

**Superseded 5/12/2015**

**11-42-401 Levying an assessment -- Prerequisites -- Assessment list.**

- (1)
  - (a) If a local entity has designated an assessment area in accordance with Part 2, Designating an Assessment Area, the local entity may levy an assessment against property within that assessment area as provided in this part.
  - (b) If a local entity that is a municipality or county designates an assessment area in accordance with this chapter, the municipality or county may levy an assessment and collect the assessment in accordance with Subsection 11-42-202(1)(f)(i) or (ii).
  - (c) An assessment billed by a municipality or county in the same manner as a property tax and included on a property tax notice in accordance with Subsection 11-42-202(1)(f)(ii) is enforced in accordance with, constitutes a lien in accordance with, and is subject to other penalty provisions in accordance with this chapter.
- (2) Before a governing body may adopt a resolution or ordinance levying an assessment against property within an assessment area:
  - (a) the governing body shall:
    - (i) subject to Subsection (3), prepare an assessment list designating:
      - (A) each parcel of property proposed to be assessed; and
      - (B) the amount of the assessment to be levied against the property;
    - (ii) appoint a board of equalization as provided in Section 11-42-403; and
    - (iii) give notice as provided in Section 11-42-402; and
  - (b) the board of equalization, appointed under Section 11-42-403, shall hold hearings, make any corrections it considers appropriate to an assessment, and report its findings to the governing body as provided in Section 11-42-403.
- (3)
  - (a) The governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) at any time after:
    - (i) the governing body has determined the estimated or actual operation and maintenance costs, if the assessment is to pay operation and maintenance costs;
    - (ii) the governing body has determined the estimated or actual economic promotion costs described in Section 11-42-206, if the assessment is to pay for economic promotion activities; or
    - (iii) for any other assessment, the governing body has determined:
      - (A) the estimated or actual acquisition and construction costs of all proposed improvements within the assessment area, including overhead costs and authorized contingencies;
      - (B) the estimated or actual property price for all property to be acquired to provide the proposed improvements; and
      - (C) the reasonable cost of any work to be done by the local entity.
  - (b) In addition to the requirements of Subsection (3)(a), the governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) before:
    - (i) the light service has commenced, if the assessment is to pay for light service; or
    - (ii) the park maintenance has commenced, if the assessment is to pay for park maintenance.
- (4) A local entity may levy an assessment for some or all of the cost of improvements within an assessment area, including payment of:
  - (a) operation and maintenance costs of improvements constructed within the assessment area;
  - (b)
    - (i) if an outside entity furnishes utility services or maintains utility improvements, the actual cost that the local entity pays for utility services or for maintenance of improvements; or

- (ii) if the local entity itself furnishes utility service or maintains improvements, for the reasonable cost of supplying the utility service or maintenance;
- (c) the reasonable cost of supplying labor, materials, or equipment in connection with improvements; and
- (d)
  - (i) the reasonable cost of connection fees; or
  - (ii) the reasonable costs, as determined by the local entity governing body, if the local entity owns or supplies any sewer, storm drainage, water, gas, electric, or communications connections.
- (5) A local entity may not levy an assessment for an amount donated or contributed for an improvement or part of an improvement.
- (6) The validity of an otherwise valid assessment is not affected because the actual cost of improvements exceeds the estimated cost.
- (7)
  - (a) Subject to Subsection (7)(b), an assessment levied to pay for operation and maintenance costs may not be levied over a period of time exceeding five years beginning on the day on which the local entity adopts the assessment ordinance or assessment resolution for the operation and maintenance costs assessment.
  - (b) A local entity may levy an additional assessment described in Subsection (7)(a) in the assessment area designated for the assessment described in Subsection (7)(a) if, after the five-year period expires, the local entity complies with the applicable levy provisions of this part.