

**MUNICIPAL PROSECUTORIAL DISCRETION**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: Christopher N. Herrod

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**LONG TITLE**

**General Description:**

This bill modifies the Municipal Code relating to the duties of a city attorney.

**Highlighted Provisions:**

This bill:

▶ permits a city attorney who has a conflict of interest in a prosecution matter to appoint a city attorney from another municipality or a public prosecutor to prosecute in the court having jurisdiction over the matter.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**10-3-928**, as last amended by Laws of Utah 2002, Chapter 130

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

Section 1. Section **10-3-928** is amended to read:

**10-3-928. Attorney duties -- Deputy public prosecutor.**

In cities with a city attorney, the city attorney:

(1) may prosecute violations of city ordinances[?];



28 (2) may prosecute, under state law, infractions and misdemeanors occurring within the  
29 boundaries of the municipality;

30 (3) has the same powers in respect to violations as are exercised by a county attorney or  
31 district attorney, except that a city attorney's authority to grant immunity shall be limited to:

32 (a) granting transactional immunity for violations of city ordinances; and

33 (b) granting transactional immunity under state law for infractions and misdemeanors  
34 occurring within the boundaries of the municipality;

35 (4) shall represent the interests of the state or the municipality in the appeal of any  
36 matter prosecuted in any trial court by the city attorney; [~~and~~]

37 (5) may cooperate with the Office of the Attorney General during investigations,  
38 including those described in Subsection 67-5-18(3)(f)[-]; and

39 (6) may designate a city attorney from another municipality or a public prosecutor to  
40 prosecute a matter, in the court having jurisdiction over the matter, if the city attorney has a  
41 conflict of interest regarding the matter being prosecuted.

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**Legislative Review Note**  
**as of 1-17-11 7:02 AM**

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 114

SHORT TITLE: **Municipal Prosecutorial Discretion**

SPONSOR: **Thatcher, D.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.