

1 **TAX COMMISSION CRIMINAL**
2 **INVESTIGATORS DESIGNATION AS**
3 **SPECIAL FUNCTION OFFICERS**

4 2002 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Curtis S. Bramble**

7 **This act relates to the State Tax Commission and Public Safety Code, authorizing**
8 **employment by the tax commission of criminal tax investigators.**

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

10 AMENDS:

11 **53-13-105**, as last amended by Chapter 296, Laws of Utah 2001

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;

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;

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

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

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

39 ~~(xiv)~~ (xv) all other persons designated by statute as having special function officer
40 authority or limited peace officer authority.

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

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

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

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

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

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

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

57 (4) (a) The agency that the special function officer serves may establish and maintain a
58 basic special function course and in-service training programs as approved by the director of the

59 division with the advice and consent of the council.

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

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

63 **59-1-206. Appointment of staff -- Executive director -- Compensation --**
64 **Administrative secretary -- Internal audit unit -- Appeals office staff -- Division directors.**

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

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

71 (b) an administrative secretary;

72 (c) an internal audit unit; and

73 (d) an appeals staff.

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

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

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

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

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

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

90 System.

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

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

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

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

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

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

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

Legislative Review Note
as of 12-13-01 2:21 PM

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

Office of Legislative Research and General Counsel