

**TAX COMMISSION CRIMINAL  
INVESTIGATORS DESIGNATION AS  
SPECIAL FUNCTION OFFICERS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Curtis S. Bramble**

**This act modifies the State Tax Commission and Public Safety Code, authorizing employment by the tax commission of not more than eight criminal tax investigators.**

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

AMENDS:

**53-13-105**, as last amended by Chapter 296, Laws of Utah 2001

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

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

Section 1. 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;

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

(xii) auxiliary officers, as described by Section 53-13-112;

(xiii) special agents, process servers, and investigators employed by city attorneys; ~~and~~

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

~~[(xiv)]~~ (xv) 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 by other agencies.

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

**59-1-206. Appointment of staff -- Executive director -- Compensation -- Administrative secretary -- Internal audit unit -- Appeals office staff -- Division directors -- Criminal tax investigators.**

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

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

(b) an administrative secretary;

(c) an internal audit unit; and

(d) an appeals staff.

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

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

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

(b) (i) The executive director may under Subsection (4)(a) employ criminal tax investigators to help the commission carry out its duties and responsibilities regarding criminal provisions of the state tax laws. The executive director may not employ more than eight criminal tax investigators at

one time.

(ii) The executive director may designate investigators hired under this Subsection (4)(b) as special function officers, as defined in Section 53-13-105, to enforce the criminal provisions of the state tax laws.

(iii) Notwithstanding Section 49-4a-203, any special function officer designated under this Subsection (4)(b) may not become or be designated as a member of the Public Safety Retirement System.

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

(a) an examination to determine the honesty and integrity of fiscal affairs, the accuracy and reliability of financial statements and reports, and the adequacy and effectiveness of financial controls to properly record and safeguard the acquisition, custody, and use of public funds;

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

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

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

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

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