

Assessment Areas Legislation 2015

Taxes vs. Fees

Taxes: Taxes are levied generally and uniformly based on taxing criteria (income, sales, property valuation etc), and are subject to Utah uniform and equal requirements, the parameters of the Tax Code, and Truth in taxation.

Fees: Local entities may charge fees that are not considered a tax and are not subject to Truth in Taxation. Fees however are specific and are assessed based on the cost of services delivered and/or the value of benefits received. They are required to be "proportional" to those costs and benefits. If not they are a tax, and do not qualify to be treated as fees.

Assessment Areas and Assessment Area Fees

The code is designed to provide local entities with a legal vehicle to provide services or benefits to a particular area or classification of properties, and to **assess fees** to those properties benefited, in a manner proportional to the benefit received.

Changes needed

Unless assessments are levied proportionally based on the benefits received; the assessment is arguably not a fee, but a tax, and should not be exempt from Truth in Taxation.

Current code has provided a sometimes overly convenient tool for the creation of some "fee" areas that are:

- 1) Easy to create
- 2) Difficult for citizens to defeat
- 3) Disproportionally assessed, thereby violating the "non tax" "fee" status.

The process should provide:

- 1) Evidence of proportionality that qualifies the assessment as a fee.
- 2) Information, notice, and hearings to inform those affected.
- 3) Reasonable protest periods and sensible "adequate protest" thresholds.

What this bill does

- 1) Adopts a legal "roughly proportional" standard for the fee assessment process.
- 2) If bonding is involved, requires disclosure of estimated bond amount, rate, and term.
- 3) Requires disclosure of government properties that may receive benefits or improvements, but will not be assessed.
- 4) Prohibits the use of assessment fees for an increase in improvement size or capacity to serve property outside of the assessment area.
- 5) Reduces the "Adequate Protest" threshold from 50% to 40%.
- 6) Permits local entities to reconfigure an assessment area boundary during the process, without starting over, provided that changes do not result in an increase in the individual assessments for those within the adjusted boundaries.
- 7) While providing increased notice, disclosure, and protest opportunities up front, the bill limits legal challenges after the process is complete.

Note: The hearing and protest periods were addressed in 2012 legislation.