

1 **AGRICULTURE AND INDUSTRIAL**
2 **PROTECTION AREA AMENDMENTS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: John G. Mathis**

6 Senate Sponsor: Margaret Dayton

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions relating to agriculture protection areas.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires county and municipal planning commissions to identify and consider
14 agriculture protection areas in drafting a land use element of a general plan and to
15 avoid uses that are inconsistent with or detrimental to agriculture in those areas;
16 ▶ clarifies that an owner of land in an agriculture protection area or industrial
17 protection area may withdraw some or all of the owner's land from the area;
18 ▶ prohibits a county or municipal legislative body from charging a fee for a petition to
19 remove land from an agriculture protection area or industrial protection area; and
20 ▶ prohibits state agencies and political subdivisions from designating a transportation
21 corridor over land in an agriculture protection area unless there is no other
22 reasonably comparable alternative.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **10-9a-403**, as last amended by Laws of Utah 2005, Chapter 245 and renumbered and
30 amended by Laws of Utah 2005, Chapter 254

31 **17-27a-403**, as last amended by Laws of Utah 2005, Chapter 245 and renumbered and
32 amended by Laws of Utah 2005, Chapter 254

33 **17-41-306**, as last amended by Laws of Utah 2006, Chapter 194

34 **17-41-406**, as last amended by Laws of Utah 2006, Chapter 194

35

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

37 Section 1. Section **10-9a-403** is amended to read:

38 **10-9a-403. Plan preparation.**

39 (1) (a) The planning commission shall provide notice, as provided in Section
40 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a
41 general plan or a comprehensive general plan amendment when the planning commission
42 initiates the process of preparing its recommendation.

43 (b) The planning commission shall make and recommend to the legislative body a
44 proposed general plan for the area within the municipality.

45 (c) The plan may include areas outside the boundaries of the municipality if, in the
46 planning commission's judgment, those areas are related to the planning of the municipality's
47 territory.

48 (d) Except as otherwise provided by law or with respect to a municipality's power of
49 eminent domain, when the plan of a municipality involves territory outside the boundaries of
50 the municipality, the municipality may not take action affecting that territory without the
51 concurrence of the county or other municipalities affected.

52 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,
53 and descriptive and explanatory matter, shall include the planning commission's
54 recommendations for the following plan elements:

55 (i) a land use element that:

56 (A) designates the long-term goals and the proposed extent, general distribution, and
57 location of land for housing, business, industry, agriculture, recreation, education, public
58 buildings and grounds, open space, and other categories of public and private uses of land as

59 appropriate; and

60 (B) may include a statement of the projections for and standards of population density
61 and building intensity recommended for the various land use categories covered by the plan;

62 (ii) a transportation and traffic circulation element consisting of the general location
63 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and
64 any other modes of transportation that the planning commission considers appropriate, all
65 correlated with the population projections and the proposed land use element of the general
66 plan; and

67 (iii) for cities, an estimate of the need for the development of additional moderate
68 income housing within the city, and a plan to provide a realistic opportunity to meet estimated
69 needs for additional moderate income housing if long-term projections for land use and
70 development occur.

71 (b) In drafting the moderate income housing element, the planning commission:

72 (i) shall consider the Legislature's determination that cities should facilitate a
73 reasonable opportunity for a variety of housing, including moderate income housing:

74 (A) to meet the needs of people desiring to live there; and

75 (B) to allow persons with moderate incomes to benefit from and fully participate in all
76 aspects of neighborhood and community life; and

77 (ii) may include an analysis of why the recommended means, techniques, or
78 combination of means and techniques provide a realistic opportunity for the development of
79 moderate income housing within the planning horizon, which means or techniques may include
80 a recommendation to:

81 (A) rezone for densities necessary to assure the production of moderate income
82 housing;

83 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
84 construction of moderate income housing;

85 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
86 income housing;

87 (D) consider general fund subsidies to waive construction related fees that are
88 otherwise generally imposed by the city;

89 (E) consider utilization of state or federal funds or tax incentives to promote the

90 construction of moderate income housing;

91 (F) consider utilization of programs offered by the Utah Housing Corporation within
92 that agency's funding capacity; and

93 (G) consider utilization of affordable housing programs administered by the
94 Department of Community and Culture.

95 (c) In drafting the land use element, the planning commission shall:

96 (i) identify and consider each agriculture protection area within the municipality; and

97 (ii) avoid proposing a use of land within an agriculture protection area that is

98 inconsistent with or detrimental to the use of the land for agriculture.

99 (3) The proposed general plan may include:

100 (a) an environmental element that addresses:

101 (i) the protection, conservation, development, and use of natural resources, including
102 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
103 and other natural resources; and

104 (ii) the reclamation of land, flood control, prevention and control of the pollution of
105 streams and other waters, regulation of the use of land on hillsides, stream channels and other
106 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
107 protection of watersheds and wetlands, and the mapping of known geologic hazards;

108 (b) a public services and facilities element showing general plans for sewage, water,
109 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
110 police and fire protection, and other public services;

111 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
112 programs for:

113 (i) historic preservation; ~~and~~

114 (ii) the diminution or elimination of blight; and

115 (iii) redevelopment of land, including housing sites, business and industrial sites, and
116 public building sites;

117 (d) an economic element composed of appropriate studies and forecasts, as well as an
118 economic development plan, which may include review of existing and projected municipal
119 revenue and expenditures, revenue sources, identification of basic and secondary industry,
120 primary and secondary market areas, employment, and retail sales activity;

121 (e) recommendations for implementing all or any portion of the general plan, including
122 the use of land use ordinances, capital improvement plans, community development and
123 promotion, and any other appropriate action;

124 (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2); and

125 (g) any other element the municipality considers appropriate.

126 Section 2. Section **17-27a-403** is amended to read:

127 **17-27a-403. Plan preparation.**

128 (1) (a) The planning commission shall provide notice, as provided in Section
129 17-27a-203, of its intent to make a recommendation to the county legislative body for a general
130 plan or a comprehensive general plan amendment when the planning commission initiates the
131 process of preparing its recommendation.

132 (b) The planning commission shall make and recommend to the legislative body a
133 proposed general plan for the unincorporated area within the county.

134 (c) (i) The plan may include planning for incorporated areas if, in the planning
135 commission's judgment, they are related to the planning of the unincorporated territory or of
136 the county as a whole.

137 (ii) Elements of the county plan that address incorporated areas are not an official plan
138 or part of a municipal plan for any municipality, unless it is recommended by the municipal
139 planning commission and adopted by the governing body of the municipality.

140 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,
141 and descriptive and explanatory matter, shall include the planning commission's
142 recommendations for the following plan elements:

143 (i) a land use element that:

144 (A) designates the long-term goals and the proposed extent, general distribution, and
145 location of land for housing, business, industry, agriculture, recreation, education, public
146 buildings and grounds, open space, and other categories of public and private uses of land as
147 appropriate; and

148 (B) may include a statement of the projections for and standards of population density
149 and building intensity recommended for the various land use categories covered by the plan;

150 (ii) a transportation and traffic circulation element consisting of the general location
151 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and

152 any other modes of transportation that the planning commission considers appropriate, all
153 correlated with the population projections and the proposed land use element of the general
154 plan; and

155 (iii) an estimate of the need for the development of additional moderate income
156 housing within the unincorporated area of the county, and a plan to provide a realistic
157 opportunity to meet estimated needs for additional moderate income housing if long-term
158 projections for land use and development occur.

159 (b) In drafting the moderate income housing element, the planning commission:

160 (i) shall consider the Legislature's determination that counties should facilitate a
161 reasonable opportunity for a variety of housing, including moderate income housing:

162 (A) to meet the needs of people desiring to live there; and

163 (B) to allow persons with moderate incomes to benefit from and fully participate in all
164 aspects of neighborhood and community life; and

165 (ii) may include an analysis of why the recommended means, techniques, or
166 combination of means and techniques provide a realistic opportunity for the development of
167 moderate income housing within the planning horizon, which means or techniques may include
168 a recommendation to:

169 (A) rezone for densities necessary to assure the production of moderate income
170 housing;

171 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
172 construction of moderate income housing;

173 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
174 income housing;

175 (D) consider general fund subsidies to waive construction related fees that are
176 otherwise generally imposed by the county;

177 (E) consider utilization of state or federal funds or tax incentives to promote the
178 construction of moderate income housing;

179 (F) consider utilization of programs offered by the Utah Housing Corporation within
180 that agency's funding capacity; and

181 (G) consider utilization of affordable housing programs administered by the
182 Department of Community and Culture.

- 183 (c) In drafting the land use element, the planning commission shall:
184 (i) identify and consider each agriculture protection area within the unincorporated area
185 of the county; and
186 (ii) avoid proposing a use of land within an agriculture protection area that is
187 inconsistent with or detrimental to the use of the land for agriculture.
188 (3) The proposed general plan may include:
189 (a) an environmental element that addresses:
190 (i) the protection, conservation, development, and use of natural resources, including
191 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
192 and other natural resources; and
193 (ii) the reclamation of land, flood control, prevention and control of the pollution of
194 streams and other waters, regulation of the use of land on hillsides, stream channels and other
195 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
196 protection of watersheds and wetlands, and the mapping of known geologic hazards;
197 (b) a public services and facilities element showing general plans for sewage, water,
198 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
199 police and fire protection, and other public services;
200 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
201 programs for:
202 (i) historic preservation; ~~and~~
203 (ii) the diminution or elimination of blight; and
204 (iii) redevelopment of land, including housing sites, business and industrial sites, and
205 public building sites;
206 (d) an economic element composed of appropriate studies and forecasts, as well as an
207 economic development plan, which may include review of existing and projected county
208 revenue and expenditures, revenue sources, identification of basic and secondary industry,
209 primary and secondary market areas, employment, and retail sales activity;
210 (e) recommendations for implementing all or any portion of the general plan, including
211 the use of land use ordinances, capital improvement plans, community development and
212 promotion, and any other appropriate action;
213 (f) provisions addressing any of the matters listed in Subsection 17-27a-401(2); and

214 (g) any other element the county considers appropriate.

215 Section 3. Section 17-41-306 is amended to read:

216 **17-41-306. Adding land to or removing land from an agriculture protection area**
217 **or industrial protection area.**

218 (1) (a) Any owner may add land to an existing agriculture protection area or industrial
219 protection area, as the case may be, by:

220 (i) filing a proposal with:

221 (A) the county legislative body, if the agriculture protection area or industrial
222 protection area and the land to be added are within the unincorporated part of the county; or

223 (B) the municipal legislative body, if the agriculture protection area or industrial
224 protection area and the land to be added are within a city or town; and

225 (ii) obtaining the approval of the applicable legislative body for the addition of the land
226 to the area.

227 (b) The applicable legislative body shall comply with the provisions for creating an
228 agriculture protection area or industrial protection area, as the case may be, in determining
229 whether or not to accept the proposal.

230 (2) (a) Any owner of land within an agriculture protection area or industrial protection
231 area may remove any or all of the land from [~~an~~] the agriculture protection area or industrial
232 protection area, respectively, by filing a petition for removal [~~of the land from the agriculture~~
233 ~~protection area or industrial protection area, respectively,~~] with the applicable legislative body.

234 (b) (i) The applicable legislative body:

235 (A) shall:

236 [~~(A)~~] (I) grant the petition for removal of land from an agriculture protection area or
237 industrial protection area, as the case may be, even if removal of the land would result in an
238 agriculture protection area or industrial protection area of less than the number of acres
239 established by the applicable legislative body as the minimum under Section 17-41-301; and

240 [~~(B)~~] (II) in order to give constructive notice of the removal to all persons who have,
241 may acquire, or may seek to acquire an interest in land in or adjacent to the agriculture
242 protection area or industrial protection area and the land removed from the agriculture
243 protection area or industrial protection area, file a legal description of the revised boundaries of
244 the agriculture protection area or industrial protection area with the county recorder of deeds

245 and the affected planning commission[-]; and

246 (B) may not charge a fee in connection with a petition to remove land from an
247 agriculture protection area or an industrial protection area.

248 (ii) The remaining land in the agriculture protection area or industrial protection area is
249 still an agriculture protection area or industrial protection area, respectively.

250 (3) (a) If a municipality annexes any land that is part of an agriculture protection area
251 or industrial protection area located in the unincorporated part of the county, the county
252 legislative body shall, within 30 days after the land is annexed, review the feasibility of that
253 land remaining in the agriculture protection area or industrial protection area according to the
254 procedures and requirements of Section 17-41-307.

255 (b) The county legislative body shall remove the annexed land from the agriculture
256 protection area or industrial protection area, as the case may be, if:

257 (i) the county legislative body concludes, after the review under Section 17-41-307,
258 that removal is appropriate; and

259 (ii) the owners of all the annexed land that is within the agriculture protection area or
260 industrial protection area consent in writing to the removal.

261 (c) Removal of land from an agriculture protection area or industrial protection area
262 under this Subsection (3) does not affect whether that land may be:

263 (i) included in a proposal under Section 17-41-301 to create an agriculture protection
264 area or industrial protection area within the municipality; or

265 (ii) added to an existing agriculture protection area or industrial protection area within
266 the municipality under Subsection (1).

267 Section 4. Section **17-41-406** is amended to read:

268 **17-41-406. Restrictions on state development projects.**

269 (1) Each state agency that plans any development project that might affect land within
270 an agriculture protection area or industrial protection area shall submit its development plan to:

271 (a) the advisory board of the agriculture protection area or industrial protection area,
272 respectively; and

273 (b) in the case of an agriculture protection area, the commissioner of agriculture and
274 food.

275 (2) The commissioner of agriculture and food, in the case of an agriculture protection

276 area, and the advisory board shall:

277 (a) review the state agency's proposed development plan; and

278 (b) recommend any modifications to the development project that would protect the
279 integrity of the agriculture protection area or industrial protection area, as the case may be, or
280 that would protect the agriculture protection area from nonfarm encroachment or the industrial
281 protection area from nonindustrial encroachment.

282 (3) A state agency or political subdivision may not designate or propose a
283 transportation corridor on land within an agriculture protection area unless there is no other
284 reasonably comparable alternative to the placement of the corridor on the land within the
285 agriculture protection area.

Legislative Review Note
as of 1-25-08 3:39 PM

Office of Legislative Research and General Counsel

H.B. 221 - Agriculture and Industrial Protection Area Amendments

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 likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
