

1 **LOCAL GOVERNMENT LIEN FOR SERVICE**

2 **CHARGES**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Steven R. Mascaro**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to municipal and special and local district charges
10 for certain services.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ prohibits municipalities, special districts, and local districts from:
- 14 • refusing to furnish sewer service to property based on an arrearage from a
 - 15 previous owner; and
 - 16 • collecting from the current owner a previous owner's arrearage for sewer service
 - 17 provided to the property before the current owner's ownership;
 - 18 ▶ authorizes municipalities, special districts, and local districts providing sewer
 - 19 service to discontinue providing service if the property owner fails to pay for the
 - 20 service; and
 - 21 ▶ repeals provisions authorizing certain special districts to establish a lien on property
 - 22 for nonpayment of fees for services.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **10-7-10.5**, as enacted by Chapter 161, Laws of Utah 2003

30 **10-8-38**, as last amended by Chapter 161, Laws of Utah 2003

31 **17A-1-103**, as enacted by Chapter 161, Laws of Utah 2003

32 **17A-2-1321**, as last amended by Chapter 228, Laws of Utah 1999

33 **17B-2-103**, as enacted by Chapter 161, Laws of Utah 2003

34 REPEALS:

35 **17A-2-416**, as renumbered and amended by Chapter 186, Laws of Utah 1990



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

38 Section 1. Section **10-7-10.5** is amended to read:

39 **10-7-10.5. Authority to require written application for water service and to**
40 **terminate service for failure to pay -- Limitations.**

41 (1) A municipality that owns or controls a system for furnishing water or for providing
42 sewer service may:

43 (a) before furnishing water or providing sewer service to a property, require the
44 property owner or an authorized agent to submit a written application, signed by the owner or
45 an authorized agent, agreeing to pay for all water furnished or sewer service provided to the
46 property, respectively, whether occupied by the owner or by a tenant or other occupant,
47 according to the ordinances, rules, and regulations adopted by the municipality; and

48 (b) if an owner fails to pay for water furnished or sewer service provided to the owner's
49 property, discontinue furnishing water or providing sewer service to the property, respectively,
50 until all amounts for water furnished or sewer service provided, respectively, are paid, subject
51 to Subsection (2).

52 (2) (a) A municipality may not use an owner's failure to pay for water furnished or
53 sewer service provided to the owner's property as a basis for not furnishing water or providing
54 sewer service to the property after ownership of the property is transferred to a subsequent
55 owner.

56 (b) A municipality may not require an owner to pay for water that was furnished or
57 sewer service that was provided to the property before the owner's ownership.

58 Section 2. Section **10-8-38** is amended to read:

59 **10-8-38. Drainage and sewage systems -- Construction regulation and control --**
60 **Retainage -- Mandatory hookup -- Charges for use -- Collection of charges -- Service to**
61 **tenants -- Failure to pay for service -- Service outside municipality.**

62 (1) (a) Boards of commissioners, city councils, and boards of trustees of cities and
63 towns may construct, reconstruct, maintain, and operate, sewer systems, sewage treatment
64 plants, culverts, drains, sewers, catch basins, manholes, cesspools, and all systems, equipment,
65 and facilities necessary to the proper drainage, sewage, and sanitary sewage disposal
66 requirements of the city or town and regulate the construction and use thereof.

67 (b) If any payment on a contract with a private person, firm, or corporation to construct
68 or reconstruct sewer systems, sewage treatment plants, culverts, drains, sewers, catch basins,
69 manholes, cesspools, and other drainage and sewage systems is retained or withheld, it shall be
70 retained or withheld and released as provided in Section 13-8-5.

71 (2) (a) In order to defray the cost of constructing, reconstructing, maintaining, or
72 operating a sewer system or sewage treatment plant, a municipality may:

73 (i) require connection to the sewer system if the sewer is available and within 300 feet
74 of the property line of a property with a building used for human occupancy; and

75 (ii) make a reasonable charge for the use of the sewer system.

76 (b) A municipality operating a waterworks system and a sewer system or sewage
77 treatment plant may:

78 (i) make one charge for the combined use of water and the services of the sewer system
79 or sewage treatment plant; and

80 (ii) adopt an ordinance requiring a property owner desiring water and sewer service to
81 submit a written application, signed by the owner or the owner's authorized agent, agreeing to
82 pay, according to the ordinance enacted by the municipality, for the water and sewer service
83 furnished the owner.

84 (c) (i) If a person fails to connect to the sewer when connection is required under
85 Subsection (2)(a)(i) or fails to pay for the sewer service as required under applicable municipal
86 ordinances, then the municipality may cause the water to be shut off from the premises until the
87 person has:

88 (A) hooked up to the sewer at the person's own expense; or

89 (B) paid in full for all sewer service.

90 (ii) A municipality may not use an owner's failure to pay for sewer service furnished to
91 the owner's property as a basis for not furnishing water to the property after ownership of the
92 property is transferred to a subsequent owner.

93 ~~[(iii) A municipality may not require an owner to pay for sewer service that was
94 furnished to the property before the owner's ownership.]~~

95 (d) A municipality may sell and deliver water or sewer services to others beyond the
96 limits of the municipality from the surplus capacity of the municipality's waterworks or sewer
97 system.

98 Section 3. Section **17A-1-103** is amended to read:

99 **17A-1-103. Authority to require written application for water or sewer service**
100 **and to terminate service for failure to pay -- Limitations.**

101 (1) A special district that owns or controls a system for furnishing water or for
102 providing sewer service may:

103 (a) before furnishing water or providing sewer service to a property, require the
104 property owner or an authorized agent to submit a written application, signed by the owner or
105 an authorized agent, agreeing to pay for all water furnished or sewer service provided to the
106 property, respectively, whether occupied by the owner or by a tenant or other occupant,
107 according to rules, regulations, or resolutions adopted by the special district; and

108 (b) if an owner fails to pay for water furnished or sewer service provided to the owner's
109 property, discontinue furnishing water or providing sewer service to the property, respectively,
110 until all amounts for water furnished or sewer service provided, respectively, are paid, subject
111 to Subsection (2).

112 (2) (a) A special district may not use an owner's failure to pay for water furnished or
113 sewer service provided to the owner's property as a basis for not furnishing water or providing
114 sewer service to the property after ownership of the property is transferred to a subsequent
115 owner.

116 (b) A special district may not require an owner to pay for water that was furnished or
117 sewer service that was provided to the property before the owner's ownership.

118 Section 4. Section **17A-2-1321** is amended to read:

119 **17A-2-1321. Delinquent fees and charges.**

120 (1) Except as provided in Subsection (3), the governing authority of a special service

121 district may, by ordinance or resolution, provide that fees and charges for [~~water, sewer,~~
122 garbage[;] or fire protection services supplied by the special service district shall, if not paid
123 when due, be certified to the treasurer and assessor of the county in which the delinquent
124 premises are located.

125 (2) These delinquent fees and charges, together with penalties and applicable interest
126 shall, immediately upon this certification, become a lien on the delinquent premises on a parity
127 with and collected at the same time and in the same manner as general county taxes that are a
128 lien on the premises.

129 (3) This section does not apply to a special service district's fees and charges if the
130 governing authority of the county or municipality that established the special service district
131 levies a tax for district purposes on taxable property within the special service district under
132 Section 17A-2-1322.

133 Section 5. Section **17B-2-103** is amended to read:

134 **17B-2-103. Authority to require written application for water or sewer service**
135 **and to terminate service for failure to pay -- Limitations.**

136 (1) A local district that owns or controls a system for furnishing water or for providing
137 sewer service may:

138 (a) before furnishing water or providing sewer service to a property, require the
139 property owner or an authorized agent to submit a written application, signed by the owner or
140 an authorized agent, agreeing to pay for all water furnished or sewer service provided to the
141 property, respectively, whether occupied by the owner or by a tenant or other occupant,
142 according to rules, regulations, or resolutions adopted by the local district; and

143 (b) if an owner fails to pay for water furnished or sewer service provided to the owner's
144 property, discontinue furnishing water or furnishing sewer service to the property, respectively,
145 until all amounts for water furnished or sewer service provided, respectively, are paid, subject
146 to Subsection (2).

147 (2) (a) A local district may not use an owner's failure to pay for water furnished or
148 sewer service provided to the owner's property as a basis for not furnishing water or providing
149 sewer service to the property after ownership of the property is transferred to a subsequent
150 owner.

151 (b) A local district may not require an owner to pay for water that was furnished or

152 sewer service that was provided to the property before the owner's ownership.

153 Section 6. **Repealer.**

154 This bill repeals:

155 Section **17A-2-416, Delinquent fees and charges to become lien when certified.**

Legislative Review Note
as of **12-17-03 2:32 PM**

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

Office of Legislative Research and General Counsel