What is Extraterritorial Jurisdiction?

Authority to exert jurisdiction outside the natural political boundaries
History of State Statute 10-8-15

1898
ETJ first appeared codified. Much of the current Section 10-8-15 is here. ETJ extends 10 miles above “point from which water is taken.” There is no 300’ wide limitation or distinction for cities of the 1st class.

1907
ETJ statute expanded. Now included is the requirement on cities of the 1st class to have a road through the city and its ETJ area to drive cattle, etc.

1915
Utah case explains the rationale behind ETJ to protect water supply and more importantly, test such “police power” for health, safety, and welfare against the constitutional due process principles. Salt Lake City v. Young, 45 Utah 349

1917
ETJ statute expanded. Jurisdiction is expanded to 15 miles and 300’ above where water is taken.

1923
ETJ statute further expanded. Cities of the 1st class jurisdiction is now over the entire watershed. Therefore, this “entire watershed” component has been in place since 1923 – almost 100 years.

1930
Utah case explains the rationale behind ETJ to protect water supply and more importantly, test such “police power” for health, safety, and welfare against the constitutional due process principles. Bountiful City v. DeLuca, 77 Utah 107
Applicable To….

• “Municipality” as defined in Title 10-1-104
  
  • (a) a city of the first class, city of the second class, city of the third class, city of the fourth class, city of the fifth class;
  
  • (b) a town, as classified in Section 10-2-301; or

  • (c) a metro township as that term is defined in Section 10-2a-403 unless the term is used in the context of authorizing, governing, or otherwise regulating the provision of municipal services.
Authorities Granted

• Construct water infrastructure “within or without the city limits”

• Extend jurisdiction “over the territory occupied by such works” including the water sources for 15 miles upstream and 300 feet either side from the point of intake

• “may enact ordinances prohibiting or regulating the construction or maintenance of” sanitary facilities “for the protection of the public health as they deem proper”
Authorities Granted

• “may enact all ordinances and regulations necessary to carry the power herein conferred into effect, and are authorized and empowered to enact ordinances preventing pollution or contamination of the streams or watercourses from which the inhabitants of cities derive their water supply, in whole or in part, for domestic and culinary purposes”
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Additional Authority for Cities of the 1st Class

“jurisdiction of cities of the first class shall be over the entire watershed”
Cities of the 1st Class

(Population greater than 100,000)

Salt Lake City
184,440

West Valley City
129,480

Provo City
112,488

West Jordan City
103,712

Sandy City
87,461

(Population Source: 2010 Census Count)
Current Limits on Cities of the 1st Class

- Allow grazing of livestock within 1,000 feet of stream or source

- Provide a highway in and through its “corporate limits” and where “jurisdiction extends” that cannot be closed to livestock – although the given city of the 1st class “may enact ordinances” regulating the manner of livestock transport
What it is Not

• General land use authority
• A water right management tool
Issues Raised

• Applicability and clarity
• Overreach
• Overlapping jurisdiction
• Representation
• Defining pollution
Applicability and Clarification Recommendation

- Remove “they”s to clarify specifically who each part was applicable to
- Created paragraphs to allow more clear referencing
- Added goats to grazing livestock at request of agricultural community
Limiting Overreach Recommendation

- Limit the additional jurisdiction of cities of the first class to within the same county

“(2) The jurisdiction of cities of the first class shall additionally be over the entire watershed within the county of origin of the city of first class and as provided in Subsection (4);”
Overlapping Jurisdiction Recommendation

• Allow extended jurisdiction of cities of the first class outside their county of origin only through written agreement

“(4) Cities of the first class may only exercise extraterritorial jurisdiction outside of their county of origin under Subsection (2) pursuant to a written agreement with municipalities and counties that have jurisdiction over the area where the watershed is located.” Lines 31-33
Representation
Recommendation

• Require all municipalities using this authority to adopt an ordinance or regulation to:

• Hold a public hearing, and

• Provide notice to “affected entities”

• The ordinance or regulation “shall not conflict with existing federal or state statutes or rules for drinking water or water quality.”

Lines 34-65
Defining Pollution Recommendation

• Committee decided to take no action on defining pollution to avoid future conflict with regulatory definitions
Not Perfect, But Close…

• There are still outstanding wants

• Additional concerns discussed and determined to be:
  not applicable to this statute, or
  not within the scope of this workgroup

• All recommendations were unanimously agreed on