

MUNICIPAL DISCONNECTION AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This bill modifies provisions of the Utah Municipal Code related to disconnection.

Highlighted Provisions:

This bill:

- ▶ provides that the mayor of a municipality in which an area proposed for disconnection is located may file a request for disconnection;
- ▶ modifies the name, address, and signature requirement for a request for disconnection; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-501, as last amended by Laws of Utah 2009, Chapter 388

10-2-502.5, as last amended by Laws of Utah 2010, Chapter 90

10-2-502.7, as renumbered and amended by Laws of Utah 2003, Chapter 279

10-2-509, as enacted by Laws of Utah 1977, Chapter 48

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

Section 1. Section **10-2-501** is amended to read:

30 **10-2-501. Municipal disconnection -- Definitions -- Request for disconnection --**
31 **Requirements upon filing request.**

32 (1) As used in this part [~~"petitioners"~~] "petitioner" means [~~persons who~~]:

33 (a) one or more persons who:

34 (i) own title to real property within the area proposed for disconnection; and

35 ~~[(b) have signed]~~ (ii) sign a request for disconnection proposing to disconnect [~~that~~
36 the area proposed for disconnection from the municipality~~[-];~~ or

37 (b) the mayor of the municipality within which the area proposed for disconnection is
38 located who signs a request for disconnection proposing to disconnect the area proposed for
39 disconnection from the municipality.

40 (2) (a) [~~Petitioners~~] A petitioner proposing to disconnect an area within and lying on
41 the borders of a municipality shall file with that municipality's legislative body a request for
42 disconnection.

43 (b) Each request for disconnection shall:

44 (i) contain the names, addresses, and signatures of the owners of more than 50% of
45 [~~the~~] any private real property in the area proposed for disconnection;

46 (ii) give the reasons for the proposed disconnection;

47 (iii) include a map or plat of the territory proposed for disconnection; and

48 (iv) designate between one and five persons with authority to act on the [~~petitioners'~~
49 petitioner's behalf in the proceedings.

50 (3) Upon filing the request for disconnection, [~~petitioners~~] the petitioner shall:

51 (a) cause notice of the request to be published:

52 (i) once a week for three consecutive weeks in a newspaper of general circulation
53 within the municipality; and

54 (ii) in accordance with Section 45-1-101 for three weeks;

55 (b) cause notice of the request to be mailed to each owner of real property located
56 within the area proposed to be disconnected; and

57 (c) deliver a copy of the request to the legislative body of the county in which the area

58 proposed for disconnection is located.

59 Section 2. Section **10-2-502.5** is amended to read:

60 **10-2-502.5. Hearing on request for disconnection -- Determination by municipal**
61 **legislative body -- Petition in district court.**

62 (1) Within 30 calendar days after the last publication of notice required under
63 Subsection **10-2-501**(3)(a), the legislative body of the municipality in which the area proposed
64 for disconnection is located shall hold a public hearing.

65 (2) At least seven calendar days before the hearing date, the municipal legislative body
66 shall provide notice of the public hearing:

67 (a) in writing to the [~~petitioners~~] petitioner and to the legislative body of the county in
68 which the area proposed for disconnection is located; and

69 (b) by publishing a notice:

70 (i) (A) in a newspaper of general circulation within the municipality; or

71 (B) if there is no newspaper as described in Subsection (2)(b)(i)(A), then by posting
72 notice of the hearing in at least three public places within the municipality; and

73 (ii) on the Utah Public Notice Website created in Section **63F-1-701**.

74 (3) In the public hearing, any person may speak and submit documents regarding the
75 disconnection proposal.

76 (4) Within 45 calendar days of the hearing, the municipal legislative body shall:

77 (a) determine whether to grant the request for disconnection; and

78 (b) if the municipality determines to grant the request, adopt an ordinance approving
79 disconnection of the area from the municipality.

80 (5) (a) A petition against the municipality challenging the municipal legislative body's
81 determination under Subsection (4) may be filed in district court by:

82 (i) [~~petitioners~~] the petitioner; or

83 (ii) the county in which the area proposed for disconnection is located.

84 (b) Each petition under Subsection (5)(a) shall include a copy of the request for
85 disconnection.

86 Section 3. Section 10-2-502.7 is amended to read:

87 **10-2-502.7. Court action.**

88 (1) After the filing of a petition under Section 10-2-502.5 and a response to the
89 petition, the court shall, upon request of a party or upon its own motion, conduct a court
90 hearing.

91 (2) At the hearing, the court shall hear evidence regarding the viability of the
92 disconnection proposal.

93 (3) The burden of proof is on ~~[petitioners who must]~~ the petitioner to prove, by a
94 preponderance of the evidence:

95 (a) the viability of the disconnection;

96 (b) that justice and equity require that the territory be disconnected from the
97 municipality;

98 (c) that the proposed disconnection will not:

99 (i) leave the municipality with an area within its boundaries for which the cost,
100 requirements, or other burdens of providing municipal services would materially increase over
101 previous years;

102 (ii) make it economically or practically unfeasible for the municipality to continue to
103 function as a municipality; or

104 (iii) leave or create one or more islands or peninsulas of unincorporated territory; and

105 (d) that the county in which the area proposed for disconnection is located is capable,
106 in a cost-effective manner and without materially increasing the county's costs of providing
107 municipal services, of providing to the area the services that the municipality will no longer
108 provide to the area due to the disconnection.

109 (4) In determining whether ~~[petitioners have]~~ the petitioner has met ~~[their]~~ the
110 petitioner's burden of proof with respect to Subsections (3)(c)(i) and (ii), the court shall
111 consider all relevant factors, including the effect of the proposed disconnection on:

112 (a) the municipality or community as a whole;

113 (b) adjoining property owners;

114 (c) existing or projected streets or public ways;

115 (d) water mains and water services;

116 (e) sewer mains and sewer services;

117 (f) law enforcement;

118 (g) zoning; and

119 (h) other municipal services.

120 (5) The court's order either ordering or rejecting disconnection shall be in writing with
121 findings and reasons.

122 Section 4. Section **10-2-509** is amended to read:

123 **10-2-509. Costs.**

124 Each party to the court action for disconnection shall pay its own witnesses and
125 [~~petitioners~~] the petitioner shall pay all other costs.