

HB0295S02 compared with HB0295S01

{Omitted text} shows text that was in HB0295S01 but was omitted in HB0295S02
inserted text shows text that was not in HB0295S01 but was inserted into HB0295S02

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Municipal Services Fees and Political Subdivision Lien Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul A. Cutler

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill authorizes municipalities to place a political subdivision lien on property for certain past due services.

Highlighted Provisions:

This bill:

- defines terms and modifies definitions;
- authorizes a municipality that sets a fee schedule by ordinance or resolution for water, sewer, or utility-related services provided by the municipality, or a third-party contracted by the municipality, to bill a customer receiving the water, sewer, or utility-related services, directly or through a third-party contracted by the municipality;
- authorizes a municipality to hold a political subdivision lien on a property for past due water, sewer, or utility-related service fees;
- modifies the process for a special district to charge interest and costs on a past due fee; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

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20 None

21 None

24 AMENDS:

25 **10-6-106** , as last amended by Laws of Utah 2019, Chapter 136 , as last amended by Laws of Utah
2019, Chapter 136

26 **10-8-22** , as last amended by Laws of Utah 2019, Chapter 99 , as last amended by Laws of Utah
2019, Chapter 99

27 **17B-1-902.1** , as last amended by Laws of Utah 2023, Chapter 15 , as last amended by Laws of Utah
2023, Chapter 15

28 ENACTS:

29 **10-6-161** , Utah Code Annotated 1953 , Utah Code Annotated 1953

30 **10-6-162** , Utah Code Annotated 1953 , Utah Code Annotated 1953

31

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

33 Section 1. Section **10-6-106** is amended to read:

34 **10-6-106. Definitions.**

As used in this chapter:

36 (1) "Account group" is defined by generally accepted accounting principles as reflected in the Uniform
Accounting Manual for Utah Cities.

38 (2) "Appropriation" means an allocation of money by the governing body for a specific purpose.

40 (3)

. (a) "Budget" means a plan of financial operations for a fiscal period which embodies estimates of
proposed expenditures for given purposes and the proposed means of financing them.

43 (b) "Budget" may refer to the budget of a particular fund for which a budget is required by law or it may
refer collectively to the budgets for all such funds.

45 (4) "Budget officer" means:

46 (a) the city auditor in a city of the first and second class[;] ;

47 (b) the mayor or some person appointed by the mayor with the approval of the city council in a city of
the third, fourth, or fifth class[;] ;

49 (c) the mayor in the council-mayor optional form of government[;] ; or

50 (d) the person designated by the charter in a charter city.

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- 51 (5) "Budget period" means the fiscal period for which a budget is prepared.
- 52 (6) "Budgetary fund" means a fund for which a budget is required.
- 53 (7) "Check" means an order in a specific amount drawn upon a depository by an authorized officer of a
city.
- 55 (8) "City general fund" means the general fund used by a city.
- 56 (9) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal
period next preceding the budget period.
- 58 (10) "Department" means any functional unit within a fund that carries on a specific activity, such as a
fire or police department within a city general fund.
- 60 (11)
- . (a) "Encumbrance system" means a method of budgetary control in which part of an appropriation is
reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts,
or salary commitments to an appropriation account at their time of origin. [~~Such obligations cease~~]
- 64 (b) An obligation described in Subsection (11)(a) ceases to be [encumbrances] an encumbrance when
paid or when the actual liability is entered on the city's books of account.
- 67 (12) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board
that is used by a municipality to report an activity for which a fee is charged to users for goods or
services.
- 70 (13) "Estimated revenue" means the amount of revenue estimated to be received from all sources during
the budget period in each fund for which a budget is being prepared.
- 72 (14) "Financial officer" means the mayor in the council-mayor optional form of government or the city
official as authorized by Section 10-6-158.
- 74 (15) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each
city.
- 76 (16) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform
Accounting Manual for Utah Cities.
- 78 (17) "Fund balance," "retained earnings," and "deficit" have the meanings commonly accorded such
terms under generally accepted accounting principles as reflected in the Uniform Accounting
Manual for Utah Cities.

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(18) "General fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

84 (19) "Governing body" means a city council, or city commission, as the case may be, but the authority to make any appointment to any position created by this chapter is vested in the mayor in the council-mayor optional form of government.

87 (20) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment.

89 (21) "Last completed fiscal period" means the fiscal period next preceding the current period.

91 (22)

. (a) "Public funds" means any money or payment collected or received by an officer or employee of the city acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the city, or the officer or employee while acting within the scope of employment or duty.

95 (b) "Public funds" does not include money or payments collected or received by an officer or employee of a city for charitable purposes if the mayor or city council has consented to the officer's or employee's participation in soliciting contributions for a charity.

99 (23) "Municipality" means a city or a town.

100 ~~(24)~~ "Special fund" means any fund other than the city general fund.

101 [~~(24)~~] ~~(25)~~ "Utility" means a utility owned by a city, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of ~~[them]~~ electricity, gas, water, or sewer.

104 ~~(26)~~ "Utility-adjacent service" means the maintenance, construction, and improvement of{:} ~~storm~~ water infrastructure performed by a city.

105 ~~{(a)} {storm water infrastructure performed by a city; or}~~

106 ~~{(b)} transportation systems performed by a city.}~~

107 [~~(25)~~] ~~(27)~~ "Warrant" means an order drawn upon the city treasurer, in the absence of sufficient money in the city's depository, by an authorized officer of a city for the purpose of paying a specified amount out of the city treasury to the person named or to the bearer as money becomes available.

110 Section 2. Section 2 is enacted to read:

111 **10-6-161. Establishment of service fees -- Political subdivision lien for past due service fees.**

114

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- (1) As used in this section, "service" means a water utility service, sewer utility service, or a utility-adjacent service provided by a municipality, either directly or through a contracted third-party, to a customer in the municipality.
- 117 (2)
- . (a) If a governing body of a municipality establishes by ordinance or resolution a fee schedule for a service, the municipality may charge a fee to a customer according to the fee schedule.
- 120 (b) If a municipality contracts with a third-party to provide a service, the municipality may agree to:
- 122 (i) pay the third-party directly for the contracted service; and
- 123 (ii) collect the fees for the service from a customer either directly or through a third-party billing program.
- 125 (3)
- . (a) A municipality, directly or through a contracted third-party, shall provide billing notices to a customer detailing:
- 127 (i) the fees due for a service provided by the municipality or a third-party contracted by the municipality; and
- 129 (ii) the due date for payment of the fees.
- 130 (b) A municipality or third-party billing service may combine a service billing notice with another billing notice provided directly by the municipality or through a contracted third-party.
- 133 (4) A municipality may hold a political subdivision lien, as that term is defined in Section 11-60-102, on a customer's property for a past due service fee authorized under this section by:
- 136 (a) notifying the customer of the past due service fee;
- 137 (b) if the past due service fee remains unpaid, no earlier than 30 days after the day on which the customer is notified of the past due service fee, notifying the customer that the municipality intends to file a political subdivision lien on the customer's property to which the utility or utility-related service was provided; and
- 141 (c) if the past due service fee remains unpaid, no earlier than 10 days after the day on which the customer is notified that the municipality intends to file a political subdivision lien on the customer's property:
- 144 (i) certifying to the county treasurer of the county in which the customer's property is located the amount of:
- 146 (A) past due service fees; and

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- 147 (B) if applicable, subject to Section 10-6-162, interest and administrative costs; and
149 (ii) recording the political subdivision lien with the county recorder of the county in which the
customer's property is located.
- 151 (5) Upon certification and recording under Subsection (4)(c), the past due service fees, and interest and
administrative costs if applicable, become a political subdivision lien on the customer's property, in
accordance with Title 11, Chapter 60, Political Subdivision Lien Authority.
- 155 (6) Upon payment of the full amount owed under a political subdivision lien authorized by this section,
the municipality shall file a release of the lien with the county recorder's office.

157 Section 3. Section 3 is enacted to read:

158 **10-6-162. Interest -- Collection of administrative costs.**

160 (1)

- . (a) A municipality may charge interest on a past due service fee authorized under Section 10-6-161.
- 162 (b) If a municipality charges interest as described in Subsection (1)(a), the municipality shall calculate
the interest rate in the same manner as a property tax lien, described in Section 59-2-1331.

165 (2)

- . (a) In pursuing payment on a past due service fee, in addition to interest authorized under Subsection
(1), a municipality may also charge and collect only one of the following:
- 168 (i) a one-time penalty, not to exceed 8% for a past due service fee; or
169 (ii) an administrative cost for some or all of the following:
- 170 (A) the collection cost of a past due service fee; and
171 (B) reasonable attorney fees actually incurred for collection and foreclosure costs, if applicable.
- 173 (b) A municipality may not charge interest on a one-time penalty or an administrative cost.

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

175 **10-8-22. Water rates.**

177 (1) As used in this section:

- 178 (a) "Designated water service area" means the area defined by a municipality in accordance with the
Utah Constitution, Article XI, Section 6, Subsection (1)(c).
- 180 (b) "Large municipal drinking water system" means a municipally owned and operated drinking water
system serving a population of 10,000 or more.
- 182 (c) "Retail customer" means an end user:
- 183 (i) who receives culinary water directly from a municipality's waterworks system; and

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- 184 (ii) whom the municipality described in Subsection (1)(c)(i) bills for water service.
- 185 (2) A municipality shall fix the rates to be paid for the use of water furnished by the municipality.
- 187 (3) The setting of municipal water rates is a legislative act.
- 188 (4) Within the municipality's designated water service area, a municipality shall:
- 189 (a) establish, by ordinance or resolution, reasonable rates for the services provided to the municipality's
retail customers;
- 191 (b) use the same method of providing notice to all retail customers of proposed rate changes; and
- 193 (c) allow all retail customers the same opportunity to appear and participate in a public meeting
addressing water rates.
- 195 (5)
- . (a) A municipality may establish different rates for different classifications of retail customers within
the municipality's designated water service area, if the rates and classifications have a reasonable
basis.
- 198 (b) A reasonable basis for charging different rates for different classifications may include, among other
things, a situation in which:
- 200 (i) there is a difference in the cost of providing service to a particular classification;
- 201 (ii) one classification bears more risk in relation to a system operation or obligation;
- 202 (iii) retail customers in one classification invested or contributed to acquire a water source or supply or
build or maintain a system differently than retail customers in another classification;
- 205 (iv) the needs or conditions of one classification:
- 206 (A) are distinguishable from the needs or conditions of another classification; and
- 207 (B) based on economic, public policy, or other identifiable elements, support a different rate; or
- 209 (v) there is a differential between the classifications based on a cost of service standard or a generally
accepted rate setting method, including a standard or method the American Water Works
Association establishes.
- 212 (c) An adjustment based solely on the fact that a particular classification of retail customers is located
either inside or outside of the municipality's corporate boundary is not a reasonable basis.
- 215 (6)
- . (a) If more than 10% of the retail customers within a large municipal drinking water system's
designated water service area are located outside of the municipality's corporate boundary, the
municipality shall:

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- 218 (i) post on the municipality's website the rates assessed to retail customers within the designated
water service area; and
- 220 (ii) establish an advisory board to make recommendations to the municipal legislative body
regarding water rates, capital projects, and other water service standards.
- 222 (b) In establishing an advisory board described in Subsection (6)(a)(ii), a municipality shall:
- 224 (i) if more than 10% but no more than 30% of the municipality's retail customers receive service outside
the municipality's municipal boundary, ensure that at least 20% of the advisory board's members
represent the municipality's retail customers receiving service outside the municipality's municipal
boundary;
- 228 (ii) if more than 30% of the municipality's retail customers receive service outside of the municipality's
municipal boundary, ensure that at least 40% of the advisory board's members represent the
municipality's retail customers receiving service outside of the municipality's municipal boundary;
and
- 232 (iii) in appointing board members who represent retail customers receiving service outside of
the municipality's municipal boundary, as required in Subsections (6)(b)(i) and (ii), solicit
recommendations from each municipality and county outside of the municipality's municipal
boundary whose residents are retail customers within the municipality's designated water service
area.
- 237 (7) A municipality that supplies water outside of the municipality's designated water service area shall
supply the water only by contract and shall include in the contract the terms and conditions under
which the contract can be terminated.
- 240 (8) A municipality shall:
- 241 (a) notify the director of the Division of Drinking Water of a contract the municipality enters into with
a person outside of the municipality's designated water service area, including the name and contact
information of the person named in each contract; and
- 244 (b) each year, provide any supplementing or new information regarding a contract described in
Subsection (8)(a), including whether there is no new information to provide at that time.
- 246 Section 5. Section **17B-1-902.1** is amended to read:
- 247 **17B-1-902.1. Interest -- Collection of administrative costs.**
- 249 (1)
- . (a) A special district may charge interest on a past due fee or past due charge.

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- 250 (b) If a special district charges interest as described in Subsection ~~[(1)(b)]~~ (1)(a), the special district
shall calculate the interest rate ~~[for a calendar year:]~~ in the same manner as a property tax lien,
253 described in Section 59-2-1331.
- 256 [(i) based on the federal short-term rate determined by the secretary of the treasury under Section 6621,
Internal Revenue Code, in effect for the preceding fourth calendar quarter; and]
- 258 [(ii) as simple interest at the rate of eighteen percentage points above the federal short-term rate.]
- 258 [(e) If a special district charges interest on a past due fee collected by the special district, regardless
of whether the fee is certified, the special district may charge the interest monthly but may not
compound the interest more frequently than annually.]
- 261 (2)
- . (a) ~~[A-]~~ In pursuing payment on a past due fee or past due charge, in addition to interest authorized
under Subsection (1)(a), a special district may also charge and collect only one of the following:
- 264 (i) a one-time penalty~~[charge]~~ , not to exceed 8% for a ~~[past-due]~~ past due fee; or
- 265 (ii) an administrative cost for some or all of the following:
- 266 (A) the collection cost of a past due fee or past due charge; and
- 267 (B) reasonable attorney fees actually incurred for collection and foreclosure costs, if applicable~~[-and]~~ .
- 269 ~~[(C) any other cost.]~~
- 270 (b) A special district may not charge interest on a one-time penalty or an administrative cost.

271 Section 6. **Effective date.**

This bill takes effect on May 7, 2025.

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