

COUNTY SERVICES AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to services provided by a county.

Highlighted Provisions:

This bill:

- ▶ in certain circumstances, prohibits a county from charging a fee to a municipality;
- ▶ defines terms;
- ▶ authorizes a county, in certain circumstances, to increase a municipal service fund levy;
- ▶ requires a county, in certain circumstances, to decrease a countywide levy;
- ▶ authorizes a municipality, in certain circumstances, to increase a tax levy; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-8-5, as last amended by Laws of Utah 1993, Chapter 227

17-34-1, as last amended by Laws of Utah 2003, Chapter 275

17-34-3, as last amended by Laws of Utah 2008, Chapters 61, 231, and 236



28 17-36-3, as last amended by Laws of Utah 2001, Chapter 241

29 59-2-924.2, as last amended by Laws of Utah 2010, Chapter 279



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

32 Section 1. Section 17-8-5 is amended to read:

33 **17-8-5. Clearing, improving, fencing, and construction of natural channels,**
34 **sewers, and drains -- Enforcement of laws and regulations -- Certain fees prohibited.**

35 ~~[In anticipation of and to]~~ (1) A county may, to provide for the carrying away and the
36 safe disposal of natural storm and flood waters~~[-, the county may]~~;

37 (a) remove any obstacle from any natural channels ~~[within the county and the~~
38 ~~incorporated municipalities in the county. For the same purpose the county may]~~; or

39 (b) plan for and construct new channels, storm sewers, [and] or drains to serve as
40 though they were natural channels. ~~[The county may cause such]~~

41 (2) A county may:

42 (a) survey channels, storm sewers, [and] or drains [to be surveyed;] described in
43 Subsection (1)(b); and [the county legislative body may, by ordinance,]

44 (b) establish by ordinance their location and dimensions. ~~[The]~~

45 (3) A county legislative body may [promulgate]:

46 (a) adopt regulations to prevent the destruction or obstruction of [these] channels,
47 storm sewers, [and] or drains[-, and may];

48 (b) provide for the enforcement of those regulations[-, The county legislative body may
49 also]; and

50 (c) provide for the planning, construction, operation, maintenance, improvement, and
51 fencing of [all such] storm sewers, drains, or channels, including covering or replacement with
52 buried conduits.

53 (4) To implement the establishment, clearing, protection, and continued use of [such]
54 channels, storm sewers, [and] or drains, the county may acquire[-, by right of] through eminent
55 domain [necessary easements and rights];

56 (a) an easement; or

57 (b) a right-of-way.

58 (5) All laws and sanitary regulations protecting water quality or against the pollution of

59 water in natural streams, canals, and lakes shall be enforced;

60 (a) (i) by the county executives in their respective counties~~[-or,];~~ or

61 (ii) by the state, through the attorney general; and

62 (b) in cooperation with the ~~[state board of health, state fish and game commission,]~~

63 Department of Health established in Section 26-1-4, the Wildlife Board established in Section
64 23-14-2, and ~~[the several]~~ other county legislative bodies, respectively.

65 (6) Unless a municipality contracts for a service with the county, the county may not
66 charge a fee to a municipality for a service provided in accordance with this chapter.

67 Section 2. Section 17-34-1 is amended to read:

68 **17-34-1. Counties may provide municipal services -- Limitation -- First class**
69 **counties to provide certain services -- Counties allowed to provide certain services in**
70 **recreational areas.**

71 (1) For purposes of this chapter, except as otherwise provided in Subsection (3):

72 (a) "Greater than class C radioactive waste" ~~[has the same meaning as]~~ is as defined in
73 Section 19-3-303.

74 (b) "Hazardous materials emergency" means a sudden and unexpected release of any
75 substance that because of its quantity, concentration, or physical, chemical, or infectious
76 characteristics presents a direct and immediate threat to public safety or the environment and
77 requires immediate action to mitigate the threat.

78 ~~[(b)]~~ (c) "High-level nuclear waste" ~~[has the same meaning as]~~ is as defined in Section
79 19-3-303.

80 ~~[(c)]~~ (d) "Municipal-type services" means:

81 (i) fire protection service, including a hazardous materials emergency service or a
82 criminal investigation service related to fire protection;

83 (ii) waste and garbage collection and disposal;

84 (iii) planning and zoning;

85 (iv) street lighting;

86 (v) police service, including bomb squad and related response investigation;

87 ~~[(v)]~~ (vi) in a county of the first class:

88 (A) advanced life support and paramedic services; and

89 (B) detective investigative services; and

90 [~~(vi)~~] (vii) all other services and functions that are required by law to be budgeted,
91 appropriated, and accounted for from a municipal services fund or a municipal capital projects
92 fund as defined under Chapter 36, Uniform Fiscal Procedures Act for Counties.

93 [~~(d)~~] (e) "Placement" [~~has the same meaning as~~] is as defined in Section 19-3-303.

94 [~~(e)~~] (f) "Storage facility" [~~has the same meaning as~~] is as defined in Section 19-3-303.

95 [~~(f)~~] (g) "Transfer facility" [~~has the same meaning as~~] is as defined in Section
96 19-3-303.

97 (2) A county may:

98 (a) provide municipal-type services to areas of the county outside the limits of cities
99 and towns without providing the same services to cities or towns;

100 (b) fund those services by:

101 (i) levying a tax on taxable property in the county outside the limits of cities and towns;

102 or

103 (ii) charging a service charge or fee to persons benefitting from the municipal-type
104 services.

105 (3) A county may not:

106 (a) provide, contract to provide, or agree in any manner to provide municipal-type
107 services, as these services are defined in Section 19-3-303, to any area under consideration for
108 a storage facility or transfer facility for the placement of high-level nuclear waste, or greater
109 than class C radioactive waste; or

110 (b) seek to fund services for these facilities by:

111 (i) levying a tax; or

112 (ii) charging a service charge or fee to persons benefitting from the municipal-type
113 services.

114 (4) Each county of the first class shall provide to the area of the county outside the
115 limits of cities and towns:

116 (a) advanced life support and paramedic services; and

117 (b) detective investigative services.

118 (5) (a) A county may provide fire, paramedic, and police protection services in any area
119 of the county outside the limits of cities and towns that is designated as a recreational area in
120 accordance with the provisions of this Subsection (5).

121 (b) A county legislative body may designate any area of the county outside the limits of
122 cities and towns as a recreational area if:

123 (i) the area has fewer than 1,500 residents and is primarily used for recreational
124 purposes, including canyons, ski resorts, wilderness areas, lakes and reservoirs, campgrounds,
125 or picnic areas; and

126 (ii) the county legislative body makes a finding that the recreational area is used by
127 residents of the county who live both inside and outside the limits of cities and towns.

128 (c) Fire, paramedic, and police protection services needed to primarily serve those
129 involved in the recreation activities in areas designated as recreational areas by the county
130 legislative body in accordance with Subsection (5)(b) may be funded from the county general
131 fund.

132 Section 3. Section **17-34-3** is amended to read:

133 **17-34-3. Taxes or service charges.**

134 (1) (a) If a county furnishes the municipal-type services and functions described in
135 Section 17-34-1 to areas of the county outside the limits of incorporated cities or towns, the
136 entire cost of the services or functions so furnished shall be defrayed from funds that the county
137 has derived from:

138 (i) taxes that the county may lawfully levy or impose outside the limits of incorporated
139 towns or cities;

140 (ii) service charges or fees the county may impose upon the persons benefited in any
141 way by the services or functions; or

142 (iii) a combination of these sources.

143 (b) As the taxes or service charges or fees are levied and collected, they shall be placed
144 in a special revenue fund of the county and shall be disbursed only for the rendering of the
145 services or functions established in Section 17-34-1 within the unincorporated areas of the
146 county or as provided in Subsection 10-2-121(2).

147 (2) For the purpose of levying taxes, service charges, or fees provided in this section,
148 the county legislative body may establish a district or districts in the unincorporated areas of
149 the county.

150 (3) Nothing contained in this chapter may be construed to authorize counties to impose
151 or levy taxes not otherwise allowed by law.

152 (4) Notwithstanding any other provision of this chapter, a county providing fire,
153 paramedic, and police protection services in a designated recreational area, as provided in
154 Subsection 17-34-1(5), may fund those services from the county general fund with revenues
155 derived from both inside and outside the limits of cities and towns, and the funding of those
156 services is not limited to unincorporated area revenues.

157 (5) (a) A county that, in accordance with Section 17-34-1, provides to the
158 unincorporated area of the county a hazardous materials emergency service, a criminal
159 investigation service related to fire protection, or a bomb squad service and related response
160 investigation, and that previously paid for those services through a countywide levy, may
161 increase its levy under Subsection (1)(a)(i) to generate in the unincorporated area of the county
162 the same amount of revenue as the county loses from that area due to the required decrease in
163 the countywide certified tax rate under Subsection 59-2-924.2(9).

164 (b) An increase in the tax rate under Subsection (5)(a) is exempt from the notice and
165 hearing requirements of Section 59-2-919 or 59-2-919.1.

166 Section 4. Section **17-36-3** is amended to read:

167 **17-36-3. Definitions.**

168 As used in this chapter:

169 (1) "Accrual basis of accounting" means a method where revenues are recorded when
170 earned and expenditures recorded when they become liabilities notwithstanding that the receipt
171 of the revenue or payment of the expenditure may take place in another accounting period.

172 (2) "Appropriation" means an allocation of money for a specific purpose.

173 (3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying
174 estimates for proposed expenditures for given purposes and the means of financing the
175 expenditures.

176 (b) "Budget" may refer to the budget of a fund for which a budget is required by law, or
177 collectively to the budgets for all those funds.

178 (4) "Budgetary fund" means a fund for which a budget is required, such as those
179 described in Section 17-36-8.

180 (5) "Budget officer" means the county auditor, county clerk, or county executive as
181 provided in Subsection 17-19-19(1).

182 (6) "Budget period" means the fiscal period for which a budget is prepared.

183 (7) "Check" means an order in a specific amount drawn upon the depository by any
184 authorized officer in accordance with Section 17-19-3 or 17-24-1.

185 (8) "Countywide service" means a service provided in both incorporated and
186 unincorporated areas of a county.

187 (9) "Current period" means the fiscal period in which a budget is prepared and adopted.

188 (10) "Department" means any functional unit within a fund which carries on a specific
189 activity.

190 (11) "Encumbrance system" means a method of budgetary control where part of an
191 appropriation is reserved to cover a specific expenditure by charging obligations, such as
192 purchase orders, contracts, or salary commitments to an appropriation account. An expenditure
193 ceases to be an encumbrance when paid or when the actual liability is entered in the books of
194 account.

195 (12) "Estimated revenue" means any revenue estimated to be received during the
196 budget period in any fund for which a budget is prepared.

197 (13) "Fiscal period" means the annual or biennial period for recording county fiscal
198 operations.

199 (14) "Fund" means an independent fiscal and accounting entity comprised of a sum of
200 money or other resources segregated for a specific purpose or objective.

201 (15) "Fund balance" means the excess of the assets over liabilities, reserves, and
202 contributions, as reflected by its books of account.

203 (16) "Fund deficit" means the excess of liabilities, reserves, and contributions over its
204 assets, as reflected by its books of account.

205 (17) "General Fund" means the fund used to account for all receipts, disbursements,
206 assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be
207 accounted for in other funds.

208 (18) "Interfund loan" means a loan of cash from one fund to another, subject to future
209 repayment; but it does not constitute an expenditure or a use of retained earnings, fund balance,
210 or unappropriated surplus of the lending fund.

211 (19) "Last completed fiscal period" means the fiscal period next preceding the current
212 period.

213 (20) "Modified accrual basis of accounting" means a method under which expenditures

214 other than accrued interest on general long-term debt are recorded at the time liabilities are
215 incurred and revenues are recorded when they become measurable and available to finance
216 expenditures of the current period.

217 (21) "Municipal capital project" means the acquisition, construction, or improvement
218 of capital assets that facilitate providing municipal service.

219 (22) "Municipal service" means a service not provided on a countywide basis and not
220 accounted for in an enterprise fund, [~~and includes~~] including:

221 (a) police [~~patrol~~] service, including bomb squad and related response investigation;

222 (b) fire protection[;] service, including a hazardous materials emergency service as
223 defined in Section 17-34-1 or a criminal investigation service related to fire protection;

224 (c) culinary or irrigation water retail service[;];

225 (d) water conservation[;];

226 (e) local parks[;];

227 (f) sewers, including sewage treatment and disposal[;];

228 (g) cemeteries[;];

229 (h) garbage and refuse collection[;];

230 (i) street lighting[;];

231 (j) airports[;];

232 (k) planning and zoning[;];

233 (l) local streets and roads, including curb, gutter, and sidewalk maintenance[;]; and

234 (m) ambulance service.

235 (23) "Retained earnings" means that part of the net earnings retained by an enterprise
236 or internal service fund which is not segregated or reserved for any specific purpose.

237 (24) "Special fund" means any fund other than the General Fund, such as those
238 described in Section 17-36-6.

239 (25) "Unappropriated surplus" means that part of a fund which is not appropriated for
240 an ensuing budget period.

241 (26) "Warrant" means an order in a specific amount drawn upon the treasurer by the
242 auditor.

243 Section 5. Section **59-2-924.2** is amended to read:

244 **59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.**

245 (1) For purposes of this section, "certified tax rate" means a certified tax rate calculated
246 in accordance with Section 59-2-924.

247 (2) Beginning January 1, 1997, if a taxing entity receives increased revenues from
248 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
249 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter
250 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax
251 rate to offset the increased revenues.

252 (3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under
253 Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

254 (i) decreased on a one-time basis by the amount of the estimated sales and use tax
255 revenue to be distributed to the county under Subsection 59-12-1102(3); and

256 (ii) increased by the amount necessary to offset the county's reduction in revenue from
257 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
258 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection
259 (3)(a)(i).

260 (b) The commission shall determine estimates of sales and use tax distributions for
261 purposes of Subsection (3)(a).

262 (4) Beginning January 1, 1998, if a municipality has imposed an additional resort
263 communities sales and use tax under Section 59-12-402, the municipality's certified tax rate
264 shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of
265 estimated revenue from the additional resort communities sales and use tax imposed under
266 Section 59-12-402.

267 (5) (a) This Subsection (5) applies to each county that:

268 (i) establishes a countywide special service district under Title 17D, Chapter 1, Special
269 Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

270 (ii) levies a property tax on behalf of the special service district under Section
271 17D-1-105.

272 (b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be
273 decreased by the amount necessary to reduce county revenues by the same amount of revenues
274 that will be generated by the property tax imposed on behalf of the special service district.

275 (ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the

276 levy on behalf of the special service district under Section 17D-1-105.

277 (6) (a) As used in this Subsection (6):

278 (i) "Annexing county" means a county whose unincorporated area is included within a
279 public safety district by annexation.

280 (ii) "Annexing municipality" means a municipality whose area is included within a
281 public safety district by annexation.

282 (iii) "Equalized public safety protection tax rate" means the tax rate that results from:

283 (A) calculating, for each participating county and each participating municipality, the
284 property tax revenue necessary:

285 (I) in the case of a fire district, to cover all of the costs associated with providing fire
286 protection, paramedic, and emergency services:

287 (Aa) for a participating county, in the unincorporated area of the county; and

288 (Bb) for a participating municipality, in the municipality; or

289 (II) in the case of a police district, to cover all the costs:

290 (Aa) associated with providing law enforcement service:

291 (Ii) for a participating county, in the unincorporated area of the county; and

292 (IIii) for a participating municipality, in the municipality; and

293 (Bb) that the police district board designates as the costs to be funded by a property
294 tax; and

295 (B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all
296 participating counties and all participating municipalities and then dividing that sum by the
297 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

298 (I) for participating counties, in the unincorporated area of all participating counties;
299 and

300 (II) for participating municipalities, in all the participating municipalities.

301 (iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service
302 Area Act:

303 (A) created to provide fire protection, paramedic, and emergency services; and

304 (B) in the creation of which an election was not required under Subsection
305 17B-1-214(3)(c).

306 (v) "Participating county" means a county whose unincorporated area is included

307 within a public safety district at the time of the creation of the public safety district.

308 (vi) "Participating municipality" means a municipality whose area is included within a
309 public safety district at the time of the creation of the public safety district.

310 (vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service
311 Area Act, within a county of the first class:

312 (A) created to provide law enforcement service; and

313 (B) in the creation of which an election was not required under Subsection
314 17B-1-214(3)(c).

315 (viii) "Public safety district" means a fire district or a police district.

316 (ix) "Public safety service" means:

317 (A) in the case of a public safety district that is a fire district, fire protection,
318 paramedic, and emergency services; and

319 (B) in the case of a public safety district that is a police district, law enforcement
320 service.

321 (b) In the first year following creation of a public safety district, the certified tax rate of
322 each participating county and each participating municipality shall be decreased by the amount
323 of the equalized public safety tax rate.

324 (c) In the first budget year following annexation to a public safety district, the certified
325 tax rate of each annexing county and each annexing municipality shall be decreased by an
326 amount equal to the amount of revenue budgeted by the annexing county or annexing
327 municipality:

328 (i) for public safety service; and

329 (ii) in:

330 (A) for a taxing entity operating under a January 1 through December 31 fiscal year,
331 the prior calendar year; or

332 (B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior
333 fiscal year.

334 (d) Each tax levied under this section by a public safety district shall be considered to
335 be levied by:

336 (i) each participating county and each annexing county for purposes of the county's tax
337 limitation under Section 59-2-908; and

338 (ii) each participating municipality and each annexing municipality for purposes of the
339 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a
340 city.

341 (e) The calculation of a public safety district's certified tax rate for the year of
342 annexation shall be adjusted to include an amount of revenue equal to one half of the amount
343 of revenue budgeted by the annexing entity for public safety service in the annexing entity's
344 prior fiscal year if:

345 (i) the public safety district operates on a January 1 through December 31 fiscal year;

346 (ii) the public safety district approves an annexation of an entity operating on a July 1
347 through June 30 fiscal year; and

348 (iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

349 (7) For the calendar year beginning on January 1, 2007, the calculation of a taxing
350 entity's certified tax rate, calculated in accordance with Section 59-2-924, shall be adjusted by
351 the amount necessary to offset any change in the certified tax rate that may result from
352 excluding the following from the certified tax rate under Subsection 59-2-924(3) enacted by the
353 Legislature during the 2007 General Session:

354 (a) personal property tax revenue:

355 (i) received by a taxing entity;

356 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

357 (iii) for personal property that is semiconductor manufacturing equipment; or

358 (b) the taxable value of personal property:

359 (i) contained on the tax rolls of a taxing entity;

360 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

361 (iii) that is semiconductor manufacturing equipment.

362 (8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be
363 reduced for any year to the extent necessary to provide a community development and renewal
364 agency established under Title 17C, Limited Purpose Local Government Entities - Community
365 Development and Renewal Agencies Act, with approximately the same amount of money the
366 agency would have received without a reduction in the county's certified tax rate, calculated in
367 accordance with Section 59-2-924, if:

368 (i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

369 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the
370 previous year; and

371 (iii) the decrease results in a reduction of the amount to be paid to the agency under
372 Section 17C-1-403 or 17C-1-404.

373 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any
374 year to the extent necessary to provide a community development and renewal agency with
375 approximately the same amount of money as the agency would have received without an
376 increase in the certified tax rate that year if:

377 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to
378 a decrease in the certified tax rate under Subsection (2) or (3)(a); and

379 (ii) the certified tax rate of a city, school district, local district, or special service
380 district increases independent of the adjustment to the taxable value of the base year.

381 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a),
382 the amount of money allocated and, when collected, paid each year to a community
383 development and renewal agency established under Title 17C, Limited Purpose Local
384 Government Entities - Community Development and Renewal Agencies Act, for the payment
385 of bonds or other contract indebtedness, but not for administrative costs, may not be less than
386 that amount would have been without a decrease in the certified tax rate under Subsection (2)
387 or (3)(a).

388 (9) (a) (i) For fiscal year 2011, the certified tax rate of each county to which Subsection
389 17-34-3(5)(a) applies shall be decreased by the amount necessary to reduce revenues in that
390 fiscal year by an amount equal to the difference between the amount the county budgeted in its
391 2011 fiscal year budget for countywide hazardous materials emergency service, a criminal
392 investigation service related to fire protection, or a bomb squad service and related response
393 investigation and the amount the county spent during fiscal year 2011 for those services,
394 excluding amounts spent from a municipal services fund for those services.

395 (ii) For fiscal year 2012, the certified tax rate of each county to which Subsection
396 17-34-3(5)(a) applies shall be decreased by the amount necessary to reduce revenues in that
397 fiscal year by the amount that the county spent during fiscal year 2011 for countywide
398 hazardous materials emergency service, a criminal investigation service related to fire
399 protection, or a bomb squad service and related response investigation, excluding amounts

400 spent from a municipal services fund for those services.

401 (b) (i) For fiscal year 2012, a city or town to which Subsection 17-34-3(5)(a) applies
402 may increase its certified tax rate by the amount necessary to generate within the city or town
403 the same amount of revenues as the county would collect from that city or town if the decrease
404 under Subsection (9)(a) did not occur.

405 (ii) An increase under Subsection (9)(b)(i) is not subject to the notice and hearing
406 requirements of Section 59-2-919 or 59-2-919.1.

Legislative Review Note
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Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 187

SHORT TITLE: **County Services Amendments**

SPONSOR: **Bramble, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.