

Senator Ronald M. Winterton proposes the following substitute bill:

COLORADO RIVER AUTHORITY OF UTAH AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald M. Winterton

House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill modifies provisions related to the Colorado River Authority of Utah.

Highlighted Provisions:

This bill:

- ▶ amends the membership on the Colorado River Authority of Utah;
- ▶ amends the Colorado River authority areas;
- ▶ requires the authority to consult with tribes;
- ▶ addresses rulemaking and resolution procedure requirements; and
- ▶ makes technical changes, including omitting outdated language.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-14-202, as enacted by Laws of Utah 2021, Chapter 179

63M-14-203, as enacted by Laws of Utah 2021, Chapter 179 and further amended by

Revisor Instructions, Laws of Utah 2021, Chapter 179



26 **63M-14-209**, as enacted by Laws of Utah 2021, Chapter 179

27 **63M-14-210**, as enacted by Laws of Utah 2021, Chapter 179

28 REPEALS:

29 **63M-14-206**, as enacted by Laws of Utah 2021, Chapter 179



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

32 Section 1. Section **63M-14-202** is amended to read:

33 **63M-14-202. Organization of the authority.**

34 (1) The authority is composed of [~~six~~] seven authority members:

35 (a) five authority members who represent Colorado River authority areas; [~~and~~]

36 (b) one authority member who represents the governor[~~-~~]; and

37 (c) one authority member who represents tribal interests.

38 (2) The five Colorado River authority areas, defined by existing county boundaries that
39 reflect the historic and current use of the Colorado River system, include:

40 (a) the Central Utah Area composed of Salt Lake, Utah, Juab, Sanpete, Summit,
41 Wasatch, Duchesne, and Uintah counties, located within the service area of the Central Utah
42 Water Conservancy District;

43 (b) the Uintah Basin Area composed of Duchesne and Uintah counties,
44 notwithstanding that these counties fall within the Central Utah Area, and Daggett county;

45 (c) the Price and San Rafael Area composed of Carbon and Emery counties;

46 (d) the Virgin River Area composed of Kane and Washington counties; and

47 (e) the State of Utah Area that represents:

48 (i) the remaining counties using the Colorado River system;

49 (ii) the Department of Natural Resources and the Department of Natural Resources'
50 divisions; and

51 (iii) the users of the Colorado River system that are not specifically included in the
52 other four Colorado River authority areas and include [~~Daggett,~~] Garfield, Grand, San Juan,
53 and Wayne counties.

54 (3) The members of the authority are:

55 (a) four members appointed as follows:

56 (i) a representative of the Central Utah Area appointed by the board of trustees of the

57 Central Utah Water Conservancy District;

58 (ii) a representative of the Uintah Basin Area appointed jointly by the boards of
59 trustees of the Duchesne County and Uintah Water Conservancy Districts;

60 (iii) a representative of the Price and San Rafael Area appointed jointly by the county
61 commission of Carbon County and the board of trustees of the Emery Water Conservancy
62 District; and

63 (iv) a representative of the Virgin River Area appointed by the board of trustees of the
64 Washington County Water Conservancy District;

65 (b) the director of the Division of Water Resources as the representative of the State of
66 Utah Area created in Subsection (2)(e); ~~and~~

67 (c) the executive director of the Department of Natural Resources as the representative
68 of the governor[-]; and

69 (d) a representative of tribal interests who is:

70 (i) appointed by the governor; and

71 (ii) a member of a federally recognized Indian tribe if the tribe is, in whole or in part,
72 located within the state and within the Colorado River system.

73 (4) A joint appointment required under Subsection (3) requires the agreement of both
74 appointing authorities before the authority member seat is filled.

75 (5) An authority member who is appointed under Subsection (3) shall:

76 (a) be a resident of the state; and

77 (b) have experience and a general knowledge of:

78 (i) Colorado River issues and the use of the Colorado River system in the member's
79 respective Colorado River authority area;

80 (ii) the development of the use of the waters of the Colorado River system; and

81 (iii) the rights of this state concerning the resources and benefits of the Colorado River
82 system.

83 (6) (a) An appointing authority shall notify the chair of:

84 (i) the appointing authority's initial appointment to the authority ~~on or before July 1,~~
85 ~~2021~~]; and

86 (ii) the appointment of a new member or when a vacancy is being filled.

87 (b) An appointment of an authority member is effective when received by the chair.

88 (c) The initial term of an appointed authority member expires June 30, 2027. Before
89 June 30, 2027, the authority shall adopt a system to stagger the terms of appointed authority
90 members beginning July 1, 2027, and notify each appointing authority of the duration of the
91 term of the appointing authority's authority member. The staggering of terms after July 1, 2027,
92 shall result in approximately one-third of the appointed authority members' terms expiring
93 every two years. After the respective terms of adjustment are complete, subsequent authority
94 members shall be appointed by an appointing authority for six-year terms.

95 (d) An authority member term shall end on June 30. New terms commence on July 1.

96 (e) An authority member whose term has expired shall serve until replaced or
97 reappointed by the applicable appointing authority.

98 (f) An appointing authority may at any time remove the appointing authority's authority
99 member for neglect of duty or malfeasance in office. If the authority member is jointly
100 appointed, the authority member may only be removed by joint agreement of both appointing
101 authorities.

102 (7) In the event of a vacancy in the authority, the chair shall notify the appointing
103 authority of the vacancy and ask that an authority member be promptly appointed.

104 (8) (a) An authority member may not receive compensation or benefits for the
105 member's service, but may receive per diem and travel expenses in accordance with:

106 (i) Section 63A-3-106;

107 (ii) Section 63A-3-107; and

108 (iii) rules made by the Department of Finance pursuant to Sections 63A-3-106 and
109 63A-3-107.

110 (b) If an authority member is a full-time employee with either the state or a water
111 conservancy district, the authority member is not eligible for the per diem compensation.

112 (9) The executive director appointed under Section 63M-14-401 shall provide staff
113 services to the authority.

114 Section 2. Section 63M-14-203 is amended to read:

115 **63M-14-203. Authority operation -- Participation of the Department of Natural**
116 **Resources -- Consultation with tribes.**

117 (1) An authority member has one vote on authority matters.

118 (2) (a) Four members of the authority constitute a quorum to conduct authority

119 business.

120 (b) A vote of four members is needed to pass authority business.

121 (3) (a) (i) The river commissioner appointed by the governor before March 16, 2021,
122 shall serve as the chair of the authority until June 30, 2027, if the river commissioner is a
123 member of the authority.

124 (ii) Beginning on July 1, 2027, the river commissioner shall be appointed under
125 Section 63M-14-301 and shall serve as chair of the authority for a term of six years in
126 accordance with Section 63M-14-302.

127 (b) The authority may elect other officers such as vice chair, secretary, and treasurer.

128 (c) The chair, vice chair, secretary, and treasurer are required to be authority members.

129 (d) Other officers of the authority are not required to be authority members. The
130 authority shall adopt [~~rules, in accordance with Title 63G, Chapter 3, Utah Administrative~~
131 ~~Rulemaking Act, for~~], by resolution, job responsibilities and terms of offices for the officers
132 appointed under this Subsection (3)(d).

133 (e) If an authority officer no longer serves as an officer of the authority, the authority
134 shall fill the vacancy for the unexpired term of the officer who is no longer serving.

135 (4) (a) The Department of Natural Resources shall cooperate with the authority.

136 (b) At the request of the authority, the executive director of the Department of Natural
137 Resources shall:

138 (i) provide to the authority data or information collected by the Department of Natural
139 Resources; and

140 (ii) ensure that the Department of Natural Resources present information to the
141 authority.

142 (5) The authority shall seek ~~Ŝ~~→ ~~[consultation and]~~ ←~~Ŝ~~ an appropriate
142a government-to-government
143 relationship ~~Ŝ~~→ **on matters directly related to the authority's general powers and mission as set**
143a **forth in Section 63M-14-204** ←~~Ŝ~~ with ~~Ŝ~~→ **all** ←~~Ŝ~~ federally recognized Indian tribes located, in
143b whole or in part, within the state
144 and within the Colorado River system.

145 Section 3. Section 63M-14-209 is amended to read:

146 **63M-14-209. Advisory councils authorized -- Consultations.**

147 (1) (a) The authority may create authorized advisory councils of interested persons for
148 consultations with the authority.

149 (b) The authority shall [~~by no later than December 31, 2021, make rules~~] by resolution

150 adopt policies governing:

- 151 (i) authorized advisory councils;
- 152 (ii) authorized advisory council members;
- 153 (iii) authorized advisory council leadership; and
- 154 (iv) authorized topic areas of interest for each authorized advisory council that directly
- 155 relate to the mission and objectives of the authority.

156 (c) The authority may consult with authorized advisory councils and consider data,
157 information, and input from these authorized advisory councils relevant to the mission and
158 objectives of the authority.

159 (2) The authority may consult with relevant watershed councils created under Title 73,
160 Chapter 10g, Part 3, Watershed Councils Act.

161 Section 4. Section **63M-14-210** is amended to read:

162 **63M-14-210. Application of state laws.**

163 (1) (a) The authority is not an executive branch procurement unit under Title 63G,
164 Chapter 6a, Utah Procurement Code, and is not subject to that chapter.

165 (b) The authority shall [~~make by rule~~] by resolution adopt a procurement procedure
166 substantially similar to Title 63G, Chapter 6a, Utah Procurement Code, or a procurement code
167 adopted by an appointing authority.

168 (c) The authority may contract with an appointing authority that has a local
169 procurement procedure to deal with procurement in manner consistent with the [~~rules made~~]
170 resolution adopted under Subsection (1)(b).

171 (2) (a) The authority shall comply with Title 63A, Chapter 17, Utah State Personnel
172 Management Act, except as provided in this Subsection (2).

173 (b) (i) The authority may approve, upon recommendation of the chair, that exemption
174 for specific positions under Subsections [63A-17-301\(1\)](#) and [63A-17-307\(2\)](#) is required to
175 enable the authority to efficiently fulfill the authority's responsibilities under the law.

176 (ii) The chair shall consult with the executive director of the Division of Human
177 Resource Management before making a recommendation under Subsection (2)(b)(i).

178 (iii) The position of executive director is exempt under Subsections [63A-17-301\(1\)](#) and
179 [63A-17-307\(2\)](#).

180 (c) (i) The executive director shall set salaries for exempted positions, except for the

181 executive director, after consultation with the executive director of the Department of Human
182 Resource Management, within ranges approved by the authority. The chair shall set the salary
183 of the executive director.

184 (ii) The authority and executive director shall consider salaries for similar positions in
185 private enterprise and other public employment when setting salary ranges.

186 (3) In adopting a policy under this chapter, the authority:

187 (a) is not required to comply with Title 63G, Chapter 3, Utah Administrative
188 Rulemaking Act; and

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

190 Section 5. **Repealer.**

191 This bill repeals:

192 Section **63M-14-206, Adoption of rules.**