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**SHERIFF AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions regarding a sheriff.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ updates outdated language;
- ▶ amends the composition of the merit system commission to include members who a sheriff appoints;
- ▶ clarifies a sheriff's professional duties with which a county legislative body and county executive may not directly interfere;
- ▶ removes the ability of a county legislative body to prescribe to a sheriff the manner in which the sheriff cares for prisoners;
- ▶ clarifies a sheriff's authority;
- ▶ allows a sheriff to appoint outside legal counsel under certain conditions;
- ▶ allows a sheriff to contract to provide the sheriff's services and requires a county legislative body to appropriate revenue from the contract to the sheriff's budget;
- ▶ allows a sheriff to take certain action within the sheriff's budget during a budget year without approval from the budget officer or county legislative body; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **17-16-7**, as last amended by Laws of Utah 2001, Chapter 241

34 **17-22-2**, as last amended by Laws of Utah 2017, Chapter 459

35 **17-22-2.5**, as last amended by Laws of Utah 2011, Chapters 67 and 340

36 **17-22-5.5**, as last amended by Laws of Utah 2014, Chapter 120

37 **17-22-8**, as last amended by Laws of Utah 2011, Chapter 64

38 **17-22-31**, as enacted by Laws of Utah 2014, Chapter 333

39 **17-30-2**, as last amended by Laws of Utah 2014, Chapter 366

40 **17-30-7**, as enacted by Statewide Initiative A, Nov. 8, 1960

41 **17-30-9**, as enacted by Statewide Initiative A, Nov. 8, 1960

42 **17-30-11**, as last amended by Laws of Utah 2007, Chapter 149

43 **17-30-17**, as enacted by Statewide Initiative A, Nov. 8, 1960

44 **17-30-18**, as enacted by Statewide Initiative A, Nov. 8, 1960

45 **17-30-19**, as last amended by Laws of Utah 2000, Chapter 151

46 **17-30-21**, as enacted by Statewide Initiative A, Nov. 8, 1960

47 **17-30-24**, as last amended by Laws of Utah 1993, Chapter 227

48 **17-30a-102**, as enacted by Laws of Utah 2014, Chapter 366

49 **17-30a-202**, as enacted by Laws of Utah 2014, Chapter 366

50 **17-36-22**, as last amended by Laws of Utah 2009, Chapter 186

51 **17-53-106**, as last amended by Laws of Utah 2002, Chapters 11 and 185

52 **53-13-105**, as last amended by Laws of Utah 2016, Chapter 300

53 ENACTS:

54 **17-22-32**, Utah Code Annotated 1953

55 **17-22-33**, Utah Code Annotated 1953

56 REPEALS AND REENACTS:

57 **17-30-1**, as last amended by Laws of Utah 2009, Chapter 218

58 **17-30-3**, as last amended by Laws of Utah 2009, Chapter 218

- 59 **17-30-5**, as last amended by Laws of Utah 1993, Chapter 227
- 60 **17-30-8**, as last amended by Laws of Utah 2011, Chapter 297
- 61 **17-30-10**, as enacted by Statewide Initiative A, Nov. 8, 1960
- 62 **17-30-12**, as enacted by Statewide Initiative A, Nov. 8, 1960
- 63 **17-30-15**, as enacted by Statewide Initiative A, Nov. 8, 1960
- 64 **17-30-16**, as enacted by Statewide Initiative A, Nov. 8, 1960
- 65 **17-30-20**, as enacted by Statewide Initiative A, Nov. 8, 1960
- 66 **17-30-22**, as last amended by Laws of Utah 2011, Chapter 297

67 REPEALS:

- 68 **17-33-16**, as enacted by Laws of Utah 2008, Chapter 172



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

71 Section 1. Section **17-16-7** is amended to read:

72 **17-16-7. Deputies and employees -- Appointments -- County legislative body**  
 73 **consent power -- Liability of principal -- Deputy may serve despite vacancy in office of**  
 74 **appointing officer.**

75 (1) (a) ~~[A]~~ Except as provided in Subsection (1)(d), a county or precinct officer,  
 76 including an elected county executive, except a county commissioner or county council  
 77 member, may, with the consent of the county legislative body, appoint deputies and employees  
 78 as necessary for the discharge of the duties of the officer's office.

79 (b) The county legislative body's consent power under Subsection (1)(a) shall be  
 80 defined in county ordinance and may include consent by:

- 81 (i) the budget approval process;
- 82 (ii) approval of an allocation of a certain number of positions; or
- 83 (iii) approval or disapproval of the hiring of individual applicants.

84 (c) A county legislative body may by ordinance delegate to the county executive the  
 85 authority to consent to the appointment of deputies and employees under this Subsection (1).

86 (d) A sheriff may, in accordance with Chapter 30, Deputy Sheriffs - Merit System, or  
 87 Chapter 30a, Peace Officer Merit System in Counties of the First Class Act, appoint deputies  
 88 and employees without the consent of the county legislative body as necessary for the discharge  
 89 of the sheriff's duties under this title.

90 (2) If the county clerk performs district court clerk functions, the legislative body of that  
91 county shall provide the clerk with deputies and employees for the business of the district  
92 courts as considered necessary and advisable by the judge or judges of the district court,  
93 consistent with the level of funding for clerk services from the court administrator's office.

94 (3) (a) Each officer appointing a deputy shall, for each deputy appointed, file a signed  
95 writing with the county clerk that memorializes the appointment.

96 (b) The officer appointing the deputy is liable for all official acts of the deputy.

97 (c) If the office of the officer who appointed the deputy becomes vacant, the deputy  
98 may continue to serve despite the vacancy.

99 Section 2. Section 17-22-2 is amended to read:

100 **17-22-2. Sheriff -- General duties.**

101 (1) The sheriff shall:

102 (a) preserve the peace;

103 (b) make all lawful arrests;

104 (c) attend in person or by deputy the Supreme Court and the Court of Appeals when  
105 required or when the court is held within [his] the sheriff's county, all courts of record, and  
106 court commissioner and referee sessions held within [his] the sheriff's county, obey their lawful  
107 orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of  
108 Judicial Administration;

109 [~~(d) upon request of the juvenile court, aid the court in maintaining order during~~  
110 ~~hearings and transport a minor to and from youth corrections facilities, other institutions, or~~  
111 ~~other designated places;]~~

112 (d) upon request of the juvenile court:

113 (i) aid the court in maintaining order during hearings; and

114 (ii) (A) transport a minor to and from public youth corrections facilities, other public  
115 institutions, or other public designated places; or

116 (B) if the sheriff negotiates and executes a contract with a private provider of youth  
117 correctional facilities, transport a minor to and from the provider's facilities, institutions, or  
118 other designated places;

119 (e) attend county justice courts if the judge finds that the matter before the court  
120 requires the sheriff's attendance for security, transportation, and escort of jail prisoners in [his]

121 the sheriff's custody, or for the custody of jurors;

122 (f) command the aid of as many inhabitants of [~~his~~] the sheriff's county as [~~he~~] the  
123 sheriff considers necessary in the execution of these duties;

124 (g) take charge of and keep the county jail and the jail prisoners;

125 (h) receive and safely keep all persons committed to [~~his~~] the sheriff's custody, file and  
126 preserve the commitments of those persons, and record the name, age, place of birth, and  
127 description of each person committed;

128 (i) release on the record all attachments of real property when the attachment [~~he~~] the  
129 sheriff receives has been released or discharged;

130 (j) endorse on all process and notices the year, month, day, hour, and minute of  
131 reception, and, upon payment of fees, issue a certificate to the person delivering process or  
132 notice showing the names of the parties, title of paper, and the time of receipt;

133 (k) serve all process and notices as prescribed by law;

134 (l) if [~~he~~] the sheriff makes service of process or notice, certify on the process or  
135 notices the manner, time, and place of service, or, if [~~he~~] the sheriff fails to make service,  
136 certify the reason upon the process or notice, and return them without delay;

137 (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public  
138 land within [~~his~~] the sheriff's county;

139 (n) perform as required by any contracts between the county and private contractors for  
140 management, maintenance, operation, and construction of county jails entered into under the  
141 authority of Section [17-53-311](#);

142 (o) for the sheriff of a county that enters into an interlocal agreement for law  
143 enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law  
144 enforcement service as provided in the interlocal agreement;

145 [~~(p) manage search and rescue services in his county;~~]

146 (p) manage search and rescue services in the sheriff's county and emergency medical  
147 services in the unincorporated portion of the sheriff's county;

148 (q) obtain saliva DNA specimens as required under Section [53-10-404](#);

149 (r) on or before January 1, 2003, adopt a written policy that prohibits the stopping,  
150 detention, or search of any person when the action is solely motivated by considerations of  
151 race, color, ethnicity, age, or gender;

152 (s) create a child protection unit, as defined in Section 62A-4a-101, if the sheriff  
153 determines that creation of a child protection unit is warranted; and

154 (t) perform any other duties that are required by law.

155 (2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other  
156 subsection under Subsection (1) is a class A misdemeanor.

157 (3) A county may not execute a contract with a private entity to provide the services  
158 required by Subsection (1) without the advice and consent of the sheriff.

159 ~~[(3)]~~ (4) (a) As used in this Subsection ~~[(3)]~~ (4):

160 (i) "Police interlocal entity" ~~[has the same meaning as]~~ means the same as that term is  
161 defined in [Sections 17-30-3 and] Section 17-30a-102.

162 (ii) "Police local district" ~~[has the same meaning as defined in Section 17-30-3.]~~ means  
163 a local district, as that term is defined in Section 17B-1-102:

164 (A) where the legislative body of a county of the first class, alone or with one or more  
165 other legislative bodies, adopted a resolution under Section 17B-1-203 to initiate the creation  
166 of the police local district; and

167 (B) that provides law enforcement service to an area that includes the unincorporated  
168 portion of a county.

169 (b) A sheriff in a county which includes within its boundary a police local district or  
170 police interlocal entity, or both:

171 (i) serves as the chief executive officer of each police local district and police interlocal  
172 entity within the county with respect to the provision of law enforcement service within the  
173 boundary of the police local district or police interlocal entity, respectively; and

174 (ii) is subject to the direction of the police local district board of trustees or police  
175 interlocal entity governing body, as the case may be, as and to the extent provided by  
176 agreement between the police local district or police interlocal entity, respectively, and the  
177 sheriff.

178 (c) If a police interlocal entity or police local district enters an interlocal agreement  
179 with a public agency, as defined in Section 11-13-103, for the provision of law enforcement  
180 service, the sheriff:

181 (i) does not serve as the chief executive officer of any interlocal entity created under  
182 that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief

183 executive officer; and

184 (ii) shall provide law enforcement service under that interlocal agreement as provided  
185 in the agreement.

186 Section 3. Section 17-22-2.5 is amended to read:

187 **17-22-2.5. Fees of sheriff.**

188 ~~[(1)(a) The legislative body of a county may set a fee for a service described in this  
189 section and charged by the county sheriff:]~~

190 (1) (a) Notwithstanding the amounts stated in Subsections (2) through (7), a county  
191 legislative body, with the advice and consent of the sheriff, may establish a fee for the sheriff's  
192 services described in Subsections (2) through (7):

193 (i) in an ordinance adopted under Section 17-53-223; and

194 (ii) in an amount reasonably related to, but not exceeding, the actual cost of providing  
195 the service.

196 (b) If the county legislative body ~~[of a county]~~ does not ~~[under Subsection (1)(a)]~~ set a  
197 fee ~~[charged by the county sheriff]~~ under Subsection (1)(a), the sheriff shall charge a fee in  
198 accordance with Subsections (2) through (7).

199 (2) Unless ~~[under Subsection (1) the legislative body of]~~ a county legislative body sets  
200 a fee ~~[amount for a fee described in this Subsection (2)]~~ in accordance with Subsection (1), the  
201 sheriff shall charge the following fees:

202 (a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and  
203 complaint, or garnishee execution, or other process by which an action or proceeding is  
204 commenced, on each defendant, including copies when furnished by plaintiff, \$20;

205 (b) for taking or approving a bond or undertaking in any case in which he is authorized  
206 to take or approve a bond or undertaking, including justification, \$5;

207 (c) for a copy of any writ, process or other paper when demanded or required by law,  
208 for each folio, 50 cents;

209 (d) for serving an attachment on property, or levying an execution, or executing an  
210 order of arrest or an order for the delivery of personal property, including copies when  
211 furnished by plaintiff, \$50;

212 (e) for taking and keeping possession of and preserving property under attachment or  
213 execution or other process, the amount the court orders to a maximum of \$15 per day;

- 214 (f) for advertising property for sale on execution, or any judgment, or order of sale,  
215 exclusive of the cost of publication, \$15;
- 216 (g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive  
217 of acknowledgment, \$15, to be paid by the grantee;
- 218 (h) for recording each deed, conveyance, or other instrument affecting real estate,  
219 exclusive of the cost of recording, \$10, to be paid by the grantee;
- 220 (i) for serving a writ of possession or restitution, and putting any person entitled to  
221 possession into possession of premises, and removing occupant, \$50;
- 222 (j) for holding each trial of right of property, to include all services in the matter,  
223 except mileage, \$35;
- 224 (k) for conducting, postponing, or canceling a sale of property, \$15;
- 225 (l) for taking a prisoner in civil cases from prison before a court or magistrate, for each  
226 mile necessarily traveled, in going only, to a maximum of 100 miles, \$2.50;
- 227 (m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a  
228 court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100  
229 miles, \$2.50;
- 230 (n) for receiving and paying over money on execution or other process, as follows:  
231 (i) if the amount collected does not exceed \$1,000, 2% of this amount, with a  
232 minimum of \$1; and  
233 (ii) if the amount collected exceeds \$1,000, 2% on the first \$1,000 and 1-1/2% on the  
234 balance; and  
235 (o) for executing in duplicate a certificate of sale, exclusive of filing it, \$10.
- 236 (3) The fees allowed by Subsection (2)(f) for the levy of execution and for advertising  
237 shall be collected from the judgment debtor as part of the execution in the same manner as the  
238 sum directed to be made.
- 239 (4) When serving an attachment on property, an order of arrest, or an order for the  
240 delivery of personal property, the sheriff may only collect traveling fees for the distance  
241 actually traveled beyond the distance required to serve the summons if the attachment or those  
242 orders:  
243 (a) accompany the summons in the action; and  
244 (b) may be executed at the time of the service of the summons.



245 (5) (a) (i) When traveling generally to serve notices, orders, process, or other papers,  
246 the sheriff may receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each  
247 mile necessarily traveled, in going only, computed from the courthouse for each person served,  
248 to a maximum of 100 miles.

249 (ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may  
250 receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each mile necessarily  
251 traveled, in going only, computed from the post office where received for each person served,  
252 to a maximum of 100 miles.

253 (b) The sheriff may only charge one mileage fee if any two or more papers are required  
254 to be served in the same action or proceeding at the same time and at the same address.

255 (c) If it is necessary to make more than one trip to serve any notice, order, process, or  
256 other paper, the sheriff may not collect more than two additional mileage charges.

257 (6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a  
258 mental health facility, as defined in Section 62A-15-602, when the cost of transportation is  
259 payable by private individuals, the sheriff may collect, except as otherwise provided under  
260 Subsection (1)(a), \$2.50 for each mile necessarily traveled, in going only, to a maximum of 100  
261 miles.

262 (b) If the sheriff requires assistance to transport the person, the sheriff may also charge  
263 the actual and necessary cost of that assistance.

264 (7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under  
265 Section 53-10-404, the sheriff shall collect the fee of \$100 in accordance with Section  
266 53-10-404.

267 (b) The fee amount described in Subsection (7)(a) may not be changed by a county  
268 legislative body under Subsection (1).

269 Section 4. Section 17-22-5.5 is amended to read:

270 **17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity**  
271 **of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding**  
272 **release.**

273 (1) (a) Except as provided in Subsection (4), a [county] sheriff shall determine:

274 (i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail  
275 facility under the sheriff's control;

276 (ii) the nature of each program conducted at a jail facility under the sheriff's control;  
277 and

278 (iii) the internal operation of a jail facility under the sheriff's control.

279 (b) (i) A classification under Subsection (1)(a)(i) of a jail facility may not violate any  
280 applicable zoning ordinance or conditional use permit of the county or municipality.

281 (ii) A county or municipal land use authority may not prohibit the alteration or  
282 expansion of a jail facility if the alteration or expansion is required to comply with a federal or  
283 state regulation or law.

284 (2) Except as provided in Subsection (4), each [county] sheriff shall:

285 (a) [~~with the approval of the county legislative body,~~] establish a maximum operating  
286 capacity for each jail facility under the sheriff's control, based on facility design and staffing;  
287 and

288 (b) upon a jail facility reaching its maximum operating capacity:

289 (i) transfer prisoners to another appropriate facility:

290 (A) under the sheriff's control; or

291 (B) available to the sheriff by contract;

292 (ii) release prisoners:

293 (A) to a supervised release program, according to release criteria established by the  
294 sheriff; or

295 (B) to another alternative incarceration program developed by the sheriff; or

296 (iii) admit prisoners in accordance with law and a uniform admissions policy imposed  
297 equally upon all entities using the county jail.

298 (3) (a) The sheriff shall keep records of the release status and the type of release  
299 program or alternative incarceration program for any prisoner released under Subsection  
300 (2)(b)(ii).

301 (b) The sheriff shall make these records available upon request to the Department of  
302 Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

303 (4) This section may not be construed to authorize a sheriff to modify provisions of a  
304 contract with the Department of Corrections to house in a county jail persons sentenced to the  
305 Department of Corrections.

306 Section 5. Section 17-22-8 is amended to read:

307 **17-22-8. Care of prisoners -- Funding of services -- Private contractor.**

308 (1) Except as provided in Subsection (3), the sheriff shall:

309 (a) receive all ~~[persons]~~ prisoners committed to jail by competent authority;

310 (b) provide ~~[them]~~ prisoners with necessary food, clothing, and bedding ~~[in the manner~~  
311 ~~prescribed by the county legislative body];~~ and

312 (c) provide medical care when:

313 (i) the ~~[person's]~~ prisoner's symptoms evidence a serious disease or injury;

314 (ii) the ~~[person's]~~ prisoner's disease or injury is curable or may be substantially  
315 alleviated; and

316 (iii) the potential for harm to the ~~[person]~~ prisoner by reason of delay or the denial of  
317 medical care would be substantial.

318 (2) The expense incurred in providing these services to prisoners shall be paid from the  
319 county treasury, except as provided in Section 17-22-10.

320 ~~[(3) If the county executive contracts with a private contractor to provide the services~~  
321 ~~required by this section, the sheriff shall provide only those services required of him by the~~  
322 ~~contract between the county and the private contractor.]~~

323 (3) If the county executive contracts with a private contractor to provide the services  
324 required by this section:

325 (a) the county executive may not execute the contract without the sheriff's advice and  
326 consent; and

327 (b) the sheriff shall provide only those services that the contract requires of the sheriff.

328 Section 6. Section 17-22-31 is amended to read:

329 **17-22-31. Authority of a sheriff.**

330 (1) Within the boundaries of the county in which the sheriff is elected, the sheriff has:

331 (a) primary authority over any unincorporated areas within the boundaries of the  
332 county; and

333 (b) concurrent authority with police officers who have authority within the boundaries  
334 of each respective municipality within the county.

335 (2) The sheriff is the primary law enforcement authority of state law on federal land  
336 except as otherwise assigned by law to the authority of a state or municipal law enforcement  
337 agency.

338 (3) This section is not a limitation of a sheriff's statewide authority as otherwise  
339 provided by law.

340 Section 7. Section **17-22-32** is enacted to read:

341 **17-22-32. Sheriff may appoint legal counsel.**

342 (1) A sheriff may appoint an attorney to advise and represent the sheriff in accordance  
343 with this section.

344 (2) An attorney whom a sheriff appoints under this section:

345 (a) serves at the pleasure of the sheriff;

346 (b) except as provided in Subsection (2)(c), may not perform any of the functions of a  
347 county attorney or district attorney under this title; and

348 (c) may represent the sheriff in a case or controversy before a court or administrative  
349 agency or tribunal when a conflict exists that precludes the county attorney or district attorney  
350 from representing the sheriff.

351 Section 8. Section **17-22-33** is enacted to read:

352 **17-22-33. Contract for a sheriff's services -- Appropriation of contract funds.**

353 (1) As used in this section, "public entity" means the same as that term is defined in  
354 Title 17B, Chapter 1, Part 1, General Provisions.

355 (2) A sheriff may enter into a contract with a person or public entity to provide, for  
356 consideration, the sheriff's services described in this chapter.

357 (3) Unless a sheriff otherwise consents, a county legislative body may only appropriate  
358 funds received by a sheriff under a contract described in this section to the sheriff's budget.

359 Section 9. Section **17-30-1** is repealed and reenacted to read:

360 **17-30-1. Definitions.**

361 (1) "Appointing sheriff" means the sheriff of a county having jurisdiction over a peace  
362 officer.

363 (2) "Commission" means the merit system commission appointed in accordance with  
364 Section [17-30-3](#).

365 (3) "Merit system officer" means a peace officer appointed in accordance with Section  
366 [17-30-10](#).

367 (4) "Peace officer" means a paid deputy sheriff or law enforcement officer, other than a  
368 chief deputy or other exempt appointed officer designated by an appointing sheriff, who is in

369 the continuous employ of an appointing sheriff.

370 Section 10. Section **17-30-2** is amended to read:

371 **17-30-2. Application -- Deputy sheriff's merit system in certain counties.**

372 (1) (a) This chapter applies to a county with a population of at least 20,000 people.

373 ~~[(+)]~~ (b) This chapter does not apply to a county of the first class or an interlocal entity,  
374 as defined in Section 11-13-103, in which a county of the first class is a party to an interlocal  
375 agreement to provide law enforcement service.

376 ~~[(2) From and after the effective date of this act the sheriff of each county with a~~  
377 ~~population of 20,000 people or more which shall regularly employ one or more peace officers~~  
378 ~~shall, by and with the advice and consent of the county legislative body, and subject to the rules~~  
379 ~~and regulations of the merit service commission, appoint from the classified merit service list~~  
380 ~~furnished by the merit service commission, all subordinate peace officers in his department and~~  
381 ~~in like manner fill all vacancies in the same and shall further promote, transfer, demote,~~  
382 ~~suspend or remove peace officers in accordance with the provisions of this act.]~~

383 ~~[(3) Every peace officer who is serving as such upon the effective date of this act is~~  
384 ~~considered fully qualified for such position without examination or test and is considered to~~  
385 ~~have been appointed and to hold his position and classification pursuant to the provisions of~~  
386 ~~this act.]~~

387 ~~[(4)]~~ (2) [Counties] A county with a population of less than 20,000 people may  
388 implement a deputy sheriff's merit system if approved by the county legislative body or the  
389 people of the county through referendum or initiative.

390 Section 11. Section **17-30-3** is repealed and reenacted to read:

391 **17-30-3. Establishment of merit system commission -- Appointment,**  
392 **qualifications, and compensation of members.**

393 (1) (a) The county legislative body of each county with a population of at least 20,000  
394 people shall establish a merit system commission consisting of five members appointed as  
395 follows:

396 (i) three members appointed by the county legislative body, no more than two of whom  
397 shall be members of the same political party; and

398 (ii) two members appointed by the appointing sheriff.

399 (b) A commission member appointed under Subsection (1)(a) shall serve a six-year

400 term.

401 (c) The county legislative body and the appointing sheriff shall, at the time of  
402 appointment:

403 (i) adjust the length of a commission member's term to ensure that the terms of  
404 commission members are staggered so that approximately half of the commission is appointed  
405 every three years; and

406 (ii) ensure that each commission member:

407 (A) is a resident of the state;

408 (B) for at least five years preceding the date on which the member is appointed, is a  
409 resident of the county over which the commission has jurisdiction; and

410 (C) does not hold an office or employment with the county over which the commission  
411 has jurisdiction.

412 (d) (i) Upon the expiration of the term of a commission member that a county  
413 legislative body appointed under Subsection (1)(a)(i), the county legislative body shall appoint  
414 a successor for a six-year term.

415 (ii) Upon the expiration of the term of a commission member that an appointing sheriff  
416 appointed under Subsection (1)(a)(ii), the appointing sheriff shall appoint a successor for a  
417 six-year term.

418 (e) If a commission member's position is vacant for a cause other than expiration of the  
419 member's term, a county legislative body or an appointing sheriff, depending on who appointed  
420 the commission member whose position is vacant, shall appoint a new member to fulfill the  
421 remaining portion of the vacated term.

422 (2) The county legislative body may compensate a commission member for service on  
423 the commission and reimburse the member for necessary expenses incurred in the performance  
424 of the member's duties in accordance with Section [11-55-103](#).

425 Section 12. Section [17-30-5](#) is repealed and reenacted to read:

426 **17-30-5. Organization of commission -- Support -- Offices -- Job classification**  
427 **plan.**

428 (1) The commission members shall select one member as chair.

429 (2) The commission shall adopt rules addressing the commission's internal  
430 organization and procedures.

431 (3) (a) To enable the commission to fulfill the commission's duties under this chapter, a  
 432 county legislative body shall:

433 (i) assign sufficient human resources staff to support the commission; and

434 (ii) provide suitable accommodations, supplies, and equipment to the commission as  
 435 needed.

436 (b) With consent of the commission, a county legislative body may assign other staff to  
 437 support the commission.

438 (4) (a) In accordance with Subsection (4)(b), the commission shall create a  
 439 comprehensive job classification plan covering all merit system officers who the appointing  
 440 sheriff employs.

441 (b) The commission shall ensure that the plan described in Subsection (4)(a):

442 (i) places all positions requiring substantially the same duties and qualifications in the  
 443 same classification;

444 (ii) includes minimum physical and educational qualifications of the applicants for  
 445 each position; and

446 (iii) provides standards for promotion.

447 (c) If an appointing sheriff creates a new position, the commission shall classify the  
 448 new position and amend the classification plan accordingly.

449 Section 13. Section **17-30-7** is amended to read:

450 **17-30-7. Disqualification of applicant for examination -- Appeal to commission.**

451 (1) The commission shall disqualify an applicant for examination who:

452 (a) does not meet advertised qualifications[-];

453 (b) has been convicted of a criminal offense [~~inimical to~~] that would obstruct or harm  
 454 the public service[-] or involving moral turpitude[-];

455 (c) has practiced or attempted deception or fraud [~~in his~~] during the application or  
 456 examination[-] process or in securing eligibility for appointment[-]; or

457 (d) is not a citizen of the United States.

458 (2) If an applicant is rejected, [~~he shall be notified~~] the commission shall notify the  
 459 applicant by mail at [his] the applicant's last known address.

460 (3) At any time [~~prior to~~] before the date of examination, an applicant may:

461 (a) correct a defect in [his] the applicant's application[-]; or

462 (b) appeal to the commission in writing [to the commission] regarding the application  
463 process.

464 Section 14. Section **17-30-8** is repealed and reenacted to read:

465 **17-30-8. Preservation and inspection of examination papers.**

466 (1) (a) An applicant's examination papers and related documents are the property of the  
467 commission.

468 (b) The commission shall:

469 (i) preserve any examination papers and related documents until the expiration of the  
470 eligible register for which an examination is given; and

471 (ii) adopt a retention schedule for the preservation of examination papers and related  
472 documents after the time period described in Subsection (1)(b)(i).

473 (2) (a) An applicant's examination papers and related documents are not open to public  
474 inspection without a court order.

475 (b) An appointing sheriff may inspect the examination papers and related documents of  
476 each eligible applicant that the commission certifies for appointment in accordance with  
477 Section **17-30-10**.

478 (c) An applicant may inspect the applicant's own examination papers and related  
479 documents at any time within 30 days after the day on which the commission sends notice of  
480 the applicant's grade.

481 Section 15. Section **17-30-9** is amended to read:

482 **17-30-9. Preparation and expiration of eligible appointment register.**

483 (1) Upon completion of an examination, the commission shall prepare an eligible  
484 appointment register containing the names of all [persons] applicants receiving a passing grade  
485 in the order of grades earned, beginning with the highest.

486 ~~[(2) An eligible register shall expire not later than two years after the date of the~~  
487 ~~examination unless the commission, for good reason, shall extend the time not to exceed one~~  
488 ~~additional year. The promulgation of a new eligible register shall automatically cancel all~~  
489 ~~previous registers for the same class or position.]~~

490 (2) (a) Except as provided in Subsection (2)(b), an eligible appointment register expires  
491 no later than two calendar years after the day on which an examination is completed.

492 (b) The commission may, in accordance with the commission's rules, extend the



493 expiration time period described in Subsection (2)(a) for one additional calendar year.

494 (3) If the commission adopts a new eligible appointment register, the previous register  
495 for the same class or position expires.

496 Section 16. Section **17-30-10** is repealed and reenacted to read:

497 **17-30-10. Appointments from eligible appointment register -- Failure to accept**  
498 **appointment.**

499 (1) Before appointing a merit system officer, an appointing sheriff shall request that the  
500 commission certify eligible applicants for the position in accordance with Subsection (2).

501 (2) The commission shall certify the names of the three applicants standing highest on  
502 the eligible appointment register described in Section **17-30-9**.

503 (3) Upon receiving the certified names described in Subsection (2), an appointing  
504 sheriff shall select and appoint one person to the open position.

505 (4) (a) If a certified applicant fails to accept a proffered appointment, the applicant may  
506 request in writing that the applicant retain the applicant's place on the eligible appointment  
507 register.

508 (b) An applicant making a request under Subsection (4)(a) may retain the applicant's  
509 place on the eligible appointment register if the applicant provides reasons sufficient, in the  
510 judgment of the commission, to justify the applicant's failure to accept the appointment.

511 Section 17. Section **17-30-11** is amended to read:

512 **17-30-11. Probationary period of appointment.**

513 (1) (a) [~~Any~~] A peace officer appointed under Section **17-30-10** shall serve a  
514 probationary period of 12 consecutive months from the day on which an appointing sheriff  
515 appoints the officer, during which time [~~he~~] the officer may be discharged [~~by~~] at the sole  
516 discretion of the appointing [~~authority~~] sheriff.

517 [~~2~~] (b) [~~The~~] An appointing sheriff may, with consent of the commission, extend the  
518 probationary period [~~shall be extended beyond the 12 months under Subsection (1) as necessary~~  
519 for an] beyond the 12 months described in Subsection (1)(a) for a peace officer who has not yet  
520 satisfactorily completed an approved peace officer training program and [~~also~~] received a  
521 certificate of completion[;] under Title 53, Chapter 6, Peace Officer Standards and Training  
522 Act.

523 (c) Service under a temporary or part-time appointment is not considered a part of the

524 probationary period.

525 ~~[(3) (a) Continuance in the position after the expiration of the probationary period~~  
526 ~~constitutes a permanent appointment.]~~

527 ~~[(b) Service under a temporary or emergency appointment is not considered as part of~~  
528 ~~the probationary period.]~~

529 (2) If a peace officer is retained in a position after the expiration of the officer's  
530 probationary period, the officer's retention constitutes appointment to merit status.

531 ~~[(4)]~~ (3) [A person removed] If an appointing sheriff discharges a peace officer during  
532 the officer's probationary period, the commission may not [be placed] place the officer on the  
533 eligible appointment register again [without having passed] unless the officer passes another  
534 regular examination.

535 (4) The commission may adopt rules governing probationary periods for other  
536 appointments, including the appointing or transferring of an officer from another jurisdiction.

537 Section 18. Section **17-30-12** is repealed and reenacted to read:

538 **17-30-12. Vacancies -- Positions requiring special qualifications -- Competition**  
539 **suspended -- Promotion -- Promotional register.**

540 (1) The commission may, after a public hearing and by unanimous vote, suspend  
541 competition regarding a vacant position if:

542 (a) the vacancy occurs in a position requiring peculiar and exceptional qualifications of  
543 a scientific, professional, or expert character; and

544 (b) the commission makes a finding, based upon substantial evidence, that competition  
545 is impracticable and the position can be best filled by the selection of a designated person who  
546 possesses the qualifications described in Subsection (1)(a).

547 (2) The commission shall report, in the commission minutes, a suspension of  
548 competition described in Subsection (1), together with the reason for the suspension.

549 (3) With the exception of an appointment made in accordance with a commission rule,  
550 an appointing sheriff shall fill a supervisor vacancy in the merit system classification by  
551 promotion whenever possible.

552 (4) (a) An appointing sheriff shall make a promotion only after an open, competitive  
553 examination, admission to which the commission shall limit to merit system officers.

554 (b) The commission shall ensure that the examination described in Subsection (4)(a)

555 includes consideration of the merit system officer's seniority and competence to perform the  
556 duties of the position for which the officer applies.

557 (c) The seniority element of the examination described in Subsection (4)(b) may not  
558 exceed 40% of the entire examination score.

559 (5) (a) After an examination described in Subsection (4), the commission shall prepare  
560 and certify a promotional register that shall take precedence over any previously existing  
561 register.

562 (b) The commission shall ensure that the certified promotional register described in  
563 Subsection (5)(a) consists of three names for the initial vacancy and one name for each  
564 additional vacancy, ranked in the order of the examination score, beginning with the highest  
565 scoring applicant.

566 Section 19. Section **17-30-15** is repealed and reenacted to read:

567 **17-30-15. Emergency appointment.**

568 (1) Except as provided in Subsection (2), an appointing sheriff may make an  
569 emergency appointment for a period not exceeding seven days if:

570 (a) a person from an eligible appointment, promotion, or reappointment register is not  
571 immediately available to accept the appointment; and

572 (b) the position is necessary to expedite the public business.

573 (2) An appointing sheriff may, with consent of the commission, extend the emergency  
574 appointment described in Subsection (1) for a period not exceeding seven days from the day on  
575 which the original emergency appointment expires.

576 Section 20. Section **17-30-16** is repealed and reenacted to read:

577 **17-30-16. Temporary layoffs -- Reappointment register.**

578 (1) Subject to Subsections (2) and (3), and if necessary due to lack of funds or work, an  
579 appointing sheriff may temporarily lay off a merit system officer.

580 (2) An appointing sheriff who lays off a merit system officer under Subsection (1) shall  
581 lay off the officer according to seniority of the officers of the class of positions affected, in  
582 accordance with the process prescribed by commission rule.

583 (3) An appointing sheriff shall lay off a person serving under temporary or part-time  
584 appointment before a merit system officer.

585 (4) (a) If an appointing sheriff lays off a merit system officer, the appointing sheriff

586 shall place the officer on a reappointment register to be reappointed in the inverse order in  
587 which the officer is laid off.

588 (b) The reappointment register described in Subsection (4)(a) takes precedence over all  
589 eligible reappointment registers.

590 Section 21. Section 17-30-17 is amended to read:

591 **17-30-17. Leave of absence -- Sick leaves and vacations.**

592 (1) (a) ~~[The]~~ An appointing ~~[authority]~~ sheriff, with ~~[the approval]~~ consent of the  
593 commission, may grant ~~[an]~~ a merit system officer a leave of absence without pay for a period  
594 not to exceed one calendar year. ~~[In the event an]~~

595 (b) If a merit system officer on leave takes a higher position in police work ~~[which]~~  
596 that does not come under the merit system provisions of this act, [the leave may, with the  
597 consent of the commission, be renewed] an appointing sheriff, with consent of the commission,  
598 may renew the leave.

599 (c) [In the event an] If a merit system officer is elected sheriff, or is appointed chief  
600 deputy, ~~[he shall]~~ the officer is automatically ~~[be placed]~~ on leave for the period of time ~~[he]~~  
601 the officer remains sheriff or chief deputy. ~~[Upon the termination of a leave of absence, the~~  
602 officer shall be returned to his former position.]

603 (d) An appointing sheriff shall allow a merit system officer to return to the officer's  
604 former position upon termination of the officer's leave of absence granted under this section.

605 ~~[(2) Sick leaves and vacations with pay shall be as provided by law or ordinance.]~~

606 (2) Applicable law or county ordinance or regulation governs a merit system officer's  
607 sick leave or vacation with pay.

608 Section 22. Section 17-30-18 is amended to read:

609 **17-30-18. Disciplinary charges -- Grounds.**

610 ~~[(1) A merit system officer holding a permanent appointment may be demoted, reduced~~  
611 in pay, suspended, or discharged for:]

612 (1) An appointing sheriff may order a demotion, reduction in pay, suspension, or  
613 discharge of a merit system officer for:

614 (a) neglect of duty;

615 (b) disobedience of a reasonable order;

616 (c) misconduct;

617 (d) inefficiency[;] or inability to satisfactorily perform assigned duties; or

618 (e) any act [~~inimical to~~] that would obstruct or harm the public service.

619 (2) [~~No officer shall be suspended~~] An appointing sheriff may not suspend a merit

620 system officer for more than 30 days at one time[~~, nor~~] or for more than 60 days in one

621 calendar year. [~~Demotion, reduction in pay, suspension, or discharge shall be made upon order~~

622 of the appointing authority.]

623 Section 23. Section ~~17-30-19~~ is amended to read:

624 **17-30-19. Disciplinary charges -- Appeal to commission -- Hearing -- Findings.**

625 (1) [~~Each person~~] An appointing sheriff who orders [~~the demotion, reduction in pay,~~

626 ~~suspension, or discharge of a merit system officer for any cause set forth~~] a disciplinary charge

627 described in Section 17-30-18 shall:

628 (a) file written charges with the commission; and

629 (b) serve the merit system officer with a copy of the written charges.

630 (2) (a) (i) [~~An~~] A merit system officer who is the subject of charges under Subsection

631 (1) may, within 10 days after [~~service of~~] the day on which the appointing sheriff serves the

632 officer with the charges, appeal in writing to the commission.

633 (ii) In the absence of an appeal, [~~a copy of the charges under Subsection (1) may not be~~

634 ~~made~~] the commission may not make the charges described in Subsection (1) public without

635 [~~the~~] consent of the officer charged.

636 (b) If an officer files a grievance, as defined by the commission, and exhausts all

637 internal grievance procedures, if any, the officer may, within 10 days after receiving notice of

638 the final disposition of the grievance, file an appeal with the commission.

639 (3) (a) The commission shall:

640 (i) fix a time and place for a hearing upon the charges or appeal of the officer

641 grievance; and

642 (ii) give notice of the hearing to the parties.

643 (b) (i) Except as provided in Subsection (3)(b)(ii), each hearing under this Subsection

644 (3) shall be held not less than 10 and not more than 90 days after an appeal or grievance is

645 filed.

646 (ii) A hearing may be held more than 90 days after an appeal or grievance is filed if:

647 (A) the officer and employer agree; or

648 (B) for good cause the commission so orders.

649 (4) (a) If the aggrieved officer so desires, the hearing shall be public.

650 (b) The parties may be represented by counsel at the hearing.

651 (5) After ~~[the] a hearing described in Subsection (3),~~ the commission shall ~~[make its~~  
652 ~~decision in writing, including findings of fact, and shall mail a copy]~~ mail the commission's  
653 decision, including findings of fact, to each party.

654 Section 24. Section 17-30-20 is repealed and reenacted to read:

655 **17-30-20. Appeal to district court -- Scope of review.**

656 (1) Within 30 days after the day on which a commission issues a final action or order,  
657 an aggrieved person may appeal the final action or order to the district court for review for  
658 abuse of discretion.

659 (2) The district court shall base the court's review described in Subsection (1) on the  
660 record of the commission.

661 Section 25. Section 17-30-21 is amended to read:

662 **17-30-21. Power of commission members to administer oaths and subpoena**  
663 **witnesses -- Rights of, and fees for, witnesses.**

664 (1) (a) ~~[Any]~~ A member of [a] the commission, in performance of [his] commission  
665 duties [as such, shall have power to], may administer oaths and subpoena witnesses and  
666 documents.

667 (b) If a person refuses to or fails to obey a subpoena [issued by a commissioner] that a  
668 commission member issues, the district court may, upon application [of a commissioner] by a  
669 commission member, compel obedience [as in like cases before the district court].

670 ~~[(2) Witnesses in proceedings before a commission shall be subject to all the rights,~~  
671 ~~privileges, duties and penalties of witnesses in courts of record, and shall be paid the same fees,~~  
672 ~~as an expense of the commission.]~~

673 (2) (a) A witness in a proceeding before the commission is subject to all the rights,  
674 privileges, duties, and penalties of a witness in courts of record.

675 (b) The commission shall pay a witness fee equivalent to the witness fee paid for a  
676 court of record.

677 Section 26. Section 17-30-22 is repealed and reenacted to read:

678 **17-30-22. Prohibitions against political activities -- Penalties.**

679 (1) (a) Except as provided in Subsection (1)(b), a peace officer, employee, or member  
 680 of a county legislative body, whether elected or appointed, for political purpose, may not  
 681 directly or indirectly coerce, command, or advise a merit system officer to pay, lend, or  
 682 contribute part of the officer's salary, compensation, or anything else of value to a party,  
 683 committee, organization, agency, or person.

684 (b) Subsection (1)(a) does not apply to political speeches or use of mass  
 685 communications media for political purposes by a person where a merit system officer is  
 686 present, unless the purpose and intent of the speaker is to violate this section with direct respect  
 687 to that merit system officer.

688 (c) A person who violates this Subsection (1) is guilty of a misdemeanor.

689 (2) (a) Except as provided in Subsection (2)(b), a merit system officer may not:

690 (i) engage in political activity or solicit political contributions from another merit  
 691 system officer during the hours of the officer's employment; or

692 (ii) use the officer's employer's resources at any time for political purposes.

693 (b) Subsection (2)(a) does not preclude a voluntary contribution by a merit system  
 694 officer to the party or candidate of the officer's choice.

695 Section 27. Section **17-30-24** is amended to read:

696 **17-30-24. More than one chief deputy in larger county departments.**

697 In [~~counties~~] each county employing more than 100 full-time uniformed peace officers,  
 698 the appointing [~~authority~~] sheriff, with [~~the~~] consent of the [~~merit~~] commission [~~and the county~~  
 699 ~~legislative body~~], may appoint more than one chief deputy or undersheriff.

700 Section 28. Section **17-30a-102** is amended to read:

701 **17-30a-102. Definitions.**

702 (1) "Appointing authority" means the county sheriff or the chief executive officer of a  
 703 police interlocal entity.

704 (2) "Commission" means the merit system commission [~~consisting of three persons~~]  
 705 appointed in accordance with Section [17-30a-202](#).

706 (3) "Department" means a county sheriff's office or a police interlocal entity.

707 (4) "Legislative body" means the county legislative body or the governing body of the  
 708 police interlocal entity.

709 (5) "Merit system officer" means a peace officer who has merit status as defined in this

710 chapter.

711 (6) "Peace officer" means a paid deputy sheriff or law enforcement officer, other than a  
712 chief deputy or other exempt appointed officer designated by the appointing authority, who is  
713 in the continuous employ of the appointing authority.

714 (7) "Police interlocal entity" means an interlocal entity, as defined in Section  
715 [11-13-103](#), created:

716 (a) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a  
717 county of the first class is a party; and

718 (b) to provide law enforcement service to an area that includes the unincorporated part  
719 of the county.

720 Section 29. Section **17-30a-202** is amended to read:

721 **17-30a-202. Establishment of merit commission -- Appointment, qualifications,**  
722 **and compensation of members.**

723 (1) (a) Except as provided in Subsection (1)(b), a county legislative body subject to this  
724 chapter shall establish a merit system commission consisting of [~~three~~] five appointed  
725 members:

726 (i) two members appointed by the legislative body of the county; [~~and~~]

727 (ii) one member appointed by the governing body of a police interlocal entity[-]; and

728 (iii) two members appointed by the county sheriff.

729 (b) If there is no police interlocal entity within the county, the county legislative body  
730 shall appoint [~~all three members of a commission~~] the member described in Subsection  
731 (1)(a)(ii).

732 (c) No more than [~~two~~] three members of the commission may be affiliated with or  
733 members of the same political party.

734 [~~(d) (i) Of the original appointees described in Subsection (1)(a) or (b), one member~~  
735 ~~shall be appointed for a term ending February 1 of the first odd-numbered year after the date of~~  
736 ~~appointment, and one each for terms ending two and four years thereafter.]~~

737 (d) (i) The county legislative body shall, at the time of appointment, adjust the length  
738 of terms to ensure that the terms of commission members are staggered so that approximately  
739 half of the commission is appointed every three years.

740 (ii) For a term subsequent to a term described in Subsection (1)(d)(i), a commission



741 member shall hold a term of six years.

742 (e) If an appointed position described in Subsection (1)(a) or (b) is vacated for a cause  
743 other than expiration of the member's term, the position is filled by appointment for the  
744 unexpired portion of the term only.

745 (2) A member of the commission:

746 (a) shall be a resident of the state;

747 (b) for at least five years preceding the date of appointment a resident of:

748 (i) the county; or

749 (ii) if applicable, the area served by the police interlocal entity from which appointed;

750 and

751 (c) may not hold another office or employment with the county or, if applicable, in a  
752 municipality served by the police interlocal entity for which the member is appointed.

753 (3) The county legislative body or interlocal entity governing body may compensate a  
754 member for service on the commission and reimburse the member for necessary expenses  
755 incurred in the performance of the member's duties.

756 Section 30. Section **17-36-22** is amended to read:

757 **17-36-22. Transfer of unexpended appropriation balance by department.**

758 (1) (a) ~~After~~ Except as provided in Subsection (1)(b), after review by the budget  
759 officer and in accordance with budgetary and fiscal policies or ordinances adopted by the  
760 county legislative body, any department may:

761 ~~(a)~~ (i) transfer any unencumbered or unexpended appropriation balance or any part  
762 from one expenditure account to another within the department during the budget year; or

763 ~~(b)~~ (ii) incur an excess expenditure of one or more line items.

764 (b) A sheriff may, within the sheriff's budget, transfer any balance or incur an excess  
765 expenditure as described in Subsection (1)(a) without review or approval by the budget officer  
766 or the county legislative body.

767 (2) A transfer or expenditure under Subsection (1) may not occur if the transfer or  
768 expenditure would cause the total of all excess expenditures or encumbrances to exceed the  
769 total unused appropriation within the department at the close of the budget period.

770 Section 31. Section **17-53-106** is amended to read:

771 **17-53-106. Supervision of county elected officers -- Legislative body and**

772 **executive may examine and audit accounts and conduct investigation.**

773 (1) As used in this section, "professional duties" means a county elected officer's  
774 functions, duties, and responsibilities specifically provided for by law and includes:

775 (a) the exercise of professional judgment and discretion reasonably related to the  
776 officer's required functions, duties, and responsibilities; [~~and~~]

777 (b) the management of deputies and other employees under the supervision of the  
778 elected officer under statute or county ordinance, policy, or regulation[-]; and

779 (c) notwithstanding Subsections (1)(a) and (b), for a sheriff, the functions, duties, and  
780 responsibilities described in Chapter 22, Sheriff, including management of the sheriff's budget  
781 and personnel.

782 (2) (a) A county legislative body and a county executive each:

783 (i) subject to Subsection (2)(c), may generally direct and supervise all elected county  
784 officers and employees to ensure compliance with general county administrative ordinances,  
785 rules, or policies;

786 (ii) may not direct or supervise other elected county officers or their sworn deputies  
787 with respect to the performance of the professional duties of the officers or deputies;

788 (iii) may examine and audit the accounts of all county officers having the care,  
789 management, collection, or distribution of money belonging to the county, appropriated to the  
790 county, or otherwise available for the county's use and benefit; and

791 (iv) may investigate any matter pertaining to a county officer or to the county or its  
792 business or affairs, and may require the attendance of witnesses and take evidence in any such  
793 investigation.

794 (b) In an investigation under Subsection (2)(a)(iv):

795 (i) the county executive or any member of the county legislative body may issue  
796 subpoenas and administer oaths to witnesses; and

797 (ii) if the county legislative body appoints members of the legislative body as a  
798 committee and confers on the committee power to hear or take evidence, the committee shall  
799 have the same power as the full county legislative body.

800 (c) A county legislative body or county executive may not direct a sheriff to comply  
801 with a general county administrative ordinance, rule, or policy that directly interferes with the  
802 sheriff's execution of the sheriff's professional duties, including management of the sheriff's

803 budget and personnel.

804 (3) Nothing in this section may be construed to prohibit the county executive or county  
805 legislative body from initiating an action for removal or prosecution of an elected county  
806 officer as provided by statute.

807 Section 32. Section **53-13-105** is amended to read:

808 **53-13-105. Special function officer.**

809 (1) (a) "Special function officer" means a sworn and certified peace officer performing  
810 specialized investigations, service of legal process, security functions, or specialized ordinance,  
811 rule, or regulatory functions.

812 (b) "Special function officer" includes:

813 (i) state military police;

814 (ii) constables;

815 (iii) port-of-entry agents as defined in Section [72-1-102](#);

816 (iv) authorized employees or agents of the Department of Transportation assigned to  
817 administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

818 (v) school district security officers;

819 (vi) Utah State Hospital security officers designated pursuant to Section [62A-15-603](#);

820 (vii) Utah State Developmental Center security officers designated pursuant to

821 Subsection [62A-5-206\(8\)](#);

822 (viii) fire arson investigators for any political subdivision of the state;

823 (ix) ordinance enforcement officers employed by municipalities or counties may be  
824 special function officers;

825 (x) employees of the Department of Natural Resources who have been designated to  
826 conduct supplemental enforcement functions as a collateral duty;

827 (xi) railroad special agents deputized by a county sheriff under [~~Section [17-30-2](#) or~~  
828 ~~[17-30a-104](#)~~] Title 17, Chapter 30, Deputy Sheriffs - Merit System, or Title 17, Chapter 30a,  
829 Peace Officer Merit System in Counties of the First Class Act, or appointed pursuant to Section  
830 [56-1-21.5](#);

831 (xii) auxiliary officers, as described by Section [53-13-112](#);

832 (xiii) special agents, process servers, and investigators employed by city attorneys;

833 (xiv) criminal tax investigators designated under Section [59-1-206](#); and

834 (xv) all other persons designated by statute as having special function officer authority  
835 or limited peace officer authority.

836 (2) (a) A special function officer may exercise that spectrum of peace officer authority  
837 that has been designated by statute to the employing agency, and only while on duty, and not  
838 for the purpose of general law enforcement.

839 (b) If the special function officer is charged with security functions respecting facilities  
840 or property, the powers may be exercised only in connection with acts occurring on the  
841 property where the officer is employed or when required for the protection of the employer's  
842 interest, property, or employees.

843 (c) A special function officer may carry firearms only while on duty, and only if  
844 authorized and under conditions specified by the officer's employer or chief administrator.

845 (3) (a) A special function officer may not exercise the authority of a peace officer until:

846 (i) the officer has satisfactorily completed an approved basic training program for  
847 special function officers as provided under Subsection (4); and

848 (ii) the chief law enforcement officer or administrator has certified this fact to the  
849 director of the division.

850 (b) City and county constables and their deputies shall certify their completion of  
851 training to the legislative governing body of the city or county they serve.

852 (4) (a) The agency that the special function officer serves may establish and maintain a  
853 basic special function course and in-service training programs as approved by the director of  
854 the division with the advice and consent of the council.

855 (b) The in-service training shall consist of no fewer than 40 hours per year and may be  
856 conducted by the agency's own staff or by other agencies.

857 **Section 33. Repealer.**

858 This bill repeals:

859 **Section 17-33-16, Appointment of more than one chief deputy or undersheriff.**

860 **Section 34. Effective date.**

861 If approved by two-thirds of all the members elected to each house, this bill takes effect  
862 upon approval by the governor, or the day following the constitutional time limit of Utah  
863 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
864 the date of veto override.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**