

1                   **AGRICULTURE AND INDUSTRIAL PROTECTION AREAS**

2                                   **AMENDMENTS**

3   2019 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Kim F. Coleman**

6                                   Senate Sponsor: \_\_\_\_\_



8   **LONG TITLE**

9   **General Description:**

10           This bill amends provisions in Title 17, Chapter 41, Agriculture and Industrial  
11 Protection Areas.

12 **Highlighted Provisions:**

13           This bill:

- 14           ▶ establishes a process by which a person may challenge a legislative body's rejection
- 15 of a proposal to create an agriculture protection area, industrial protection area, or
- 16 mining protection area.

17 **Money Appropriated in this Bill:**

18           None

19 **Other Special Clauses:**

20           None

21 **Utah Code Sections Affected:**

22 ENACTS:

23           **17-41-308**, Utah Code Annotated 1953

24           **17-41-309**, Utah Code Annotated 1953



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

27           Section 1. Section **17-41-308** is enacted to read:



28 17-41-308. District court review.

29 (1) As used in this section, "affected person" means a person who signs a proposal  
30 under Subsection 17-41-301(1)(b).

31 (2) No later than 30 days after the day on which an applicable legislative body rejects a  
32 proposal under Subsection 17-41-304(3)(a), an affected person may challenge the applicable  
33 legislative body's rejection by filing a petition for review with the district court.

34 (3) When reviewing a challenge described in Subsection (2), a court shall:

35 (a) presume that a rejection of a proposal to create an agriculture protection area,  
36 industrial protection area, or mining protection area under the authority of this chapter is valid;

37 (b) determine only whether the rejection is:

38 (i) arbitrary and capricious; or

39 (ii) illegal; and

40 (c) uphold the rejection unless the rejection is:

41 (i) arbitrary and capricious; or

42 (ii) illegal.

43 (4) An applicable legislative body's rejection is:

44 (a) arbitrary and capricious if:

45 (i) the rejection is not supported by substantial evidence in the record; or

46 (ii) it is reasonably debatable that the agriculture protection area, industrial protection  
47 area, or mining protection area is consistent with this chapter; and

48 (b) illegal if the rejection is:

49 (i) based on an incorrect interpretation of this chapter; or

50 (ii) expressly preempted by or contrary to state or federal law.

51 (5) (a) An applicable legislative body shall transmit to the reviewing court the record of  
52 the applicable legislative body's proceedings, including minutes, findings, orders, and, if  
53 available, a true and correct transcript of the applicable legislative body's proceeding.

54 (b) If an applicable legislative body's proceeding is recorded, a transcript of that  
55 recording is a true and correct transcript for the purposes of this Subsection (5).

56 (6) (a) (i) If there is a record, the district court's review is limited to the record that the  
57 applicable legislative body provides.

58 (ii) The court may not accept or consider any evidence outside the record of the

59 applicable legislative body unless:

60 (A) the evidence was offered to the applicable legislative body; and

61 (B) the court determines that the applicable legislative body improperly excluded the  
62 evidence.

63 (b) If there is no record, the court may call witnesses and take evidence.

64 Section 2. Section **17-41-309** is enacted to read:

65 **17-41-309. Enforcement.**

66 (1) A county, municipality, or any adversely affected person in the county or  
67 municipality in which a violation of this chapter or ordinances enacted under the authority of  
68 this chapter occur or are about to occur may, in addition to other remedies provided by law,  
69 institute injunctions, mandamus, abatement, or any other appropriate actions.

70 (2) A county or municipality need only establish the violation to obtain an injunction  
71 described in Subsection (1).