

1 **CRIMINAL INVESTIGATOR SPECIAL**

2 **FUNCTION STATUS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Jack A. Seitz**

6 AN ACT RELATING TO THE TAX COMMISSION AND PUBLIC SAFETY; AUTHORIZING  
7 EMPLOYMENT BY THE TAX COMMISSION OF CRIMINAL TAX INVESTIGATORS.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **53-13-105**, as last amended by Chapter 270 and renumbered and amended by Chapter 282,  
11 Laws of Utah 1998

12 **59-1-206**, as last amended by Chapter 114, Laws of Utah 1991

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

14 Section 1. Section **53-13-105** is amended to read:

15 **53-13-105. Special function officer.**

16 (1) (a) "Special function officer" means a sworn and certified peace officer performing  
17 specialized investigations, service of legal process, security functions, or specialized ordinance,  
18 rule, or regulatory functions.

19 (b) "Special function officer" includes:

20 (i) state military police;

21 (ii) constables;

22 (iii) port-of-entry agents as defined in Section 72-1-102;

23 (iv) authorized employees or agents of the Department of Transportation assigned to  
24 administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

25 (v) school district security officers;

26 (vi) Utah State Hospital security officers designated pursuant to Section 62A-12-203;

27 (vii) Utah State Developmental Center security officers designated pursuant to Subsection

28 62A-5-206(9);

29 (viii) fire arson investigators for any political subdivision of the state;

30 (ix) ordinance enforcement officers employed by municipalities or counties may be special  
31 function officers;

32 (x) employees of the Department of Natural Resources who have been designated to  
33 conduct supplemental enforcement functions as a collateral duty shall be special function officers;

34 (xi) railroad special agents deputized by a county sheriff under Section 17-30-2, or  
35 appointed pursuant to Section 56-1-21.5; [and]

36 (xii) criminal tax investigators designated under Section 59-1-206; and

37 [~~(xii)~~] (xiii) all other persons designated by statute as having special function officer  
38 authority or limited peace officer authority.

39 (2) (a) A special function officer may exercise that spectrum of peace officer authority that  
40 has been designated by statute to the employing agency, and only while on duty, and not for the  
41 purpose of general law enforcement.

42 (b) If the special function officer is charged with security functions respecting facilities  
43 or property, the powers may be exercised only in connection with acts occurring on the property  
44 where the officer is employed or when required for the protection of the employer's interest,  
45 property, or employees.

46 (c) A special function officer may carry firearms only while on duty, and only if authorized  
47 and under conditions specified by the officer's employer or chief administrator.

48 (3) (a) A special function officer may not exercise the authority of a peace officer until:

49 (i) the officer has satisfactorily completed an approved basic training program for special  
50 function officers as provided under Subsection (4); and

51 (ii) the chief law enforcement officer or administrator has certified this fact to the director  
52 of the division.

53 (b) City and county constables and their deputies shall certify their completion of training  
54 to the legislative governing body of the city or county they serve.

55 (4) (a) The agency that the special function officer serves may establish and maintain a  
56 basic special function course and in-service training programs as approved by the director of the  
57 division with the advice and consent of the council.

58 (b) The in-service training shall consist of no fewer than 40 hours per year and may be

59 conducted by the agency's own staff or other agencies.

60 Section 2. Section **59-1-206** is amended to read:

61 **59-1-206. Appointment of staff -- Executive director -- Compensation --**

62 **Administrative secretary -- Internal audit unit -- Appeals office staff -- Division directors.**

63 (1) The commission shall appoint the following persons who are qualified, knowledgeable,  
64 and experienced in matters relating to their respective positions, exempt under Title 67, Chapter  
65 19, Utah State Personnel Management Act, to serve at the pleasure of, and who are directly  
66 accountable to, the commission:

67 (a) in consultation with the governor, an executive director who shall be confirmed by  
68 advice and consent of the Senate;

69 (b) an administrative secretary;

70 (c) an internal audit unit; and

71 (d) an appeals staff.

72 (2) The governor shall establish the executive director's salary within the salary range fixed  
73 by the Legislature in Title 67, Chapter 22, State Officer Compensation.

74 (3) Division directors shall be appointed by the executive director subject to the approval  
75 of the commission. The division directors are exempt employees under Title 67, Chapter 19, Utah  
76 State Personnel Management Act.

77 (4) (a) The executive director may with the approval of the commission employ additional  
78 staff necessary to perform the duties and responsibilities of the commission. These employees are  
79 subject to Title 67, Chapter 19, Utah State Personnel Management Act.

80 (b) (i) The executive director may under Subsection (4)(a) employ criminal tax  
81 investigators to help the commission carry out its duties and responsibilities regarding criminal  
82 provisions of the tax laws.

83 (ii) The executive director may designate investigators hired under this Subsection (4)(b)  
84 as special function officers, as defined in Section 53-13-105, for the purpose of enforcing the  
85 criminal provisions of the tax laws. However, notwithstanding Section 49-4a-203, any special  
86 function officer designated under this Subsection (4)(b) may not become or be designated as a  
87 member of the Public Safety Retirement Systems.

88 (5) The internal audit unit shall provide the following:

89 (a) an examination to determine the honesty and integrity of fiscal affairs, the accuracy and

90 reliability of financial statements and reports, and the adequacy and effectiveness of financial  
91 controls to properly record and safeguard the acquisition, custody, and use of public funds;

92 (b) an examination to determine whether commission administrators have faithfully  
93 adhered to commission policies and legislative intent;

94 (c) an examination to determine whether the operations of the divisions and other units of  
95 the commission have been conducted in an efficient and effective manner;

96 (d) an examination to determine whether the programs administered by the divisions and  
97 other units of the commission have been effective in accomplishing intended objectives; and

98 (e) an examination to determine whether management control and information systems are  
99 adequate and effective in assuring that commission programs are administered faithfully,  
100 efficiently, and effectively.

101 (6) The appeals office shall receive and hear appeals to the commission and shall conduct  
102 the hearings in compliance with formal written rules approved by the commission. The  
103 commission has final review authority over the appeals.

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**Legislative Review Note**  
**as of 12-21-98 8:43 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**