

Representative Sylvia S. Andersen proposes the following substitute bill:

SAFE DRINKING WATER REVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sylvia S. Andersen

Senate Sponsor: Dennis E. Stowell

LONG TITLE

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 ~~H~~→ **first or second class** ←~~H~~ county to adopt an ordinance to protect a source of public drinking water;

▶ authorizes a municipality ~~H~~→ **located in a first or second class county** ←~~H~~ 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



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **17-41-402**, as last amended by Laws of Utah 2006, Chapter 194

31 **19-4-102**, as renumbered and amended by Laws of Utah 1991, Chapter 112

32 ENACTS:

33 **19-4-113**, Utah Code Annotated 1953



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

36 Section 1. Section **17-41-402** is amended to read:

37 **17-41-402. Limitations on local regulations.**

38 (1) ~~[Each]~~ A political subdivision within which an agriculture protection area or
39 industrial protection area is created shall encourage the continuity, development, and viability
40 of agriculture or industrial use, respectively, within the area by not enacting a local ~~[laws;~~
41 ~~ordinances, or regulations]~~ law, ordinance, or regulation that would unreasonably restrict a
42 farm ~~[structures]~~ structure or farm ~~[practices]~~ practice or, in the case of an industrial protection
43 area, an industrial ~~[uses]~~ use of the land within the area unless ~~[those laws, ordinances, or~~
44 ~~regulations bear]~~ the law, ordinance, or regulation bears a direct relationship to public health or
45 safety.

46 (2) A political subdivision may not change the zoning designation of or a zoning
47 ~~[regulations]~~ regulation affecting land within an agriculture protection area ~~[or industrial~~
48 ~~protection area, as the case may be,]~~ unless ~~[it]~~ the political subdivision receives written
49 approval for the change from all the landowners within the agriculture protection area ~~[or~~
50 ~~industrial protection area, respectively,]~~ affected by the change.

51 (3) Except as provided by Section 19-4-113, a political subdivision may not change the
52 zoning designation of or a zoning regulation affecting land within an industrial protection area
53 unless the political subdivision receives written approval for the change from all the
54 landowners within the industrial protection area affected by the change.

55 Section 2. Section **19-4-102** is amended to read:

56 **19-4-102. Definitions.**

57 As used in this chapter:

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

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

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

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

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

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

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

68 (b) "Public water system" includes:

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

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

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

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

75 (b) has more than 500 service connections.

76 [~~(6)~~] (7) "Supplier" means a person who owns or operates a public water system.

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

79 Section 3. Section **19-4-113** is enacted to read:

80 **19-4-113. Water source protection ordinance required.**

81 (1) (a) Before May 3, 2010, a ~~H~~→ **first or second class** ←~~H~~ county shall:

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

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

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

87 (C) considering the effect of the proposed ordinance on agriculture production within

88 an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial
89 Protection Area; and

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

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

93 (b) A municipality ~~H~~→ **in a first or second class county** ←~~H~~ may adopt an ordinance that
93a a ~~H~~→ **first or second class** ←~~H~~ county is required to adopt by this
94 section by following the procedures and requirements of this section.

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

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

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

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

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

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

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

110 (c) authorize a ~~H~~→ **retail water supplier or wholesale water** ←~~H~~ supplier to seek
110a enforcement of the ordinance in a district court located
111 within the county or municipality if the county or municipality:

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

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

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

118 (5) A zoning provision required by Subsection (3)(b) is not subject to Subsection

119 17-41-402(3).

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

122 (7) The board shall:

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

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

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

129 (ii) the effectiveness of the ordinance in retaining state primacy in regulating drinking
130 water.

H.B. 40 1st Sub. (Buff) - 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.
