



Keli Beard &lt;kelibeard@utah.gov&gt;

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**Fwd: MUNICIPAL DISCONNECTION AMENDMENTS**

1 message

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**Keli Beard** <kelibeard@utah.gov>  
To: Bruce Baird <bbaird@difficultdirt.com>

Tue, Feb 14, 2023 at 2:26 PM

Hi Bruce - Utah Code 10-2-501(2)(b) requires that the disconnection petition include the signature of 50% of the private landowners in the area. Before 2016, the statute required the signature of 50% of the landowners, which would have allowed SITLA to bring the petition on its own. It was amended in 2016 to qualify real property as "private". I've included a copy of the bill. I watched the hearing on the bill a few years ago when we were considering bringing a disconnection request and my recollection is that the change was aimed at preventing the federal government from stopping a disconnection by failing to sign the petition.

Hope this helps.  
Keli

----- Forwarded message -----

From: <Westlaw@westlaw.com>  
Date: Tue, Feb 14, 2023 at 2:18 PM  
Subject: MUNICIPAL DISCONNECTION AMENDMENTS  
To: <kelibeard@utah.gov>

Keli Beard sent you content from Westlaw Edge.  
Please see the attached file.

Item: MUNICIPAL DISCONNECTION AMENDMENTS  
Citation: 2016 Utah Laws Ch. 406 (H.B. 248)  
Sent On: Tuesday, February 14, 2023  
Sent By: Keli Beard  
Client ID: SITLA

Note:

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 **MUNICIPAL DISCONNECTION AMENDMENTS.pdf**  
119K

2016 Utah Laws Ch. 406 (H.B. 248)

UTAH 2016 SESSION LAWS

61st LEGISLATURE, 2016 GENERAL SESSION

Additions are indicated by **Text**; deletions by  
~~Text~~ .

Vetoed material is indicated by ~~Text~~ ;  
stricken material by ~~Text~~ .

Ch. 406

H.B. 248

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:

<< UT ST § 10–2–501 >>

**§ 10–2–501. Municipal disconnection—Definitions—Request for disconnection—Requirements upon filing request**

(1) As used in this part “petitioners” **“petitioner”** means persons who :

(a) **one or more persons who:**

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

~~(b) have signed~~ (ii) **sign** a request for disconnection proposing to disconnect that **the area proposed for disconnection** from the municipality; **; or**

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

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

(b) Each request for disconnection shall:

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

(ii) give the reasons for the proposed disconnection;

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

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

(3) Upon filing the request for disconnection, ~~petitioners~~ **the petitioner** shall:

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

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

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

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

(c) deliver a copy of the request to the legislative body of the county in which the area proposed for disconnection is located.

Section 2. Section 10–2–502.5 is amended to read:

<< UT ST § 10–2–502.5 >>

**§ 10–2–502.5. Hearing on request for disconnection—Determination by municipal legislative body—Petition in district court**

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

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

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

(b) by publishing a notice:

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

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

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

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

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

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

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

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

(i) ~~petitioners~~ **the petitioner**; or

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

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

Section 3. Section 10–2–502.7 is amended to read:

<< UT ST § 10–2–502.7 >>

**§ 10–2–502.7. Court action**

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

- (2) At the hearing, the court shall hear evidence regarding the viability of the disconnection proposal.
- (3) The burden of proof is on ~~petitioners who must~~ **the petitioner to** prove, by a preponderance of the evidence:
  - (a) the viability of the disconnection;
  - (b) that justice and equity require that the territory be disconnected from the municipality;
  - (c) that the proposed disconnection will not:
    - (i) leave the municipality with an area within its boundaries for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years;
    - (ii) make it economically or practically unfeasible for the municipality to continue to function as a municipality; or
    - (iii) leave or create one or more islands or peninsulas of unincorporated territory; and
  - (d) that the county in which the area proposed for disconnection is located is capable, in a cost-effective manner and without materially increasing the county's costs of providing municipal services, of providing to the area the services that the municipality will no longer provide to the area due to the disconnection.
- (4) In determining whether ~~petitioners have~~ **the petitioner has** met their **the petitioner's** burden of proof with respect to Subsections (3)(c)(i) and (ii), the court shall consider all relevant factors, including the effect of the proposed disconnection on:
  - (a) the municipality or community as a whole;
  - (b) adjoining property owners;
  - (c) existing or projected streets or public ways;
  - (d) water mains and water services;
  - (e) sewer mains and sewer services;
  - (f) law enforcement;
  - (g) zoning; and
  - (h) other municipal services.
- (5) The court's order either ordering or rejecting disconnection shall be in writing with findings and reasons.

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

<< UT ST § 10-2-509 >>

**§ 10-2-509. Costs**

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

Effective May 10, 2016.

Approved March 30, 2016

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