

**Senator Dennis E. Stowell** 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

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**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 first or second class county to adopt an ordinance to protect a groundwater source of public drinking water;
- ▶ authorizes a municipality located in a first or second class county to adopt an ordinance to protect a groundwater 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:**



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  
41 of 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  
43 farm ~~[structures]~~ structure or farm ~~[practices]~~ practice or, in the case of an industrial protection  
44 area, an industrial ~~[uses]~~ use of the land within the area unless ~~[those laws, ordinances, or~~  
45 ~~regulations bear]~~ the law, ordinance, or regulation bears a direct relationship to public health or  
46 safety.

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

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

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

57 **19-4-102. Definitions.**

58 As used in this chapter:

59 (1) "Board" means the Drinking Water Board appointed under Section 19-4-103.60 (2) "Contaminant" means [~~any~~] a physical, chemical, biological, or radiological  
61 substance or matter in water.

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

63 (4) (a) "Groundwater source" means an underground opening from or through which  
64 groundwater flows or is pumped from a subsurface water-bearing formation.65 (b) "Groundwater source" includes:66 (i) a well;67 (ii) a spring;68 (iii) a tunnel; or69 (iv) an adit.70 [~~(4)~~] (5) "Maximum contaminant level" means the maximum permissible level of a  
71 contaminant in water [~~which~~] that is delivered to [~~any~~] a user of a public water system.72 [~~(5)~~] (6) (a) "Public water system" means a system providing water for human  
73 consumption and other domestic uses[~~;~~ ~~which~~] that:74 (i) has at least 15 service connections; or75 (ii) serves an average of 25 individuals daily for at least 60 days of the year [and].76 (b) "Public water system" includes:77 (i) a collection, treatment, storage, [and] or distribution [facilities] facility under the  
78 control of the operator and used primarily in connection with the system[;]; and79 (ii) a collection, pretreatment, or storage [facilities] facility used primarily in  
80 connection with the system but not under [his] the operator's control.81 (7) "Retail water supplier" means a person that:82 (a) supplies water for human consumption and other domestic uses to an end user; and83 (b) has more than 500 service connections.84 [~~(6)~~] (8) "Supplier" means a person who owns or operates a public water system.85 (9) "Wholesale water supplier" means a person that provides most of that person's  
86 water to a retail water supplier.87 Section 3. Section **19-4-113** is enacted to read:

88           **19-4-113. Water source protection ordinance required.**  
89           (1) (a) Before May 3, 2010, a county shall:  
90           (i) adopt an ordinance in compliance with this section after:  
91           (A) considering the rules established by the board to protect a watershed or water  
92 source used by a public water system;  
93           (B) consulting with a wholesale water supplier or retail water supplier whose drinking  
94 water source is within the county's jurisdiction;  
95           (C) considering the effect of the proposed ordinance on:  
96           (I) agriculture production within an agricultural protection area created under Title 17,  
97 Chapter 41, Agriculture and Industrial Protection Area; and  
98           (II) a manufacturing, industrial, or mining operation within the county's jurisdiction;  
99 and  
100           (D) holding a public hearing in accordance with Title 52, Chapter 4, Open and Public  
101 Meetings Act; and  
102           (ii) file a copy of the ordinance with the board.  
103           (b) A municipality may adopt an ordinance that a county is required to adopt by this  
104 section by following the procedures and requirements of this section.  
105           (2) (a) A county ordinance adopted in accordance with this section applies to the  
106 incorporated and unincorporated areas of the county unless a municipality adopts an ordinance  
107 in accordance with this section.  
108           (b) A municipal ordinance adopted in accordance with this section supercedes, within  
109 the municipality's jurisdiction, a county ordinance adopted in accordance with this section.  
110           (3) An ordinance required or authorized by this section at a minimum shall:  
111           (a) designate a drinking water source protection zone in accordance with Subsection  
112 (4) for a groundwater source that is:  
113           (i) used by a public water system; and  
114           (ii) located within the county's or municipality's jurisdiction;  
115           (b) contain a zoning provision regulating the storage, handling, use, or production of a  
116 hazardous or toxic substance within a drinking water source protection zone designated under  
117 Subsection (3)(a); and  
118           (c) authorize a retail water supplier or wholesale water supplier to seek enforcement of

119 the ordinance provision required by Subsections (3)(a) and (b) in a district court located within  
120 the county or municipality if the county or municipality:

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

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

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

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

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

132 (5) A zoning provision required by Subsection (3)(b) is not subject to Subsection  
133 17-41-402(3).

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

136 (7) The board shall:

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

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

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

143 (ii) the effectiveness of the ordinance in retaining state primacy in regulating drinking  
144 water.

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**H.B. 40 2nd Sub. (Gray) - Safe Drinking Water Revisions**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill could create enforcement costs for local government of approximately \$200,000 annually.

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