

Part 4 Miscellaneous Provisions

63C-4a-401 Title.

This part is known as "Miscellaneous Provisions."

Enacted by Chapter 101, 2013 General Session

63C-4a-402 Creation of Constitutional Defense Restricted Account -- Sources of funds -- Uses of funds -- Reports.

- (1) There is created a restricted account within the General Fund known as the Constitutional Defense Restricted Account.
- (2) The account consists of money from the following revenue sources:
 - (a) money deposited to the account as required by Section 53C-3-203;
 - (b) voluntary contributions;
 - (c) money received by the council from other state agencies; and
 - (d) appropriations made by the Legislature.
- (3) The Legislature may annually appropriate money from the Constitutional Defense Restricted Account to one or more of the following:
 - (a) the commission, to fund the commission and for the commission's duties;
 - (b) the council, to fund the council and for the council's duties;
 - (c) the Public Lands Policy Coordinating Office to carry out its duties in Section 63J-4-603;
 - (d) the Office of the Governor, to be used only for the purpose of asserting, defending, or litigating:
 - (i) an issue arising with another state regarding the use or ownership of water; or
 - (ii) state and local government rights under R.S. 2477, in accordance with a plan developed and approved as provided in Section 63C-4a-403;
 - (e) a county or association of counties to assist counties, consistent with the purposes of the council, in pursuing issues affecting the counties;
 - (f) the Office of the Attorney General, to be used only:
 - (i) for public lands counsel and assistance and litigation to the state or local governments including asserting, defending, or litigating state and local government rights under R.S. 2477 in accordance with a plan developed and approved as provided in Section 63C-4a-403;
 - (ii) for an action filed in accordance with Section 67-5-29;
 - (iii) to advise the council; or
 - (iv) for asserting, defending, or litigating an issue arising with another state regarding the use or ownership of water;
 - (g) the Office of the Attorney General or any other state or local government entity to bring an action to establish the right of a state or local government officer or employee to enter onto federal land or use a federal road or an R.S. 2477 road, in the officer's or employee's official capacity, to protect the health, safety, or welfare of a citizen of the state; or
 - (h) the Office of Legislative Research and General Counsel, to provide staff support to the commission.
- (4)
 - (a) The council shall require that any entity, other than the commission, that receives money from the account provide financial reports and litigation reports to the council.

- (b) Nothing in this Subsection (4) prohibits the commission or the council from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission or the council from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 378, 2016 General Session

63C-4a-403 Plans for R.S. 2477 rights and constitutional defense -- Contents.

- (1) The council may approve an R.S. 2477 plan if the R.S. 2477 plan:
 - (a) provides for a good faith, cooperative effort between the state and each participating county;
 - (b) allows a county to formally agree to participate in the R.S. 2477 plan by adopting a resolution;
 - (c) provides that the state and a participating county are equal partners in determining litigation strategy and the expenditure of resources with respect to that county's rights under R.S. 2477; and
 - (d) provides a process for resolving any disagreement between the state and a participating county about litigation strategy or resource expenditure that includes the following requirements:
 - (i) the governor or the governor's designee and a representative of the Utah Association of Counties shall first attempt to resolve the disagreement;
 - (ii) if the county and the state continue to disagree, the county, the governor, and the Utah Association of Counties shall present their recommendations to the council for a final decision about the strategy or expenditure in question; and
 - (iii) the county may pursue a strategy or make an expenditure contrary to the final decision of the council only if the county does not claim resources provided to fund the R.S. 2477 plan.
- (2) The council shall ensure that the R.S. 2477 plan contains:
 - (a) provisions identifying which expenditure types require approval of the R.S. 2477 plan committee and which expenditure types may be made without the R.S. 2477 plan committee approval;
 - (b) provisions requiring that financial statements be provided to members of the R.S. 2477 plan committee and members of the council, and the frequency with which those financial statements must be provided; and
 - (c) provisions identifying those decisions or types of decisions that may be made by the R.S. 2477 plan committee and those decisions or types of decisions that must be referred to the council for decision.
- (3)
 - (a) The Public Lands Policy Coordinating Office, in consultation with the committee, the Office of the Attorney General and the School and Institutional Trust Lands, shall prepare and submit a constitutional defense plan to the council for the council's approval.
 - (b) The constitutional defense plan shall contain proposed action and expenditure for:
 - (i) the council's or the commission's duties; or
 - (ii) an action filed in accordance with Section 67-5-29.
- (4) The council shall:
 - (a) review expenditures, at least quarterly, made to further a plan approved under this section;
 - (b) approve an update to a plan under this section at least annually, or more often, if necessary; and
 - (c) jointly, with the Public Lands Policy Coordinating Office, present a R.S. 2477 plan approved under this section, with any updates, to:

- (i) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee by July 1 of each calendar year, after providing the R.S. 2477 plan to the committee at least seven days before the presentation;
- (ii) the commission, which may be by mail; and
- (iii) the president of the Senate and the speaker of the House of Representatives, which may be by mail.

Renumbered and Amended by Chapter 101, 2013 General Session