

1 **Environmental Legal Action Amendments**
 2026 GENERAL SESSION
 STATE OF UTAH
Chief Sponsor: Colin W. Jack
 Senate Sponsor:

2
 3 **LONG TITLE**

4 **General Description:**

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

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ expands the definition of environmental action to include judicial review of certain
- 9 permits issued by the Division of Oil, Gas, and Mining; and
- 10 ▶ makes technical and conforming changes.

11 **Money Appropriated in this Bill:**

12 None

13 **Other Special Clauses:**

14 None

15 **Utah Code Sections Affected:**

16 AMENDS:

17 **78B-5-828**, as last amended by Laws of Utah 2025, Chapter 149

18
 19 *Be it enacted by the Legislature of the state of Utah:*

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

21 **78B-5-828 . Bond required in an environmental action.**

22 (1) As used in this section:

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

25 (b)[(†)] "Environmental action" means a cause of action that:

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

27 [(B)] (ii) seeks judicial review of a final agency action to issue a permit by[~~the~~
 28 ~~Department of Natural Resources, the Department of Transportation, or the~~
 29 ~~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 6, 2026.