

1 **SAFE DRINKING WATER REVISIONS**

2 2008 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Sylvia S. Andersen**

5 Senate Sponsor: Dennis E. Stowell

7 **LONG TITLE**

8 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ requires a first or second class county to adopt an ordinance to protect a
- 14 groundwater source of public drinking water;
- 15 ▶ authorizes a municipality located in a first or second class county to adopt an
- 16 ordinance to protect a groundwater source of public drinking water;
- 17 ▶ allows a city ordinance to supercede another county or municipal ordinance in
- 18 certain circumstances;
- 19 ▶ allows a county or municipality to change a zoning designation in an industrial
- 20 protection area in certain circumstances;
- 21 ▶ requires the Drinking Water Board to:
 - 22 • provide guidelines and technical resources to a county or municipality; and
 - 23 • report to the Legislature; and
- 24 ▶ makes technical changes.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 17-41-402, as last amended by Laws of Utah 2006, Chapter 194

32 19-4-102, as renumbered and amended by Laws of Utah 1991, Chapter 112

33 ENACTS:

34 19-4-113, Utah Code Annotated 1953



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

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

38 **17-41-402. Limitations on local regulations.**

39 (1) ~~[Each]~~ A political subdivision within which an agriculture protection area or
40 industrial protection area is created shall encourage the continuity, development, and viability of
41 agriculture or industrial use, respectively, within the area by not enacting a local [laws,
42 ~~ordinances, or regulations]~~ law, ordinance, or regulation that would unreasonably restrict a farm
43 ~~[structures]~~ structure or farm ~~[practices]~~ practice or, in the case of an industrial protection area,
44 an industrial [uses] use of the land within the area unless ~~[those laws, ordinances, or regulations~~
45 ~~bear]~~ the law, ordinance, or regulation bears a direct relationship to public health or 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 landowners
54 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) (a) "Groundwater source" means an underground opening from or through which
63 groundwater flows or is pumped from a subsurface water-bearing formation.

64 (b) "Groundwater source" includes:

65 (i) a well;

66 (ii) a spring;

67 (iii) a tunnel; or

68 (iv) an adit.

69 [~~(4)~~] (5) "Maximum contaminant level" means the maximum permissible level of a
70 contaminant in water [~~which~~] that is delivered to [~~any~~] a user of a public water system.

71 [~~(5)~~] (6) (a) "Public water system" means a system providing water for human
72 consumption and other domestic uses[~~, which~~] that:

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

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

75 (b) "Public water system" includes:

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

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

80 (7) "Retail water supplier" means a person that:

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

82 (b) has more than 500 service connections.

83 [~~(6)~~] (8) "Supplier" means a person who owns or operates a public water system.

84 (9) "Wholesale water supplier" means a person that provides most of that person's
85 water to a retail water supplier.

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

87 **19-4-113. Water source protection ordinance required.**

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

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

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

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

94 (C) considering the effect of the proposed ordinance on:

95 (I) agriculture production within an agricultural protection area created under Title 17,
96 Chapter 41, Agriculture and Industrial Protection Areas; and

97 (II) a manufacturing, industrial, or mining operation within the county's jurisdiction; and

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

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

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

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

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

108 (3) An ordinance required or authorized by this section at a minimum shall:

109 (a) designate a drinking water source protection zone in accordance with Subsection (4)
110 for a groundwater source that is:

111 (i) used by a public water system; and

112 (ii) located within the county's or municipality's jurisdiction;

113 (b) contain a zoning provision regulating the storage, handling, use, or production of a

114 hazardous or toxic substance within a drinking water source protection zone designated under
115 Subsection (3)(a); and

116 (c) authorize a retail water supplier or wholesale water supplier to seek enforcement of
117 the ordinance provision required by Subsections (3)(a) and (b) in a district court located within
118 the county or municipality if the county or municipality:

119 (i) notifies the retail water supplier or wholesale water supplier within ten days of
120 receiving notice of a violation of the ordinance that the county or municipality will not seek
121 enforcement of the ordinance; or

122 (ii) does not seek enforcement within two days of a notice of violation of the ordinance
123 when the violation may cause irreparable harm to the groundwater source.

124 (4) A county shall designate a drinking water source protection zone required by
125 Subsection (3)(a) within:

126 (a) a 100 foot radius from the groundwater source; and

127 (b) a 250 day groundwater time of travel to the groundwater source if the supplier
128 calculates the time of travel in the public water system's drinking water source protection plan in
129 accordance with board rules.

130 (5) A zoning provision required by Subsection (3)(b) is not subject to Subsection
131 17-41-402(3).

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

134 (7) The board shall:

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

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

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

141 (ii) the effectiveness of the ordinance in retaining state primacy in regulating drinking

142 water.