

1 **WATER SOURCE PROTECTION AMENDMENTS**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael E. Noel**

5 Senate Sponsor: Stephen H. Urquhart

7 **LONG TITLE**

8 **General Description:**

9 This bill amends a section relating to a water source protection ordinance.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ limits the requirement to adopt a water source protection ordinance to counties of
- 13 the first or second class; and
- 14 ▶ limits the authorization of a municipality to adopt a water source protection
- 15 ordinance to municipalities located within a county of the first or second class.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **19-4-113**, as enacted by Laws of Utah 2008, Chapter 51

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

25 Section 1. Section **19-4-113** is amended to read:

26 **19-4-113. Water source protection ordinance required.**

27 (1) (a) Before May 3, 2010, a first or second class county shall:

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

29 (A) considering the rules established by the board to protect a watershed or water

30 source used by a public water system;

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

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

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

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

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

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

41 (b) A municipality in a first or second class county may adopt an ordinance that a first
42 or second class county is required to adopt by this section by following the procedures and
43 requirements of this section.

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

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

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

50 (a) designate a drinking water source protection zone in accordance with Subsection

51 (4) for a groundwater source that is:

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

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

54 (b) contain a zoning provision regulating the storage, handling, use, or production of a
55 hazardous or toxic substance within a drinking water source protection zone designated under
56 Subsection (3)(a); and

57 (c) authorize a retail water supplier or wholesale water supplier to seek enforcement of

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

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

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

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

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

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

71 (5) A zoning provision required by Subsection (3)(b) is not subject to Subsection
72 17-41-402(3).

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

75 (7) The board shall:

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

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

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

82 (ii) the effectiveness of the ordinance in retaining state primacy in regulating drinking
83 water.