

**Environmental Legal Action Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Colin W. Jack**

Senate Sponsor: David P. Hinkins

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**LONG TITLE****General Description:**

This bill modifies provisions relating to bond requirements in environmental legal actions.

**Highlighted Provisions:**

This bill:

- expands the definition of environmental action to include judicial review of certain permits 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 last amended by Laws of Utah 2025, Chapter 149

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*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:

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

~~[(B)]~~ (ii) 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;~~

- 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 6, 2026.