

MUNICIPAL PROSECUTORIAL DISCRETION

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Christopher N. Herrod

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

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[+];

(2) may prosecute, under state law, infractions and misdemeanors occurring within the 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.