

1 **LAW ENFORCEMENT BY FEDERAL LAND MANAGEMENT**

2 **AGENCY**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael E. Noel**

6 Senate Sponsor: Mark B. Madsen

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Public Safety Code regarding functions of federal officers within
11 Utah.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines federally managed land;
- 15 ▶ defines federal employee as a person who works for an agency that manages federal
16 land;
- 17 ▶ defines federal agency as an agency that manages federal land;
- 18 ▶ provides that unless specified under Utah law, federal employees may only exercise
19 law enforcement authority authorized by federal statute and consistent with the
20 United States Constitution;
- 21 ▶ provides that Utah does not recognize federal agency authority beyond that
22 necessary to manage, use, and protect federally managed lands;
- 23 ▶ provides that Utah does not authorize federal enforcement action or prosecution
24 based on Utah law by federal agencies, as defined in this bill, except as authorized
25 by agreement with the appropriate state or local law enforcement agency;
- 26 ▶ authorizes state and local law enforcement agencies to assist in enforcing federal
27 law on federally managed lands by authorized contract;
- 28 ▶ provides that agreements with a federal agency, as defined in this bill, may not be
29 for longer than two years;

- 30 ▶ provides that state and local law enforcement agencies may not allow federal
- 31 agencies to use state or local resources without the written consent of the
- 32 appropriate responsible official of the state or local law enforcement agency; and
- 33 ▶ requires the county sheriff to review the activities of any federal enforcement
- 34 agency within the county and report to the county attorney.

35 **Monies Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **53-13-106**, as last amended by Laws of Utah 2008, Chapter 382

42 ENACTS:

43 **53-13-106.5**, Utah Code Annotated 1953



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

46 Section 1. Section **53-13-106** is amended to read:

47 **53-13-106. Federal officers -- State law enforcement authority.**

48 (1) (a) "Federal officer" includes:

- 49 (i) a special agent of the Federal Bureau of Investigation;
- 50 (ii) a special agent of the United States Secret Service;
- 51 (iii) a special agent of the United States Department of Homeland Security, excluding
- 52 a customs inspector or detention removal officer;
- 53 (iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;
- 54 (v) a special agent of the Drug Enforcement Administration;
- 55 (vi) a United States marshal, deputy marshal, and special deputy United States
- 56 marshal; and
- 57 (vii) a U.S. Postal Inspector of the United States Postal Inspection Service.

58 (b) (i) [~~Notwithstanding Subsection (2), federal~~] Federal officers listed in Subsection
59 (1)(a) have statewide law enforcement authority relating to felony offenses under the laws of
60 this state. This Subsection (1)(b)(i) takes precedence over Subsection (2).

61 (ii) Federal agencies and federal employees as defined in Subsection 53-13-106.5(1)
62 may exercise law enforcement authority related to felony offenses under Utah law only as
63 established by an agreement under Subsection 53-13-106.5(7). This Subsection (1)(b)(ii)
64 takes precedence over Subsection (2).

65 (c) The council may designate other federal peace officers, as necessary, if the officers:

66 (i) are persons employed full-time by the United States government as federally
67 recognized law enforcement officers primarily responsible for the investigation and
68 enforcement of the federal laws;

69 (ii) have successfully completed formal law enforcement training offered by an agency
70 of the federal government consisting of not less than 400 hours; and

71 (iii) maintain in-service training in accordance with the standards set forth in Section
72 53-13-103.

73 (2) Except as otherwise provided under Title 63L, Chapter [8] 1, Federal Jurisdiction,
74 and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state
75 law enforcement authority only if:

76 (a) the state law enforcement agencies and county sheriffs with jurisdiction enter into
77 an agreement with the federal agency to be given authority; and

78 (b) except as provided in Subsection (3), each federal officer employed by the federal
79 agency meets the waiver requirements set forth in Section 53-6-206.

80 (3) A federal officer working as such in the state on or before July 1, 1995, may
81 exercise state law enforcement authority without meeting the waiver requirement.

82 (4) At any time, consistent with any contract with a federal agency, a state or local
83 law enforcement authority may withdraw state law enforcement authority from any individual
84 federal officer by sending written notice to the federal agency and to the division.

85 (5) The authority of a federal officer under this section is limited to the jurisdiction of

86 the authorizing state or local agency, and may be further limited by the state or local agency to
87 enforcing specific statutes, codes, or ordinances.

88 Section 2. Section **53-13-106.5** is enacted to read:

89 **53-13-106.5. State limitations on functions of federal law enforcement officers.**

90 (1) As used in this section:

91 (a) "Federal agency" means a federal agency that manages federally managed land.

92 (b) "Federal employee" means an employee of:

93 (i) the Bureau of Land Management;

94 (ii) the United States Forest Service; or

95 (iii) the National Park Service.

96 (c) "Federally managed land" means land managed by the following federal agencies:

97 (i) Bureau of Land Management;

98 (ii) United States Forest Service; and

99 (iii) the National Park Service.

100 (2) Unless otherwise provided by Utah law, federal employees performing their duties
101 in Utah:

102 (a) may not exercise law enforcement authority solely because the land on which they
103 exercise the authority is federally managed; and

104 (b) may exercise only law enforcement authority:

105 (i) expressly granted by federal statute; and

106 (ii) consistent with the Constitution of the United States.

107 (3) Utah does not authorize federal employees to exercise law enforcement powers to
108 enforce the laws of Utah, either on or off federally managed land except as authorized under
109 this section or other provisions of state statute.

110 (4) (a) Utah does not recognize the authority of employees or agents of the United
111 States Department of Interior to exercise law enforcement powers beyond those powers strictly
112 necessary for the management, use, and protection of federally managed lands, including
113 property located on these lands, as limited by 43 U.S.C. 1733(a) and 1733(c)(2).

114 (b) As required by Congress in 43 U.S.C. 1733(c)(1), when the Secretary of Interior
115 determines that state or local assistance is necessary in enforcing federal laws and regulations
116 relating to federally managed lands or the resources on those lands, the secretary shall offer a
117 contract to appropriate state or local law enforcement agencies of the state with the purpose of
118 achieving maximum feasible reliance upon state or local law enforcement officials in
119 enforcing the federal laws and regulations.

120 (5) Utah does not authorize federal employees to take action based on the Utah Code,
121 Utah Administrative Rules, or county or municipal ordinances as a basis to arrest or cite
122 persons for prosecution in the federal criminal justice system, unless the action:

- 123 (a) has been expressly granted by federal statute; and
- 124 (b) is consistent with the Constitution of the United States.

125 (6) State and local government agencies may not allow any federal agency access to or
126 use of the correctional and communication facilities and equipment of any state or local law
127 enforcement agency without the express written consent of the appropriate responsible official
128 of the state or local law enforcement agency.

129 (7) State and local law enforcement agencies may enter into agreements with federal
130 agencies granting concurrent authority to enforce federal laws and state and local laws,
131 provided the agreements are limited to a term not to exceed two years.

132 (8) (a) County sheriffs shall regularly review the duties and activities of federal
133 agencies that have law enforcement responsibilities and that are acting within the
134 jurisdictional area of the county to ascertain whether the federal agencies are acting
135 consistently with this section.

136 (b) County sheriffs shall annually report to the county attorney or district attorney of
137 their jurisdiction the results of all reviews conducted under this Subsection (8).