

**PARAMETERS ON GOVERNOR'S ABILITY TO
ENTER AGREEMENTS BINDING THE STATE**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Kevin S. Garn

LONG TITLE

General Description:

This bill requires legislative approval of certain interstate agreements.

Highlighted Provisions:

This bill:

- provides definitions;
- requires legislative approval of certain interstate agreements entered into on or after May 5, 2008; and
- provides certain exceptions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with H.B. 63, Recodification of Title 63 State Affairs in General, by providing technical renumbering.

Utah Code Sections Affected:

ENACTS:

63-8a-101, Utah Code Annotated 1953

63-8a-102, Utah Code Annotated 1953

63-8a-201, Utah Code Annotated 1953

63-8a-202, Utah Code Annotated 1953

63-8a-203, Utah Code Annotated 1953

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

Section 1. Section **63-8a-101** is enacted to read:

CHAPTER 8a. INTERSTATE COMPACTS AND AGREEMENTS

Part 1. General Provisions

63-8a-101. Title.

This chapter is known as "Interstate Compacts and Agreements."

Section 2. Section **63-8a-102** is enacted to read:

63-8a-102. Definitions.

As used in this chapter:

(1) "Agency head" means a cabinet officer, an elected official, an executive director, or a board or commission vested with the authority to administer or make policy for a state agency.

(2) "Executive officer" means:

(a) the governor;

(b) the lieutenant governor;

(c) the attorney general;

(d) the state treasurer;

(e) the state auditor;

(f) agency head; or

(g) any other person or entity vested with the authority to enter into an agreement on behalf of the state.

(3) "Interstate agreement" means any agreement that is entered into between this state and:

(a) one or more other states;

(b) an Indian tribe as defined in Section 9-9-402; or

(c) a foreign government.

(4) (a) "Significant interstate agreement" means an interstate agreement that:

(i) could or would require a statute or rule change in order to implement the agreement

or to conform to its provisions or requirements;

(ii) could or would require the state to expend more than \$50,000 in order to implement the agreement or to conform to its provisions or requirements; or

(iii) would legally bind the state to a new or substantially different policy in order to implement the agreement or to conform to its provisions or requirements.

(b) "Significant interstate agreement" includes an interstate compact, whether or not the compact requires federal congressional approval.

(c) "Significant interstate agreement" does not mean:

(i) an agreement entered into by the governor dealing with extradition or other matters dealing with incarceration; or

(ii) an agreement entered into by an executive officer under authority that:

(A) is granted by the Legislature; and

(B) explicitly authorizes the executive officer to enter into the agreement.

(5) (a) "State agency" means:

(i) each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, hospital, laboratory, library, unit, bureau, panel, program, or other instrumentality of the state; and

(ii) each state public education entity.

(b) "State agency" does not mean:

(i) a legislative branch agency;

(ii) an independent agency;

(iii) a state institution of higher education as defined in Section 53B-3-102;

(iv) a county, municipality, school district, local district, or special service district; or

(v) any administrative subdivision of a county, municipality, school district, local district, or special service district.

Section 3. Section **63-8a-201** is enacted to read:

Part 2. Legislative Approval of Interstate Agreements

63-8a-201. Approval of significant interstate agreements -- Validity.

(1) (a) Before legally binding the state by executing a significant interstate agreement, an executive officer shall:

(i) submit the proposed significant interstate agreement to the governor for the governor's written approval or rejection; and

(ii) if the governor approves the significant interstate agreement, submit the significant interstate agreement to the Legislature for the Legislature's approval or rejection by means of:

(A) a concurrent resolution approving or rejecting the agreement; or

(B) enacting the agreement into law.

(b) (i) If the Legislature approves the agreement as required by this section, the executive officer may execute the significant interstate agreement.

(ii) If the Legislature rejects the agreement, the executive officer may not execute the significant interstate agreement.

(2) If an executive officer executes a significant interstate agreement without obtaining the governor's approval or the Legislature's approval as required by Subsection (1), the agreement is void ab initio.

(3) The requirements of this section do not apply to a significant interstate agreement that is entered into:

(a) before May 5, 2008; or

(b) by a state institution of higher education as defined in Section 53B-3-102.

Section 4. Section **63-8a-202** is enacted to read:

63-8a-202. Other interstate agreements.

Notwithstanding the provisions of this chapter, the Legislature may enact legislation prohibiting the enactment of an interstate agreement even if the agreement is not a significant interstate agreement as defined in this chapter.

Section 5. Section **63-8a-203** is enacted to read:

63-8a-203. Application of chapter in emergencies.

(1) Notwithstanding the requirements of Section 63-8a-201, an executive officer may enter into a significant interstate agreement on a temporary basis without legislative approval

114 during:

115 (a) an emergency or major disaster declared by the President of the United States of
116 America; or

117 (b) a state of emergency declared by the governor under Section 63-5a-5.

118 (2) If a significant interstate agreement is entered into without legislative approval
119 under Subsection (1), the executive officer entering into the agreement shall provide notice of
120 the execution of the agreement to the Legislature at the next meeting of the Executive
121 Appropriations Subcommittee of the Legislature and shall comply with the requirements of
122 Section 63-8a-201 to thereafter obtain the approval of the Legislature.

123 **Section 6. Coordinating S.B. 144 with H.B. 63 -- Technical renumbering.**

124 If this S.B. 144 and H.B. 63, Recodification of Title 63 State Affairs in General, both
125 pass, it is the intent of the Legislature that the Office of Legislative Research and General
126 Counsel, in preparing the Utah Code database for publication, renumber Sections 63-8a-101
127 through 63-8a-203 to 63G-11-101 through 63G-11-203 and change all internal references.