~[(1)]~~ (2).

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

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

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

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

291 (4) (a) Members of the board of trustees of a water conservancy district shall be  
292 elected, if, subject to Subsection (4)(b):

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

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

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

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

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

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

304 (6) If an elected trustee's office is vacated, the vacated office shall be filled in

305 accordance with Section 17B-1-303.

306 [~~(3)~~] (7) Each trustee shall furnish a corporate surety bond at the expense of the district,  
307 conditioned for the faithful performance of duties as a trustee.

308 [~~(4)~~] (8) (a) The board of trustees of a water conservancy district may:

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

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

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

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

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

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

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

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

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

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

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

334 Section 7. Section 17B-2a-1006 is amended to read:

335 **17B-2a-1006. Limits on water conservancy district property tax levy -- Additional**

336 levy.

337 (1) Except as provided in Subsection (2), and subject to Subsection (3) and Section  
338 17B-2a-1009, the property tax levy of a water conservancy district for all purposes may not  
339 exceed:

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

342 (i) the planning or design of works;

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

344 or

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

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

348 (2) [~~Notwithstanding Subsection (1) and subject~~] Subject to Subsection (3) and Section  
349 17B-2a-1009:

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

353 (b) in a district to be served under a contract, water appropriation, water allotment, or  
354 otherwise by water apportioned by the Colorado River Compact to the Upper Basin, the levy  
355 after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum of  
356 .0004 per dollar of taxable value of taxable property.

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

361 Section 8. Section **17B-2a-1009** is enacted to read:

362 **17B-2a-1009. Limit on property tax authority -- Exceptions.**

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

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

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

370 (c) is appointed in accordance with Subsection 17B-1-303(5), 17B-1-306(4)(f) or (g).

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

374 (a) the members of the board of trustees are all elected officials;

375 (b) the majority of the board of trustees are elected officials; or

376 (c) the proposed tax levy has previously been approved by:

377 (i) a majority of the water conservancy district voters at an election held for that  
378 purpose; or

379 (ii) for a district described in Subsection 17B-2a-1005(2)(b), the appointing authority.

380 **Section 9. Repealer.**

381 This bill repeals:

382 **Section 17B-2a-908, Limit on property tax authority -- Exceptions.**

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**S.B. 172 2nd Sub. (Salmon) - Local District Taxing Authority Amendments**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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