

HB0249S01 compared with HB0249

~~{deleted text}~~ shows text that was in HB0249 but was deleted in HB0249S01.

Inserted text shows text that was not in HB0249 but was inserted into HB0249S01.

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Representative Keven J. Stratton proposes the following substitute bill:

STATEWIDE RESOURCE MANAGEMENT PLAN ADOPTION

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill adopts the statewide resource management plan.

Highlighted Provisions:

This bill:

▶ defines terms;

- ▶ adopts the statewide resource management plan, on file with the Public Lands Policy Coordinating Office;
- ▶ requires the Public Lands Policy Coordinating Office, as funding allows, to monitor the implementation of the statewide resource management plan at the state and local levels;
- ▶ creates a reporting requirement for the Public Lands Policy Coordinating Office to the Commission for the Stewardship of Public Lands; and

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- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-4-603, as last amended by Laws of Utah 2015, Chapter 283

63J-4-607, as last amended by Laws of Utah 2016, Chapter 265

ENACTS:

63L-10-101, Utah Code Annotated 1953

63L-10-102, Utah Code Annotated 1953

63L-10-103, Utah Code Annotated 1953

63L-10-104, Utah Code Annotated 1953

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

Section 1. Section **63J-4-603** is amended to read:

63J-4-603. Powers and duties of coordinator and office.

(1) The coordinator and the office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) under the direction of the state planning coordinator, assist in fulfilling the state planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the development of public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of

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public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy;

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions; and

(v) providing other information or services related to public lands policies as requested by the state planning coordinator;

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the Office of Rural Development created under Section 63N-4-102;

(iv) the Resource Development Coordinating Committee created under Section 63J-4-501;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201;

(vi) the committee created under Section 63F-1-508 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

(vii) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9, Chapter 8, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's

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activities and expenditures to:

- (i) the Constitutional Defense Council; and
 - (ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;
 - (j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the coordinator, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;
 - (k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103;
 - (l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107; [~~and~~]
 - (m) conduct the public lands transfer study and economic analysis required by Section 63J-4-606[:]; and
 - (n) fulfill the duties described in Section 63L-10-103.
- (2) The coordinator and office shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) if the governor were submitting the material.
- (3) The office may enter into a contract or other agreement with another state agency to provide information and services related to:
- (a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;
 - (b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or
 - (c) any other matter within the office's responsibility.
- Section 2. Section **63J-4-607** is amended to read:
- 63J-4-607. Resource management plan administration.**
- (1) The office shall consult with the Commission for the Stewardship of Public Lands before expending funds appropriated by the Legislature for the implementation of this section.
- (2) To the extent that the Legislature appropriates sufficient funding, the office may

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procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist the office with the office's responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county's resource management plan by:

(i) consulting with the county on policy and legal issues related to the county's resource management plan; and

(ii) helping the county ensure that the county's resource management plan meets the requirements of Subsection 17-27a-401(3);

(b) promote quality standards among all counties' resource management plans; and

(c) upon submission by a county, review and verify the county's:

(i) estimated cost for creating a resource management plan; and

(ii) actual cost for creating a resource management plan.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office's responsibilities under Subsection (3).

(b) To the extent that the Legislature appropriates sufficient funding, the office may, in accordance with Subsection (4)(c), provide funding to a county before the county completes a resource management plan.

(c) The office may provide pre-completion funding described in Subsection (4)(b):

(i) after:

(A) the county submits an estimated cost for completing the resource management plan to the office; and

(B) the office reviews and verifies the estimated cost in accordance with Subsection (3)(c)(i); and

(ii) in an amount up to:

(A) 50% of the estimated cost of completing the resource management plan, verified by the office; or

(B) \$25,000, if the amount described in Subsection (4)(c)(i)(A) is greater than \$25,000.

(d) To the extent that the Legislature appropriates sufficient funding, the office shall provide funding to a county in the amount described in Subsection (4)(e) after:

(i) a county's resource management plan:

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(A) meets the requirements described in Subsection 17-27a-401(3); and

(B) is adopted under Subsection 17-27a-404(6)(d);

(ii) the county submits the actual cost of completing the resource management plan to the office; and

(iii) the office reviews and verifies the actual cost in accordance with Subsection (3)(c)(ii).

(e) The office shall provide funding to a county under Subsection (4)(d) in an amount equal to the difference between:

(i) the lesser of:

(A) the actual cost of completing the resource management plan, verified by the office;

or

(B) \$50,000; and

(ii) the amount of any pre-completion funding that the county received under Subsections (4)(b) and (c).

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection 17-27a-404(6)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan;

(b) create a statewide resource management plan that:

(i) meets the same requirements described in Subsection 17-27a-401(3); and

(ii) to the extent reasonably possible, coordinates and is consistent with any resource management plan or land use plan established under Chapter 8, State of Utah Resource Management Plan for Federal Lands; and

(c) submit a copy of the statewide resource management plan to the Commission for the Stewardship of Public Lands for review.

(6) Following review of the statewide resource management plan, the Commission for the Stewardship of Public Lands shall prepare a concurrent resolution approving the statewide resource management plan for consideration during the 2018 General Session.

(7) To the extent that the Legislature appropriates sufficient funding, the office shall provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection 17-27a-405(3).

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(8) After the statewide resource management plan is approved, as described in Subsection (6), and to the extent that the Legislature appropriates sufficient funding, the office shall monitor the implementation of the statewide resource management plan at the federal, state, and local levels.

Section 3. Section **63L-10-101** is enacted to read:

CHAPTER 10. STATEWIDE RESOURCE MANAGEMENT PLAN

63L-10-101. Title.

This chapter is known as "Statewide Resource Management Plan."

Section 4. Section **63L-10-102** is enacted to read:

63L-10-102. Definitions.

As used in this ~~section~~ chapter:

(1) "Commission" means the Commission for the Stewardship of Public Lands.

(2) "Office" means the Public Lands Policy Coordinating Office established in Section 63J-4-602.

(3) "Plan" means the statewide resource management plan, created pursuant to Section 63J-4-607 and adopted in Section 63L-10-103.

(4) "Public lands" means:

(a) land other than a National Park that is managed by the United States Parks Service;

(b) land that is managed by the United States Forest Service; and

(c) land that is managed by the Bureau of Land Management.

Section 5. Section **63L-10-103** is enacted to read:

63L-10-103. Statewide resource management plan adopted.

(1) The statewide resource management plan, dated January 2, 2018, and on file with the office, is hereby adopted.

(2) The office shall, to the extent possible and as funding allows, monitor federal, state, and local government compliance with the plan.

(3) If the office modifies the report, the office shall notify the commission of the modification and the office's reasoning for the modification within 30 days of the day on which the modification is made.

(4) (a) The commission may request additional information of the office regarding any modifications to the plan, as described in Subsection (3).

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(b) The office shall promptly respond to any request for additional information, as described in Subsection (4)(a).

(c) The commission may make a recommendation that the Legislature approve a modification or disapprove a modification, or the commission may decline to take action.

(5) The office shall annually:

(a) prepare a report detailing what changes, if any, are recommended for the plan and deliver the report to the commission by October 31; and

(b) report on the implementation of the plan at the federal, state, and local levels to the commission by October 31.

(6) If the commission makes a recommendation that the Legislature approve a modification, the commission shall prepare a bill in anticipation of the annual general session of the Legislature to implement the change.

Section 6. Section **63L-10-104** is enacted to read:

63L-10-104. Policy statement.

(1) Except as provided in Subsection (2), state agencies and political subdivisions shall refer to and comply with the statewide resource management plan when making plans for public lands or other public resources in the state.

(2) (a) A state agency or political subdivision that seeks to deviate from the recommendations in the statewide resource management plan shall request a variance from the office and provide an explanation as to why the state agency or political subdivision needs the variance.

(b) The office shall make a determination:

(i) whether the state agency or political subdivision merits a variance from the plan;
and

(ii) whether the plan should be modified pursuant to Section 63L-10-103, based on the state agency or political subdivision's request.

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~~Office of Legislative Research and General Counsel~~ (3) (a) Subject to Subsection (3)(b), nothing in this section preempts the land use authority granted to a political subdivision under:

(i) Title 10, Chapter 8, Powers and Duties of Municipalities, or Chapter 9a, Municipal Land Use, Development, and Management Act; or

(ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

(b) Federal regulations state that, when state and local government policies, plans, and programs differ, those of higher authority will normally be followed.