

Environmental Legal Action Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Colin W. Jack

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies a bond requirement for an environmental action.

Highlighted Provisions:

This bill:

- modifies the definition of "environmental action" to address a permit issued by the Division of Oil, Gas, and Mining; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-5-828, as enacted by Laws of Utah 2011, Chapter 116

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

Section 1. Section **78B-5-828** is amended to read:

78B-5-828 . Bond required in an environmental action.

(1) As used in this section:

(a) "Administrative stay" means a stay or other temporary remedy issued by an agency under Section 63G-4-405.

(b)(i) "Environmental action" means a cause of action that:

[~~(i)~~] (A) is filed on or after May 10, 2011; and

[~~(ii)~~] (B) seeks judicial review of a final agency action to issue a permit by~~[-]~~ the Department of Natural Resources, the Department of Transportation, or the

School and Institutional Trust Lands Administration.

~~[(A) the Department of Natural Resources;]~~

~~[(B) the Department of Transportation; or]~~

~~[(C) the School and Institutional Trust Lands Administration.]~~

(ii) "Environmental action" does not include a cause of action that seeks judicial review of a final agency action to issue a permit by the Division of Oil, Gas, and Mining under Title 40, Chapter 10, Coal Mining and Reclamation.

(c) "Ultimately prevail on the merits" means, in the final judgment, the court rules in the plaintiff's favor on at least one cause of action.

(2) A plaintiff who obtains a preliminary injunction or administrative stay in an environmental action, but does not ultimately prevail on the merits of the environmental action, is liable for damages sustained by a defendant who:

- (a) opposed the preliminary injunction or administrative stay; and
- (b) was harmed by the preliminary injunction.

(3) A court may not issue a preliminary injunction and an agency may not grant an administrative stay in an environmental action until the plaintiff posts with the court or the agency a surety bond or cash equivalent:

- (a) in an amount the court or agency considers sufficient to compensate each defendant opposing the preliminary injunction or administrative stay for damages that each defendant may sustain as a result of the preliminary injunction or administrative stay;
- (b) written by a surety licensed to do business in the state; and
- (c) payable to each defendant opposing the preliminary injunction or administrative stay in the event the plaintiff does not prevail on the merits of the environmental action.

(4) If there is more than one plaintiff, the court or agency shall establish the amount of the bond required by Subsection (3) for each plaintiff in a fair and equitable manner.

(5)(a) If the plaintiff does not ultimately prevail on the merits of the environmental action, the court shall execute the bond and award damages to each defendant who:

- (i) opposed the preliminary injunction or administrative stay; and
- (ii) was harmed as a result of its issuance.

(b) If the amount of money secured by the surety bond or cash equivalent:

- (i) exceeds the damages awarded, the court or agency shall return the excess to the plaintiff; and
- (ii) is less than the damages awarded, the court or agency shall order the plaintiff to pay the remaining damages.

63 (6) Notwithstanding any other provision of law, a court's or agency's refusal to require the
64 posting of a surety bond or cash equivalent as required by this section is subject to
65 immediate appeal.

66 Section 2. **Effective Date.**

67 This bill takes effect on May 7, 2025.