

PEACE OFFICER CLASSIFICATIONS AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Blake D. Chard

AN ACT RELATING TO PUBLIC SAFETY; DEFINING AUXILIARY AND RESERVE OFFICERS; MODIFYING DEFINITION OF CORRECTIONAL OFFICER; PROVIDING THAT AN AUXILIARY OFFICER IS A SPECIAL FUNCTION OFFICER; MODIFYING PROVISIONS RELATING TO AUXILIARY AND RESERVE OFFICERS SERVING AS PEACE OFFICERS; AMENDING PROVISIONS RELATING TO RESPONSIBILITY FOR TRAINING AND APPROPRIATIONS FROM REPARATION FUND; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

49-4-103, as last amended by Chapter 282, Laws of Utah 1998

49-4-203, as last amended by Chapter 282, Laws of Utah 1998

49-4a-103, as last amended by Chapter 282, Laws of Utah 1998

49-4a-203, as last amended by Chapter 282, Laws of Utah 1998

53-6-212, as last amended by Chapter 282, Laws of Utah 1998

53-6-213, as renumbered and amended by Chapter 234, Laws of Utah 1993

53-13-101, as enacted by Chapter 282, Laws of Utah 1998

53-13-104, as last amended by Chapter 29 and renumbered and amended by Chapter 282,
Laws of Utah 1998

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

53-13-111, as enacted by Chapter 282, Laws of Utah 1998

ENACTS:

53-13-112, Utah Code Annotated 1953

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

Section 1. Section **49-4-103** is amended to read:

49-4-103. Definitions.

As used in this chapter:

(1) (a) "Compensation," "salary," or "wages" means the total amount of payments which are currently includable in gross income made by an employer to an employee covered under the retirement system for services rendered to the employer as base income. Base income shall be determined prior to any salary deductions or reductions for any salary deferral or pretax benefit programs authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, such as a residence, use of equipment or uniform or travel allowances;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by an employer under this plan or under any other employee benefit plan maintained by an employer for the benefit of a participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

(a) Except as provided in Subsection (2)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's salary by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by the Consumer Price Index prepared by the United States Bureau of Labor Statistics.

(b) In cases where the employing unit provides acceptable documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:

(i) the member has transferred from another employing unit; or

(ii) the member has been promoted to a new position.

(3) "Full-time service" means 2,080 hours a year.

(4) "Line-of-duty death" means a death resulting from external force, violence, or disease occasioned by an act of duty as a peace officer or other public safety member.

(5) (a) "Participating service" means public safety service rendered during which a person was a member of this system as well as any of the terminated systems during which the person was paid compensation upon which member contributions were taken.

(b) Participating service also means public safety service rendered for an employer covered by the retirement system and standing to the credit of a member as of June 30, 1969, who transferred to coverage under the public safety retirement system on July 1, 1969.

(6) (a) "Public safety service" means full-time paid service rendered by:

(i) law enforcement officers in accordance with Section 53-13-103;

(ii) correctional officers in accordance with Section 53-13-104; and

(iii) special function officers in accordance with [Subsection] Section 49-4-203[(5)] and Section 53-13-105.

(b) Subsection (6)(a) does not apply to any person who became a member of the system prior to January 1, 1984.

(7) "Years of service" or "service years" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which an employee performed services for an employer or employers, including time the employee was absent in the service of the United States government on military duty.

Section 2. Section **49-4-203** is amended to read:

49-4-203. Eligibility for membership in the system.

All employees who perform covered public safety services for any employing unit, except those withdrawing from coverage as provided by this chapter, shall become members of the retirement system as follows:

(1) Any employee who is employed to perform public safety services for an employer

covered by this chapter on or after July 1, 1969, shall become a member of the system effective on the date of employment.

(2) (a) Any employee engaged in performing public safety services for a department or political subdivision on the date it becomes a participant in the system under this chapter shall become a member of the system as of the date of coverage. Each new public safety employee of the covered unit shall thereafter become a member of the system effective on the date of employment.

(b) In cities, counties, or other employing units of government that have public safety and fire fighter personnel where cross-training and duty is required, the employing unit may enroll those dual purpose personnel in the retirement system in which the greatest amount of duty time is contemplated and actually worked. The personnel shall be full-time public safety or fire fighter employees of the employing unit.

(3) (a) The board may by rule establish other peace officer groups for purposes of:

- (i) recommending eligibility for coverage under this system; and
- (ii) recommending contribution rates.

(b) (i) Each employing unit covered by this system shall annually submit to the retirement office a schedule indicating the positions to be covered under this system in accordance with [Subsection] Section 49-4-103[(6)]. The retirement office may require documentation to justify the inclusion of any position under this system.

(ii) If there is a dispute between the retirement office and an employing unit or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(iii) (A) The Peace Officer Standards and Training Council's authority to decide eligibility questions for peace officers is limited to claims for coverage under the Public Safety Retirement System for time periods subsequent to July 1, 1989.

(B) A decision of the Peace Officer Standards and Training Council may not be applied to credit earned in another system prior to July 1, 1989.

(C) Except as provided under Subsection (3)(b)(iii)(D), a decision of the Peace Officer Standards and Training Council granting an individual or a position coverage under the Public Safety

Retirement System may only be applied prospectively from the date of that decision.

(D) A decision of the Peace Officer Standards and Training Council granting an individual or a position coverage under the Public Safety Retirement System may be applied retroactively only if:

(I) the employing unit covered other similarly situated employees under the Public Safety Retirement System during the time period in question; and

(II) the employee otherwise meets all eligibility requirements for membership in the Public Safety Retirement System.

(c) (i) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the retirement office and an employing unit or employee over a position to be covered under this system.

(ii) The Peace Officer Standards and Training Council shall comply with Title 63, Chapter 46b, Administrative Procedures Act, in conducting adjudicative proceedings.

(4) Employees who have performed public safety service and who then transfer or are promoted to administration positions not covered by this system shall continue to earn public safety service credit under this chapter as long as they remain employed in the same department.

(5) Unless the Legislature fails to provide funding in the appropriations act for the inclusion of special function officers in the contributory system, special function officers shall be eligible for membership in the contributory system if approved by the Peace Officer Standards and Training Council.

(6) (a) The Peace Officer Standards and Training Council, in determining disputes between the retirement office and an employing unit or employee over a position to be covered under this system, shall determine that to be eligible for membership in this system the employee:

(i) is required as a duty of employment to serve in a position that may place the employee at risk to life and personal safety; and

(ii) is required to complete training as provided in [Subsection] Section 53-13-103[(4)], 53-13-104[(3)], or 53-13-105[(3)].

(b) If an employee satisfies the requirements of Subsection (6)(a), the Peace Officer

Standards and Training Council shall consider, in determining eligibility for membership in the system, whether the employee:

- (i) performs duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- (ii) performs duties that consist primarily of providing community protection; and
- (iii) is required to respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(7) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (6) in making its recommendation.

(8) A final order of the Peace Officer Standards and Training Council regarding a dispute is final agency action for purposes of Title 63, Chapter 46b, Administrative Procedures Act.

(9) If a local law enforcement agency's law enforcement officers are not included in the Public Safety Retirement System under Title 49, Chapter 4, Public Safety Retirement Act, or Title 49, Chapter 4a, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those officers who may otherwise qualify for membership in the system shall, at the discretion of the respective municipality, remain in their current retirement system.

Section 3. Section **49-4a-103** is amended to read:

49-4a-103. Definitions.

As used in this chapter:

- (1) (a) "Compensation," "salary," or "wages" means the total amount of payments which are currently includable in gross income made by an employer to an employee for services rendered to the employer as base income for the position covered under the retirement system. Base income shall be determined prior to any salary deductions or reductions for any salary deferral or pretax benefit programs authorized by federal law.
- (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.
- (c) "Compensation" does not include:
 - (i) overtime;

- (ii) sick pay incentives;
- (iii) retirement pay incentives;
- (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform or travel allowances;
- (v) a lump-sum payment or special payment covering accumulated leave; and
- (vi) all contributions made by an employer under this plan or under any other employee benefit plan maintained by an employer for the benefit of a participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement subject to Subsections (2)(a) and (b).

(a) Except as provided in Subsection (2)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's salary by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by the Consumer Price Index prepared by the United States Bureau of Labor Statistics.

(b) In cases where the employing unit provides acceptable documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:

- (i) the member has transferred from another employing unit; or
- (ii) the member has been promoted to a new position.

(3) "Full-time service" means 2,080 hours a year.

(4) "Line-of-duty death" means a death resulting from external force, violence, or disease occasioned by an act of duty as a peace officer or other public safety member.

(5) "Public safety service" means full-time paid service rendered by:

- (a) law enforcement officers in accordance with Section 53-13-103;
- (b) correctional officers in accordance with Section 53-13-104; and

(c) special function officers in accordance with [Subsection] Section 49-4a-203[(7)] and Section 53-13-105.

(6) "Years of service" or "service years" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which an employee performed services for an employer or employers, including time the employee was absent in the service of the United States government on military duty.

Section 4. Section **49-4a-203** is amended to read:

49-4a-203. Eligibility for membership in the system.

(1) Any person entering full-time employment in a state public safety position after the effective date of this chapter shall automatically become a member of the noncontributory retirement system.

(2) Any person in full-time employment in a state public safety position prior to the effective date of this system may either become a member of this noncontributory system or remain a member of the Public Safety Retirement System established under Title 49, Chapter 4, Public Safety Retirement Act, by following the procedures established by the board pursuant to this chapter.

(3) (a) Membership in the noncontributory system is optional for political subdivisions, except that once a political subdivision elects to participate in the noncontributory system that election is final and binding upon the political subdivision.

(b) Persons entering public safety employment with political subdivisions that elect to participate in the noncontributory system after the effective date of this chapter shall automatically become members of the noncontributory retirement system.

(c) Any person in full-time employment with the political subdivision prior to that election to participate in this system may either become a member of the noncontributory retirement system or remain a member of the Public Safety Retirement System established under Title 49, Chapter 4, by following the procedures established by the board pursuant to this chapter.

(4) In cities, counties, or other employing units of government that have public safety and fire fighter personnel where cross-training and duty is required, the employing unit may enroll those dual purpose personnel in the retirement system in which the greatest amount of duty time is contemplated and actually worked in accordance with Subsection (3). The personnel shall be full-time public safety or fire fighter employees of the employing unit. New public safety employing

units after July 1, 1989, are covered under this chapter.

(5) (a) The board may by rule establish other peace officer groups for purposes of:

(i) recommending eligibility for coverage under this system; and

(ii) recommending contribution rates.

(b) (i) Each employing unit covered by this system shall annually submit to the retirement office a schedule indicating the positions to be covered under this system in accordance with [Subsection] Section 49-4a-103[(5)]. The retirement office may require documentation to justify the inclusion of any position under this system.

(ii) If there is a dispute between the retirement office and an employing unit or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(iii) (A) The Peace Officer Standards and Training Council's authority to decide eligibility questions for peace officers is limited to claims for coverage under the Public Safety Retirement System for time periods subsequent to July 1, 1989.

(B) A decision of the Peace Officer Standards and Training Council may not be applied to credit earned in another system prior to July 1, 1989.

(C) Except as provided under Subsection (5)(b)(iii)(D), a decision of the Peace Officer Standards and Training Council granting an individual or a position coverage under the Public Safety Retirement System may only be applied prospectively from the date of that decision.

(D) A decision of the Peace Officer Standards and Training Council granting an individual or a position coverage under the Public Safety Retirement System may be applied retroactively only if:

(I) the employing unit covered other similarly situated employees under the Public Safety Retirement System during the time period in question; and

(II) the employee otherwise meets all eligibility requirements for membership in the Public Safety Retirement System.

(c) (i) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the retirement office and an

employing unit or employee over a position to be covered under this system.

(ii) The Peace Officer Standards and Training Council shall comply with Title 63, Chapter 46b, Administrative Procedures Act, in conducting adjudicative proceedings.

(6) Employees who have performed public safety service and who then transfer or are promoted to administration positions not covered by this system shall continue to earn public safety service credit under this chapter as long as they remain employed in the same department.

(7) Unless the Legislature fails to provide funding in the appropriations act for the inclusion of special function officers in the noncontributory system, special function officers shall be eligible for membership in the noncontributory system if approved by the Peace Officers Standards and Training Council.

(8) (a) The Peace Officer Standards and Training Council, in determining disputes between the retirement office and an employing unit or employee over a position to be covered under this system, shall determine that to be eligible for membership in this system the employee:

(i) is required as a duty of employment to serve in a position that may place the employee at risk to life and personal safety; and

(ii) is required to complete training as provided in [Subsection] Section 53-13-103[(4)], 53-13-104[(3)], or 53-13-105[(3)].

(b) If an employee satisfies the requirements of Subsection (8)(a), the Peace Officer Standards and Training Council shall consider, in determining eligibility for membership in the system, whether the employee:

(i) performs duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) performs duties that consist primarily of providing community protection; and

(iii) is required to respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(9) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (8) in making its recommendation.

(10) A final order of the Peace Officer Standards and Training Council regarding a dispute is final agency action for purposes of Title 63, Chapter 46b, Administrative Procedures Act.

Section 5. Section **53-6-212** is amended to read:

53-6-212. Responsibility for training -- Certification.

(1) The division is not responsible for providing basic or in-service training for peace officers defined and designated in Sections ~~[53-13-103]~~ 53-13-104 through ~~[53-13-105]~~ 53-13-106 except for approval of the instructors and content of training where required by this chapter, Title 53, Chapter 13, Peace Officer Classifications, or division rules.

(2) Where this chapter or Title 53, Chapter 13, Peace Officer Classifications, requires an agency head to certify that a member has completed required training, the division shall rely on the certification, as provided, to be accurate.

Section 6. Section **53-6-213** is amended to read:

53-6-213. Appropriations from reparation fund.

(1) The Legislature shall appropriate from the trust fund under the Crime Victims' Reparations Act to the division, funds for training of ~~[peace]~~ law enforcement officers in the state.

(2) The department shall make an annual report to the Legislature, which includes the amount received during the previous fiscal year.

Section 7. Section **53-13-101** is amended to read:

53-13-101. Definitions.

As used in this chapter:

(1) "Auxiliary officer" means a sworn, certified, and supervised special function officer, as described by Section 53-13-112.

~~[(1)]~~ (2) "Certified" means recognized and accepted by the division as having successfully met and maintained the standards and training requirements set and approved by the director of the division with the advice and consent of the council.

~~[(2)]~~ (3) "Collateral duty" means a duty to corroborate and support a peace officer function that is secondary and supplemental to the primary duty of the position.

~~[(3)]~~ (4) "Council" means the Peace Officer Standards and Training Council created in

Section 53-6-106.

[(4)] (5) "Director" means the director of the Peace Officer Standards and Training Division appointed under Section 53-6-104.

[(5)] (6) "Division" means the Peace Officer Standards and Training Division created in Section 53-6-103.

[(6)] (7) "Local law enforcement agency" means a law enforcement agency of any political subdivision of the state.

[(7)] (8) "Primary duties" means those duties which come first in degree of effort and importance.

[(8)] (9) "Principal duties" means those duties which are the highest and foremost in responsibility.

(10) "Reserve officer" means a sworn and certified peace officer, whether paid or voluntary, who:

(a) is serving in a reserve capacity for a law enforcement agency that is part of or administered by the state or any of its political subdivisions; and

(b) meets the basic and in-service training requirements of the peace officer classification in which the officer will function.

[(9)] (11) "Spectrum" means that which encompasses the scope of authority. " Full spectrum" encompasses total 24-hour authority; while anything less than full authority is contained or restricted within certain limits as set forth by statute, ordinance, policy, or rule.

[(10)] (12) "Sworn" means having taken the oath of office set forth in Utah Constitution Article IV, Section 10, administered by the law enforcement agency for whom a peace officer works.

[(11)] (13) "Volunteer" means an officer who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

[(12)] (14) (a) "While on duty" means while an officer is actually performing the job duties and work activities assigned by the employing agency and for which the officer is trained and certified, and may include time spent outside those duties and activities if that additional time

involves an activity that is an integral and necessary part of the job, and is spent for the benefit, and under the direction of, the employing agency.

(b) "While on duty" does not include the time an officer spends commuting between the officer's home and place of employment unless that time involves an activity in Subsection [(12)] (14)(a).

Section 8. Section **53-13-104** is amended to read:

53-13-104. Correctional officer.

(1) (a) "Correctional officer" means [an] a sworn and certified officer [or employee of] employed by the Department of Corrections, any political subdivision of the state, or any private entity which contracts with the state or its political subdivisions to incarcerate inmates who is charged with the primary duty of providing community protection.

(b) "Correctional officer" includes an individual assigned to carry out any of the following types of functions:

(i) controlling, transporting, supervising, and taking into custody of persons arrested or convicted of crimes;

(ii) supervising and preventing the escape of persons in state and local incarceration facilities;

(iii) guarding and managing inmates and providing security and enforcement services at a correctional facility; and

(iv) employees of the Board of Pardons and Parole serving on or before September 1, 1993, whose primary responsibility is to prevent and detect crime, enforce criminal statutes, and provide security to the Board of Pardons and Parole, and who are designated by the Board of Pardons and Parole, approved by the commissioner of public safety, and certified by the Peace Officer Standards and Training Division.

(2) (a) Correctional officers have peace officer authority only while on duty. The authority of correctional officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections -- State Prison.

(b) Correctional officers may carry firearms only if authorized by and under conditions

specified by the director of the Department of Corrections or the chief law enforcement officer of the employing agency.

(3) (a) An individual may not exercise the authority of an adult correctional officer until the individual has satisfactorily completed a basic training program for correctional officers and the director of the Department of Corrections has certified the completion of training to the director of the division.

(b) An individual may not exercise the authority of a county correctional officer until:

(i) the individual has satisfactorily completed a basic training program for correctional officers and any other specialized training required by the local law enforcement agency; and

(ii) the chief administrator of the local law enforcement agency has certified the completion of training to the director of the division.

(4) (a) The Department of Corrections of the state shall establish and maintain a correctional officer basic course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall:

(i) consist of no fewer than 40 hours per year; and

(ii) be conducted by the agency's own staff or other agencies.

(5) The local law enforcement agencies may establish correctional officer basic, advanced, or in-service training programs as approved by the director of the division with the advice and consent of the council.

Section 9. Section **53-13-105** is amended to read:

53-13-105. Special function officer.

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

(b) "Special function officer" includes:

(i) state military police;

(ii) constables;

- (iii) port-of-entry agents as defined in Section 72-1-102;
- (iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;
- (v) school district security officers;
- (vi) Utah State Hospital security officers designated pursuant to Section 62A-12-203;
- (vii) Utah State Developmental Center security officers designated pursuant to Subsection 62A-5-206(9);
- (viii) fire arson investigators for any political subdivision of the state;
- (ix) ordinance enforcement officers employed by municipalities or counties may be special function officers;
- (x) employees of the Department of Natural Resources who have been designated to conduct supplemental enforcement functions as a collateral duty shall be special function officers;
- (xi) railroad special agents deputized by a county sheriff under Section 17-30-2, or appointed pursuant to Section 56-1-21.5; ~~[and]~~
- (xii) auxiliary officer, as described by Section 53-13-112; and
- ~~[(xii)]~~ (xiii) all other persons designated by statute as having special function officer authority or limited peace officer authority.

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

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

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

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

- (i) the officer has satisfactorily completed an approved basic training program for special

function officers as provided under Subsection (4); and

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

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

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

(b) The in-service training shall consist of no fewer than 40 hours per year and may be conducted by the agency's own staff or other agencies.

Section 10. Section **53-13-111** is amended to read:

53-13-111. Peace officers serving in a reserve or auxiliary capacity.

(1) (a) Nothing in this chapter shall preclude any law enforcement agency of the state or any of its political subdivisions from utilizing a sworn and certified peace officer in a reserve or auxiliary capacity.

(b) [~~The peace~~] A reserve or auxiliary officer has peace officer authority only while engaged in the [~~peace officer~~] reserve or auxiliary activities authorized by the chief or administrator of the agency the officer serves and shall only exercise that spectrum of peace officer authority:

- (i) that the supervising agency is empowered to delegate; and
- (ii) for which the officer has been trained and certified.

(2) While serving as a nonpaid volunteer in a reserve or auxiliary capacity, or working part-time for fewer hours than that which would qualify the officer as an "employee" under state or federal law, a peace officer is entitled to benefits in accordance with Title 67, Chapter 20, Volunteer Government Workers Act.

(3) The agency the reserve or auxiliary officer serves shall ensure that the officer meets the basic and in-service training requirements of the peace officer classification in which the officer will function.

Section 11. Section **53-13-112** is enacted to read:

53-13-112. Auxiliary officer.

(1) An auxiliary officer is a specific category of special function officer and is required to have the level of training of a special function officer as provided in Section 53-13-105, including no fewer than 40 hours per year of in-service training.

(2) An auxiliary officer:

(a) shall work under the direction and immediate supervision of a certified law enforcement officer as defined in Section 53-13-103;

(b) is limited to the role of back-up officer to a law enforcement officer;

(c) may not initiate any action authorized for a law enforcement officer in Section 53-13-103; and

(d) may be separated from a law enforcement officer only under exigent circumstances or when engaged in functions not exclusive to law enforcement, which functions are defined by the division by rule.