

Effective 5/12/2015

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