

STATE LAND USE MANAGEMENT PLANS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Bradley T. Johnson

LONG TITLE

General Description:

This bill modifies the duties of the state planning coordinator to require the state planning coordinator to consider certain findings when developing state policies, plans, and programs relating to federal lands and natural resources on federal lands.

Highlighted Provisions:

This bill:

- ▶ establishes certain findings to be considered when developing state policies relating to federal lands and natural resources on federal lands; and
- ▶ establishes considerations for recognition of state and local interests in the federal land use management process.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63-38d-401, as enacted by Chapter 16, Laws of Utah 2003

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

Section 1. Section **63-38d-401** is amended to read:

63-38d-401. Planning duties of the planning coordinator and office.

(1) The state planning coordinator shall:

(a) act as the governor's adviser on state, regional, metropolitan, and local

governmental planning matters relating to public improvements and land use;

(b) counsel with the authorized representatives of the Department of Transportation, the State Building Board, the Department of Health, the Department of Workforce Services, the Labor Commission, the Department of Natural Resources, the School and Institutional Trust Lands Administration, and other proper persons concerning all state planning matters;

(c) when designated to do so by the governor, receive funds made available to Utah by the federal government;

(d) receive and review plans of the various state agencies and political subdivisions relating to public improvements and programs;

(e) when conflicts occur between the plans and proposals of state agencies, prepare specific recommendations for the resolution of the conflicts and submit the recommendations to the governor for a decision resolving the conflict;

(f) when conflicts occur between the plans and proposals of a state agency and a political subdivision or between two or more political subdivisions, advise these entities of the conflict and make specific recommendations for the resolution of the conflict;

(g) act as the governor's planning agent in planning public improvements and land use and, in this capacity, undertake special studies and investigations;

(h) provide information and cooperate with the Legislature or any of its committees in conducting planning studies;

(i) cooperate and exchange information with federal agencies and local, metropolitan, or regional agencies as necessary to assist with federal, state, regional, metropolitan, and local programs; and

(j) make recommendations to the governor that the planning coordinator considers advisable for the proper development and coordination of plans for state government and political subdivisions.

(2) The state planning coordinator may:

(a) perform regional and state planning and assist city, county, metropolitan, regional, and state government planning agencies in performing local, metropolitan, regional, and state

planning; and

(b) provide planning assistance to Indian tribes regarding planning for Indian reservations.

(3) (a) The state planning coordinator may prepare plans, programs, or processes, and shall coordinate the:

(i) development of policies concerning the management and use of [public] federal lands and natural resources on federal lands in Utah [tø] that promote maximum recognition of state and local interest in the federal land use management process[-];

(ii) development, research and use of factual information, legal analysis, and statements of desired future condition for the state, or subregion of the state, as are necessary to support the plans, programs, processes, or policies;

(iii) establishment of agreements between the state and federal land management agencies, federal natural resource management agencies, and federal natural resource regulatory agencies which facilitate state and local participation in the development, revision, and implementation of land use plans, guidelines, regulations, other instructional memoranda, or similar documents proposed or promulgated for lands and natural resources administered by federal agencies; and

(iv) establishment of agreements with federal land management agencies, federal natural resource management agencies, and federal natural resource regulatory agencies which provide a process for state and local participation in the preparation of, or coordinated state response to, environmental impact analysis documents and similar documents prepared pursuant to law by state or federal agencies.

(b) (i) Before the state submits any comments on draft environmental impact statements or environmental assessments for a proposed land management plan of any federal land management agency, the governor shall make those documents available to the county executive, county council members, or county commissioner of the county that is covered by the proposed land management plan.

(ii) Local government officials receiving the documents shall have five business days to submit recommendations to the governor or the governor's designee concerning changes to the documents before they are submitted to the federal land management agency.

~~[(b)]~~ (4) The state planning coordinator shall~~[(i)]~~ develop ~~[all-state]~~ policies, plans, programs, or processes authorized by this section in cooperation with appropriate state agencies and political subdivisions by coordinating the development of positions:

(a) through the Resource Development Coordinating Committee; ~~[and]~~

(b) in consultation with local government officials concerning general local government plans; and

~~[(i) solicit]~~ (c) by soliciting public comment through the Resource Development Coordinating Committee.

(5) The state planning coordinator shall take into consideration the following findings in the preparation of any policies, plans, programs, or processes relating to federal lands and natural resources on federal lands pursuant to this section:

(a) the citizens of the state are best served by the application of multiple-use and sustained-yield principles when making decisions concerning the management and use of the lands administered by the Bureau of Land Management and the U.S. Forest Service;

(b) multiple-use and sustained-yield management means that federal agencies should develop and implement management plans and make other resource-use decisions which facilitate land and natural resource use allocation which would support the specific plans, programs, processes, and policies of state agencies and local governments and which are designed to produce and provide the watersheds, food, fiber, and minerals necessary to meet future economic growth needs, and community expansion, and meet the recreational needs of the citizens of the state without permanent impairment of the productivity of the land;

(c) the waters of the state are the property of the citizens of the state, subject to appropriation for beneficial use, and are essential to the future prosperity of the state and the quality of life within the state;

(d) the state has the right to develop and use its entitlement to interstate rivers;

(e) all water rights desired by the federal government must be obtained through the state water appropriation system;

(f) land management and resource-use decisions which affect federal lands should give

priority to and support the purposes of the compact between the state and the United States related to school and institutional trust lands;

(g) development of the solid, fluid, and gaseous mineral resources of the state is an important part of the economy of the state, and of local regions within the state;

(h) Utah has outstanding opportunities for outdoor recreation;

(i) wildlife constitutes an important resource and provides recreational and economic opportunities for the state's citizens, and proper stewardship of the land and natural resources is necessary to ensure a viable wildlife population within the state;

(j) forests, rangelands, timber, and other vegetative resources provide forage for livestock, forage and habitat for wildlife, contribute to the state's economic stability and growth, and are important for a wide variety of recreational pursuits;

(k) management programs and initiatives which improve watersheds and increase forage for the mutual benefit of the agricultural industry and wildlife species by utilizing proven techniques and tools are vital to the state's economy and the quality of life in Utah; and

(l) transportation and access routes to and across federal lands, including all rights-of-way vested under R.S. 2477, are vital to the state's economy and to the quality of life in Utah.

(6) The state planning coordinator shall take into consideration the following findings in the preparation of any policies, plans, programs, or processes relating to federal lands and natural resources on federal lands pursuant to this section:

(a) the state's support for the addition of a river segment to the National Wild and Scenic Rivers System, 16 U.S.C. Sec. 1271 et seq., will be withheld until:

(i) it is clearly demonstrated that water is present and flowing at all times;

(ii) it is clearly demonstrated that the required water-related value is considered outstandingly remarkable within a region of comparison consisting of one of the three physiographic provinces in the state, and that the rationale and justification for the conclusions are disclosed;

(iii) the effects of the addition upon the local and state economies, agricultural and industrial operations and interests, tourism, water rights, water quality, water resource planning,

and access to and across river corridors in both upstream and downstream directions from the proposed river segment have been evaluated in detail by the relevant federal agency;

(iv) it is clearly demonstrated that the provisions and terms of the process for review of potential additions have been applied in a consistent manner by all federal agencies; and

(v) the rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed;

(b) the conclusions of all studies related to potential additions to the National Wild and Scenic River System, 16 U.S.C. Sec. 1271 et seq., are submitted to the state for review and action by the Legislature and governor, and the results, in support of or in opposition to, are included in any planning documents or other proposals for addition and are forwarded to the United States Congress;

(c) the state's support for designation of an Area of Critical Environmental Concern (ACEC), as defined in 43 U.S.C. Sec. 1702, within federal land management plans will be withheld until:

(i) it is clearly demonstrated that the proposed area contains historic, cultural or scenic values, fish or wildlife resources, or natural processes which are unique or substantially significant on a regional basis, or contain natural hazards which significantly threaten human life or safety;

(ii) the regional values, resources, processes, or hazards have been analyzed by the federal agency for impacts resulting from potential actions which are consistent with the multiple-use, sustained-yield principles, and that this analysis describes the rationale for any special management attention required to protect, or prevent irreparable damage to the values, resources, processes, or hazards;

(iii) the difference between special management attention required for an ACEC and normal multiple-use management has been identified and justified, and that any determination of irreparable damage has been analyzed and justified for short and long-term horizons;

(iv) it is clearly demonstrated that the proposed designation is not a substitute for a wilderness suitability recommendation; and

(v) the conclusions of all studies are submitted to the state for review, and the results, in support of or in opposition to, are included in all planning documents;

(d) sufficient federal lands are made available for government-to-government exchanges of school and institutional trust lands and federal lands without regard for a resource-to-resource correspondence between the surface or mineral characteristics of the offered trust lands and the offered federal lands;

(e) federal agencies should support government-to-government exchanges of land with the state based on a fair process of valuation which meets the fiduciary obligations of both the state and federal governments toward trust lands management, and which assures that revenue authorized by federal statute to the state from mineral or timber production, present or future, is not diminished in any manner during valuation, negotiation, or implementation processes;

(f) prime agricultural lands should continue to produce the food and fiber needed by the citizens of the state and the nation, and the rural character and open landscape of rural Utah should be preserved through a healthy and active agricultural industry, consistent with private property rights and state fiduciary duties;

(g) the resources of the forests and rangelands of the state should be integrated as part of viable, robust, and sustainable state and local economies, and available forage should be evaluated for the full complement of herbivores the rangelands can support in a sustainable manner, and forests should contain a diversity of timber species, and disease or insect infestations in forests should be controlled using logging or other best management practices;

(h) the invasion of noxious weeds and undesirable invasive plant species into Utah should be reversed, their presence eliminated, and their return prevented;

(i) management and resource-use decisions by federal land management and regulatory agencies concerning the vegetative resources within the state should reflect serious consideration of the optimization of the yield of water within the watersheds of Utah;

(j) the development of the solid, fluid, and gaseous mineral resources of the state should be encouraged, the waste of fluid and gaseous minerals within developed areas should be prohibited, and requirements to mitigate or reclaim mineral development projects should be based

on credible evidence of significant impacts to natural or cultural resources;

(k) motorized, human, and animal-powered outdoor recreation should be integrated into a fair and balanced allocation of resources within the historical and cultural framework of multiple-uses in rural Utah, and outdoor recreation should be supported as part of a balanced plan of state and local economic support and growth;

(l) off-highway vehicles should be used responsibly, and the management of off-highway vehicles should be uniform across all jurisdictions, and laws related to the use of off-highway vehicles should be uniformly applied across all jurisdictions;

(m) rights-of-way granted under the provisions of R.S. 2477 should be preserved and acknowledged;

(n) transportation and access provisions for all other existing routes, roads, and trails across federal, state, and school trust lands within the state should be determined and identified, and agreements executed and implemented, as necessary to fully authorize and determine responsibility for maintenance of all routes, roads, and trails;

(o) the reasonable development of new routes and trails for motorized, human, and animal-powered recreation should be implemented; and

(p) (i) forests, rangelands, and watersheds, in a healthy condition, are necessary and beneficial for wildlife, livestock grazing, and other multiple-uses;

(ii) that management programs and initiatives which are implemented to increase forage for the mutual benefit of the agricultural industry, livestock operations, and wildlife species should utilize all proven techniques and tools;

(iii) that the continued viability of livestock operations and the livestock industry should be supported on the federal lands within Utah by management of the lands and forage resources, by the optimization of animal unit months for livestock, in accordance with the multiple-use provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. 315 et seq., and the provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et seq.;

(iv) that provisions for predator control initiatives or programs under the direction of

state and local authorities should be implemented; and

(v) that resource-use and management decisions by federal land management and regulatory agencies should support state-sponsored initiatives or programs designed to stabilize wildlife populations that may be experiencing a scientifically-demonstrated decline in those populations.

[~~(4)~~] (7) Nothing contained in this section may be construed to restrict or supersede the planning powers conferred upon state departments, agencies, [~~or~~] instrumentalities, or advisory councils of the state or the planning powers conferred upon political subdivisions by any other existing law.

(8) Nothing in this section may be construed to affect any lands withdrawn from the public domain for military purposes, which are administered by the United States Army, Air Force, or Navy.

Section 2. Coordinating 1st Sub. H.B. 88 with 2nd Sub. H.B. 206.

If this 1st Sub H.B. 88 and 2nd Sub. H.B. 206, Constitutional Defense Council Amendments, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah code database for publication, shall:

(1) delete Subsections 63-38d-401(3)(b)(i) and (ii);

(2) insert a new Subsection (4) to read as follows:

"(4) If the state planning coordinator submits any comments on a draft environmental impact statement or an environmental assessment for a proposed land management plan, before submission, the state planning coordinator shall comply with the requirements of Subsection 63C-4-102(7)."; and

(3) renumber remaining subsections accordingly.