

**SCHOOL AND INSTITUTIONAL TRUST LANDS
MANAGEMENT ACT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: Mike K. McKell

LONG TITLE

General Description:

This bill modifies Title 53C, School and Institutional Trust Lands Management Act, by changing procedures related to the withdrawal of lands, mineral lease applications, and reporting.

Highlighted Provisions:

This bill:

- ▶ amends the circumstances in which the director of the School and Institutional Trust Lands Administration may withdraw land;
- ▶ clarifies that mineral lease applications may be submitted and processed online;
- ▶ states that the School and Institutional Trust Lands Administration and School and Institutional Trust Fund Office shall enter into a memorandum of understanding regarding the sources of money received; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-2-105, as last amended by Laws of Utah 2011, Chapter 247

53C-2-301, as last amended by Laws of Utah 2011, Chapter 247

30 **53C-2-407**, as last amended by Laws of Utah 2011, Chapter 247

31 **53C-3-102**, as last amended by Laws of Utah 2014, Chapter 426

32

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

34 Section 1. Section **53C-2-105** is amended to read:

35 **53C-2-105. Withdrawal of trust lands from leasing, disposition, or use.**

36 (1) The director may at any time withdraw trust lands from:

37 ~~[(1)]~~ (a) applications for leasing, permitting, sale, or other disposition of any nature
38 upon a finding that the interests of the trust would best be served through withdrawal; or

39 ~~[(2)]~~ (b) surface occupancy or ~~[use]~~ one or more specific uses upon a finding that
40 continued occupancy or use would cause:

41 (i) resource degradation[-];

42 (ii) interference with the activities of the administration or the administration's
43 authorized lessees or permittees; or

44 (iii) a threat to public safety.

45 (2) The director may, by rule and subject to Subsection (3), withdraw trust lands from
46 public target shooting.

47 (3) Before board review of a rule, as described in Subsection **53C-1-303(1)(c)**, that
48 withdraws land from public target shooting, the director shall consult with:

49 (a) the sheriff of the county where the proposed withdrawal will occur; and

50 (b) representatives from leading sports shooting organizations.

51 Section 2. Section **53C-2-301** is amended to read:

52 **53C-2-301. Trespassing on trust lands -- Penalties.**

53 (1) A person is liable for the civil damages prescribed in Subsection (2) and, unless a
54 greater penalty is prescribed in another part of the law, is guilty of a class B misdemeanor if the
55 person, without written authorization from the director:

56 (a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand,
57 soil, vegetation, water resource, or improvement on trust lands;

- 58 (b) grazes livestock on trust lands;
- 59 (c) uses, occupies, or constructs improvements or structures on trust lands;
- 60 (d) uses or occupies trust lands for more than 30 days after the cancellation or
61 expiration of written authorization;
- 62 (e) knowingly and willfully uses trust lands for commercial gain;
- 63 (f) appropriates, alters, injures, or destroys any improvement or any historical,
64 prehistorical, archaeological, or paleontological resource on trust lands;
- 65 (g) trespasses upon, uses, commits waste, dumps refuse, or occupies trust land;
- 66 (h) interferes with the activities of an employee or agent of the administration on trust
67 lands; or
- 68 (i) interferes with activities of a lessee or other person [~~which~~] that have been
69 authorized by the administration, whether or not the trust land has been withdrawn from
70 occupancy or use pursuant to Subsection 53C-2-105(1)(b).
- 71 (2) A person who commits any act described in Subsection (1) is liable for damages in
72 the amount of whichever of the following is greatest:
 - 73 (a) three times the value at the point of sale of the mineral or other resource removed,
74 destroyed, or extracted;
 - 75 (b) three times the amount of damage committed;
 - 76 (c) three times the cost to cure the damage;
 - 77 (d) three times the value of any losses suffered as a result of interference with
78 authorized activities; or
 - 79 (e) three times the consideration which would have been charged by the director for
80 use of the land during the period of trespass.
- 81 (3) In addition to the damages described in Subsection (2), a person found guilty of a
82 criminal act under Subsection (1) is subject to the penalties provided in Title 76, Chapter 3,
83 Punishments.
- 84 (4) The director shall deposit money collected under this section in the fund in which
85 like revenues from that land would be deposited.

86 (5) The director may award a portion of any of the damages collected under this section
87 in excess of actual damages to the general fund of the county in which the trespass occurred as
88 a reward for county assistance in the apprehension and prosecution of the trespassing party.

89 Section 3. Section 53C-2-407 is amended to read:

90 **53C-2-407. Mineral lease application procedures.**

91 (1) Lands that are not encumbered by a current mineral lease for the same resource, a
92 withdrawal order, or other rule of the director prohibiting the lease of the lands, may be offered
93 for lease as provided in this section or may, with board approval, be committed to another
94 contractual arrangement under Subsection 53C-2-401(1)(d).

95 (2) (a) A notice of the land available for leasing shall be posted in the administration's
96 office or on the administration's website.

97 (b) The notice shall:

98 (i) describe the land;

99 (ii) indicate what mineral interest in each tract is available for leasing; and

100 (iii) state the last date, which shall be no less than 15 days after the notice is posted, on
101 which bids may be received.

102 (3) (a) Applications for the lease of lands filed in the administration's office or online
103 before the closing date stated in the notice shall be considered to be filed simultaneously.

104 (b) The applications shall be:

105 (i) submitted in sealed envelopes or as required by the online bidding process; and

106 (ii) [~~opened~~] disclosed in the administration's office at 10 a.m. of the first business day
107 following the last day on which bids may be received.

108 (c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the
109 bonus paid in addition to the first year's rental, who submitted a bid in the manner required.

110 (d) In cases of identical bids of successful bidders:

111 (i) the right to lease shall be determined by drawing or oral auction;

112 (ii) the determination of whether to award the lease by drawing or oral auction shall be
113 made at the sole discretion of the director; and

114 (iii) the drawing or oral auction shall be held in public at the administration's office in a
115 manner calculated to optimize the return to the trust land beneficiary.

116 (4) (a) At the discretion of the director, mineral leases may be offered at an oral public
117 auction.

118 (b) The director may set a minimum bid for a public auction.

119 (5) The director may award a mineral lease without following the competitive bidding
120 procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the
121 mineral lessee waives or relinquishes to the trust a prior mining claim, mineral lease, or other
122 right which in the opinion of the director might otherwise:

123 (a) defeat or encumber the selection of newly acquired land, either for indemnity or
124 other purposes, or the acquisition by the trust of any land; or

125 (b) cloud the title to any of those lands.

126 (6) Following the awarding of a lease to a successful bidder, deposits, except filing
127 fees, made by unsuccessful bidders shall be returned to those bidders.

128 (7) (a) Subject to Section [53C-2-104](#), lands acquired through exchange or indemnity
129 selection from the federal government shall be subject to the vested rights of unpatented
130 mining claimants under the Mining Law of 1872, as amended, and other federal vested rights,
131 both surface and minerals.

132 (b) Subsection (7)(a) does not prevent the director from negotiating the
133 accommodation of vested rights through any method acceptable to the parties.

134 (8) The director may lease lands [~~in the order in~~] for which applications are filed or
135 submitted online if:

136 (a) the director offers trust lands for lease for mineral purposes according to the
137 procedures in Subsections (3) through (6) and the lands are not leased; or

138 (b) a period of time of not less than one year but less than three years has elapsed
139 following:

140 (i) a revocation of a withdrawal; or

141 (ii) the date an existing mineral lease is canceled, relinquished, surrendered, or

142 terminated.

143 Section 4. Section **53C-3-102** is amended to read:

144 **53C-3-102. Deposit and allocation of money received.**

145 (1) (a) The director shall pay to the School and Institutional Trust Fund Office, created
146 in Section **53D-1-201**, all money received, accompanied by a statement showing the respective
147 sources of this money.

148 ~~[(b) Each source shall be classified as to sales, rentals, royalties, interest, fees,
149 penalties, and forfeitures.]~~

150 (b) The administration and the School and Institutional Trust Fund Office shall enter
151 into a memorandum of understanding detailing:

152 (i) the classification of sources of money; and

153 (ii) other relevant information, as determined by the administration and the School and
154 Institutional Trust Fund Office.

155 (2) All money received from the sale of lands granted by Section 6 of the Utah
156 Enabling Act for the support of the common schools, all money received from the sale of lands
157 selected in lieu of those lands, all money received from the United States under Section 9 of the
158 Utah Enabling Act, all money received from the sale of lands or other securities acquired by the
159 state from the investment of those funds, all sums paid for fees, all forfeitures, and all penalties
160 paid in connection with these sales shall be deposited in the Permanent State School Fund.

161 (3) All money received from the sale or other disposition of institutional trust lands
162 granted to the state by the United States under Section 7, 8, or 12 of the Utah Enabling Act, and
163 all sums paid for fees, forfeitures, and penalties received in connection with these sales or
164 dispositions shall go to the respective permanent funds established for the benefit of those
165 institutions under the Utah Enabling Act and the Utah Constitution.

166 (4) (a) All lands acquired by the state through foreclosure of mortgages securing school
167 or institutional trust funds or through deeds from mortgagors or owners of those lands shall
168 become a part of the respective school or institutional trust lands.

169 (b) All money received from these lands shall be treated as money received from

170 school or institutional trust lands.

171 (5) All money received from the sale of lands acquired by the state through foreclosure
172 of mortgages securing trust funds or through deeds from mortgagors or owners of such lands,
173 whether a profit is realized or a loss sustained on the principal invested, shall be regarded as
174 principal and shall go into the principal or permanent fund from which it was originally taken
175 in reimbursement of that fund, with profits being used to offset losses.

176 (6) (a) All money received by the director as a first or down payment on applications to
177 purchase, permit, or lease trust lands or minerals shall be paid to the state treasurer and held in
178 suspense pending final action on those applications.

179 (b) After final action the payments received under Subsection (6)(a) shall either be
180 credited to the appropriate fund or account, or refunded to the applicant in accordance with the
181 action taken.