

**COUNTY SERVICES AMENDMENTS**

2011 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 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.

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**Legislative Review Note**  
**as of 2-14-11 4:31 PM**

**Office of Legislative Research and General Counsel**