

1 **PEACE OFFICER CLASSIFICATIONS**

2 **AMENDMENTS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Blake D. Chard**

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

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

14 AMENDS:

15 **49-4-103**, as last amended by Chapter 282, Laws of Utah 1998

16 **49-4-203**, as last amended by Chapter 282, Laws of Utah 1998

17 **49-4a-103**, as last amended by Chapter 282, Laws of Utah 1998

18 **49-4a-203**, as last amended by Chapter 282, Laws of Utah 1998

19 **53-6-212**, as last amended by Chapter 282, Laws of Utah 1998

20 **53-6-213**, as renumbered and amended by Chapter 234, Laws of Utah 1993

21 **53-13-101**, as enacted by Chapter 282, Laws of Utah 1998

22 **53-13-104**, as last amended by Chapter 29 and renumbered and amended by Chapter 282,
23 Laws of Utah 1998

24 **53-13-105**, as last amended by Chapter 270 and renumbered and amended by Chapter 282,
25 Laws of Utah 1998

26 **53-13-111**, as enacted by Chapter 282, Laws of Utah 1998

27 ENACTS:

28 **53-13-112**, Utah Code Annotated 1953

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

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

31 **49-4-103. Definitions.**

32 As used in this chapter:

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

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

39 (c) "Compensation" does not include:

40 (i) overtime;

41 (ii) sick pay incentives;

42 (iii) retirement pay incentives;

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

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

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

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

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

52 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
53 compensation in any one of the years used may not exceed the previous year's salary by more than
54 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar
55 during the previous year, as measured by the Consumer Price Index prepared by the United States
56 Bureau of Labor Statistics.

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

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

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

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

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

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

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

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

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

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

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

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

77 (7) "Years of service" or "service years" means the number of periods, each to consist of
78 12 full months as determined by the board, whether consecutive or not, during which an employee
79 performed services for an employer or employers, including time the employee was absent in the
80 service of the United States government on military duty.

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

82 **49-4-203. Eligibility for membership in the system.**

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

86 (1) Any employee who is employed to perform public safety services for an employer
87 covered by this chapter on or after July 1, 1969, shall become a member of the system effective
88 on the date of employment.

89 (2) (a) Any employee engaged in performing public safety services for a department or

90 political subdivision on the date it becomes a participant in the system under this chapter shall
91 become a member of the system as of the date of coverage. Each new public safety employee of
92 the covered unit shall thereafter become a member of the system effective on the date of
93 employment.

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

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

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

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

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

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

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

114 (C) Except as provided under Subsection (3)(b)(iii)(D), a decision of the Peace Officer
115 Standards and Training Council granting an individual or a position coverage under the Public
116 Safety Retirement System may only be applied prospectively from the date of that decision.

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

120 (I) the employing unit covered other similarly situated employees under the Public Safety

121 Retirement System during the time period in question; and

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

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

127 (ii) The Peace Officer Standards and Training Council shall comply with Title 63, Chapter
128 46b, Administrative Procedures Act, in conducting adjudicative proceedings.

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

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

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

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

141 (ii) is required to complete training as provided in [Subsection] Section 53-13-103[(4)],
142 53-13-104[(3)], or 53-13-105[(3)].

143 (b) If an employee satisfies the requirements of Subsection (6)(a), the Peace Officer
144 Standards and Training Council shall consider, in determining eligibility for membership in the
145 system, whether the employee:

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

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

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

151 (7) If a subcommittee is used to recommend the determination of disputes to the Peace

152 Officer Standards and Training Council, the subcommittee shall comply with the requirements of
153 Subsection (6) in making its recommendation.

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

156 (9) If a local law enforcement agency's law enforcement officers are not included in the
157 Public Safety Retirement System under Title 49, Chapter 4, Public Safety Retirement Act, or Title
158 49, Chapter 4a, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those
159 officers who may otherwise qualify for membership in the system shall, at the discretion of the
160 respective municipality, remain in their current retirement system.

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

162 **49-4a-103. Definitions.**

163 As used in this chapter:

164 (1) (a) "Compensation," "salary," or "wages" means the total amount of payments which
165 are currently includable in gross income made by an employer to an employee for services
166 rendered to the employer as base income for the position covered under the retirement system.

167 Base income shall be determined prior to any salary deductions or reductions for any salary
168 deferral or pretax benefit programs authorized by federal law.

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

170 (c) "Compensation" does not include:

171 (i) overtime;

172 (ii) sick pay incentives;

173 (iii) retirement pay incentives;

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

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

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

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

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

183 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
184 compensation in any one of the years used may not exceed the previous year's salary by more than
185 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar
186 during the previous year, as measured by the Consumer Price Index prepared by the United States
187 Bureau of Labor Statistics.

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

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

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

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

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

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

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

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

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

200 (6) "Years of service" or "service years" means the number of periods, each to consist of
201 12 full months as determined by the board, whether consecutive or not, during which an employee
202 performed services for an employer or employers, including time the employee was absent in the
203 service of the United States government on military duty.

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

205 **49-4a-203. Eligibility for membership in the system.**

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

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

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

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

220 (c) Any person in full-time employment with the political subdivision prior to that election
221 to participate in this system may either become a member of the noncontributory retirement system
222 or remain a member of the Public Safety Retirement System established under Title 49, Chapter
223 4, by following the procedures established by the board pursuant to this chapter.

224 (4) In cities, counties, or other employing units of government that have public safety and
225 fire fighter personnel where cross-training and duty is required, the employing unit may enroll
226 those dual purpose personnel in the retirement system in which the greatest amount of duty time
227 is contemplated and actually worked in accordance with Subsection (3). The personnel shall be
228 full-time public safety or fire fighter employees of the employing unit. New public safety
229 employing units after July 1, 1989, are covered under this chapter.

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

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

232 (ii) recommending contribution rates.

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

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

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

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

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

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

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

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

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

258 (ii) The Peace Officer Standards and Training Council shall comply with Title 63, Chapter
259 46b, Administrative Procedures Act, in conducting adjudicative proceedings.

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

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

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

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

272 (ii) is required to complete training as provided in [Subsection] Section 53-13-103[(4)],
273 53-13-104[(3)], or 53-13-105[(3)].

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

276 system, whether the employee:

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

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

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

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

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

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

288 **53-6-212. Responsibility for training -- Certification.**

289 (1) The division is not responsible for providing basic or in-service training for peace
290 officers defined and designated in Sections [53-13-103] 53-13-104 through [53-13-105] 53-13-106
291 except for approval of the instructors and content of training where required by this chapter, Title
292 53, Chapter 13, Peace Officer Classifications, or division rules.

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

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

297 **53-6-213. Appropriations from reparation fund.**

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

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

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

303 **53-13-101. Definitions.**

304 As used in this chapter:

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

307 [(1)] (2) "Certified" means recognized and accepted by the division as having successfully
308 met and maintained the standards and training requirements set and approved by the director of
309 the division with the advice and consent of the council.

310 [(2)] (3) "Collateral duty" means a duty to corroborate and support a peace officer function
311 that is secondary and supplemental to the primary duty of the position.

312 [(3)] (4) "Council" means the Peace Officer Standards and Training Council created in
313 Section 53-6-106.

314 [(4)] (5) "Director" means the director of the Peace Officer Standards and Training
315 Division appointed under Section 53-6-104.

316 [(5)] (6) "Division" means the Peace Officer Standards and Training Division created in
317 Section 53-6-103.

318 [(6)] (7) "Local law enforcement agency" means a law enforcement agency of any political
319 subdivision of the state.

320 [(7)] (8) "Primary duties" means those duties which come first in degree of effort and
321 importance.

322 [(8)] (9) "Principal duties" means those duties which are the highest and foremost in
323 responsibility.

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

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

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

330 [(9)] (11) "Spectrum" means that which encompasses the scope of authority. " Full
331 spectrum" encompasses total 24-hour authority; while anything less than full authority is contained
332 or restricted within certain limits as set forth by statute, ordinance, policy, or rule.

333 [(10)] (12) "Sworn" means having taken the oath of office set forth in Utah Constitution
334 Article IV, Section 10, administered by the law enforcement agency for whom a peace officer
335 works.

336 [(11)] (13) "Volunteer" means an officer who donates service without pay or other
337 compensation except expenses actually and reasonably incurred as approved by the supervising

338 agency.

339 [(12)] (14) (a) "While on duty" means while an officer is actually performing the job duties
340 and work activities assigned by the employing agency and for which the officer is trained and
341 certified, and may include time spent outside those duties and activities if that additional time
342 involves an activity that is an integral and necessary part of the job, and is spent for the benefit,
343 and under the direction of, the employing agency.

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

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

348 **53-13-104. Correctional officer.**

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

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

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

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

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

361 (iv) employees of the Board of Pardons and Parole serving on or before September 1,
362 1993, whose primary responsibility is to prevent and detect crime, enforce criminal statutes, and
363 provide security to the Board of Pardons and Parole, and who are designated by the Board of
364 Pardons and Parole, approved by the commissioner of public safety, and certified by the Peace
365 Officer Standards and Training Division.

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

369 (b) Correctional officers may carry firearms only if authorized by and under conditions
370 specified by the director of the Department of Corrections or the chief law enforcement officer of
371 the employing agency.

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

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

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

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

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

384 (b) The in-service training shall:

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

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

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

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

391 **53-13-105. Special function officer.**

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

395 (b) "Special function officer" includes:

396 (i) state military police;

397 (ii) constables;

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

399 (iv) authorized employees or agents of the Department of Transportation assigned to

400 administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

401 (v) school district security officers;

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

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

404 62A-5-206(9);

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

406 (ix) ordinance enforcement officers employed by municipalities or counties may be special

407 function officers;

408 (x) employees of the Department of Natural Resources who have been designated to

409 conduct supplemental enforcement functions as a collateral duty shall be special function officers;

410 (xi) railroad special agents deputized by a county sheriff under Section 17-30-2, or

411 appointed pursuant to Section 56-1-21.5; [and]

412 (xii) auxiliary officer, as described by Section 53-13-112; and

413 ~~[(xii)]~~ (xiii) all other persons designated by statute as having special function officer

414 authority or limited peace officer authority.

415 (2) (a) A special function officer may exercise that spectrum of peace officer authority that

416 has been designated by statute to the employing agency, and only while on duty, and not for the

417 purpose of general law enforcement.

418 (b) If the special function officer is charged with security functions respecting facilities

419 or property, the powers may be exercised only in connection with acts occurring on the property

420 where the officer is employed or when required for the protection of the employer's interest,

421 property, or employees.

422 (c) A special function officer may carry firearms only while on duty, and only if authorized

423 and under conditions specified by the officer's employer or chief administrator.

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

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

426 function officers as provided under Subsection (4); and

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

428 of the division.

429 (b) City and county constables and their deputies shall certify their completion of training

430 to the legislative governing body of the city or county they serve.

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

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

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

437 **53-13-111. Peace officers serving in a reserve or auxiliary capacity.**

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

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

445 (i) that the supervising agency is empowered to delegate; and

446 (ii) for which the officer has been trained and certified.

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

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

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

455 **53-13-112. Auxiliary officer.**

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

459 (2) An auxiliary officer:

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

462 (b) is limited to the role of back-up officer to a law enforcement officer;
463 (c) may not initiate any action authorized for a law enforcement officer in Section
464 53-13-103; and
465 (d) may be separated from a law enforcement officer only under exigent circumstances or
466 when engaged in functions not exclusive to law enforcement, which functions are defined by the
467 division by rule.

Legislative Review Note
as of 1-13-99 5:04 PM

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

Office of Legislative Research and General Counsel