

Representative Kim F. Coleman proposes the following substitute bill:

EXTRA-JURISDICTIONAL MUNICIPAL PROPERTY

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses municipal ownership of property outside the municipality's boundaries.

Highlighted Provisions:

This bill:

- ▶ limits the circumstances in which a municipality may own property outside the municipality's boundaries;
- ▶ applies certain property tax liability to property that a city owns regardless of that city's extraterritorial jurisdiction;
- ▶ creates an exception to the property tax exemption for certain property that a municipality owns;
- ▶ authorizes a municipality to levy a property tax on certain property that another municipality owns within the taxing municipality's boundaries;
- ▶ prohibits a municipality that owns property within another municipality's boundaries from levying a tax within the other municipality's boundaries; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides a coordination clause.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-8-2**, as last amended by Laws of Utah 2014, Chapter 59

31 **10-8-15**, as last amended by Laws of Utah 2016, Chapter 348

32 **59-2-1101**, as last amended by Laws of Utah 2015, Chapters 129 and 261

33 **Utah Code Sections Affected by Coordination Clause:**

34 **10-8-15**, as last amended by Laws of Utah 2016, Chapter 348



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

37 Section 1. Section **10-8-2** is amended to read:

38 **10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal**
39 **authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.**

40 (1) (a) A municipal legislative body may:

41 (i) appropriate money for corporate purposes only;

42 (ii) provide for payment of debts and expenses of the corporation;

43 (iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and
44 dispose of real and personal property for the benefit of the municipality, [~~whether the property~~
45 ~~is within or without the municipality's corporate boundaries;~~] if the action is in the public
46 interest and complies with other law[;];

47 (A) within the municipality's corporate boundaries; or

48 (B) if the municipal legislative body makes a finding in a public hearing that no land
49 within the municipality's corporate boundaries exists that is reasonably suitable to address a
50 compelling interest related to health, safety, or welfare within the municipality for the
51 municipality's inhabitants, outside the municipality's corporate boundaries to address the
52 compelling interest;

53 (iv) improve, protect, and do any other thing in relation to [~~this~~] the property described
54 in Subsection (1)(a)(iii) that an individual could do; and

55 (v) subject to Subsection (2) and after first holding a public hearing, authorize
56 municipal services or other nonmonetary assistance to be provided to or waive fees required to

57 be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

58 (b) A municipality may:

59 (i) furnish all necessary local public services within the municipality;

60 (ii) purchase, hire, construct, own, maintain ~~and~~, operate, or lease public utilities

61 located and operating within and operated by the municipality; and

62 (iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property

63 ~~[located inside or outside the corporate limits of the municipality and]~~ necessary for any of the

64 purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B,

65 Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities[-],

66 if the property is located:

67 (A) within the municipality's corporate boundaries; or

68 (B) if the municipal legislative body makes a finding in a public hearing that no land

69 within the municipality's corporate boundaries exists that is reasonably suitable to address a

70 compelling interest related to health, safety, or welfare within the municipality for the

71 municipality's inhabitants, outside the municipality's corporate boundaries to address the

72 compelling interest.

73 (c) Each municipality that intends to acquire property by eminent domain under

74 Subsection (1)(b) shall comply with the requirements of Section [78B-6-505](#).

75 (d) ~~[Subsection (1)(b) may not be construed to]~~ Except as provided in Subsection

76 (1)(b)(iii)(B), Subsection (1)(b) does not diminish any other authority a municipality ~~[may~~

77 ~~claim to have]~~ has under the law to acquire by eminent domain property located inside or

78 outside the municipality.

79 (2) (a) Services or assistance provided ~~[pursuant to]~~ under Subsection (1)(a)(v) is not

80 subject to the provisions of Subsection (3).

81 (b) The total amount of services or other nonmonetary assistance provided or fees

82 waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the

83 municipality's budget for that fiscal year.

84 (3) It is considered a corporate purpose to appropriate money for any purpose that, in

85 the judgment of the municipal legislative body, provides for the safety, health, prosperity,

86 moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality

87 subject to the following:

88 (a) The net value received for any money appropriated ~~[shall be]~~ is measured on a
89 project-by-project basis over the life of the project.

90 ~~[(b) The criteria for a determination under this Subsection (3) shall be established by~~
91 ~~the municipality's legislative body. A determination of value received, made by the~~
92 ~~municipality's legislative body, shall be presumed valid unless it can be shown that the~~
93 ~~determination was arbitrary, capricious, or illegal.]~~

94 (b) (i) The municipal legislative body shall establish the criteria for a determination
95 under this Subsection (3).

96 (ii) The municipal legislative body's determination of value received is presumed valid
97 unless the determination was arbitrary, capricious, or illegal.

98 (c) The municipality may consider intangible benefits received by the municipality in
99 determining net value received.

100 (d) (i) ~~[Prior to]~~ Before the municipal legislative body ~~[making any decision]~~ decides
101 to appropriate any funds for a corporate purpose under this section, ~~[a public hearing shall be~~
102 ~~held]~~ the municipal legislative body shall hold a public hearing.

103 (ii) ~~[Notice]~~ The municipal legislative body shall publish notice of the hearing
104 described in Subsection (3)(d)(i) ~~[shall be published]:~~

105 (A) ~~[(f)]~~ in a newspaper of general circulation at least 14 days before the date of the
106 hearing~~[-or (f)], or~~ if there is no newspaper of general circulation, [by posting notice] in at
107 least three conspicuous places within the municipality for the same time period; and

108 (B) on the Utah Public Notice Website created in Section [63F-1-701](#), at least 14 days
109 before the date of the hearing.

110 (e) (i) ~~[A study shall be performed before]~~ The municipal legislative body shall prepare
111 a study before giving notice of the public hearing ~~[is given and shall be made]~~ described in
112 Subsection (3)(d)(i) and make the study available at the municipality for review by interested
113 parties at least 14 days immediately [prior to] before the public hearing, setting forth an
114 analysis and demonstrating the purpose for the appropriation.

115 (ii) In making the study, the municipal legislative body shall consider the following
116 factors [shall be considered]:

117 ~~[(i)]~~ (A) ~~[what]~~ the identified benefit the municipality will receive in return for any
118 money or resources appropriated;

119 [(~~it~~)] (B) the municipality's purpose for the appropriation, including an analysis of the
120 way the appropriation will be used to enhance the safety, health, prosperity, moral well-being,
121 peace, order, comfort, or convenience of the inhabitants of the municipality; and

122 [(~~iii~~)] (C) whether the appropriation is necessary and appropriate to accomplish the
123 reasonable goals and objectives of the municipality in the area of economic development, job
124 creation, affordable housing, blight elimination, job preservation, the preservation of historic
125 structures and property, and any other public purpose.

126 (f) (i) [~~An appeal may be taken from~~] An individual may appeal a final decision of the
127 municipal legislative body[;] to make an appropriation.

128 (ii) [~~The appeal shall be filed~~] An individual shall file the appeal described in
129 Subsection (3)(f)(i) in the district court within 30 days after the date of [~~that decision, to the~~
130 ~~district court~~] the decision described in Subsection (3)(f)(i).

131 (iii) Any appeal [~~shall be~~] is based on the record of the proceedings before the
132 municipal legislative body.

133 (iv) [~~A decision of the municipal legislative body shall be presumed to be~~] The court
134 hearing the appeal shall presume that a decision of the municipal legislative body under this
135 section is valid unless the appealing party shows that the decision was arbitrary, capricious, or
136 illegal.

137 (g) The provisions of this Subsection (3) apply only to [~~those~~] appropriations [~~made~~] a
138 municipality makes after May 6, 2002.

139 (h) This section applies only to appropriations not otherwise approved [~~pursuant to~~]
140 under Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter
141 6, Uniform Fiscal Procedures Act for Utah Cities.

142 (4) (a) Before a municipality may dispose of a significant parcel of real property, the
143 municipality shall:

144 (i) provide reasonable notice of the proposed disposition at least 14 days before the
145 opportunity for public comment under Subsection (4)(a)(ii); and

146 (ii) allow an opportunity for public comment on the proposed disposition.

147 (b) Each municipality shall, by ordinance, define what constitutes:

148 (i) a significant parcel of real property for purposes of Subsection (4)(a); and

149 (ii) reasonable notice for purposes of Subsection (4)(a)(i).

150 (5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire
151 real property for the purpose of expanding the municipality's infrastructure or other facilities
152 used for providing services that the municipality offers or intends to offer shall provide written
153 notice, as provided in this Subsection (5), of ~~[its]~~ the municipality's intent to acquire the
154 property if:

155 (i) the property is located:

156 (A) outside the boundaries of the municipality; and

157 (B) in a county of the first or second class; and

158 (ii) the intended use of the property is contrary to:

159 (A) the anticipated use of the property under the general plan of the county in whose
160 unincorporated area or the municipality in whose boundaries the property is located; or

161 (B) the property's current zoning designation.

162 (b) ~~[Each]~~ The municipal legislative body shall:

163 (i) ensure that each notice under Subsection (5)(a) ~~[shall]~~:

164 ~~[(i)]~~ (A) [indicate] indicates that the municipality intends to acquire real property;

165 ~~[(ii)]~~ (B) [identify] identifies the real property; and

166 (C) includes the findings the municipal legislative body makes in accordance with
167 Subsection (1)(a)(iii)(B) or (1)(b)(iii)(B); and

168 ~~[(iii) be sent to:]~~

169 (ii) send the notice to:

170 (A) each county ~~[in whose]~~ with unincorporated area within which the property is
171 located and each municipality ~~[in whose]~~ with boundaries within which the property is located;
172 and

173 (B) each affected entity.

174 (c) A notice under this Subsection (5) is a protected record as provided in Subsection
175 [63G-2-305\(8\)](#).

176 (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality
177 previously provided notice under Section [10-9a-203](#) identifying the general location within the
178 municipality or unincorporated part of the county where the property to be acquired is located.

179 (ii) If a municipality is not required to comply with the notice requirement of
180 Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide

181 the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real
182 property.

183 Section 2. Section **10-8-15** is amended to read:

184 **10-8-15. Waterworks -- Construction -- Extraterritorial jurisdiction.**

185 [~~They may~~] (1) (a) A city may:

186 (i) construct or authorize the construction of waterworks within or without the city
187 limits~~;~~; and

188 (ii) exercise jurisdiction for the purpose of maintaining and protecting the [~~same~~]
189 waterworks described in Subsection (1)(a)(i) from injury and the water from pollution [~~their~~
190 jurisdiction shall extend] as described in this section.

191 (b) The jurisdiction described in Subsection (1)(a)(ii) extends over the territory
192 occupied by [~~such works~~] the waterworks described in Subsection (1)(a)(i), and over all
193 reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction,
194 maintenance and operation of the [~~same~~] waterworks, and over the stream or source from
195 which the water is taken, for:

196 (i) 15 miles above the point from which it is taken and for a distance of 300 feet on
197 each side of such stream and over highways along such stream or watercourse within said 15
198 miles and said 300 feet; [~~provided, that the jurisdiction of~~] or

199 (ii) for cities of the first class [~~shall be over~~], the entire watershed~~;~~ [~~except that~~].

200 (2) Notwithstanding Subsection (1):

201 (a) livestock [~~shall be permitted to~~] may graze beyond 1,000 feet from any such stream
202 or source; and [~~provided further, that~~]

203 (b) each city of the first class shall provide a highway in and through its corporate
204 limits, and so far as its jurisdiction extends, which may not be closed to cattle, horses, sheep or
205 hogs driven through any [~~such~~] city of the first class, or through any territory adjacent thereto
206 over which such city has jurisdiction, but the board of commissioners of such city may enact
207 ordinances placing under police regulations the manner of driving such cattle, sheep, horses
208 and hogs through such city, or any territory adjacent thereto over which it has jurisdiction.

209 [~~They may~~]

210 (3) A city may:

211 (a) enact all ordinances and regulations necessary to carry the power [~~herein conferred~~]

212 described in this section into effect~~[-, and are authorized and empowered to]; and~~

213 (b) enact ordinances preventing pollution or contamination of the streams or
214 watercourses from which the inhabitants of cities derive their water supply, in whole or in part,
215 for domestic and culinary purposes~~[-, and may];~~

216 (c) enact ordinances prohibiting or regulating the construction or maintenance of any
217 closet, privy, outhouse or urinal within the area over which the city has jurisdiction~~[-, and];~~

218 (d) provide for permits for the construction and maintenance of the ~~[same. In granting~~
219 ~~such permits they may]~~ items described in Subsection (3)(c); and

220 (e) in granting the permits described in Subsection (3)(d):

221 (i) annex thereto such reasonable conditions and requirements for the protection of the
222 public health as ~~[they deem proper, and may,]~~ the city considers proper; and

223 (ii) if deemed advisable, require that all closets, privies and urinals along ~~[such]~~
224 streams ~~[shall]~~ be provided with effective septic tanks or other germ-destroying
225 instrumentalities.

226 (4) Regardless of the jurisdiction described in Subsection (1), property that a city of the
227 first class owns outside of the geographic boundaries of the city is subject to property tax in
228 accordance with Subsection 59-2-1101(3)(c).

229 Section 3. Section 59-2-1101 is amended to read:

230 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**
231 **for certain property -- County legislative body authority to adopt rules or ordinances.**

232 (1) As used in this section:

233 (a) "Educational purposes" includes:

234 (i) the physical or mental teaching, training, or conditioning of competitive athletes by
235 a national governing body of sport recognized by the United States Olympic Committee that
236 qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

237 (ii) an activity in support of or incidental to the teaching, training, or conditioning
238 described in Subsection (1)(a)(i).

239 (b) "Exclusive use exemption" means a property tax exemption under Subsection
240 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or
241 educational purposes.

242 (c) "Government exemption" means a property tax exemption provided under

243 Subsection (3)(a)(i), (ii), or (iii).

244 (d) "Nonprofit entity" includes an entity if the:

245 (i) entity is treated as a disregarded entity for federal income tax purposes;

246 (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;

247 and

248 (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit

249 entity.

250 (e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this

251 part.

252 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if

253 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

254 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional

255 tax based upon the length of time that the property was not owned by the claimant if:

256 (i) the claimant is a federal, state, or political subdivision entity described in

257 Subsection (3)(a)(i), (ii), or (iii); or

258 (ii) pursuant to Subsection (3)(a)(iv):

259 (A) the claimant is a nonprofit entity; and

260 (B) the property is used exclusively for religious, charitable, or educational purposes.

261 (c) Subsection (2)(a) does not apply to an exemption under Section [59-2-1104](#).

262 (3) (a) The following property is exempt from taxation:

263 (i) property exempt under the laws of the United States;

264 (ii) property of:

265 (A) the state;

266 (B) school districts; and

267 (C) public libraries;

268 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, or

269 Subsection (3)(c), property of:

270 (A) counties;

271 (B) cities;

272 (C) towns;

273 (D) local districts;

- 274 (E) special service districts; and
- 275 (F) all other political subdivisions of the state;
- 276 (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or
- 277 educational purposes;
- 278 (v) places of burial not held or used for private or corporate benefit;
- 279 (vi) farm machinery and equipment;
- 280 (vii) a high tunnel, as defined in Section 10-9a-525;
- 281 (viii) intangible property; and
- 282 (ix) the ownership interest of an out-of-state public agency, as defined in Section
- 283 11-13-103:
- 284 (A) if that ownership interest is in property providing additional project capacity, as
- 285 defined in Section 11-13-103; and
- 286 (B) on which a fee in lieu of ad valorem property tax is payable under Section
- 287 11-13-302.
- 288 (b) For purposes of a property tax exemption for property of school districts under
- 289 Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter
- 290 Schools Act, is considered to be a school district.
- 291 (c) (i) As used in this Subsection (3)(c):
- 292 (A) "Proprietor city or town" means a city or town that owns property that is located
- 293 within the geographic boundaries of another city or town.
- 294 (B) "Situs city or town" means a city or town that has within its geographic boundaries
- 295 the property of another city or town.
- 296 (ii) For property of a proprietor city or town that is located outside of the proprietor
- 297 city's or town's geographic boundaries and that the proprietor city or town acquired after the
- 298 situs city or town incorporated:
- 299 (A) the situs city or town may levy a property tax on the property; and
- 300 (B) the acquiring city or town may not levy a property tax on the property.
- 301 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
- 302 a government exemption ceases to qualify for the exemption because of a change in the
- 303 ownership of the property:
- 304 (a) the new owner of the property shall pay a proportional tax based upon the period of

305 time:

306 (i) beginning on the day that the new owner acquired the property; and

307 (ii) ending on the last day of the calendar year during which the new owner acquired
308 the property; and

309 (b) the new owner of the property and the person from whom the new owner acquires
310 the property shall notify the county assessor, in writing, of the change in ownership of the
311 property within 30 days from the day that the new owner acquires the property.

312 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
313 (4)(a):

314 (a) is subject to any exclusive use exemption or government exemption that the
315 property is entitled to under the new ownership of the property; and

316 (b) applies only to property that is acquired after December 31, 2005.

317 (6) A county legislative body may adopt rules or ordinances to:

318 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation
319 provided in this part; and

320 (b) designate one or more persons to perform the functions given the county under this
321 part.

322 Section 4. **Coordinating H.B. 255 with H.B. 138 -- Substantive and technical**
323 **amendments.**

324 If this H.B. 255 and H.B. 138, Extraterritorial Jurisdiction Amendments, both pass and
325 become law, it is the intent of the Legislature that the Office of Legislative Research General
326 Counsel shall prepare the Utah Code database for publication by:

327 (1) on May 8, 2018, amending Section 10-8-15 to read:

328 "10-8-15. Waterworks -- Construction -- Extraterritorial jurisdiction.

329 [They may] (1) (a) A city may:

330 (i) construct or authorize the construction of waterworks within or without the city
331 limits[;]; and

332 (ii) exercise jurisdiction for the purpose of maintaining and protecting the [same]
333 waterworks described in Subsection (1)(a)(i) from injury and the water from pollution [their
334 jurisdiction shall extend] as described in this section.

335 (b) The jurisdiction described in Subsection (1)(a)(ii) extends over the territory

336 occupied by ~~[such works]~~ the waterworks described in Subsection (1)(a)(i), and over all
337 reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction,
338 maintenance and operation of the ~~[same]~~ waterworks, and over the stream or source from
339 which the water is taken, for:

340 (i) 15 miles above the point from which it is taken and for a distance of 300 feet on
341 each side of such stream and over highways along such stream or watercourse within said 15
342 miles and said 300 feet; ~~[provided, that the jurisdiction of]~~ or

343 (ii) for cities of the first class ~~[shall be over]~~, the entire watershed~~[, except that]~~.

344 (2) Notwithstanding Subsection (1):

345 (a) livestock ~~[shall be permitted to]~~ may graze beyond 1,000 feet from any such stream
346 or source; and ~~[provided further, that]~~

347 (b) each city of the first class shall provide a highway in and through its corporate
348 limits, and so far as its jurisdiction extends, which may not be closed to cattle, horses, sheep or
349 hogs driven through any ~~[such]~~ city of the first class, or through any territory adjacent thereto
350 over which such city has jurisdiction, but the board of commissioners of such city may enact
351 ordinances placing under police regulations the manner of driving such cattle, sheep, horses
352 and hogs through such city, or any territory adjacent thereto over which it has jurisdiction.
353 ~~[They may]~~

354 (3) A city may:

355 (a) enact all ordinances and regulations necessary to carry the power ~~[herein conferred]~~
356 described in this section into effect~~[, and are authorized and empowered to]~~; and

357 (b) enact ordinances preventing pollution or contamination of the streams or
358 watercourses from which the inhabitants of cities derive their water supply, in whole or in part,
359 for domestic and culinary purposes~~[, and may]~~;

360 (c) enact ordinances prohibiting or regulating the construction or maintenance of any
361 closet, privy, outhouse or urinal within the area over which the city has jurisdiction~~[, and]~~;

362 (d) provide for permits for the construction and maintenance of the ~~[same. In granting]~~
363 ~~such permits they may~~ items described in Subsection (3)(c); and

364 (e) in granting the permits described in Subsection (3)(d):

365 (i) annex thereto such reasonable conditions and requirements for the protection of the
366 public health as ~~[they deem proper, and may,]~~ the city considers proper; and

367 (ii) if deemed advisable, require that all closets, privies and urinals along [such]
368 streams [shall] be provided with effective septic tanks or other germ-destroying
369 instrumentalities.

370 (4) Regardless of the jurisdiction described in Subsection (1), property that a city of the
371 first class owns outside of the geographic boundaries of the city is subject to property tax in
372 accordance with Subsection 59-2-1101(3)(c)."; and

373 (2) on July 1, 2020, modifying Subsection 10-8-15(1)(b) to read:

374 "(b) The jurisdiction described in Subsection (1)(a)(ii) extends over the territory
375 occupied by the waterworks described in Subsection (1)(a)(i), and over all reservoirs, streams,
376 canals, ditches, pipes and drains used in and necessary for the construction, maintenance and
377 operation of the waterworks, and over the stream or source from which the water is taken, for[
378 (†)] 15 miles above the point from which it is taken and for a distance of 300 feet on each side
379 of such stream and over highways along such stream or watercourse within said 15 miles and
380 said 300 feet[; ~~or (ii) for cities of the first class, the entire watershed]."~~