

Senator Beverly Ann Evans proposes the following substitute bill:

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:



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

27 **63-38d-401. Planning duties of the planning coordinator and office.**

28 (1) The state planning coordinator shall:

29 (a) act as the governor's adviser on state, regional, metropolitan, and local
30 governmental planning matters relating to public improvements and land use;

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

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

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

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

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

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

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

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

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

55 (2) The state planning coordinator may:

56 (a) perform regional and state planning and assist city, county, metropolitan, regional,

57 and state government planning agencies in performing local, metropolitan, regional, and state
58 planning; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

115 (f) land management and resource-use decisions which affect federal lands should give
116 priority to and support the purposes of the compact between the state and the United States
117 related to school and institutional trust lands;

118 (g) development of the solid, fluid, and gaseous mineral resources of the state is an

119 important part of the economy of the state, and of local regions within the state;

120 (h) Utah has outstanding opportunities for outdoor recreation;

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

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

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

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

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

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

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

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

143 (iii) the effects of the addition upon the local and state economies, agricultural and
144 industrial operations and interests, tourism, water rights, water quality, water resource
145 planning, and access to and across river corridors in both upstream and downstream directions
146 from the proposed river segment have been evaluated in detail by the relevant federal agency;

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

149 (v) the rationale and justification for the proposed addition, including a comparison

150 with protections offered by other management tools, is clearly analyzed within the multiple-use
151 mandate, and the results disclosed;

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

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

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

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

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

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

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

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

180 (e) federal agencies should support government-to-government exchanges of land with

181 the state based on a fair process of valuation which meets the fiduciary obligations of both the
182 state and federal governments toward trust lands management, and which assures that revenue
183 authorized by federal statute to the state from mineral or timber production, present or future, is
184 not diminished in any manner during valuation, negotiation, or implementation processes;

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

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

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

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

199 (j) the development of the solid, fluid, and gaseous mineral resources of the state
200 should be encouraged, the waste of fluid and gaseous minerals within developed areas should
201 be prohibited, and requirements to mitigate or reclaim mineral development projects should be
202 based on credible evidence of significant impacts to natural or cultural resources;

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

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

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

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

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

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

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

223 (iii) that the continued viability of livestock operations and the livestock industry
224 should be supported on the federal lands within Utah by management of the lands and forage
225 resources, by the optimization of animal unit months for livestock, in accordance with the
226 multiple-use provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C.
227 1701 et. seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. 315 et. seq., and the
228 provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et. seq.;

229 (iv) that provisions for predator control initiatives or programs under the direction of
230 state and local authorities should be implemented; and

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

235 [~~(4)~~] (7) Nothing contained in this section may be construed to restrict or supersede the
236 planning powers conferred upon state departments, agencies, [~~or~~] instrumentalities, or advisory
237 councils of the state or the planning powers conferred upon political subdivisions by any other
238 existing law.

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

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

243 If this 1st Sub H.B. 88 and 2nd Sub. H.B. 206, Constitutional Defense Council
244 Amendments, both pass, it is the intent of the Legislature that the Office of Legislative
245 Research and General Counsel, in preparing the Utah code database for publication, shall:
246 (1) delete Subsections 63-38d-401(3)(b)(i) and (ii);
247 (2) insert a new Subsection (4) to read as follows:
248 "(4) If the state planning coordinator submits any comments on a draft environmental
249 impact statement or an environmental assessment for a proposed land management plan, before
250 submission, the state planning coordinator shall comply with the requirements of Subsection
251 63C-4-102(7)."; and
252 (3) renumber remaining subsections accordingly.