

## **Constitutional Property Right and the Regulation of Watershed Protection Area: A Comparative Study of the German Constitution and Water Laws**

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### **Abstract**

This research aims to analyze the central issues on zoning and compensation of water supply watersheds in Taiwan, and that based on a comparative study of the German constitutional and water laws. The constitutional property-clause requires in first meaning, that the intervention of the state must stem from compelling governmental interests, and the instruments to be chosen must be necessary and narrowly tailored. This demands a review of the huge watershed area, all possible methods for deregulating in zoning should be taken into account. Drinking Water Act of Taiwan, especially § 11, when it is to be revised, should adopt this institution. Even though the land-using in watersheds is restricted to a lower-level than in average, It constitutes generally not a constitutional compensation, and that because of the nature of the land and the social restriction of property right. However, with the revision of The Federal Water Law in 1986, § 19 IV was adopted, which is not a property right-based compensation, but rather a discretionary choice of the parliament. The interpretation of Drinking Water Act of Taiwan, especially § 12, 12-1 and 12-2, could be enlightened through the comparison.

**Keywords: Property Protection, property right, Regulatory Takings Doctrine, Land Use Regulation, special sacrifice, compensation, watershed, restricted areas, watershed management**

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