

**Senator Curtis S. Bramble** proposes the following substitute bill:

**FLUORINE COST REQUIREMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael T. Morley**

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**LONG TITLE**

**General Description:**

This bill modifies provisions governing the addition of fluorine to local water systems by requiring cost estimates and by authorizing the revocation of the decision to add fluorine when actual estimated costs exceed the cost estimates by a certain amount.

**Highlighted Provisions:**

This bill:

- ▶ requires that local governments adopt estimates about the cost of adding fluorine to a water system before and after an election is held to determine whether or not to add fluorine;
- ▶ requires that the governing body of a local government inform water systems within its jurisdiction that a petition to add fluorine is being circulated;
- ▶ requires the governing body to constitute a committee to develop recommended cost estimates, and defines the membership and duties of the committee;
- ▶ when the final estimate of the cost of adding fluorine to the water system exceeds the original cost estimate by more than 25%, authorizes the local government to cancel the decision to add fluorine to the water system, resubmit the question of adding fluorine to the water system to the voters, or inform the voters of their right to seek an initiative petition cancelling the decision to add fluorine to the water system unless certain conditions are met; and



26           ▶ makes technical corrections.

27 **Monies Appropriated in this Bill:**

28           None

29 **Other Special Clauses:**

30           None

31 **Utah Code Sections Affected:**

32 AMENDS:

33           **19-4-111**, as last amended by Chapter 185, Laws of Utah 2003

34           **19-4-111.1**, as enacted by Chapter 16, Laws of Utah 2002

35           **19-4-111.2**, as enacted by Chapter 15, Laws of Utah 2002



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

38           Section 1. Section **19-4-111** is amended to read:

39           **19-4-111. Fluorine added to or removed from water -- Election required.**

40           (1) As used in this section:

41           (a) (i) "Final total cost estimate" means the estimated one-time and on-going  
42 expenditures that must be made to a water system in order to add fluorine.

43           (ii) "Final total cost estimate" includes any or all of the following if necessary to add  
44 fluorine to a water system:

45           (A) the estimated cost of constructing chemical feed stations or other facilities to add  
46 fluorine at each drinking water treatment plant;

47           (B) the estimated cost of constructing chemical feed stations or facilities to add  
48 fluorine at the water source, including wells;

49           (C) the estimated cost of constructing chemical feed stations or facilities to add  
50 fluorine at each wholesale line; and

51           (D) the estimated on-going operations and maintenance costs of adding fluorine to the  
52 water system, including employee costs, electricity costs, and additional maintenance costs  
53 resulting from the addition of fluorine.

54           (b) "Governing body" means:

55           (i) the county legislative body, for county water systems;

56           (ii) the municipal legislative body, for municipal water systems; or

57 (iii) the special district board, for special district water systems.

58 (c) (i) "Preliminary total cost estimate" means the estimated one-time and ongoing  
59 expenditures that must be made to a water system in order to add fluorine based on available  
60 information.

61 (ii) "Preliminary total cost estimate" includes any or all of the following if necessary to  
62 add fluorine to a water system:

63 (A) the estimated cost of constructing chemical feed stations or other facilities to add  
64 fluorine at each drinking water treatment plant;

65 (B) the estimated cost of constructing chemical feed stations or facilities to add  
66 fluorine at the water source, including wells;

67 (C) the estimated cost of constructing chemical feed stations or facilities to add  
68 fluorine at each wholesale line; and

69 (D) the estimated ongoing operations and maintenance costs of adding fluorine to the  
70 water system, including employee costs, electricity costs, and additional maintenance costs  
71 resulting from the addition of fluorine.

72 (d) "Removal" means ceasing to add fluorine to a public water supply after the addition  
73 was previously approved by the voters of a political subdivision.

74 [(H)] (2) (a) Except as provided in Subsection 19-4-104(1)(a)(i), public water supplies,  
75 whether state, county, municipal, or district, may not have fluorine or any of its derivatives or  
76 compounds added to or removed from them without the approval of a majority of voters in an  
77 election in the area affected.

78 (b) An election shall be held:

79 (i) upon the filing of ~~[an initiative]~~ a petition requesting the action ~~[in accordance with~~  
80 ~~state law governing initiative petitions]~~ that qualifies for the ballot using the procedures and  
81 requirements of Title 20A, Chapter 7, Part 5, Local Initiatives - Procedures;

82 (ii) in the case of a municipal, special district, or county water system ~~[which]~~ that is  
83 functionally separate from any other water system, upon the passage of a resolution by the  
84 ~~[legislative body or special district board]~~ governing body representing the affected voters,  
85 submitting the question to the affected voters at a municipal general election; or

86 (iii) in a county of the first or second class, upon the passage of a resolution by the  
87 county legislative body to place an opinion question relating to all public water systems within

88 the county, except as provided in Subsection [~~(2)~~] (4), on the ballot at a general election.

89 (3) (a) Whenever an application for a petition requesting the addition of fluorine to a  
90 public water system is filed, the governing body shall:

91 (i) give notice that the petition is being circulated to every water system that would be  
92 required to add fluorine under the petition; and

93 (ii) direct each water system to begin developing a preliminary total cost estimate for  
94 the water system.

95 (b) Within 30 working days after a petition seeking the addition of fluorine to a public  
96 water system is declared qualified for the ballot, the sponsors of the petition shall file a  
97 preliminary total cost estimate with the governing body.

98 (c) (i) The governing body shall refer the preliminary total cost estimate to a the  
99 Fluorine Cost Review Committee constituted as required in Subsection (3)(c)(ii).

100 (ii) The governing body shall establish a Fluorine Cost Review Committee composed  
101 of:

102 (A) a representative from each water system that is or may be affected by the petition  
103 who has experience in the water system's accounting, finance, and procurement system and  
104 who has authority to commit the water system to a preliminary cost estimate;

105 (B) a representative from the governing body's planning entity, who shall serve as  
106 chair; and

107 (C) a representative from the county health department.

108 (iii) The Fluorine Cost Review Committee shall:

109 (A) meet as often as necessary;

110 (B) review the preliminary total cost estimate submitted by the petition sponsors;

111 (C) develop and adopt a recommended preliminary total cost estimate that represents  
112 the Fluorine Cost Review Committee's best estimate of the cost to add fluorine to all of the  
113 water systems affected by the petition; and

114 (D) submit the recommended preliminary total cost estimate to the governing body.

115 (d) (i) Whether the election to determine whether or not fluorine should be added to a  
116 public water system was triggered by petition or by the governing body, the governing body  
117 that has jurisdiction over the water system shall, no later than 45 calendar days before the date  
118 of the election:

119 (A) review the recommended preliminary total cost estimate received from the Fluorine  
120 Cost Review Committee; and

121 (B) adopt the official preliminary total cost estimate that estimates the total cost of  
122 adding fluorine to all of the water systems affected by the petition.

123 (ii) If the governing body fails to adopt an official preliminary total cost estimate no  
124 later than 45 calendar days before the date of the election, the preliminary total cost estimate  
125 submitted by the petition sponsors is considered adopted and becomes the official preliminary  
126 total cost estimate.

127 [~~2~~] (4) If a majority of voters on an opinion question under Subsection [(+) (2)(b)(iii)  
128 approve the addition of fluorine to or the removal of fluorine from the public water supplies  
129 within the county, the local health departments shall require the addition of fluorine to or the  
130 removal of fluorine from all public water supplies within that county other than those systems:

131 (a) that are functionally separate from any other public water systems in that county;  
132 and

133 (b) where a majority of the voters served by the public water system voted against the  
134 addition or removal of fluorine on the opinion question under Subsection [(+) (2)(b)(iii).

135 (5) (a) (i) If the voters vote to add fluorine to one or more water systems, the governing  
136 body shall direct the Fluorine Cost Review Committee to meet to develop a recommended final  
137 total cost estimate.

138 (ii) The Fluorine Cost Review Committee shall meet and:

139 (A) adopt a recommended final total cost estimate that represents the Fluorine Cost  
140 Review Committee's best estimate of the cost to add fluorine to all of the water systems  
141 affected by the petition; and

142 (B) submit the recommended final total cost estimate to the governing body.

143 (b) No later than 180 calendar days after the date of an election in which the voters  
144 vote to add fluorine to a water system, the governing body shall:

145 (i) review the recommended final total cost estimate received from the Fluorine Cost  
146 Review Committee; and

147 (ii) adopt a final total cost estimate.

148 (c) If the final total cost estimate exceeds the preliminary total cost estimate by 25% or  
149 more, the governing body may, in a public meeting:

150 (i) direct that all efforts to add fluorine to the water be ceased immediately because of  
151 the increased cost;

152 (ii) direct that the question of whether or not to add fluorine to the water be submitted  
153 to the voters for a new vote because of the increased cost; or

154 (iii) inform the voters that they may file an initiative petition to cancel the decision to  
155 add fluorine to the water system.

156 [~~3~~] (6) Nothing contained in this section prohibits the addition of chlorine or other  
157 water purifying agents.

158 [~~4~~] (7) Any political subdivision [~~which, prior to November 2, 1976,~~] that decided to  
159 and was adding fluorine or any of its derivatives or compounds to the drinking water before  
160 December 31, 2003 is considered to have complied with [~~Subsection (1)~~] Subsections (2), (3),  
161 and (5).

162 [~~5~~] (8) [~~In~~] Notwithstanding Subsection (5)(c), in an election held pursuant to  
163 Subsections [~~(1)~~] (2)(b)(i), (ii), or (iii), where a majority of the voters approve the addition to or  
164 removal of fluorine from the public water supplies, no election to consider removing fluorine  
165 from or adding fluorine to the public water supplies shall be held for a period of four years  
166 from the date of approval by the majority of voters beginning with elections held in November  
167 2000.

168 [~~6~~] ~~For purposes of this section, "removal" means ceasing to add fluorine to a public~~  
169 ~~water supply, the addition having been previously approved by the voters of a political~~  
170 ~~subdivision.]~~

171 Section 2. Section **19-4-111.1** is amended to read:

172 **19-4-111.1. Provision of fluoridated water -- Request of resident.**

173 A public water system in a county of the first or second class whose entire water  
174 inventory is fluoridated may supply water to a residence or business in a municipality that is  
175 located in two counties, one that has approved fluoridation and one that has not approved  
176 fluoridation in accordance with [~~Subsection~~] Section 19-4-111[~~(1)~~] if:

- 177 (1) the owner requests that the public water system supply water to the residence or  
178 business;
- 179 (2) no reasonable alternative water supply exists; and
- 180 (3) the owner's request can be fulfilled without affecting other residences or businesses

181 in the municipality or county that has not approved fluoridation.

182 Section 3. Section **19-4-111.2** is amended to read:

183 **19-4-111.2. Provision of fluoridated water -- Emergency circumstances.**

184 (1) A public water system that is simultaneously supplying water to a municipality or  
185 county that approved fluoridation in accordance with Section 19-4-111 and a municipality or  
186 county that has not approved fluoridation may provide water from its fluoridated inventory to a  
187 municipality or county that has not approved fluoridation if:

188 (a) as a result of a short-term emergency, the only water available is from the public  
189 water system's fluoridated inventory;

190 (b) the public water system ceases providing fluoridated water to the municipality or  
191 county that has not approved fluoridation in accordance with [~~Subsection~~] Section  
192 19-4-111[~~(1)~~] in a time consistent with repair times following best industrial practice; and

193 (c) where feasible provide prompt notice to the affected area.

194 (2) (a) A resident of an affected area that does not wish to receive fluoridated water  
195 during an emergency may contact the public water system to have delivery of fluoridated water  
196 to their residence or business terminated.

197 (b) The resident shall determine when to resume delivery of water and shall contact the  
198 public water system to have delivery of water resumed.