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

Section 2. Section 10-5-109.5 is enacted to read:
10-5-109.5. Imposing a new fee or increasing an existing fee -- Required to be in budget.

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

Section 3. Section 10-6-118.5 is enacted to read:
10-6-118.5. Imposing a new fee or increasing an existing fee -- Required to be in budget.

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

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

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

Section 5. Section 17-36-15.5 is enacted to read:
17-36-15.5. Imposing a new fee or increasing an existing fee -- Required to be in budget.

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

Section 6. Section 17A-1-412 is amended to read:
17A-1-412. Hearing to consider adoption.
(1) At the meeting at which the tentative budget is adopted, the governing body shall establish the time and place of a public hearing to consider its adoption and shall order that notice of the hearing be published at least seven days prior to the hearing in at least one issue of a newspaper of general circulation published in the county or counties in which the district is
located. If no newspaper is published, the notice required by this section may be posted in three public places within the district.

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

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

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

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

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

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

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

(b) Each public hearing under Subsection (2) shall be held in the evening beginning no earlier than 6:00 p.m.

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

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

(3) (a) Each special district board shall give notice of a hearing under Subsection (2) as provided in Subsection (3)(b) or (c).

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

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

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

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

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

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

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

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

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

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

(e) If no challenge is made to the notice given of a hearing required by Subsection [(4)](2) within 30 days after the date of the hearing, the notice is considered adequate and proper.

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

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

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or
(c) decline to impose the new fee or increase the existing fee.

This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

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**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