

Representative Kay J. Christofferson proposes the following substitute bill:

REMOVAL OR DISRUPTION OF SURVEY MONUMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David G. Buxton

House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill imposes certain requirements on any work that would disturb certain established survey monuments.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a county to require a permit to disturb certain established survey monuments;
- ▶ requires a person to notify the county surveyor and obtain any required permit before disturbing certain established monuments;
- ▶ prohibits a person from performing certain construction work within a certain distance of certain established survey monuments without a permit;
- ▶ allows a county to charge a partially refundable permit fee and establishes conditions and requirements related to the fee;
- ▶ establishes county and permit holder responsibility in the event an established survey monument is disturbed;
- ▶ imposes requirements for drawings or plans for construction work occurring within a certain distance of certain established survey monuments;
- ▶ allows a county to establish certain civil penalties; and



26 ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 17-23-14, as last amended by Laws of Utah 2017, Chapter 181

34 17-23-15, as last amended by Laws of Utah 2016, Chapter 303



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

37 Section 1. Section 17-23-14 is amended to read:

38 **17-23-14. Disturbed corners -- County surveyor to be notified -- Coordination**
39 **with certain state agencies.**

40 (1) As used in this section:

41 (a) (i) "Construction" means:

42 (A) the preparation of an area for a building or structure, including demolition, site
43 clearance, exploration, drilling, boring, and excavation; and

44 (B) the carrying out of any building, civil engineering, or engineering work for the
45 assembly or maintenance of any building or structure.

46 (ii) "Construction" does not mean normal maintenance of a roadway and related
47 infrastructure that does not require construction drawings.

48 [~~(a)~~] (b) "Corner" means the same as that term is defined in Section 17-23-17.5.

49 (c) "Government survey monument" means a monument that:

50 (i) a government entity maintains; or

51 (ii) the county surveyor sets in accordance with Section 17-23-13.

52 [~~(b)~~] (d) "Monument" means the same as that term is defined in Section 17-23-17.5.

53 (e) "Public land survey government corner" means:

54 (i) a corner that the county surveyor establishes or reestablishes under Subsection

55 17-23-1(4);

56 (ii) a section corner, quarter section corner, or other corner that a government survey

57 establishes; or

58 (iii) a public land survey corner as that term is defined in Section 17-23-17.5.

59 (f) "Structure" means any organization of parts, production, or pieces artificially built
60 up or joined together to preserve or alter any natural feature, including roads, railways, tunnels,
61 bridges, underground or overground pipelines or cables, river works, drainage works,
62 earthworks, retaining walls, walls, dams, tanks, towers, and fences.

63 (2) A person who finds it necessary to disturb any established government survey
64 monument or public land survey government corner location for any reason, including the
65 improvement of a road, shall notify the county surveyor at least five business days before the
66 day on which the person disturbs the government survey monument or public land survey
67 government corner location.

68 (3) (a) A county legislative body may enact an ordinance requiring a person to obtain a
69 permit before performing construction work within 30 feet of an established government
70 survey monument or public land survey government corner location.

71 (b) A county legislative body shall ensure that an ordinance described in Subsection
72 (3)(a) provides for an exemption from the permitting requirement in the event of an emergency
73 situation that poses a threat to public health or safety.

74 (c) (i) A county may charge a fee for a permit described in Subsection (3)(a), in
75 accordance with this Subsection (3)(c).

76 (ii) The fee described in Subsection (3)(c)(i) may not exceed \$400 per government
77 survey monument or public land survey government corner location.

78 (iii) If, after completion of the construction work, the government survey monument or
79 public land survey government corner location is undisturbed, the county shall disperse a
80 partial fee refund of \$250 to the permit holder.

81 (iv) If the construction work disturbs the government survey monument or public land
82 survey government corner location related to the permit:

83 (A) the permit holder is responsible for the necessary construction work and
84 installation of the government survey monument or public land survey government corner
85 location; and

86 (B) the county shall provide to the permit holder the necessary materials for the permit
87 holder's work described in Subsection (3)(c)(iv)(A).

88 (d) A county shall provide a system allowing a person to apply electronically for and
89 the county to approve or deny electronically a permit described in Subsection (3)(a).

90 (4) A person may not perform any construction work within 30 feet of a government
91 survey monument or public land survey government corner location unless the person obtains
92 any permit the county requires before beginning construction work within 30 feet of the
93 government survey monument or public land survey government corner location, together with
94 any additional permits that applicable law may require.

95 (5) A person who produces drawings or plans for construction work to be performed
96 within 30 feet of a government survey monument or public land survey government corner
97 location shall show, on the face of the drawings or plans:

98 (a) the government survey monument or public land survey government corner
99 location; and

100 (b) an accompanying note exhibiting compliance with Subsections (2) and (4).

101 ~~[(3)]~~ (6) A person who finds a monument that needs rehabilitation shall notify the
102 county surveyor within five business days after the day on which the person finds the
103 monument.

104 ~~[(4)]~~ (7) The county surveyor or the county surveyor's designee shall:

105 (a) consistent with federal law or rule, reconstruct or rehabilitate the monument for the
106 corner by lowering and witnessing the corner or placing another monument and witness over
107 the existing monument so that the monument:

108 (i) is left in a physical condition to remain as permanent a monument as is reasonably
109 possible; and

110 (ii) may be reasonably located at all times in the future; and

111 (b) file the record of each reconstruction or rehabilitation ~~[under]~~ in accordance with
112 Subsection ~~[(4)]~~ (7)(a).

113 (8) (a) The county may, by ordinance, establish a civil penalty for a violation of:

114 (i) any provision of Subsection (4) or (5); or

115 (ii) any ordinance that the county adopts under Subsection (3).

116 (b) It is a defense to the civil penalty described in Subsection (8)(a) that the violation
117 related to an emergency situation that posed a threat to public health or safety.

118 Section 2. Section 17-23-15 is amended to read:

119 **17-23-15. Removal, destruction, or defacement of monuments or corners as**
120 **infraction -- Costs.**

121 (1) A person may not willfully or negligently remove, destroy, or deface any
122 government survey monument, corner, or witness corner.

123 (2) Any person who violates this section is guilty of an infraction and is additionally
124 responsible for:

125 (a) the costs of any necessary legal action; [~~and~~]

126 (b) the costs of reestablishing the survey monument, corner, or witness corner[-]; and

127 (c) any civil penalty that the county establishes for a violation of:

128 (i) any provision of this section; or

129 (ii) any ordinance that the county adopts under Section [17-23-14](#).