

1 **PUBLIC LANDS POLICY COORDINATION**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Thomas V. Hatch**

5

6 **LONG TITLE**

7 **General Description:**

8 This bill creates the Public Lands Policy Coordinating Office and the Public Lands
9 Policy Coordinating Council.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ creates the Public Lands Policy Coordinating Office and the Public Lands Policy
13 Coordinating Council;
- 14 ▶ provides for the appointment of an office coordinator to administer the office;
- 15 ▶ establishes the duties of the office and coordinator;
- 16 ▶ establishes the membership of the council;
- 17 ▶ establishes the duties of the council;
- 18 ▶ allows the Legislature to appropriate monies from the Constitutional Defense
19 Restricted Account to the office and to the council; and
- 20 ▶ provides definitions.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill provides an effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **63C-4-103**, as last amended by Chapter 345, Laws of Utah 2004



28 ENACTS:

29 **63-38d-601**, Utah Code Annotated 1953

30 **63-38d-602**, Utah Code Annotated 1953

31 **63-38d-603**, Utah Code Annotated 1953

32 **63-38d-604**, Utah Code Annotated 1953

33 **63-38d-605**, Utah Code Annotated 1953

34 **Uncodified Material Affected:**

35 ENACTS UNCODIFIED MATERIAL



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

38 Section 1. Section **63-38d-601** is enacted to read:

39 **Part 6. Public Lands Policy Coordination**

40 **63-38d-601. Definitions.**

41 As used in this part:

42 (1) "Coordinator" means the public lands policy coordinator appointed in this part.

43 (2) "Council" means the Public Lands Policy Coordinating Council created by this part.

44 (3) "Office" means the Public Lands Policy Coordinating Office created by this part.

45 (4) "Political subdivision" means a county, municipality, special district, school
46 district, interlocal cooperation agreement entity, or any administrative subunit of them.

47 (5) "State planning coordinator" means the person appointed under Subsection
48 63-38d-202(1)(a)(ii).

49 Section 2. Section **63-38d-602** is enacted to read:

50 **63-38d-602. Public Lands Policy Coordinating Office -- Coordinator --**

51 **Appointment -- Qualifications -- Compensation.**

52 (1) There is created within state government the Public Lands Policy Coordinating
53 Office. The office shall be administered by a public lands policy coordinator.

54 (2) The coordinator shall be appointed by the governor with the consent of the Senate
55 and shall serve at the pleasure of the governor.

56 (3) The coordinator shall have demonstrated the necessary administrative and
57 professional ability through education and experience to efficiently and effectively manage the
58 office's affairs.

59 (4) The coordinator and employees of the office shall receive compensation as
60 provided in Title 67, Chapter 19, Utah State Personnel Management Act.
61 Section 3. Section **63-38d-603** is enacted to read:
62 **63-38d-603. Duties of coordinator and office.**
63 (1) The coordinator and the office shall:
64 (a) assist the state planning coordinator in fulfilling the duties outlined in Section
65 63-38d-401 as those duties relate to the development of public lands policies by:
66 (i) developing cooperative contracts and agreements between the state, political
67 subdivisions, and agencies of the federal government for involvement in the development of
68 public lands policies;
69 (ii) producing research, documents, maps, studies, analysis, or other information that
70 supports the state's participation in the development of public lands policy;
71 (iii) preparing comments to ensure that the positions of the state and political
72 subdivisions are considered in the development of public lands policy;
73 (iv) partnering with state agencies and political subdivisions in an effort to:
74 (A) prepare coordinated public lands policies;
75 (B) develop consistency reviews and responses to public lands policies;
76 (C) develop management plans that relate to public lands policies; and
77 (D) develop and maintain a statewide land use plan that is based on ~~H~~→ [a compilation of
78 county plans] cooperation and in conjunction with political subdivisions ←~~H~~ ; and
79 (v) providing other information or services related to public lands policies as requested
80 by the state planning coordinator; and
81 (b) facilitate and coordinate the exchange of information, comments, and
82 recommendations on public lands policies between and among:
83 (i) state agencies;
84 (ii) political subdivisions;
85 (iii) the Office of Rural Development created under Section 9-16-102;
86 (iv) the Resource Development Coordinating Committee created under Section
87 63-38d-501;
88 (v) School and Institutional Trust Lands Administration created under Section
89 53C-1-201;

90 (vi) the committee created under Section 63A-6-204 to award grants to counties to
 91 inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

92 (vii) the Constitutional Defense Council created under Section 63C-4-101.

93 (2) In providing assistance to the state planning coordinator under Subsection (1)(a),
 94 the coordinator and office shall take into consideration the:

95 (a) findings provided under Subsections 63-38d-401(6) and (7); and

96 (b) recommendations of the council.

97 Section 4. Section **63-38d-604** is enacted to read:

98 **63-38d-604. Public Lands Policy Coordinating Council -- Creation -- Membership**
 99 **-- Funding.**

100 (1) There is created the Public Lands Policy Coordinating Council composed of the
 101 following ~~§~~→ [five] seven ←~~§~~ members:

102 (a) one individual, appointed by the governor, who shall serve as chair of the council;

103 (b) one member of the Senate appointed by the president of the Senate;

104 (c) one member of the House of Representatives appointed by the speaker of the House
 105 of Representatives; ~~§~~→ [and] ←~~§~~

106 (d) two individuals appointed by the Utah Association of Counties ~~§~~→ [z] ; and

106a (e) the executive director of the Department of Natural Resources and the director of the
 106b School and Institutional Trust Lands Administration as ex officio, non-voting members. ←~~§~~

107 (2) Members shall be appointed for four-year terms.

108 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
 109 appointed for the unexpired term in the same manner as the original appointment.

110 (4) (a) (i) State government officer and employee members who do not receive salary,
 111 per diem, or expenses from their agency for their service may receive per diem and expenses
 112 incurred in the performance of their official duties from the council at the rates established by
 113 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

114 (ii) State government officer and employee members may decline to receive per diem
 115 and expenses for their service.

116 (b) (i) Local government members who do not receive salary, per diem, or expenses
 117 from the entity that they represent for their service may receive per diem and expenses incurred
 118 in the performance of their official duties at the rates established by the Division of Finance
 119 under Sections 63A-3-106 and 63A-3-107.

120 (ii) Local government members may decline to receive per diem and expenses for their

121 service.

122 (c) Legislators on the committee shall receive compensation and expenses as provided
123 by law and legislative rule.

124 (5) The council shall be funded from the Constitutional Defense Restricted Account
125 created in Section 63C-4-103.

126 Section 5. Section **63-38d-605** is enacted to read:

127 **63-38d-605. Council duties.**

128 The council shall provide advice and recommendations on the development of public
129 lands policies to the:

130 (1) Public Lands Policy Coordinating office;

131 (2) state planning coordinator; and

132 (3) governor.

133 Section 6. Section **63C-4-103** is amended to read:

134 **63C-4-103. Creation of Constitutional Defense Restricted Account -- Sources of**
135 **funds -- Uses of funds -- Reports.**

136 (1) There is created a restricted account within the General Fund known as the
137 Constitutional Defense Restricted Account.

138 (2) The account consists of monies from the following revenue sources:

139 (a) monies deposited to the account as required by Section 53C-3-202;

140 (b) voluntary contributions;

141 (c) monies received by the Constitutional Defense Council from other state agencies;

142 and

143 (d) appropriations made by the Legislature.

144 (3) Funds in the account shall be nonlapsing.

145 (4) The account balance may not exceed \$2,000,000.

146 (5) The Legislature may annually appropriate monies from the Constitutional Defense
147 Restricted Account to one or more of the following:

148 (a) the Constitutional Defense Council to carry out its duties in Section 63C-4-102;

149 (b) the Public Lands Policy Coordinating Office to carry out its duties in Section
150 63-38d-603;

151 (c) the Public Lands Policy Coordinating Council to carry out its duties in Section

152 63-38d-605.

153 ~~[(b)]~~ (d) the Office of the Governor, to be used only for the purpose of asserting,
 154 defending, or litigating state and local government rights under R.S. 2477, in accordance with a
 155 plan developed and approved as provided in Section 63C-4-104;

156 ~~[(c)]~~ (e) a county or association of counties to assist counties, consistent with the
 157 purposes of the council, in pursuing issues affecting the counties; or

158 ~~[(d)]~~ (f) the Office of the Attorney General, to be used only for public lands counsel
 159 and assistance and litigation to the state or local governments including asserting, defending, or
 160 litigating state and local government rights under R.S. 2477 in accordance with a plan
 161 developed and approved as provided in Section 63C-4-104.

162 (6) (a) The Constitutional Defense Council shall require that any entity that receives
 163 monies from the Constitutional Defense Restricted Account provide financial reports and
 164 litigation reports to the Council.

165 (b) Nothing in this Subsection (6) prohibits the council from closing a meeting under
 166 Title 52, Chapter 4, Open and Public Meetings, or prohibits the council from complying with
 167 Title 63, Chapter 2, Government Records Access and Management Act.

168 Section 7. **Effective date.**

169 ~~§~~ → ~~[If approved by two-thirds of all the members elected to each house, this]~~ **This** ← ~~§~~ bill
 169a takes effect
 170 on ~~§~~ → ~~[April 1]~~ **May 15** ← ~~§~~ , 2005.

Legislative Review Note

as of 2-10-05 8:18 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

It is estimated that the Senate and the House of Representatives will each require an ongoing General Fund appropriation of \$3,400 beginning FY 2006 to implement provisions of this bill.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$6,800	\$6,800	\$0	\$0
TOTAL	<u>\$6,800</u>	<u>\$6,800</u>	<u>\$0</u>	<u>\$0</u>

Individual and Business Impact

No fiscal impact.