

**Representative Michael T. Morley** proposes the following substitute bill:

1 **FLUORINE COST REQUIREMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Michael T. Morley**

5 

---

---

**LONG TITLE**

6 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

14 ▶ requires that local governments adopt estimates about the cost of adding fluorine to  
15 a water system before and after an election to determine whether or not to add  
16 fluorine is held;

17 ▶ when the final estimate of the cost of adding fluorine to the water system exceeds  
18 the original cost estimate by more than 25%, authorizes the local government to  
19 cancel the decision to add fluorine to the water system, resubmit the question of  
20 adding fluorine to the water system to the voters, or inform the voters of their right  
21 to seek an initiative petition cancelling the decision to add fluorine to the water  
22 system; and

23 ▶ makes technical corrections.

24 **Monies Appropriated in this Bill:**

25 None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **19-4-111**, as last amended by Chapter 185, Laws of Utah 2003

31 **19-4-111.1**, as enacted by Chapter 16, Laws of Utah 2002

32 **19-4-111.2**, as enacted by Chapter 15, Laws of Utah 2002

33 

---

---

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

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

36 **19-4-111. Fluorine added to or removed from water -- Election required.**

37 (1) As used in this section:

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

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

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

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

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

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

51 (b) "Governing Body" means:

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

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

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

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

57 information.

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

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

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

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

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

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

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

75 (b) An election shall be held:

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

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

83 (iii) in a county of the first or second class, upon the passage of a resolution by the  
84 county legislative body to place an opinion question relating to all public water systems within  
85 the county, except as provided in Subsection ~~[(2)]~~ (4), on the ballot at a general election.

86 (3) (a) Within 30 working days after a petition seeking the addition of fluorine to a  
87 public water system is declared qualified for the ballot, the sponsors of the petition shall file a

88 preliminary total cost estimate with the governing body.

89 (b) (i) Whether the election to determine whether or not fluorine should be added to a  
90 public water system was triggered by petition or by the governing body, the governing body  
91 that has jurisdiction over the water system shall, no later than 45 calendar days before the date  
92 of the election, adopt a preliminary total cost estimate that estimates the total cost of adding  
93 fluorine to the water system.

94 (ii) If the governing body fails to adopt the preliminary total cost estimate no later than  
95 45 calendar days before the date of the election, the preliminary total cost estimate submitted  
96 by the petition sponsors is considered adopted and becomes the official preliminary total cost  
97 estimate.

98 ~~[(2)]~~ (4) If a majority of voters on an opinion question under Subsection ~~[(1)]~~ (2)(b)(iii)  
99 approve the addition of fluorine to or the removal of fluorine from the public water supplies  
100 within the county, the local health departments shall require the addition of fluorine to or the  
101 removal of fluorine from all public water supplies within that county other than those systems:

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

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

106 (5) (a) No later than 180 calendar days after the date of an election in which the voters  
107 vote to add fluorine to a water system, the governing body shall adopt a final total cost  
108 estimate.

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

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

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

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

117 ~~[(3)]~~ (6) Nothing contained in this section prohibits the addition of chlorine or other  
118 water purifying agents.

119           ~~[(4)]~~ (7) Any political subdivision ~~[which, prior to November 2, 1976,]~~ that decided to  
 120 and was adding fluorine or any of its derivatives or compounds to the drinking water before  
 121 December 31, 2003 is considered to have complied with ~~[Subsection (1)]~~ Subsections (2), (3),  
 122 and (5).

123           ~~[(5)]~~ (8) ~~[In]~~ Notwithstanding Subsection (5)(c), in an election held pursuant to  
 124 Subsections ~~[(1)]~~ (2)(b)(i), (ii), or (iii), where a majority of the voters approve the addition to or  
 125 removal of fluorine from the public water supplies, no election to consider removing fluorine  
 126 from or adding fluorine to the public water supplies shall be held for a period of four years  
 127 from the date of approval by the majority of voters beginning with elections held in November  
 128 2000.

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

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

133           **19-4-111.1. Provision of fluoridated water -- Request of resident.**

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

- 138           (1) the owner requests that the public water system supply water to the residence or  
 139 business;
- 140           (2) no reasonable alternative water supply exists; and
- 141           (3) the owner's request can be fulfilled without affecting other residences or businesses  
 142 in the municipality or county that has not approved fluoridation.

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

144           **19-4-111.2. Provision of fluoridated water -- Emergency circumstances.**

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

- 149           (a) as a result of a short-term emergency, the only water available is from the public

150 water system's fluoridated inventory;

151 (b) the public water system ceases providing fluoridated water to the municipality or  
152 county that has not approved fluoridation in accordance with ~~[Subsection]~~ Section

153 19-4-111~~(1)~~ in a time consistent with repair times following best industrial practice; and

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

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

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