

Effective 1/1/2016

Superseded 5/10/2016

11-42-401 Levying an assessment -- Payment of property tax notice -- 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)(h)(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)(h)(ii) is enforced in accordance with, constitutes a lien in accordance with, and is subject to other penalty provisions in accordance with this chapter.
 - (d) If a local entity includes an assessment on a property tax notice, the county treasurer shall on the property tax notice:
 - (i) clearly state that the assessment is for the improvement, operation and maintenance, or economic promotion activities provided by the local entity;
 - (ii) itemize the assessment separate from any other tax, fee, charge, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317; and
 - (iii) state that if less than the full amount of the property tax and assessments included on the property tax notice are paid, the payment will be applied proportionately to the balances due for property taxes and assessments and other permitted charges described in this section unless otherwise specified by the taxpayer and the taxpayer demonstrates that the unpaid fees are being challenged by the taxpayer.
- (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:
 - (i) hold hearings;
 - (ii) determine if the assessment for each benefitted property meets the requirements of Section 11-42-409;
 - (iii) make necessary corrections so that assessed properties are not assessed for benefits conferred exclusively outside of the assessment area;
 - (iv) make necessary corrections so that the benefitted properties are not charged for an increase in size or capacity of an improvement where the increased size or capacity is to serve property outside of the assessment area;
 - (v) make any corrections it considers appropriate to an assessment; and
 - (vi) 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 actually incurred and authorized reasonable contingencies;
 - (B) the estimated or actual property price for all property to be acquired to provide the proposed improvements; and
 - (C) the estimated reasonable cost of any work to be performed 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 only to the extent the improvements provide benefits to the properties within the assessment area and in accordance with Section 11-42-409;
 - (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 actual costs that are reasonable, including reasonable administrative costs or reasonable costs for reimbursement of actual costs incurred by the local entity, for supplying the utility service or maintenance;
 - (c) the actual costs that are reasonable to supply labor, materials, or equipment in connection with improvements; and
 - (d)
 - (i) the actual costs that are reasonable for valid connection fees; or
 - (ii) the reasonable and generally applicable costs of locally provided utilities.
- (5) A local entity may not levy an assessment for an amount donated or contributed for an improvement or part of an improvement or for anything other than the costs actually and reasonably incurred by the local entity in order to provide an improvement or conduct operation and maintenance or economic promotion activities.
- (6) The validity of an otherwise valid assessment is not affected because the actual and reasonable 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:

- (i) gives notice in accordance with Section 11-42-402 of the new five-year term of the assessment; and
- (ii) complies with the applicable levy provisions of this part.