

1 **FLUORINE COST REQUIREMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Michael T. Morley**

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6 **LONG TITLE**

7 **General Description:**

8 This bill modifies provisions governing the addition of fluorine to local water systems  
9 by requiring cost estimates and by authorizing citizens to revoke approval for the  
10 addition of fluorine when actual estimated costs exceed the cost estimates by a certain  
11 amount.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ requires that local governments obtain estimates about the cost of adding fluorine to  
15 a water system **h FROM THE PETITION SPONSORS AND ADOPT THOSE ESTIMATES h** before  
15a **h AUTHORIZING h** the election **h [is-held] h** to determine whether or not to add  
16 fluorine;

17 ▶ **h [—requires the local government to allow citizens time to qualify an initiative petition**  
18 **that revokes authority to add fluorine to the water system] h** when the cost of adding  
19 fluorine to the water system exceeds the original cost estimate by more than **h [10%] 25%,**  
19a **AUTHORIZES THE LOCAL GOVERNMENT TO CANCEL THE DECISION TO ADD FLUORINE TO THE**  
19b **WATER SYSTEM, RESUBMIT THE QUESTION OF ADDING FLUORINE TO THE WATER SYSTEM TO**  
19c **THE VOTERS; OR INFORM THE VOTERS OF THEIR RIGHT TO SEEK AN INITIATIVE PETITION**  
19d **CANCELLING THE DECISION TO ADD FLUORINE TO THE WATER SYSTEM h ;**

20 and

21 ▶ makes technical corrections.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 19-4-111, as last amended by Chapter 185, Laws of Utah 2003

29 19-4-111.1, as enacted by Chapter 16, Laws of Utah 2002

30 19-4-111.2, as enacted by Chapter 15, Laws of Utah 2002

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

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

34 **19-4-111. Fluorine added to or removed from water -- Election required.**

35 (1) As used in this section:

36 (a) "Governing Body" means:

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

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

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

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

42 (c) (i) "Total cost estimate" means the estimated one-time and ongoing expenditures  
43 that must be made to a water system in order to add fluorine **h** BASED ON AVAILABLE

43a **INFORMATION** **h** .

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

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

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

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

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

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

59 (b) An election shall be held:

60 (i) upon the filing of an initiative petition requesting the action in accordance with state  
61 law governing initiative petitions;

62 (ii) in the case of a municipal, special district, or county water system which is  
63 functionally separate from any other water system, upon the passage of a resolution by the  
64 legislative body or special district board representing the affected voters, submitting the  
65 question to the affected voters at a municipal general election; or

66 (iii) in a county of the first or second class, upon the passage of a resolution by the  
67 county legislative body to place an opinion question relating to all public water systems within  
68 the county, except as provided in Subsection [~~(2)~~] (3), on the ballot at a general election.

69 (3) (a) Within 20 days after an initiative petition seeking the addition of fluorine to a  
70 public water system is declared qualified for the ballot, the sponsors of the initiative petition  
71 shall file a total cost estimate with the governing body.

72 (b) (i) Within ~~h~~ [20] 30 h days after passage of a resolution placing on the ballot the  
72a question of  
73 whether or not fluorine should be added to the public water supply, the county legislative body,  
74 the municipal legislative body, or the special district board that has jurisdiction over the water  
75 system shall adopt, by resolution, a total cost estimate estimating the total cost of adding  
76 fluorine to the water system.

77 (ii) If the county legislative body, municipal legislative body, or the special district  
78 board fails to file the cost estimate within ~~h~~ [20] 30 h days, the county clerk, municipal clerk, or  
78a special  
79 district clerk may not place the issue on the ballot.

80 [~~(2)~~] (4) If a majority of voters on an opinion question under Subsection [~~(1)~~] (2)(b)(iii)  
81 approve the addition of fluorine to or the removal of fluorine from the public water supplies  
82 within the county, the local health departments shall require the addition of fluorine to or the  
83 removal of fluorine from all public water supplies within that county other than those systems:

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

86 (b) where a majority of the voters served by the public water system voted against the  
87 addition or removal of fluorine on the opinion question under Subsection [~~(1)~~] (2)(b)(iii).

88 (5) ~~h~~ [(a)] h If, after the voters approve the addition of fluorine to the water supply, the  
89 governing body determines that the total cost of adding fluorine to the water supply will exceed

90 the cost estimate by ~~h [10%]~~ **25% h** or more, the governing body ~~h [shall, in a public meeting and by~~  
90a ~~a press~~

91 ~~release:~~

92 ~~—— (i) inform the voters that the estimated actual cost of adding fluorine to the water~~  
93 ~~system has exceeded the total cost estimate;~~

94 ~~—— (ii) inform the voters of the new total cost estimate of adding fluorine to the water~~  
95 ~~system; and~~

96 ~~—— (iii) inform the voters that they may file an initiative petition to cancel the decision to~~  
97 ~~add fluorine to the water system.~~

98 ~~—— (b) If, within six months of the public meeting where the new total cost estimate of~~  
99 ~~adding fluorine to the water system is announced, no initiative petition has qualified for the~~  
100 ~~ballot, the governing body may proceed to add fluorine to the water system] MAY, IN A PUBLIC MEETING:~~

100a ~~(a) DIRECT THAT ALL EFFORTS TO ADD FLUORINE TO THE WATER BE CEASED~~  
100b ~~IMMEDIATELY BECAUSE OF THE INCREASED COST;~~

100c ~~(b) DIRECT THAT THE QUESTION OF WHETHER OR NOT TO ADD FLUORINE TO THE WATER~~  
100d ~~BE SUBMITTED TO THE VOTERS FOR A NEW VOTE BECAUSE OF THE INCREASED COST; OR~~

100e ~~(c) INFORM THE VOTERS THAT THEY MAY FILE AN INITIATIVE PETITION TO CANCEL THE~~  
100f ~~DECISION TO ADD FLUORINE TO THE WATER SYSTEM h .~~

101 ~~[(3)]~~ **(6)** Nothing contained in this section prohibits the addition of chlorine or other  
102 water purifying agents.

103 ~~[(4)]~~ **(7)** Any political subdivision which, prior to ~~h [November 2, 1976]~~ **DECEMBER 31,**  
103a **2003 h** , decided to and

104 was adding fluorine or any of its derivatives or compounds to the drinking water is considered  
105 to have complied with Subsection ~~[(+)]~~ **(2) h , (3), AND (5) h .**

106 ~~[(5)]~~ **(8) h [In] NOTWITHSTANDING SUBSECTION (5)(c), IN h** an election held pursuant to  
106a Subsections ~~[(+)]~~ **(2)(b)(i), (ii), or (iii)**, where a

107 majority of the voters approve the addition to or removal of fluorine from the public water  
108 supplies, no election to consider removing fluorine from or adding fluorine to the public water  
109 supplies shall be held for a period of four years from the date of approval by the majority of  
110 voters beginning with elections held in November 2000.

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

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

115 **19-4-111.1. Provision of fluoridated water -- Request of resident.**

116 A public water system in a county of the first or second class whose entire water

117 inventory is fluoridated may supply water to a residence or business in a municipality that is  
118 located in two counties, one that has approved fluoridation and one that has not approved  
119 fluoridation in accordance with [~~Subsection~~] Section 19-4-111[~~(1)~~] if:  
120 (1) the owner requests that the public water system supply water to the residence or

121 business;  
122 (2) no reasonable alternative water supply exists; and  
123 (3) the owner's request can be fulfilled without affecting other residences or businesses  
124 in the municipality or county that has not approved fluoridation.

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

126 **19-4-111.2. Provision of fluoridated water -- Emergency circumstances.**

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

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

133 (b) the public water system ceases providing fluoridated water to the municipality or  
134 county that has not approved fluoridation in accordance with ~~[Subsection]~~ Section  
135 19-4-111~~(1)~~ in a time consistent with repair times following best industrial practice; and

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

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

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

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**Legislative Review Note**  
**as of 9-16-03 7:49 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**State Impact**

No fiscal impact to state agencies. It is estimated the local governments could incur approximately \$1,600 per water system if they use private professionals to acquire the estimates required by this bill. There are no known current initiative petitions pending at this time.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**