

SAFE DRINKING WATER REVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sylvia S. Andersen

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Political Subdivisions Interim Committee recommended this bill.

General Description:

This bill requires a county to adopt an ordinance to protect a source of drinking water.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a county to adopt an ordinance to protect a source of public drinking water;
- ▶ authorizes a municipality to adopt an ordinance to protect a source of public drinking water;
- ▶ allows a city ordinance to supercede another county or municipal ordinance in certain circumstances;
- ▶ allows a county or municipality to change a zoning designation in an industrial protection area in certain circumstances;
- ▶ requires the Drinking Water Board to:
 - provide guidelines and technical resources to a county or municipality; and
 - report to the Legislature; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **17-41-402**, as last amended by Laws of Utah 2006, Chapter 194

33 **19-4-102**, as renumbered and amended by Laws of Utah 1991, Chapter 112

34 ENACTS:

35 **19-4-113**, Utah Code Annotated 1953

36 REPEALS AND REENACTS:

37 **10-8-15**, Utah Code Annotated 1953



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

40 Section 1. Section **10-8-15** is repealed and reenacted to read:

41 **10-8-15. City authority regarding waterworks -- Additional authority for first**
42 **class cities -- Superceding effect of an ordinance adopted under this section.**

43 (1) A city may:

44 (a) construct or authorize the construction of waterworks inside or outside the city;

45 (b) in order to maintain and protect waterworks under Subsection (1)(a) from injury
46 and the water used in those waterworks from pollution, exercise jurisdiction over:

47 (i) the territory occupied by the waterworks;

48 (ii) each reservoir, stream, canal, ditch, pipe, and drain used in and necessary for the
49 construction, maintenance, and operation of the waterworks; and

50 (iii) the stream or source from which water is taken for the waterworks:

51 (A) for 15 miles above the point from which the water is taken;

52 (B) for a distance of 300 feet on each side of the stream or source of water; and

53 (C) over each highway along the stream or source of water within the areas described
54 in Subsections (1)(b)(iii)(A) and (B);

55 (c) enact an ordinance or regulation necessary to carry out the powers conferred in this
56 section;

57 (d) enact an ordinance preventing pollution or contamination of the streams or
58 watercourses from which the city's inhabitants derive any of their water supply, in whole or in

59 part, for domestic and culinary purposes; and

60 (e) (i) enact an ordinance prohibiting, regulating, or requiring a permit for the
 61 construction or maintenance of a closet, privy, outhouse, or urinal within the area over which
 62 the city has jurisdiction; and

63 (ii) if the city enacts an ordinance requiring a permit for the construction or
 64 maintenance of a closet, privy, outhouse, or urinal, attach to the granting of a permit reasonable
 65 conditions and requirements for the protection of the public health that the city considers
 66 proper, including a requirement that a closet, privy, outhouse, or urinal be provided with an
 67 effective septic tank or other germ-destroying instrumentality.

68 (2) (a) In addition to the powers conferred under Subsection (1), a city of the first class
 69 may, subject to Subsection (2)(b), exercise jurisdiction over the city's entire watershed.

70 (b) Notwithstanding Subsection (2)(a), each city of the first class shall permit livestock
 71 to graze beyond 1,000 feet from a stream or source of water.

72 (3) (a) Subject to Subsection (3)(b), each city of the first class shall:

73 (i) provide a highway in and through the area over which its jurisdiction extends under
 74 this section; and

75 (ii) keep that highway open to cattle, horses, sheep, or hogs driven through the area
 76 over which the city's jurisdiction extends under this section.

77 (b) The legislative body of a city of the first class may enact an ordinance placing
 78 under police regulations the manner of driving cattle, horses, sheep, or hogs through the area
 79 over which the city's jurisdiction extends under this section.

80 (4) An ordinance authorized by this section supercedes an ordinance required or
 81 authorized by Section 19-4-113 to the extent that the ordinances conflict.

82 Section 2. Section **17-41-402** is amended to read:

83 **17-41-402. Limitations on local regulations.**

84 (1) ~~[Each]~~ A political subdivision within which an agriculture protection area or
 85 industrial protection area is created shall encourage the continuity, development, and viability
 86 of agriculture or industrial use, respectively, within the area by not enacting a local ~~[laws,~~
 87 ~~ordinances, or regulations]~~ law, ordinance, or regulation that would unreasonably restrict a
 88 farm ~~[structures]~~ structure or farm ~~[practices]~~ practice or, in the case of an industrial protection
 89 area, an industrial ~~[uses]~~ use of the land within the area unless ~~[those laws, ordinances, or~~

90 ~~regulations bear]~~ the law, ordinance, or regulation bears a direct relationship to public health or
91 safety.

92 (2) [~~A~~] Except as provided by Section 19-4-113, a political subdivision may not change
93 the zoning designation of or a zoning [~~regulations]~~ regulation affecting land within an
94 agriculture protection area or industrial protection area, as the case may be, unless it receives
95 written approval for the change from all the landowners within the agriculture protection area
96 or industrial protection area, respectively, affected by the change.

97 Section 3. Section **19-4-102** is amended to read:

98 **19-4-102. Definitions.**

99 As used in this chapter:

100 (1) "Board" means the Drinking Water Board appointed under Section 19-4-103.

101 (2) "Contaminant" means [~~any~~] a physical, chemical, biological, or radiological
102 substance or matter in water.

103 (3) "Executive secretary" means the executive secretary of the board.

104 (4) "Maximum contaminant level" means the maximum permissible level of a
105 contaminant in water [~~which]~~ that is delivered to [~~any~~] a user of a public water system.

106 (5) (a) "Public water system" means a system providing water for human consumption
107 and other domestic uses[~~, which]~~ that:

108 (i) has at least 15 service connections; or

109 (ii) serves an average of 25 individuals daily for at least 60 days of the year [and].

110 (b) "Public water system" includes:

111 (i) a collection, treatment, storage, [and] or distribution [facilities] facility under the
112 control of the operator and used primarily in connection with the system[~~;~~]; and

113 (ii) a collection, pretreatment, or storage [facilities] facility used primarily in
114 connection with the system but not under [~~his]~~ the operator's control.

115 (6) "Retail water supplier" means a person that:

116 (a) supplies water for human consumption and other domestic uses to an end user; and

117 (b) has more than 500 service connections.

118 [~~(6)~~] (7) "Supplier" means a person who owns or operates a public water system.

119 (8) "Wholesale water supplier" means a person that provides most of that person's
120 water to a retail water supplier.

121 Section 4. Section **19-4-113** is enacted to read:

122 **19-4-113. Water source protection ordinance required.**

123 (1) (a) Before May 3, 2010, a county shall:

124 (i) adopt an ordinance in compliance with this section after:

125 (A) considering the rules established by the board to protect a watershed or water
126 source used for a public water system;

127 (B) consulting with a wholesale water supplier or retail water supplier whose drinking
128 water source is within the county's jurisdiction;

129 (C) considering the effect of the proposed ordinance on agriculture production within
130 an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial
131 Protection Area; and

132 (D) holding a public hearing in accordance with Title 52, Chapter 4, Open and Public
133 Meetings Act; and

134 (ii) file a copy of the ordinance with the board.

135 (b) A municipality may adopt an ordinance that a county is required to adopt by this
136 section by following the procedures and requirements of this section.

137 (2) (a) A county ordinance adopted in accordance with this section applies to the
138 incorporated and unincorporated areas of the county unless a municipality adopts an ordinance
139 in accordance with this section.

140 (b) A municipal ordinance adopted in accordance with this section supercedes, within
141 the municipality's jurisdiction, a county ordinance adopted in accordance with this section.

142 (3) An ordinance required or authorized by this section shall:

143 (a) designate a drinking water source protection zone, management area, or
144 groundwater recharge area for:

145 (i) a public drinking water source located within the county's or municipality's
146 jurisdiction; and

147 (ii) a public drinking water source that could be contaminated by an activity within the
148 county's or municipality's jurisdiction;

149 (b) contain a zoning provision regulating the storage, handling, use, or production of a
150 hazardous or toxic substance in an area where a public drinking water source could be
151 contaminated; and

152 (c) authorize a supplier to seek enforcement of the ordinance in a district court located
153 within the county or municipality if the county or municipality:

154 (i) notifies the supplier within ten days of receiving notice of a violation of the
155 ordinance that the county or municipality will not seek enforcement of the ordinance; or

156 (ii) does not seek enforcement within two days of a notice of violation of the ordinance
157 when the violation may cause irreparable harm to the public drinking water source.

158 (4) The prevailing party in an action to enforce an ordinance adopted in accordance
159 with this section may recover costs and reasonable attorney fees.

160 (5) A zoning provision required by Subsection (3)(b) is not subject to Section
161 17-41-402.

162 (6) An ordinance authorized by Section 10-8-15 supercedes an ordinance required or
163 authorized by this section to the extent that the ordinances conflict.

164 (7) The board shall:

165 (a) provide information, guidelines, and technical resources to a county or municipality
166 preparing and implementing an ordinance in accordance with this section; and

167 (b) report to the Natural Resources, Agriculture, and Environment Interim Committee
168 before November 30, 2010 on:

169 (i) compliance with this section's requirement to adopt an ordinance to protect a public
170 drinking water source; and

171 (ii) the effectiveness of the ordinance in retaining state primacy in regulating drinking
172 water.

Legislative Review Note
as of 11-14-07 12:44 PM

Office of Legislative Research and General Counsel

H.B. 40 - Safe Drinking Water Revisions

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill could create enforcement costs for local government of approximately \$250,000 annually.
