

Colin W. Jack proposes the following substitute bill:

Environmental Legal Action Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Colin W. Jack

Senate Sponsor:

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.

- 30 ~~[(A) the Department of Natural Resources;]~~
31 ~~[(B) the Department of Transportation; or]~~
32 ~~[(C) the School and Institutional Trust Lands Administration.]~~
- 33 (ii) "Environmental action" does not include a cause of action that seeks judicial
34 review of a final agency action to issue a permit by the Division of Oil, Gas, and
35 Mining under Title 40, Chapter 10, Coal Mining and Reclamation.
- 36 (c) "Ultimately prevail on the merits" means, in the final judgment, the court rules in the
37 plaintiff's favor on at least one cause of action.
- 38 (2) A plaintiff who obtains a preliminary injunction or administrative stay in an
39 environmental action, but does not ultimately prevail on the merits of the environmental
40 action, is liable for damages sustained by a defendant who:
- 41 (a) opposed the preliminary injunction or administrative stay; and
42 (b) was harmed by the preliminary injunction.
- 43 (3) A court may not issue a preliminary injunction and an agency may not grant an
44 administrative stay in an environmental action until the plaintiff posts with the court or
45 the agency a surety bond or cash equivalent:
- 46 (a) in an amount the court or agency considers sufficient to compensate each defendant
47 opposing the preliminary injunction or administrative stay for damages that each
48 defendant may sustain as a result of the preliminary injunction or administrative stay;
49 (b) written by a surety licensed to do business in the state; and
50 (c) payable to each defendant opposing the preliminary injunction or administrative stay
51 in the event the plaintiff does not prevail on the merits of the environmental action.
- 52 (4) If there is more than one plaintiff, the court or agency shall establish the amount of the
53 bond required by Subsection (3) for each plaintiff in a fair and equitable manner.
- 54 (5)(a) If the plaintiff does not ultimately prevail on the merits of the environmental
55 action, the court shall execute the bond and award damages to each defendant who:
- 56 (i) opposed the preliminary injunction or administrative stay; and
57 (ii) was harmed as a result of its issuance.
- 58 (b) If the amount of money secured by the surety bond or cash equivalent:
- 59 (i) exceeds the damages awarded, the court or agency shall return the excess to the
60 plaintiff; and
61 (ii) is less than the damages awarded, the court or agency shall order the plaintiff to
62 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.