

## SB0160S01 compared with SB0160

~~{deleted text}~~ shows text that was in SB0160 but was deleted in SB0160S01.

inserted text shows text that was not in SB0160 but was inserted into SB0160S01.

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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: \_\_\_\_\_

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#### 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;
- ▶ ~~{modifies quorum and voting requirements}~~ 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- ▶ makes technical changes, including omitting outdated language.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

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### 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

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

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

#### REPEALS:

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

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

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

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

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

- (a) five authority members who represent Colorado River authority areas; [~~and~~]
- (b) one authority member who represents the governor[.]; and
- (c) one authority member who represents tribal interests.

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

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

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

- (c) the Price and San Rafael Area composed of Carbon and Emery counties;
- (d) the Virgin River Area composed of Kane and Washington counties; and
- (e) the State of Utah Area that represents:

- (i) the remaining counties using the Colorado River system;
- (ii) the Department of Natural Resources and the Department of Natural Resources'

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divisions; and

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

(3) The members of the authority are:

(a) four members appointed as follows:

(i) a representative of the Central Utah Area appointed by the board of trustees of the Central Utah Water Conservancy District;

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

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

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

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

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

(d) a representative of tribal interests who is:

(i) appointed by the governor; and

(ii) a member of a federally recognized Indian tribe ~~{that holds water rights within a}~~ if the tribe is, in whole or in part, located within the state and within the Colorado River {authority area} system.

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

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

(a) be a resident of the state; and

(b) have experience and a general knowledge of:

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

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(ii) the development of the use of the waters of the Colorado River system; and  
(iii) the rights of this state concerning the resources and benefits of the Colorado River system.

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

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

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

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

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

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

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

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

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

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

(i) Section 63A-3-106;

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

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

(b) If an authority member is a full-time employee with either the state or a water

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conservancy district, the authority member is not eligible for the per diem compensation.

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

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

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

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

(2) (a) ~~Four~~ Five members of the authority constitute a quorum to conduct authority business.

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

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

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

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

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

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

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

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

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

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

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

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(5) The authority shall seek consultation and an appropriate government-to-government relationship with federally recognized Indian tribes ~~located, in whole or in part,~~ within the state ~~{that hold water rights}~~ and within ~~{a}~~ the Colorado River ~~{authority area}~~ system.

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

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

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

(b) The authority shall ~~[, by no later than December 31, 2021, make rules]~~ by resolution adopt ~~{rules}~~ policies governing:

(i) authorized advisory councils;

(ii) authorized advisory council members;

(iii) authorized advisory council leadership; and

(iv) authorized topic areas of interest for each authorized advisory council that directly relate to the mission and objectives of the authority.

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

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

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

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

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

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

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

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

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

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

(iii) The position of executive director is exempt under Subsections 63A-17-301(1) and 63A-17-307(2).

(c) (i) The executive director shall set salaries for exempted positions, except for the executive director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the authority. The chair shall set the salary of the executive director.

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

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

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

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

**Section 5. Repealer.**

This bill repeals:

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