

GENERAL COUNTY POWERS AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill amends the general powers of a county.

Highlighted Provisions:

This bill:

- ▶ prohibits a county or a governmental instrumentality of a county from performing an action, providing a service, exercising a power, or performing a function in another county or a municipality within the other county without first entering into an agreement with the other county; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-50-302, as last amended by Laws of Utah 2008, Chapters 3 and 382

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

Section 1. Section **17-50-302** is amended to read:

17-50-302. General county powers.

(1) ~~[A]~~ (a) Except as provided in Subsection (1)(b), a county may:

~~[(a)] (i) as prescribed by statute[, levy, assess, and collect taxes, borrow money, and~~

30 levy and collect special assessments for benefits conferred; and];

31 (A) levy a tax;

32 (B) perform an assessment;

33 (C) collect a tax;

34 (D) borrow money; or

35 (E) levy and collect a special assessment for a conferred benefit; or

36 ~~[(b)]~~ (ii) provide [services, exercise powers, and perform functions that are] a service,
37 exercise a power, or perform a function that is reasonably related to the safety, health, morals,
38 and welfare of ~~[their]~~ county inhabitants, except as limited or prohibited by statute.

39 (b) A county or a governmental instrumentality of a county may not perform an action
40 described in Subsection (1)(a)(i) or provide a service, exercise a power, or perform a function
41 described in Subsection (1)(a)(ii) in another county or a municipality within the other county
42 without first entering into an agreement under Title 11, Chapter 13, Interlocal Cooperation
43 Act, or other contract with the other county to perform the action, provide the service, exercise
44 the power, or perform the function.

45 (2) (a) A county may:

46 (i) sue and be sued;

47 (ii) subject to Subsection (2)(c), acquire real property by tax sale, purchase, lease,
48 contract, or gift, and hold the real property as necessary and proper for county purposes;

49 (iii) (A) subject to Subsection (2)(b), acquire real property by condemnation, as
50 provided in Title 78B, Chapter 6, Part 5, Eminent Domain; and

51 (B) hold the real property as necessary and proper for county purposes;

52 (iv) as may be necessary to the exercise of its powers, acquire personal property by
53 purchase, lease, contract, or gift, and hold such personal property; and

54 (v) manage and dispose of its property as the interests of its inhabitants may require.

55 (b) (i) For purposes of Subsection (2)(a)(iii), water rights that are not appurtenant to
56 land do not constitute real property that may be acquired by the county through condemnation.

57 (ii) Nothing in Subsection (2)(a)(iii) may be construed to authorize a county to acquire

58 by condemnation the rights to water unless the land to which those water rights are
59 appurtenant is acquired by condemnation.

60 (c) (i) Except as provided in Subsection (2)(c)(iv), each county intending to acquire
61 real property for the purpose of expanding the county's infrastructure or other facilities used
62 for providing services that the county offers or intends to offer shall provide written notice, as
63 provided in this Subsection (2)(c), of its intent to acquire the property if:

64 (A) the property is located:

65 (I) outside the boundaries of the unincorporated area of the county; and

66 (II) in a county of the first or second class; and

67 (B) the intended use of the property is contrary to:

68 (I) the anticipated use of the property under the general plan of the county in whose
69 unincorporated area or the municipality in whose boundaries the property is located; or

70 (II) the property's current zoning designation.

71 (ii) Each notice under Subsection (2)(c)(i) shall:

72 (A) indicate that the county intends to acquire real property;

73 (B) identify the real property; and

74 (C) be sent to:

75 (I) each county in whose unincorporated area and each municipality in whose
76 boundaries the property is located; and

77 (II) each affected entity.

78 (iii) A notice under this Subsection (2)(c) is a protected record as provided in
79 Subsection 63G-2-305(7).

80 (iv) (A) The notice requirement of Subsection (2)(c)(i) does not apply if the county
81 previously provided notice under Section 17-27a-203 identifying the general location within
82 the municipality or unincorporated part of the county where the property to be acquired is
83 located.

84 (B) If a county is not required to comply with the notice requirement of Subsection
85 (2)(c)(i) because of application of Subsection (2)(c)(iv)(A), the county shall provide the notice

86 specified in Subsection (2)(c)(i) as soon as practicable after its acquisition of the real property.