

ASSEMBLY BILL NO. 283—ASSEMBLYMAN HANSEN

MARCH 13, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing law enforcement powers on certain lands. (BDR 14-397)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; establishing the circumstances under which state and local law enforcement agencies may recognize the exercise of law enforcement authority by certain federal employees; authorizing state and local law enforcement agencies to enter into agreements with federal agencies concerning the enforcement of federal, state and local laws under certain circumstances; prohibiting state and local governmental agencies from allowing a federal agency to access or use certain correctional and communication facilities and equipment without the express written consent of the appropriate responsible official; requiring a county sheriff to review the duties and activities of federal agencies that have law enforcement responsibilities within his or her jurisdiction; designating the county sheriff as the primary law enforcement officer in certain areas of a county; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, on land owned by the United States, the Federal
- 2 Government has: (1) exclusive jurisdiction; (2) concurrent jurisdiction; or (3)
- 3 proprietary jurisdiction. On land over which the Federal Government has acquired
- 4 exclusive or concurrent jurisdiction, the State has ceded all or part of its
- 5 jurisdiction, and the Federal Government has criminal jurisdiction in the area.
- 6 (*United States v. Unzueta*, 281 U.S. 138 (1930); *Paul v. United States*, 371 U.S.
- 7 245, 264 (1963)) When the State has not ceded jurisdiction to the Federal
- 8 Government, the Federal Government has proprietary jurisdiction and may enact



laws governing conduct on those lands pursuant to the Property Clause of the United States Constitution. (U.S. Const. Art. IV, § 3, cl. 2; *Kleppe v. New Mexico*, 426 U.S. 529 (1976); *United States v. Bohn*, 622 F.3d 1129 (2010)) This bill establishes the circumstances under which a state or local law enforcement officer may recognize a federal employee's exercise of law enforcement power on federal lands.

Sections 3-7 of this bill define terms to establish the lands and agencies to which the provisions of this bill apply. **Section 5** of this bill excludes from the provisions of this bill the exercise of law enforcement authority by: (1) a special agent of the Federal Bureau of Investigation; (2) a special agent of the United States Secret Service; (3) a special agent of the United States Drug Enforcement Administration; (4) a United States Postal Inspector; or (5) an officer or agent of the Bureau of Indian Affairs.

Section 8 of this bill sets forth the circumstances under which a state or local law enforcement officer may recognize the enforcement of federal law by certain federal employees. Under **section 8**, a state or local law enforcement officer may recognize a federal employee's exercise of law enforcement authority if the federal employee is enforcing a federal law other than the Assimilative Crimes Act, which is a federal law providing that a violation of a state criminal law on federal enclaves where the Federal Government exercises exclusive or concurrent jurisdiction is a violation of federal law. (18 U.S.C. § 13) However, **section 8** provides that: (1) on federal enclaves where the Federal Government exercises exclusive or concurrent jurisdiction, a state or local law enforcement officer may recognize the exercise of law enforcement authority by a federal employee who is enforcing any federal law, including, without limitation, the Assimilative Crimes Act; and (2) if a federal employee is enforcing a provision of the Federal Land Policy and Management Act, 43 U.S.C. §§ 1701 et seq., on federal land that is not a federal enclave, a state or local law enforcement officer may recognize such an exercise of law enforcement authority if the federal employee is enforcing a federal statute other than the Assimilative Crimes Act or a federal regulation that is necessary to implement the provisions of the Act with respect to the management, use and protection of the public lands and property located on those lands.

Section 9 of this bill authorizes a state or local law enforcement agency to assist a federal agency with the enforcement of federal law on land managed by the Federal Government pursuant to the Federal Land Policy and Management Act, 43 U.S.C. 1701 et seq., if the agreement requires the payment of fair compensation for such assistance.

Section 10 of this bill prohibits a state or local law enforcement officer from recognizing a federal employee's exercise of law enforcement authority if the federal employee is enforcing state or local law, except that a state or local law enforcement officer may recognize such an exercise of law enforcement authority: (1) under certain emergency circumstances; and (2) if the county sheriff or a state law enforcement agency, with the consent of the county sheriff, has entered into an agreement with the relevant federal agency authorizing specific federal employees to enforce state and local laws. Under **section 10**: (1) an agreement with a federal agency which authorizes specific federal employees to enforce state or local laws must be for a term of not more than 2 years; and (2) the federal employees granted authority to enforce state or local laws are required to successfully complete a 40-hour course focusing on criminal law and procedure in Nevada approved by the Peace Officers' Standards and Training Commission.

Section 11 of this bill prohibits a state or local governmental agency from authorizing a federal agency to access or use the correctional and communication facilities and equipment of any state or local law enforcement agency without the express written consent of the appropriate responsible official of the state or local law enforcement agency.



Section 12 of this bill requires a county sheriff to review the duties and activities of federal agencies that have law enforcement responsibilities and that are acting within his or her jurisdiction to determine whether the federal agencies are acting consistently with the provisions of this bill.

Section 13 of this bill specifically states that the sheriff of a county and his or her deputies are the primary law enforcement officers in the unincorporated areas of their county. If a county has a metropolitan police department, **section 13** provides that the sheriff and his or her deputies are the primary law enforcement officers in the unincorporated areas of that county and in any incorporated city over which the department has jurisdiction.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 171 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Exercise law enforcement authority” and “exercise of law enforcement authority” mean:*

1. To take any action on private land, state-owned land or federally managed land, to investigate, stop, serve process, search, arrest, cite, book or incarcerate a person for a federal, state or local criminal violation when the action is based on:

(a) A federal statute, regulation or rule; or

(b) A state or local statute, ordinance, regulation or rule; or

2. To gain access to or use the correctional or communication facilities and equipment of any state or local law enforcement agency.

Sec. 4. *“Federal agency” means an agency that manages federally managed land or regulates activities on such land, including, without limitation:*

1. The United States Bureau of Land Management;

2. The United States Forest Service;

3. The National Park Service;

4. The United States Fish and Wildlife Service;

5. The United States Bureau of Reclamation;

6. The United States Environmental Protection Agency; and

7. The United States Army Corps of Engineers.

Sec. 5. *“Federal employee” means an employee or other agent of a federal agency, but does not include:*

1. A special agent of the Federal Bureau of Investigation;

2. A special agent of the United States Secret Service;



3. A special agent of the Drug Enforcement Administration;
4. A United States Postal Inspector of the United States
Postal Inspection Service; and

5. An officer or agent of the Bureau of Indian Affairs.

Sec. 6. “Federally managed land” means land owned by the
United States and managed by:

1. The United States Bureau of Land Management;

2. The United States Forest Service;

3. The National Park Service;

4. The United States Fish and Wildlife Service; or

5. The United States Bureau of Reclamation.

Sec. 7. “Proprietary jurisdiction federally managed land”
means federally managed land except:

1. Any building, installations and other structures under the
exclusive jurisdiction of the Congress of the United States
pursuant to Clause 17 of Section 8 of Article I of the United States
Constitution.

2. Any parcel that constitutes a federal enclave subject to the
jurisdiction of the United States and the State of Nevada.

Sec. 8. 1. Except as otherwise provided in this section, a
state or local law enforcement officer may recognize a federal
employee’s exercise of law enforcement authority, on or off
federally managed land in this State, when the exercise of that
authority is consistent with the United States Constitution and
based on:

(a) A federal statute other than the Assimilative Crimes Act, 18
U.S.C. § 13; or

(b) A federal regulation that is authorized by a federal statute
other than the Assimilative Crimes Act, 18 U.S.C. § 13.

2. A state or local law enforcement officer may recognize a
federal employee’s exercise of law enforcement authority on
federally managed land in this State other than proprietary
jurisdiction federally managed land, when the exercise of that
authority is consistent with the United States Constitution and
based on:

(a) A federal statute, including, without limitation, the
Assimilative Crimes Act, 18 U.S.C. § 13; or

(b) A federal regulation that is authorized by a federal statute,
including, without limitation, the Assimilative Crimes Act, 18
U.S.C. § 13.

3. A state or local law enforcement officer may recognize a
federal employee’s exercise of law enforcement authority to
enforce the provisions of the Federal Land Policy and
Management Act, 43 U.S.C. §§ 1701 et seq., on proprietary
jurisdiction federally managed land, only if the exercise of that



1 *authority is consistent with the United States Constitution and*
2 *based on:*

3 *(a) A federal statute other than the Assimilative Crimes Act, 18*
4 *U.S.C. § 13; or*

5 *(b) A federal regulation that is:*

6 *(1) Authorized by a federal statute other than the*
7 *Assimilative Crimes Act, 18 U.S.C. § 13; and*

8 *(2) Necessary to implement the provisions of the Federal*
9 *Land Policy and Management Act, 43 U.S.C. § 1701 et seq., with*
10 *respect to the management, use and protection of the public lands*
11 *and property located on those lands, as provided in 43 U.S.C. §*
12 *1733.*

13 **Sec. 9. 1.** *A state or local law enforcement agency may*
14 *assist a federal agency or federal employee to enforce federal*
15 *statutes and regulations on land managed pursuant to the Federal*
16 *Land Policy and Management Act, 43 U.S.C. §§ 1701 et seq., if the*
17 *state or local law enforcement agency has entered into an*
18 *agreement pursuant to subsection 2.*

19 **2.** *The sheriff of a county may enter into an agreement with a*
20 *federal agency requiring fair compensation for assisting a federal*
21 *agency or federal employee to enforce federal statutes and*
22 *regulations on lands managed by a federal agency pursuant to the*
23 *Federal Land Policy and Management Act, 43 U.S.C. §§ 1701 et*
24 *seq.*

25 **Sec. 10. 1.** *Except as otherwise provided in subsection 2 or*
26 *an agreement entered into pursuant to subsection 3 or 4, a state or*
27 *local law enforcement officer may not recognize a federal*
28 *employee's exercise of law enforcement authority, on or off*
29 *federally managed land, when the exercise of that authority is*
30 *based on a state or local statute, ordinance, regulation or rule.*

31 **2.** *A state or local law enforcement officer may recognize a*
32 *federal employee's limited exercise of law enforcement authority*
33 *on federally managed land in cases of a violation of a state or*
34 *local statute, ordinance, regulation or rule when:*

35 *(a) The offense is an emergency and poses an immediate risk*
36 *of bodily injury or damage to property;*

37 *(b) A state or local law enforcement officer is not reasonably*
38 *available to take action;*

39 *(c) The action is within the scope of the authority of the*
40 *federal employee's law enforcement power; and*

41 *(d) The federal employee turns over the matter and custody of*
42 *any person detained by the federal employee to a state or local law*
43 *enforcement officer for further action as soon as such an officer*
44 *becomes available.*



3. *The sheriff of a county may enter into an agreement with a federal agency granting limited authority to specific federal employees to exercise law enforcement powers to enforce state and local laws if:*

(a) *The agreement is for a term of not more than 2 years; and*

(b) *The federal officers granted such authority have successfully completed a 40-hour course concerning criminal law and procedure in Nevada approved by the Peace Officers' Standards and Training Commission.*

4. *A state law enforcement agency may, with the consent of the sheriff of a county, enter into an agreement granting limited authority to specific federal employees to exercise law enforcement powers to enforce state and local laws in the county in accordance with the provisions of subsection 3.*

Sec. 11. *A state or local governmental agency may not allow a federal agency or federal employee to access or use the correctional and communication facilities and equipment of any state or local law enforcement agency without the express written consent of the appropriate responsible official of the state or local law enforcement agency.*

Sec. 12. *The sheriff of a county shall regularly review the duties and activities of federal agencies which have law enforcement responsibilities in this State and which are acting within his or her jurisdiction to determine whether the federal agencies are acting consistently with the provisions of sections 2 to 12, inclusive, of this act.*

Sec. 13. *NRS 248.090 is hereby amended to read as follows:*

248.090 *1. Sheriffs and their deputies are the primary law enforcement officers in the unincorporated areas of their respective counties. In a county within the jurisdiction of a metropolitan police department, the sheriff and his or her deputies are the primary law enforcement officers in the unincorporated areas of the county and in any incorporated city whose law enforcement agency has been merged into the metropolitan police department.*

2. Sheriffs and their deputies shall keep and preserve the peace in their respective counties, and quiet and suppress all affrays, riots and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony, or breach of the peace, they may call upon the power of their county to aid in such arrest or in preserving the peace.

Sec. 14. *This act becomes effective on July 1, 2015.*

