

Representative Marc K. Roberts proposes the following substitute bill:

POLITICAL SUBDIVISION JURISDICTION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions of Title 11, Chapter 51, Local Jurisdiction Related to Federally Managed Land Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a chief executive officer of a political subdivision or county sheriff to exercise jurisdiction over a federally managed national monument or recreation area in the state that is encompassed by or adjacent to the political subdivision;
- ▶ provides that the attorney general shall take certain actions if a legal action is filed by the United States or a federal representative against a chief executive officer, a county sheriff, or an employee or agent of the chief executive officer or county sheriff; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **11-51-102**, as enacted by Laws of Utah 2013, Chapter 342

29 **11-51-103**, as enacted by Laws of Utah 2013, Chapter 342

30 ENACTS:

31 **11-51-104**, Utah Code Annotated 1953



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

34 Section 1. Section **11-51-102** is amended to read:

35 **11-51-102. Definitions.**

36 As used in this chapter:

37 (1) "Chief executive officer" means:

38 (a) for a municipality:

39 (i) the mayor, if the municipality is operating under a form of municipal government
40 other than the council-manager form of government; or

41 (ii) the city manager, if the municipality is operating under the council-manager form
42 of government; or

43 (b) for a county:

44 (i) the chair of the county commission, if the county is operating under the county
45 commission or expanded county commission form of government;

46 (ii) the county executive officer, if the county is operating under the county-executive
47 council form of government; or

48 (iii) the county manager, if the county is operating under the council-manager form of
49 government.

50 (2) "County sheriff" means an individual elected to the office of county sheriff in the
51 state who meets the qualifications described in Section **17-22-1.5**.

52 (3) "Federal agency" means the United States Bureau of Land Management [or], the
53 United States Forest Service, the United States Fish and Wildlife Service, or the National Park
54 Service.

55 (4) "Federally managed land" means land that is managed by the United States Bureau
56 of Land Management [or], the United States Forest Service, or the National Park Service.

57 (5) "National monument" means a national monument designated or declared in
 58 accordance with the Antiquities Act of 1906, 16 U.S.C. Sec. 431 et seq.

59 (6) "National recreation area" means a recreation area designated by an act of
 60 Congress.

61 ~~[(5)]~~ (7) "Political subdivision" means a municipality or county.

62 Section 2. Section **11-51-103** is amended to read:

63 **11-51-103. Local jurisdiction related to federally managed land -- Written notice**
 64 **-- Mitigation action.**

65 (1) (a) The authority of a chief executive officer of a political subdivision or county
 66 sheriff to exercise jurisdiction ~~[over]~~ on federally managed land, a national monument, or a
 67 national recreation area in the state that is ~~[encompassed by or adjacent to the]~~ wholly or
 68 partially situated within a political subdivision includes the following:

69 ~~[(1)]~~ (i) if the action or inaction of a federal agency related to federally managed land,
 70 the national monument, or the national recreation area threatens to adversely ~~[affects or~~
 71 constitutes an imminent threat to] affect the health, safety, or welfare of the people of the
 72 political subdivision, the chief executive officer or county sheriff may, after consulting with the
 73 attorney general, provide written notice to the federal agency, which notice shall:

74 ~~[(a)]~~ (ii) be delivered to the federal agency by hand or by certified mail and a copy
 75 provided by certified mail to the governor, the ~~[state]~~ attorney general, and the state's
 76 Congressional delegation;

77 ~~[(b)]~~ (iii) include a detailed explanation of how the action or inaction of the federal
 78 agency related to federally managed land, the national monument, or the national recreation
 79 area threatens to adversely ~~[affects or constitutes an imminent threat to]~~ affect the health,
 80 safety, or welfare of the people of the political subdivision;

81 ~~[(c)]~~ (iv) include a detailed description ~~[of the action the federal agency should take to~~
 82 mitigate the risk to the health, safety, or welfare of the people of the political subdivision; and

83 ~~[(d)]~~ (v) provide a specific date by which time the federal agency should respond to the
 84 notice; and

85 ~~[(2)]~~ (b) if after receiving notice as described in Subsection (1)(a)(ii), the federal
 86 agency does not respond by the date requested in the notice, or otherwise indicates that it is
 87 unwilling to take action to mitigate the risk to the health, safety, or welfare of the people of the

88 political subdivision described in the notice[;]:

89 (i) the chief executive officer or county sheriff [may take action to mitigate the risk to
90 the health, safety, or welfare of the people of the political subdivision.] shall consult with the
91 county attorney and attorney general; and

92 (ii) the attorney general shall send within 20 days of consulting with the chief
93 executive officer or county sheriff a written notice to the federal agency stating what legal
94 steps, if any, the attorney general will take to protect the people of the political subdivision
95 from the threat to their health, safety, or welfare.

96 (2) (a) If an action or inaction of a federal agency related to federally managed land, a
97 national monument, or a national recreation area constitutes an imminent threat to the health,
98 safety, or welfare of the people of the political subdivision, the chief executive officer or
99 county sheriff may, after consulting with the attorney general, provide written notice to the
100 federal agency.

101 (b) The chief executive officer or county sheriff shall:

102 (i) deliver the notice described in Subsection (2)(a) to the federal agency in person or
103 by certified mail;

104 (ii) provide a copy of the notice by certified mail to the governor, the attorney general,
105 and the state's Congressional delegation; and

106 (iii) include in the notice:

107 (A) a detailed explanation of how the federal agency's action or inaction constitutes an
108 imminent threat to the health, safety, or welfare of the people of the political subdivision;

109 (B) a detailed description of the action that the federal agency should take to eliminate
110 the imminent threat; and

111 (C) provide a specific date by which the federal agency should respond to the notice,
112 either with action or by written communication.

113 (3) If a federal agency does not respond, either with action or in written
114 communication, to a notice described in Subsection (2)(b) by the date described in Subsection
115 (2)(b)(iii)(C), or otherwise indicates that the agency is unwilling to take action, the chief
116 executive officer or county sheriff may, after additional consultation with the county attorney
117 and attorney general, take action and exercise necessary jurisdictional authority to mitigate the
118 risk to the health, safety, or welfare of the people of the political subdivision.

119 Section 3. Section 11-51-104 is enacted to read:

120 **11-51-104. Attorney general duties.**

121 (1) If the United States or a federal representative brings a legal action or a proceeding
122 against a chief executive officer, a county sheriff, or an employee or agent of a chief executive
123 officer or county sheriff for taking action to exercise the jurisdictional authority described in
124 this chapter, and that action is taken to mitigate an imminent threat to the health, safety, or
125 welfare of the people of a political subdivision in accordance with Section 11-51-103, the
126 attorney general shall:

127 (a) review the legal action brought by the United States or federal representative;

128 (b) investigate the matter, including conducting interviews of the chief executive
129 officer, county sheriff, or employees or agents of the political subdivision; and

130 (c) decide in the attorney general's discretion whether to provide a defense for a person
131 named as a defendant in the legal action.

132 (2) If the attorney general determines to provide or not provide a defense to a person
133 named as a defendant in a legal action described in Subsection (1), that determination does not
134 imply:

135 (a) a position or opinion by the attorney general as to the merits of the legal action; and

136 (b) a duty or agreement by the state to pay a monetary judgment for the United States
137 or federal representative that may be obtained against a person named in the legal action.

138 (3) Subsections (1) and (2) may not be interpreted to prohibit a county from:

139 (a) reviewing a legal action described in Subsection (1);

140 (b) investigating the matter, including conducting interviews;

141 (c) providing a defense for a person named as a defendant in the legal action; or

142 (d) assisting the attorney general with a duty described in this section.