

Part 4 Assessments

11-42-401 Levying an assessment -- Prerequisites -- Assessment list -- Partial payment allocation.

- (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; and
 - (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.
- (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.

Amended by Chapter 353, 2016 General Session

11-42-402 Notice of assessment and board of equalization hearing.

Each notice required under Subsection 11-42-401(2)(a)(iii) shall:

- (1) state:
 - (a) that an assessment list is completed and available for examination at the offices of the local entity;
 - (b) the total estimated or actual cost of the improvements;
 - (c) the amount of the total estimated or actual cost of the proposed improvements to be paid by the local entity;
 - (d) the amount of the assessment to be levied against benefitted property within the assessment area;
 - (e) the assessment method used to calculate the proposed assessment;
 - (f) the unit cost used to calculate the assessments shown on the assessment list, based on the assessment method used to calculate the proposed assessment; and
 - (g) the dates, times, and place of the board of equalization hearings under Subsection 11-42-401(2)(b)(i);
- (2)
 - (a) beginning at least 20 but not more than 35 days before the day on which the first hearing of the board of equalization is held:
 - (i) be published at least once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or
 - (ii) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries; and
 - (b) be published on the Utah Public Notice Website created in Section 63F-1-701 for 35 days immediately before the day on which the first hearing of the board of equalization is held; and
- (3) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Amended by Chapter 396, 2015 General Session

11-42-403 Board of equalization -- Hearings -- Corrections to proposed assessment list -- Report to governing body -- Appeal -- Board findings final -- Waiver of objections.

- (1) After preparing an assessment list under Subsection 11-42-401(2)(a)(i), the governing body shall appoint a board of equalization.
- (2) Each board of equalization under this section shall, at the option of the governing body, consist of:
 - (a) three or more members of the governing body;
 - (b)
 - (i) two members of the governing body; and
 - (ii)
 - (A) a representative of the treasurer's office of the local entity; or
 - (B) a representative of the office of the local entity's engineer or the project engineer; or
 - (c)
 - (i)

- (A) one member of the governing body; or
 - (B) a representative of the governing body, whether or not a member of the governing body, appointed by the governing body;
 - (ii) a representative of the treasurer's office of the local entity; and
 - (iii) a representative of the office of the local entity's engineer or the project engineer.
- (3)
- (a) The board of equalization shall hold hearings on at least three consecutive days for at least one hour per day between 9 a.m. and 9 p.m., as specified in the notice under Section 11-42-402.
 - (b) The board of equalization may continue a hearing from time to time to a specific place and a specific hour and day until the board's work is completed.
 - (c) At each hearing, the board of equalization shall hear arguments from any person who claims to be aggrieved, including arguments relating to:
 - (i) the amount of benefits accruing to a tract, block, lot, or parcel of property in the assessment area; or
 - (ii) the amount of the proposed assessment against the tract, block, lot, or parcel.
- (4)
- (a) After the hearings under Subsection (3) are completed, the board of equalization shall:
 - (i) consider all facts and arguments presented at the hearings; and
 - (ii) make any corrections to the proposed assessment list necessary to ensure that the assessment meets the requirements of Section 11-42-409.
 - (b) A correction under Subsection (4)(a)(ii) may:
 - (i) eliminate one or more pieces of property from the assessment list; or
 - (ii) increase or decrease the amount of the assessment proposed to be levied against a parcel of property.
 - (c)
 - (i) If the board of equalization makes a correction under Subsection (4)(a)(ii) that results in an increase of a proposed assessment, the board shall, before approving a corrected assessment list:
 - (A) give notice as provided in Subsection (4)(c)(i)(A);
 - (B) hold a hearing at which the owner whose assessment is proposed to be increased may appear and object, in person or in writing, to the proposed increase; and
 - (C) after holding a hearing, make any further corrections that the board considers necessary to make the proposed increased assessment meet the requirements of Section 11-42-409.
 - (ii) Each notice required under Subsection (4)(c)(i)(A) shall:
 - (A) state:
 - (I) that the property owner's assessment is proposed to be increased;
 - (II) the amount of the proposed increased assessment;
 - (III) that a hearing will be held at which the owner may appear and object to the increase; and
 - (IV) the date, time, and place of the hearing; and
 - (B) be mailed, at least 15 days before the date of the hearing, to each owner of property as to which the assessment is proposed to be increased at the property owner's mailing address.
- (5)
- (a) After the board of equalization has held all hearings required by this section and has made all corrections the board considers necessary to comply with Section 11-42-409, the board shall report to the governing body its findings that:

- (i) each assessed property within the assessment area will be assessed in a manner that meets the requirements of Section 11-42-409; and
 - (ii) except as provided in Subsection 11-42-409(5), no parcel of property on the assessment list will bear more than its equitable portion of the actual costs that are reasonable of the improvements benefitting the property in accordance with Section 11-42-409.
- (b) The board of equalization shall, within 10 days after submitting its report to the governing body, mail a copy of the board's final report to each property owner who objected at the board hearings to the assessment proposed to be levied against the property owner's property at the property owner's mailing address.
- (6)
- (a) If a board of equalization includes members other than the governing body of the local entity, a property owner may appeal a decision of the board to the governing body by filing with the governing body a written notice of appeal within 15 days after the board's final report is mailed to property owners under Subsection (5)(b).
 - (b) Except as provided in Subsection (6)(a), no appeal may be taken from the findings of a board of equalization.
- (7) The findings of a board of equalization are final:
- (a) when approved by the governing body, if no appeal is allowed under Subsection (6); or
 - (b) after the time for appeal under Subsection (6) is passed, if an appeal is allowed under that subsection.
- (8)
- (a) If a governing body has levied an assessment to pay operation and maintenance costs within an assessment area, the governing body may periodically appoint a new board of equalization to review assessments for operation and maintenance costs.
 - (b) Each board of equalization appointed under Subsection (8)(a) shall comply with the requirements of Subsections (3) through (6).
- (9)
- (a) An owner who fails to make an objection setting forth all claims, in accordance with Subsection (9)(b), to the board of equalization waives all objections, except as provided in Subsection (10), to the levy.
 - (b) An owner may set forth a claim and object to a levy by:
 - (i) appearing before the board of equalization in person or through a designated agent; or
 - (ii) submitting the objection in writing if the objection is received by the board of equalization before:
 - (A) the first hearing as described in Subsection (3)(a); or
 - (B) if applicable to the owner, a subsequent hearing described in Subsection (4)(c)(i)(B).
- (10) The provisions of Subsection (9)(a) do not prohibit an owner's objection that the governing body failed to obtain jurisdiction to order that the improvements which the assessment is intended to pay be provided to the assessment area.
- (11)
- (a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds.
 - (b)
 - (i) Except as provided in Subsection (11)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.
 - (ii) The limitation in Subsection (11)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Amended by Chapter 396, 2015 General Session

11-42-404 Adoption of a resolution or ordinance levying an assessment -- Notice of the adoption -- Effective date of resolution or ordinance -- Notice of assessment interest.

- (1)
- (a) After receiving a final report from a board of equalization under Subsection 11-42-403(5) or, if applicable, after the time for filing an appeal under Subsection 11-42-403(6) has passed, the governing body may adopt a resolution or ordinance levying an assessment against benefitted property within the assessment area designated in accordance with Part 2, Designating an Assessment Area.
 - (b) Except as provided in Subsection (1)(c), a local entity may not levy more than one assessment under this chapter for an assessment area designated in accordance with Part 2, Designating an Assessment Area.
 - (c) A local entity may levy more than one assessment in an assessment area designated in accordance with Part 2, Designating an Assessment Area, if:
 - (i) the local entity has adopted a designation resolution or designation ordinance for each assessment in accordance with Section 11-42-201; and
 - (ii) the assessment is levied to pay:
 - (A) subject to Section 11-42-401, operation and maintenance costs;
 - (B) subject to Section 11-42-406, the costs of economic promotion activities; or
 - (C) the costs of environmental remediation activities.
 - (d) An assessment resolution or ordinance adopted under Subsection (1)(a):
 - (i) need not describe each tract, block, lot, part of block or lot, or parcel of property to be assessed;
 - (ii) need not include the legal description or tax identification number of the parcels of property assessed in the assessment area; and
 - (iii) is adequate for purposes of identifying the property to be assessed within the assessment area if the assessment resolution or ordinance incorporates by reference the corrected assessment list that describes the property assessed by legal description and tax identification number.
- (2)
- (a) A local entity that adopts an assessment resolution or ordinance shall give notice of the adoption by:
 - (i)
 - (A) publishing a copy of the resolution or ordinance, or a summary of the resolution or ordinance, once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or
 - (B) if there is no newspaper of general circulation with the local entity's jurisdictional boundaries as described in Subsection (2)(a)(i), posting a copy of the resolution or ordinance in at least three public places within the local entity's jurisdictional boundaries for at least 21 days; and
 - (ii) publishing, in accordance with Section 45-1-101, a copy of the resolution or ordinance for at least 21 days.
 - (b) No other publication or posting of the resolution or ordinance is required.
- (3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each assessment resolution or ordinance takes effect:
- (a) on the date of publication or posting of the notice under Subsection (2); or
 - (b) at a later date provided in the resolution or ordinance.

- (4)
- (a) The governing body of each local entity that has adopted an assessment resolution or ordinance under Subsection (1) shall, within five days after the day on which the 25-day prepayment period under Subsection 11-42-411(6) has passed, file a notice of assessment interest with the recorder of the county in which the assessed property is located.
 - (b) Each notice of assessment interest under Subsection (4)(a) shall:
 - (i) state that the local entity has an assessment interest in the assessed property;
 - (ii) if the assessment is to pay operation and maintenance costs or for economic promotion activities, state the maximum number of years over which an assessment will be payable; and
 - (iii) describe the property assessed by legal description and tax identification number.
 - (c) A local entity's failure to file a notice of assessment interest under this Subsection (4) has no affect on the validity of an assessment levied under an assessment resolution or ordinance adopted under Subsection (1).

Amended by Chapter 396, 2015 General Session

11-42-405 Limit on amount of assessment -- Costs required to be paid by the local entity.

- (1) An assessment levied within an assessment area may not, in the aggregate, exceed the sum of:
- (a) the contract price or estimated contract price;
 - (b) the acquisition price of improvements;
 - (c) the reasonable cost of:
 - (i)
 - (A) utility services, maintenance, and operation, to the extent permitted by Subsection 11-42-401(4); and
 - (B) labor, materials, or equipment supplied by the local entity;
 - (ii) economic promotion activities; or
 - (iii) operation and maintenance costs;
 - (d) the price or estimated price of purchasing property;
 - (e) any connection fees;
 - (f) estimated interest on interim warrants and bond anticipation notes issued with respect to an assessment area;
 - (g) the capitalized interest on each assessment bond;
 - (h) overhead costs not to exceed 15% of the sum of Subsections (1)(a), (b), (c), and (e);
 - (i) an amount for contingencies of not more than 10% of the sum of Subsections (1)(a) and (c), if the assessment is levied before construction of the improvements in the assessment area is completed;
 - (j) an amount sufficient to fund a reserve fund, if the governing body creates and funds a reserve fund as provided in Section 11-42-702;
 - (k) 1/2 the cost of grading changes as provided in Section 11-42-407; and
 - (l) incidental costs incurred by a property owner in order to satisfy the local entity's requirements for inclusion in a voluntary assessment area, if applicable.
- (2) Each local entity providing an improvement in an assessment area shall pay, from improvement revenues not pledged to the payment of bonds and from any other legally available money:
- (a) overhead costs for which an assessment cannot be levied;

- (b) the costs of providing an improvement for which an assessment was not levied, if the assessment is levied before construction of the improvement in the assessment area is completed; and
- (c) the acquisition and constructions costs of an improvement for the benefit of property against which an assessment may not be levied.

Amended by Chapter 246, 2013 General Session

11-42-406 Assessment for economic promotion activities -- Duration -- Reporting.

- (1)
 - (a) If the governing body of a local entity designates an assessment area in accordance with Part 2, Designating an Assessment Area, for economic promotion activities, the governing body:
 - (i) subject to Subsection (1)(a)(ii), may levy an assessment to pay for economic promotion activities by adopting an assessment resolution or ordinance in accordance with Section 11-42-404; and
 - (ii) except as provided in Subsection (1)(b), may not levy the assessment for a period longer than five years.
 - (b) A governing body may levy additional assessments to pay for economic promotion activities after the five-year period described in Subsection (1)(a)(ii) if the governing body:
 - (i) designates a new assessment area in accordance with Part 2, Designating an Assessment Area;
 - (ii) adopts a new assessment resolution or ordinance in accordance with Section 11-42-404;
 - (iii) limits each additional assessment to a five-year period; and
 - (iv) complies with Subsections (1)(b)(i) through (iii) for each additional assessment.
- (2) If a local entity designates an assessment area for economic promotion activities, the local entity:
 - (a) shall spend on economic promotion activities at least 70% of the money generated from an assessment levied in the assessment area and from improvement revenues;
 - (b) may not spend more than 30% of the money generated from the assessment levied in the assessment area and from improvement revenues on administrative costs, including salaries, benefits, rent, travel, and costs incidental to publications; and
 - (c) in accordance with Subsection (3), shall publish a detailed report including the following:
 - (i) an account of money deposited into the assessment fund described in Section 11-42-412;
 - (ii) an account of expenditures from the fund described in Section 11-42-412; and
 - (iii) a detailed account of whether each expenditure described in Subsection (2)(c)(ii) was made for economic promotion activities described in Subsection (2)(a) or for administrative costs described in Subsection (2)(b).
- (3) A local entity shall publish a report required in Subsection (2)(c):
 - (a) on:
 - (i) if available, the local entity's public web site; and
 - (ii) if the local entity is not a county or municipality, on the public web site of any county or municipality in which the local entity has jurisdiction;
 - (b)
 - (i) within one year after the day on which the local entity adopts a new assessment resolution or ordinance for economic promotion activities; and
 - (ii) each subsequent year that the economic promotion activities levy is assessed by updating the information described in Subsection (2)(c); and

- (c) for six months on a web site described in Subsection (3)(a) after the day on which the report is initially published under Subsection (3)(b) or updated under Subsection (3)(b)(ii).

Amended by Chapter 396, 2015 General Session

11-42-407 Improvements that change the grade of an existing street, alley, or sidewalk -- Improvements that improve an intersection or spaces opposite an alley.

- (1) If an improvement in an assessment area involves changing the grade of an existing street, alley, or sidewalk, the local entity shall pay half of the cost of bringing the street, alley, or sidewalk to the established grade.
- (2) If an improvement in an assessment area improves an intersection of streets or spaces opposite an alley, the local entity may levy an assessment against the other properties to be assessed in the assessment area for the cost of the improvement.

Enacted by Chapter 329, 2007 General Session

11-42-408 Assessment against government land prohibited -- Exception.

- (1)
 - (a) Except as provided in Subsection (2), a local entity may not levy an assessment against property owned by the federal government or a public agency, even if the property benefits from the improvement.
 - (b) Notwithstanding Subsection (1)(a), a public agency may contract with a local entity:
 - (i) for the local entity to provide an improvement to property owned by the public agency; and
 - (ii) to pay for the improvement provided by the local entity.
 - (c) Nothing in this section may be construed to prevent a local entity from imposing on and collecting from a public agency, or a public agency from paying, a reasonable charge for a service rendered or material supplied by the local entity to the public agency, including a charge for water, sewer, or lighting service.
- (2) Notwithstanding Subsection (1):
 - (a) a local entity may continue to levy and enforce an assessment against property acquired by a public agency within an assessment area if the acquisition occurred after the assessment area was designated;
 - (b) property that is subject to an assessment lien at the time it is acquired by a public agency continues to be subject to the lien and to enforcement of the lien if the assessment and interest on the assessment are not paid when due; and
 - (c) a local entity may levy an assessment against property owned by the federal government or a public agency if the federal government or public agency voluntarily enters into a voluntary assessment area for the purpose of financing an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure.

Amended by Chapter 371, 2016 General Session

11-42-409 Assessment requirements and prohibitions -- Economic promotion activities assessment requirements and prohibitions -- Allocation for unassessed benefitted government property.

- (1)
 - (a) Each local entity that levies an assessment under this chapter:

- (i) except for an appropriate allocation for an unassessed benefitted government property, may not assess a property for more than the amount that the property benefits by the improvement, operation and maintenance, or economic promotion activities;
 - (ii) may levy an assessment only for the actual costs that are reasonable; and
 - (iii) shall levy an assessment on a benefitted property in an amount that reflects an equitable portion, subject to Subsection (1)(b), of the benefit the property will receive from an improvement, operation and maintenance, or economic promotion activities for which the assessment is levied.
- (b) The local entity, in accounting for a property's benefit or portion of a benefit received from an improvement, operation and maintenance, or economic promotion activities, shall consider:
- (i) any benefit that can be directly identified with the property; and
 - (ii) the property's roughly equivalent portion of the benefit that is collectively shared by all the assessed properties in the entire assessment area or classification.
- (c) The validity of an otherwise valid assessment is not affected by the fact that the benefit to the property from the improvement does not increase the fair market value of the property.
- (2) The assessment method a governing body uses to calculate an assessment may be according to frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, or any combination of these methods, or any other method as the governing body considers appropriate to comply with Subsections (1)(a) and (b).
- (3) A local entity that levies an assessment under this chapter for an improvement:
- (a) shall:
 - (i)
 - (A) levy the assessment on each block, lot, tract, or parcel of property that benefits from the improvement; and
 - (B) to whatever depth, including full depth, on the parcel of property that the governing body determines but that still complies with Subsections (1)(a) and (b);
 - (ii) make an allowance for each corner lot receiving the same improvement on both sides so that the property is not assessed at the full rate on both sides; and
 - (iii) pay for any increase in size or capacity that serves property outside of the assessment area with funds other than those levied by an assessment;
 - (b) may:
 - (i) use different methods for different improvements in an assessment area;
 - (ii) assess different amounts in different classifications, even when using the same method, if acquisition or construction costs differ from classification to classification;
 - (iii) allocate a corner lot allowance under Subsection (3)(a)(ii) to all other benefitted property within the assessment area by increasing the assessment levied against the other assessed property in the same proportion as the improvement is assessed;
 - (iv) to comply with Subsection (1)(a), levy an assessment within classifications; and
 - (v) assess property to replace improvements that are approaching or have exceeded their useful life or to increase the level of service of an existing improvement; and
 - (c) may not:
 - (i) consider the costs of the additional size or capacity of an improvement that will be increased in size or capacity to serve property outside of the assessment area when calculating an assessment or determining an assessment method; or
 - (ii) except for in a voluntary assessment area or as provided in Subsection (3)(b)(v), assess a property for an improvement that would duplicate or provide a reasonably similar service that is already provided to the property.
- (4) A local entity that levies an assessment under this chapter for economic promotion activities:

- (a) may:
 - (i) levy an assessment only on commercial or industrial real property; and
 - (ii) create classifications based on property use, or other distinguishing factors, to determine the estimated benefit to the assessed property;
 - (b) may rely on, in addition to the assessment methods described in Subsection (2), estimated benefits from an increase in:
 - (i) office lease rates;
 - (ii) retail sales rates;
 - (iii) customer base;
 - (iv) public perception;
 - (v) hotel room rates and occupancy levels;
 - (vi) property values;
 - (vii) the commercial environment from enhanced services;
 - (viii) another articulable method of estimating benefits; or
 - (ix) a combination of the methods described in Subsections (4)(b)(i) through (viii);
 - (c) subject to Subsection (4)(d), shall use an assessment method that, when applied to a benefitted property, meets the requirements of Subsection (1)(a); and
 - (d) may not use taxable value, fair market value, or any other assessment method based on the value of the property as the sole assessment method.
- (5) A local entity may levy an assessment that would otherwise violate a provision of this chapter if the owners of all property to be assessed voluntarily enter into a written agreement with the local entity consenting to the assessment.
- (6) A local entity may allocate the cost of a benefit received by an unassessed benefitted government property to all other benefitted property within the assessment area by increasing the assessment levied against the other assessed property in the same proportion as the improvement, operation and maintenance, or economic promotion activities are assessed.

Amended by Chapter 396, 2015 General Session

11-42-410 Amending an assessment resolution or ordinance.

- (1) A governing body may adopt a resolution or ordinance amending the original assessment resolution or ordinance adopted under Section 11-42-404 to:
- (a) correct a deficiency, omission, error, or mistake:
 - (i) with respect to:
 - (A) the total cost of an improvement;
 - (B) operation and maintenance costs; or
 - (C) the cost of economic promotion activities; or
 - (ii) that results in a tract, lot, block, or parcel not being fully assessed or assessed in an incorrect amount;
 - (b) reallocate or adjust assessments under the original assessment resolution or ordinance for operation and maintenance costs or the costs of economic promotion activities;
 - (c) reallocate or adjust assessments under the original assessment resolution or ordinance; or
 - (d) reduce an assessment as a result of the issuance of refunding bonds.
- (2) If an amendment under Subsection (1)(a) or (c) results in an increase in an assessment for any property owner, the governing body shall comply with the notice requirements of Section 11-42-402, unless the owner waives notice as provided in Section 11-42-104.

Amended by Chapter 246, 2009 General Session

11-42-411 Installment payment of assessments.

- (1)
 - (a) In an assessment resolution or ordinance, the governing body may, subject to Subsection (1)(b) and except as provided in Subsection (2)(c), provide that some or all of the assessment be paid in installments over a period not to exceed 20 years from the effective date of the resolution or ordinance.
 - (b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:
 - (i) shall make a determination that:
 - (A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or
 - (B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and
 - (ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.
- (2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance be paid over the period of time that installments are payable:
 - (a) in substantially equal installments of principal;
 - (b) in substantially equal installments of principal and interest; or
 - (c) for an assessment levied for an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure:
 - (i) in accordance with the assessment resolution or ordinance; and
 - (ii) over a period not to exceed 30 years from the effective date of the resolution or ordinance.
- (3)
 - (a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.
 - (b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:
 - (i) a local entity may charge interest only from the date each installment is due; and
 - (ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.
 - (c) If an assessment resolution or ordinance provides for the unpaid balance of the assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:
 - (i) the basis upon which the rate is to be determined from time to time;
 - (ii) the manner in which and schedule upon which the rate is to be adjusted; and
 - (iii) a maximum rate that the assessment may bear.
- (4) Interest payable on assessments may include:
 - (a) interest on assessment bonds;
 - (b) ongoing local entity costs incurred for administration of the assessment area; and
 - (c) any costs incurred with respect to:
 - (i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or
 - (ii) retaining a marketing agent or an indexing agent.

- (5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.
- (6)
 - (a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.
 - (b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.
 - (c) A local entity may require a prepayment of an installment to include:
 - (i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and
 - (ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:
 - (A) interest that becomes due and payable on those bonds; and
 - (B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

Amended by Chapter 371, 2016 General Session

11-42-412 Assessment fund -- Uses of money in the fund -- Treasurer's duties with respect to the fund.

- (1) The governing body of each local entity that levies an assessment under this part on benefitted property within an assessment area shall establish an assessment fund.
- (2) The governing body shall:
 - (a) deposit into the assessment fund all money paid to the local entity from assessments and interest on assessments; and
 - (b) deposit into a separate account in the assessment fund all money paid to the local entity from improvement revenues.
- (3) Money in an assessment fund may be expended only for paying:
 - (a) the local entity's costs and expenses of making, operating, and maintaining improvements to the extent permitted under Section 11-42-415;
 - (b) operation and maintenance costs;
 - (c) economic promotion activities;
 - (d) local entity obligations; and
 - (e) costs that the local entity incurs with respect to:
 - (i) administration of the assessment area; or
 - (ii) obtaining a letter of credit or other instrument or fund to secure the payment of assessment bonds.
- (4) The treasurer of the local entity:
 - (a) shall:
 - (i) subject to Subsection (4)(b)(i), be the custodian of the assessment fund;
 - (ii) keep the assessment fund intact and separate from all other local entity funds and money;
 - (iii) invest money in an assessment fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

- (iv) keep on deposit in the assessment fund any interest received from the investment of money in the assessment fund and use the interest exclusively for the purposes for which the assessment fund was established; and
- (b) may:
 - (i) arrange for the assessment fund to be held by a trustee bank on behalf of the local entity; and
 - (ii) pay money out of the assessment fund only for the purposes listed in Subsection (3).
- (5) When all local entity obligations have been paid or legally considered paid in full, the treasurer of the local entity shall transfer all money remaining in the assessment fund as provided in Section 11-42-414.

Enacted by Chapter 329, 2007 General Session

11-42-413 Surplus assessments -- Payment of bonds -- Rebate of assessment if improvements abandoned.

- (1) As used in this section:
 - (a) "Current owner" means the owner of property at the time a rebate under this section is paid.
 - (b) "Last-known address" means the last address of an owner of property within an assessment area according to the last completed real property assessment roll of the county in which the property is located.
 - (c) "Net assessment" means the amount of an assessment after subtracting:
 - (i) the amount required to pay for any improvements that have been made prior to their being abandoned; and
 - (ii) any damages or costs related to an abandonment of improvements.
- (2)
 - (a) If the total cost of completed and accepted improvements is less than the total amount of assessments levied for those improvements, the local entity shall place the surplus in the assessment fund.
 - (b) If a local entity issues assessment bonds before a surplus under Subsection (2)(a) is determined, the local entity shall hold the surplus in the assessment fund and use the surplus for the payment of the bonds, interest, and any penalties and costs.
- (3) If a local entity abandons improvements in an assessment area before the improvements have been started or, if started, before they have been completed and accepted but after an assessment has been levied, the local entity shall rebate the net assessment to the current owner.

Enacted by Chapter 329, 2007 General Session

11-42-414 Remaining interest and other money in assessment fund to be transferred to the guaranty fund or the local entity's general fund.

The treasurer of each local entity that collects interest from the investment of an assessment fund or that receives penalties, costs, and other amounts for the benefit and credit of an assessment that remain after all local entity obligations are paid in full and cancelled shall transfer the remaining amount to:

- (1) the guaranty fund, if required by bond covenants; or
- (2) the local entity's general fund.

Enacted by Chapter 329, 2007 General Session

11-42-415 Pledge and use of improvement revenues -- Reducing installment payments -- Notice -- Overpayment of installment.

- (1) A local entity may, by resolution adopted by the governing body, provide for the pledge and use of any improvement revenues to pay:
 - (a) some or all of the costs and expenses of making, operating, and maintaining improvements, to the extent permitted under this chapter; and
 - (b) some or all of the principal of and interest on assessment bonds, interim warrants, and bond anticipation notes issued against the assessment area to make improvements within the assessment area.
- (2)
 - (a) If the governing body adopts a resolution under Subsection (1), the local entity:
 - (i) may:
 - (A) provide for assessments to be levied in the full amount of the estimated cost of the improvements, as determined by a project engineer;
 - (B) agree to use installment payments from assessments to pay the costs of the improvements and to pay principal of and interest on any assessment bonds, interim warrants, and bond anticipation notes when due; and
 - (C) reduce installment payments, as provided in Subsection (2)(a)(ii), if the local entity receives net improvement revenues and pledges them to pay operation and maintenance costs of the improvements and to pay principal of and interest on assessment bonds, interim warrants, or bond anticipation notes; and
 - (ii) shall authorize a local entity official to:
 - (A) determine on each installment payment date the amount of net improvement revenues that the local entity has received since the last installment payment date; and
 - (B) reduce the amount of the installment payment due on the next succeeding installment payment date by an amount that is no greater than the amount of the net improvement revenues described in Subsection (2)(a)(ii)(A).
 - (b) A local entity may not reduce installment payments under Subsection (2)(a)(ii) if:
 - (i) the reduction exceeds the amount of net improvement revenues that have been pledged to pay:
 - (A) operation and maintenance costs of the improvements; and
 - (B) principal of and interest on assessment bonds, interim warrants, and bond anticipation notes; or
 - (ii) after the reduction, the sum of the assessment installment payments and the net improvement revenues are insufficient to pay:
 - (A) operation and maintenance costs of the improvements; and
 - (B) principal of and interest on assessment bonds, interim warrants, and bond anticipation notes.
 - (c) The local entity shall require that each reduction of installment payments be made so that the assessments levied against each assessed property receive a proportionate share of the reduction.
 - (d) A reduction under Subsection (2)(a)(ii) does not apply to an assessment or interest on an assessment that has been paid.
- (3)
 - (a) Not more than 14 days after making a determination under Subsection (2)(a)(ii) to reduce an installment payment, the local entity's governing body shall mail notice of the reduction to each owner of property within the assessment area at the property owner's mailing address.

- (b) The governing body may include the notice required under Subsection (3)(a) with or in any other notice regarding the payment of assessments and interest on assessments that the governing body sends to owners.
- (4)
 - (a) If an owner of assessed property pays more than the amount of the reduced installment payment on the installment payment date after a notice under Subsection (3) is mailed, the local entity may, by following the procedure under Subsection (3), provide additional notice to the owner that:
 - (i) the owner has overpaid the assessment installment payment; and
 - (ii) the local entity will:
 - (A) credit the amount of the overpayment against the next installment payment due; or
 - (B) if no further installment payment is due, refund the amount of the overpayment upon receipt of a written refund request from the owner.
 - (b) If a local entity receives an overpayment of an installment payment, it shall:
 - (i) credit the amount of the overpayment against the next installment payment due; or
 - (ii) refund the amount of the overpayment to the owner if:
 - (A) no further installment payment is due; and
 - (B) the owner submits a written request for a refund.
 - (c) A local entity is not required to pay interest on an overpayment that it holds.

Enacted by Chapter 329, 2007 General Session

11-42-416 Validation of prior assessment proceedings.

- (1) Subject to Subsection (2), all proceedings taken before April 30, 2007 related to the levy of assessments are validated, ratified, and confirmed, and the assessments are declared to be legal and valid assessments.
- (2) Nothing in this section may be construed to affect the validity of an assessment whose legality is being contested on April 30, 2007.
- (3)
 - (a) This chapter applies to all assessments levied after April 30, 2007, even though proceedings were taken before that date under provisions of the law then in effect but repealed or modified on or after that date.
 - (b) Proceedings taken as described in Subsection (3)(a) under the law in effect before April 30, 2007 are validated, ratified, and confirmed, except to the extent that those proceedings are the subject of an action pending on April 30, 2007 challenging the proceedings.

Enacted by Chapter 329, 2007 General Session