

MUNICIPAL ADMINISTRATIVE PROCEEDINGS

AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to municipal administrative proceedings.

Highlighted Provisions:

This bill:

- ▶ authorizes a municipality to establish an administrative proceeding; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-2-301, as last amended by Laws of Utah 2011, Chapter 22

78A-5-102, as last amended by Laws of Utah 2010, Chapter 34

REPEALS AND REENACTS:

10-3-703.7, as last amended by Laws of Utah 2003, Chapter 156

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

Section 1. Section **10-3-703.7** is repealed and reenacted to read:



28 **10-3-703.7. Administrative proceedings.**

29 ~~H~~→ (1) ←~~H~~ A municipality may adopt an ordinance establishing an administrative
29a proceeding to

30 review and decide a violation of a civil municipal ordinance.

30a ~~H~~→ (2) **An ordinance adopted in accordance with Subsection (1) shall provide due process**
30b **for parties participating in the administrative proceeding.** ←~~H~~

31 Section 2. Section **78A-2-301** is amended to read:

32 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

33 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
34 court of record not governed by another subsection is \$360.

35 (b) The fee for filing a complaint or petition is:

36 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,
37 interest, and attorney fees is \$2,000 or less;

38 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
39 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

40 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

41 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
42 4, Separate Maintenance; and

43 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5.

44 (c) The fee for filing a small claims affidavit is:

45 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
46 interest, and attorney fees is \$2,000 or less;

47 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
48 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

49 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
50 interest, and attorney fees is \$7,500 or more.

51 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
52 complaint, or other claim for relief against an existing or joined party other than the original
53 complaint or petition is:

54 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
55 \$2,000 or less;

56 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is
57 greater than \$2,000 and less than \$10,000;

58 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is

59 \$10,000 or more, or the party seeks relief other than monetary damages; and

60 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
61 Chapter 4, Separate Maintenance.

62 (e) The fee for filing a small claims counter affidavit is:

63 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
64 \$2,000 or less;

65 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
66 greater than \$2,000, but less than \$7,500; and

67 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
68 \$7,500 or more.

69 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
70 action already before the court is determined under Subsection (1)(b) based on the amount
71 deposited.

72 (g) The fee for filing a petition is:

73 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims
74 department; and

75 (ii) \$65 for an appeal of a municipal administrative determination

75a **H→ [f] in accordance with**

76 **Section 10-3-703.7 [f] ←H .**

77 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
78 petition for writ of certiorari is \$225.

79 (i) The fee for filing a petition for expungement is \$135.

80 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
81 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
82 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
83 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
84 Act.

85 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
86 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
87 Defense Account, as provided in Section 51-9-408.

88 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
89 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided

90 in Section 78B-6-209.

91 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
92 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
93 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

94 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
95 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
96 Security Account, as provided in Section 78A-2-602.

97 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
98 United States is \$35.

99 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is
100 50% of the fee for filing an original action seeking the same relief.

101 (m) The fee for filing probate or child custody documents from another state is \$35.

102 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
103 Utah State Tax Commission is \$30.

104 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
105 or a judgment, order, or decree of an administrative agency, commission, board, council, or
106 hearing officer of this state or of its political subdivisions other than the Utah State Tax
107 Commission, is \$50.

108 (o) The fee for filing a judgment by confession without action under Section
109 78B-5-205 is \$35.

110 (p) The fee for filing an award of arbitration for confirmation, modification, or
111 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
112 action before the court is \$35.

113 (q) The fee for filing a petition or counter-petition to modify a decree of divorce is
114 \$100.

115 (r) The fee for filing any accounting required by law is:

116 (i) \$15 for an estate valued at \$50,000 or less;

117 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

118 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

119 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

120 (v) \$175 for an estate valued at more than \$168,000.

- 121 (s) The fee for filing a demand for a civil jury is \$250.
- 122 (t) The fee for filing a notice of deposition in this state concerning an action pending in
123 another state under Utah Rule of Civil Procedure 26 is \$35.
- 124 (u) The fee for filing documents that require judicial approval but are not part of an
125 action before the court is \$35.
- 126 (v) The fee for a petition to open a sealed record is \$35.
- 127 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
128 addition to any fee for a complaint or petition.
- 129 (x) (i) The fee for a petition for authorization for a minor to marry required by Section
130 30-1-9 is \$5.
- 131 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,
132 Part 8, Emancipation, is \$50.
- 133 (y) The fee for a certificate issued under Section 26-2-25 is \$8.
- 134 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per
135 page.
- 136 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
137 per page.
- 138 (bb) The Judicial Council shall by rule establish a schedule of fees for copies of
139 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
140 Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall
141 be credited to the court as a reimbursement of expenditures.
- 142 (cc) There is no fee for services or the filing of documents not listed in this section or
143 otherwise provided by law.
- 144 (dd) Except as provided in this section, all fees collected under this section are paid to
145 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
146 accepts the pleading for filing or performs the requested service.
- 147 (ee) The filing fees under this section may not be charged to the state, its agencies, or
148 political subdivisions filing or defending any action. In judgments awarded in favor of the
149 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
150 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
151 collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment,

152 order, fine, tax, lien, or other penalty and costs permitted by law.

153 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
154 shall transfer all revenues representing the difference between the fees in effect after May 2,
155 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
156 Facilities Construction and Management Capital Projects Fund.

157 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
158 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
159 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
160 initiate the development of a courts complex in Salt Lake City.

161 (B) If the Legislature approves funding for construction of a courts complex in Salt
162 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
163 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
164 (2)(a)(ii) to construct a courts complex in Salt Lake City.

165 (C) After the courts complex is completed and all bills connected with its construction
166 have been paid, the Division of Facilities Construction and Management shall use any money
167 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
168 District Court building.

169 (iii) The Division of Facilities Construction and Management may enter into
170 agreements and make expenditures related to this project before the receipt of revenues
171 provided for under this Subsection (2)(a)(iii).

172 (iv) The Division of Facilities Construction and Management shall:

173 (A) make those expenditures from unexpended and unencumbered building funds
174 already appropriated to the Capital Projects Fund; and

175 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
176 under this Subsection (2).

177 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
178 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
179 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
180 account.

181 (c) The Division of Finance shall deposit all revenues received from the court
182 administrator into the restricted account created by this section.

183 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
184 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
185 Vehicles, in a court of record to the Division of Facilities Construction and Management
186 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be
187 calculated on the balance of the fine or bail forfeiture paid.

188 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
189 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
190 a court of record to the Division of Finance for deposit in the restricted account created by this
191 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
192 balance of the fine or bail forfeiture paid.

193 (3) (a) There is created within the General Fund a restricted account known as the State
194 Courts Complex Account.

195 (b) The Legislature may appropriate money from the restricted account to the
196 administrator of the courts for the following purposes only:

197 (i) to repay costs associated with the construction of the court complex that were
198 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

199 (ii) to cover operations and maintenance costs on the court complex.

200 Section 3. Section **78A-5-102** is amended to read:

201 **78A-5-102. Jurisdiction -- Appeals.**

202 (1) The district court has original jurisdiction in all matters civil and criminal, not
203 excepted in the Utah Constitution and not prohibited by law.

204 (2) The district court judges may issue all extraordinary writs and other writs necessary
205 to carry into effect their orders, judgments, and decrees.

206 (3) The district court has jurisdiction over matters of lawyer discipline consistent with
207 the rules of the Supreme Court.

208 (4) The district court has jurisdiction over all matters properly filed in the circuit court
209 prior to July 1, 1996.

210 (5) The district court has appellate jurisdiction over judgments and orders of the justice
211 court as outlined in Section 78A-7-118 and small claims appeals filed pursuant to Section
212 78A-8-106.

213 (6) Appeals from the final orders, judgments, and decrees of the district court are under

214 Sections 78A-3-102 and 78A-4-103.

215 (7) The district court has jurisdiction to review:

216 (a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4,
217 Administrative Procedures Act, and shall comply with the requirements of that chapter, in its
218 review of agency adjudicative proceedings; and

219 (b) municipal administrative proceedings

219a **Ĥ→ [f] in accordance with Section 10-3-703.7 [j] ←Ĥ .**

220 (8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in
221 class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:

222 (a) there is no justice court with territorial jurisdiction;

223 (b) the offense occurred within the boundaries of the municipality in which the district
224 courthouse is located and that municipality has not formed, or has not formed and then
225 dissolved, a justice court; or

226 (c) they are included in an indictment or information covering a single criminal episode
227 alleging the commission of a felony or a class A misdemeanor.

228 (9) If the district court has subject matter jurisdiction pursuant to Subsection (5) or (8),
229 it also has jurisdiction over offenses listed in Section 78A-7-106 even if those offenses are
230 committed by a person 16 years of age or older.

231 (10) The district court has jurisdiction of actions under Title 78B, Chapter 7, Part 2,
232 Child Protective Orders, if the juvenile court transfers the case to the district court.

Legislative Review Note
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Office of Legislative Research and General Counsel