

POLITICAL SUBDIVISIONS - FEE

INCREASE PERIODS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Chad E. Bennion

AN ACT RELATING TO COUNTIES, THE UTAH MUNICIPAL CODE, AND SPECIAL DISTRICTS; IMPOSING RESTRICTIONS ON WHEN COUNTIES, CITIES, TOWNS, AND CERTAIN SPECIAL DISTRICTS MAY IMPOSE OR INCREASE A FEE FOR A SERVICE; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

10-3-717, as enacted by Chapter 48, Laws of Utah 1977

10-8-22, Utah Code Annotated 1953

17A-1-412, as last amended by Chapter 145, Laws of Utah 1997

17A-1-448, as enacted by Chapter 221, Laws of Utah 1998

ENACTS:

10-5-109.5, Utah Code Annotated 1953

10-6-118.5, Utah Code Annotated 1953

17-36-15.5, Utah Code Annotated 1953

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

Section 1. Section **10-3-717** is amended to read:

10-3-717. Purpose of resolutions.

(1) Unless otherwise required by law, [~~the governing~~] a municipal legislative body may exercise all administrative powers by resolution including[~~, but not limited to: (1)~~];

(a) subject to Section 10-5-109.5 for a town and Section 10-6-118.5 for a city:

(i) establishing water and sewer rates; [(2)] and

(ii) charges for garbage collection and fees charged for municipal services; [(3)]

- 28 (b) establishing personnel policies and guidelines; and [(4)]
- 29 (c) regulating the use and operation of municipal property.
- 30 (2) Punishment, fines or forfeitures may not be imposed by resolution.

31 Section 2. Section **10-5-109.5** is enacted to read:

32 **10-5-109.5. Imposing a new fee or increasing an existing fee -- Required to be in**
33 **budget.**

34 A town may not impose a new fee or increase an existing fee for a service it provides or
35 intends to provide unless the fee imposition or increase is proposed and adopted as part of the
36 process under this chapter of proposing and adopting the town budget.

37 Section 3. Section **10-6-118.5** is enacted to read:

38 **10-6-118.5. Imposing a new fee or increasing an existing fee -- Required to be in**
39 **budget.**

40 A city may not impose a new fee or increase an existing fee for a service it provides or
41 intends to provide unless the fee imposition or increase is proposed and adopted as part of the
42 process under this chapter of proposing and adopting the city budget.

43 Section 4. Section **10-8-22** is amended to read:

44 **10-8-22. Water rates.**

45 [They] Subject to Section 10-6-118.5, the legislative body of a city may fix the rates to be
46 paid for the use of water furnished by the city.

47 Section 5. Section **17-36-15.5** is enacted to read:

48 **17-36-15.5. Imposing a new fee or increasing an existing fee -- Required to be in**
49 **budget.**

50 A county may not impose a new fee or increase an existing fee for a service it provides or
51 intends to provide unless the fee imposition or increase is proposed and adopted as part of the
52 process under this chapter of proposing and adopting the county budget.

53 Section 6. Section **17A-1-412** is amended to read:

54 **17A-1-412. Hearing to consider adoption.**

55 (1) At the meeting at which the tentative budget is adopted, the governing body shall
56 establish the time and place of a public hearing to consider its adoption and shall order that notice
57 of the hearing be published at least seven days prior to the hearing in at least one issue of a
58 newspaper of general circulation published in the county or counties in which the district is

59 located. If no newspaper is published, the notice required by this section may be posted in three
60 public places within the district.

61 (2) If the budget hearing is held in conjunction with a tax increase hearing, the notice shall
62 be published in accordance with Sections 59-2-918 and 59-2-919.

63 (3) (a) A hearing under this section may be combined with a hearing on a proposal to
64 impose a new fee or increase an existing fee under Section 17A-1-448.

65 (b) Except as provided in Subsection (2), if a hearing under this section is combined with
66 a hearing under Section 17A-1-448, the hearing and notice requirements of Section 17A-1-448
67 shall prevail over conflicting provisions regarding the hearing and notice under this section and
68 Section 17A-1-413.

69 Section 7. Section **17A-1-448** is amended to read:

70 **17A-1-448. Imposing or increasing a fee for service provided by special district.**

71 (1) A special district may not impose a new fee or increase an existing fee for a service the
72 special district provides or intends to provide unless the fee imposition or increase is proposed and
73 adopted as part of the process under Sections 17A-1-410 through 17A-1-417 of proposing and
74 adopting the special district's annual budget.

75 ~~[(1)]~~ (2) (a) Before imposing a new fee or increasing an existing fee for a service provided
76 by a special district, each special district board shall first hold a public hearing at which any
77 interested person may speak for or against the proposal to impose a fee or to increase an existing
78 fee.

79 (b) Each public hearing under Subsection ~~[(1)]~~ (2)(a) shall be held in the evening
80 beginning no earlier than ~~[6:00]~~ 6 p.m.

81 (c) Except to the extent that this section imposes more stringent notice requirements, the
82 special district board shall comply with Title 52, Chapter 4, Open and Public Meetings, in holding
83 the public hearing under Subsection ~~[(1)]~~ (2)(a).

84 (d) A hearing under this Subsection (2) may be combined with a budget hearing under
85 Section 17A-1-413.

86 ~~[(2)]~~ (3) (a) Each special district board shall give notice of a hearing under Subsection ~~[(1)]~~
87 (2) as provided in Subsection ~~[(2)]~~ (3)(b) or (c).

88 (b) (i) The notice required under Subsection ~~[(2)]~~ (3)(a) shall be published in a newspaper
89 or combination of newspapers of general circulation in the special district, if there is a newspaper

90 or combination of newspapers of general circulation in the special district.

91 (ii) The notice shall be no less than 1/4 page in size and the type used shall be no smaller
92 than 18 point, and surrounded by a 1/4-inch border.

93 (iii) The notice may not be placed in that portion of the newspaper where legal notices and
94 classified advertisements appear.

95 (iv) It is legislative intent that, whenever possible, the advertisement appear in a newspaper
96 that is published at least one day per week.

97 (v) It is further the intent of the Legislature that the newspaper or combination of
98 newspapers selected be of general interest and readership in the special district, and not of limited
99 subject matter.

100 (vi) The notice shall be run once each week for the two weeks preceding the hearing.

101 (vii) The notice shall state that the special district board intends to impose or increase a
102 fee for a service provided by the special district and will hold a public hearing on a certain day,
103 time, and place fixed in the notice, which shall be not less than seven days after the day the first
104 notice is published, for the purpose of hearing comments regarding the proposed imposition or
105 increase of a fee and to explain the reasons for the proposed imposition or increase.

106 (c) (i) If there is no newspaper or combination of newspapers of general circulation in the
107 special district, the special district board shall post at least one notice per 1,000 population within
108 the special district, at places within the special district that are most likely to provide actual notice
109 to residents within the special district.

110 (ii) Each notice under Subsection [~~(2)~~] (3)(c)(i) shall comply with Subsection [~~(2)~~]
111 (3)(b)(vii).

112 (d) Proof that notice was given as provided in Subsection [~~(2)~~] (3)(b) or (c) is prima facie
113 evidence that notice was properly given.

114 (e) If no challenge is made to the notice given of a hearing required by Subsection [~~(1)~~]
115 (2) within 30 days after the date of the hearing, the notice is considered adequate and proper.

116 [~~(3)~~] (4) After holding a public hearing under Subsection [~~(1)~~] (2), a special district board
117 may, with or after the adoption of a budget under Section 17A-1-417:

118 (a) impose the new fee or increase the existing fee as proposed;

119 (b) adjust the amount of the proposed new fee or the increase of the existing fee and then
120 impose the new fee or increase the existing fee as adjusted; or

121 (c) decline to impose the new fee or increase the existing fee.
122 [~~4~~] (5) This section applies to each new fee imposed and each increase of an existing fee
123 that occurs on or after July 1, 1998.

Legislative Review Note
as of 2-7-00 3:14 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel