

**LOCAL GOVERNMENT AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Deidre M. Henderson**

House Sponsor: Michael S. Kennedy

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**LONG TITLE**

**General Description:**

This bill amends provisions related to an assessment area, a local district, and a special service district.

**Highlighted Provisions:**

This bill:

- ▶ requires a county treasurer to include certain information on a property tax notice, which notice includes:
  - an assessment levied by a local entity; or
  - a past due fee, administrative cost, or interest charged by a local district;
- ▶ amends provisions authorizing a lien for an assessment;
- ▶ prohibits a local district from compounding interest more frequently than annually;
- ▶ authorizes a local entity or local district to charge for administrative costs for collection of a respective past due assessment or fee;
- ▶ authorizes a local district to impose or increase a fee only to offset the local district's demonstrable costs;
- ▶ amends provisions authorizing a lien for a local district fee;
- ▶ by amending local district provisions, also amends provisions that govern a special service district; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **11-42-202**, as last amended by Laws of Utah 2013, Chapters 246 and 265

34 **11-42-401**, as last amended by Laws of Utah 2013, Chapter 265

35 **11-42-501**, as enacted by Laws of Utah 2007, Chapter 329

36 **11-42-502**, as enacted by Laws of Utah 2007, Chapter 329

37 **11-42-504**, as enacted by Laws of Utah 2007, Chapter 329

38 **17B-1-107**, as last amended by Laws of Utah 2010, Chapter 150

39 **17B-1-418**, as renumbered and amended by Laws of Utah 2007, Chapter 329

40 **17B-1-643**, as last amended by Laws of Utah 2011, Chapters 47 and 106

41 **17B-1-902**, as renumbered and amended by Laws of Utah 2007, Chapter 329

42 **17B-1-903**, as renumbered and amended by Laws of Utah 2007, Chapter 329

43 **17B-2a-506**, as last amended by Laws of Utah 2012, Chapter 97

44 **59-2-1317**, as last amended by Laws of Utah 2014, Chapter 279



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

47 Section 1. Section **11-42-202** is amended to read:

48 **11-42-202. Requirements applicable to a notice of a proposed assessment area**  
49 **designation.**

50 (1) Each notice required under Subsection **11-42-201**(2)(a) shall:

51 (a) state that the local entity proposes to:

52 (i) designate one or more areas within the local entity's jurisdictional boundaries as an  
53 assessment area;

54 (ii) provide an improvement to property within the proposed assessment area; and

55 (iii) finance some or all of the cost of improvements by an assessment on benefitted  
56 property within the assessment area;

57 (b) describe the proposed assessment area by any reasonable method that allows an  
58 owner of property in the proposed assessment area to determine that the owner's property is

59 within the proposed assessment area;

60 (c) describe, in a general way, the improvements to be provided to the assessment area,  
61 including:

62 (i) the general nature of the improvements; and

63 (ii) the general location of the improvements, by reference to streets or portions or  
64 extensions of streets or by any other means that the governing body chooses that reasonably  
65 describes the general location of the improvements;

66 (d) state the estimated cost of the improvements as determined by a project engineer;

67 (e) state that the local entity proposes to levy an assessment on benefitted property  
68 within the assessment area to pay some or all of the cost of the improvements according to the  
69 estimated direct and indirect benefits to the property from the improvements;

70 (f) state the assessment method by which the governing body proposes to levy the  
71 assessment, including, if the local entity is a municipality or county, whether the assessment  
72 will be collected:

73 (i) by directly billing a property owner; or

74 (ii) by inclusion on a property tax notice issued in accordance with Section [59-2-1317](#)  
75 and in compliance with Section [11-42-401](#);

76 (g) state:

77 (i) the date described in Section [11-42-203](#) and the location at which protests against  
78 designation of the proposed assessment area or of the proposed improvements are required to  
79 be filed; and

80 (ii) the method by which the governing body will determine the number of protests  
81 required to defeat the designation of the proposed assessment area or acquisition or  
82 construction of the proposed improvements;

83 (h) state the date, time, and place of the public hearing required in Section [11-42-204](#);

84 (i) if the governing body elects to create and fund a reserve fund under Section  
85 [11-42-702](#), include a description of:

86 (i) how the reserve fund will be funded and replenished; and

87 (ii) how remaining money in the reserve fund is to be disbursed upon full payment of  
88 the bonds;

89 (j) if the governing body intends to designate a voluntary assessment area, include a

90 property owner consent form that:

91 (i) estimates the total assessment to be levied against the particular parcel of property;

92 (ii) describes any additional benefits that the governing body expects the assessed

93 property to receive from the improvements; and

94 (iii) designates the date and time by which the fully executed consent form is required  
95 to be submitted to the governing body;

96 (k) if the local entity intends to levy an assessment to pay operation and maintenance  
97 costs or for economic promotion activities, include:

98 (i) a description of the operation and maintenance costs or economic promotion  
99 activities to be paid by assessments and the initial estimated annual assessment to be levied;

100 (ii) a description of how the estimated assessment will be determined;

101 (iii) a description of how and when the governing body will adjust the assessment to  
102 reflect the costs of:

103 (A) in accordance with Section [11-42-406](#), current economic promotion activities; or

104 (B) current operation and maintenance costs;

105 (iv) a description of the method of assessment if different from the method of  
106 assessment to be used for financing any improvement; and

107 (v) a statement of the maximum number of years over which the assessment will be  
108 levied for:

109 (A) operation and maintenance costs; or

110 (B) economic promotion activities; and

111 (l) if the governing body intends to divide the proposed assessment area into zones  
112 under Subsection [11-42-201\(1\)\(b\)](#), include a description of the proposed zones.

113 (2) A notice required under Subsection [11-42-201\(2\)\(a\)](#) may contain other information  
114 that the governing body considers to be appropriate, including:

115 (a) the amount or proportion of the cost of the improvement to be paid by the local  
116 entity or from sources other than an assessment;

117 (b) the estimated amount of each type of assessment for the various improvements to  
118 be financed according to the method of assessment that the governing body chooses; and

119 (c) provisions for any improvements described in Subsection [11-42-102\(24\)\(a\)\(ii\)](#).

120 (3) Each notice required under Subsection [11-42-201\(2\)\(a\)](#) shall:

121 (a) (i) (A) be published in a newspaper of general circulation within the local entity's  
 122 jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at  
 123 least five but not more than 20 days before the day of the hearing required in Section  
 124 11-42-204; or

125 (B) if there is no newspaper of general circulation within the local entity's jurisdictional  
 126 boundaries, be posted in at least three public places within the local entity's jurisdictional  
 127 boundaries at least 20 but not more than 35 days before the day of the hearing required in  
 128 Section 11-42-204; and

129 (ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for  
 130 four weeks before the deadline for filing protests specified in the notice under Subsection  
 131 (1)(g); and

132 (b) be mailed, postage prepaid, within 10 days after the first publication or posting of  
 133 the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed  
 134 assessment area at the property owner's mailing address.

135 Section 2. Section 11-42-401 is amended to read:

136 **11-42-401. Levying an assessment -- Payment of property tax notice --**

137 **Prerequisites -- Assessment list.**

138 (1) (a) If a local entity has designated an assessment area in accordance with Part 2,  
 139 Designating an Assessment Area, the local entity may levy an assessment against property  
 140 within that assessment area as provided in this part.

141 (b) If a local entity [~~that is a municipality or county~~] designates an assessment area in  
 142 accordance with this chapter, the [~~municipality or county~~] local entity may levy an assessment  
 143 and collect the assessment in accordance with Subsection 11-42-202(1)(f)(i) or (ii).

144 (c) An assessment billed by a [~~municipality or county~~] local entity in the same manner  
 145 as a property tax and included on a property tax notice in accordance with Subsection  
 146 11-42-202(1)(f)(ii) is enforced in accordance with, constitutes a lien in accordance with, and is  
 147 subject to other penalty provisions in accordance with this chapter.

148 (d) If a local entity includes an assessment on a property tax notice, the county  
 149 treasurer shall on the property tax notice:

150 (i) clearly state that the assessment is for the improvement, operation and maintenance,  
 151 or economic promotion activities provided by the local entity;

152 (ii) itemize the assessment separate from any other tax, fee, charge, interest, or penalty  
153 that is included on the property tax notice in accordance with Section 59-2-1317; and

154 (iii) state that the property owner may pay the assessment separate from the other taxes,  
155 fees, charges, interest, or penalties included on the property tax notice in accordance with  
156 Section 59-2-1317 and how the property owner may make that payment.

157 (2) Before a governing body may adopt a resolution or ordinance levying an  
158 assessment against property within an assessment area:

159 (a) the governing body shall:

160 (i) subject to Subsection (3), prepare an assessment list designating:

161 (A) each parcel of property proposed to be assessed; and

162 (B) the amount of the assessment to be levied against the property;

163 (ii) appoint a board of equalization as provided in Section 11-42-403; and

164 (iii) give notice as provided in Section 11-42-402; and

165 (b) the board of equalization, appointed under Section 11-42-403, shall hold hearings,  
166 make any corrections it considers appropriate to an assessment, and report its findings to the  
167 governing body as provided in Section 11-42-403.

168 (3) (a) The governing body of a local entity shall prepare the assessment list described  
169 in Subsection (2)(a)(i) at any time after:

170 (i) the governing body has determined the estimated or actual operation and  
171 maintenance costs, if the assessment is to pay operation and maintenance costs;

172 (ii) the governing body has determined the estimated or actual economic promotion  
173 costs described in Section 11-42-206, if the assessment is to pay for economic promotion  
174 activities; or

175 (iii) for any other assessment, the governing body has determined:

176 (A) the estimated or actual acquisition and construction costs of all proposed  
177 improvements within the assessment area, including overhead costs and authorized  
178 contingencies;

179 (B) the estimated or actual property price for all property to be acquired to provide the  
180 proposed improvements; and

181 (C) the reasonable cost of any work to be done by the local entity.

182 (b) In addition to the requirements of Subsection (3)(a), the governing body of a local

183 entity shall prepare the assessment list described in Subsection (2)(a)(i) before:

184 (i) the light service has commenced, if the assessment is to pay for light service; or

185 (ii) the park maintenance has commenced, if the assessment is to pay for park  
186 maintenance.

187 (4) A local entity may levy an assessment for some or all of the cost of improvements  
188 within an assessment area, including payment of:

189 (a) operation and maintenance costs of improvements constructed within the  
190 assessment area;

191 (b) (i) if an outside entity furnishes utility services or maintains utility improvements,  
192 the actual cost that the local entity pays for utility services or for maintenance of  
193 improvements; or

194 (ii) if the local entity itself furnishes utility service or maintains improvements, for the  
195 reasonable cost of supplying the utility service or maintenance;

196 (c) the reasonable cost of supplying labor, materials, or equipment in connection with  
197 improvements; and

198 (d) (i) the reasonable cost of connection fees; or

199 (ii) the reasonable costs, as determined by the local entity governing body, if the local  
200 entity owns or supplies any sewer, storm drainage, water, gas, electric, or communications  
201 connections.

202 (5) A local entity may not levy an assessment for an amount donated or contributed for  
203 an improvement or part of an improvement.

204 (6) The validity of an otherwise valid assessment is not affected because the actual cost  
205 of improvements exceeds the estimated cost.

206 (7) (a) Subject to Subsection (7)(b), an assessment levied to pay for operation and  
207 maintenance costs may not be levied over a period of time exceeding five years beginning on  
208 the day on which the local entity adopts the assessment ordinance or assessment resolution for  
209 the operation and maintenance costs assessment.

210 (b) A local entity may levy an additional assessment described in Subsection (7)(a) in  
211 the assessment area designated for the assessment described in Subsection (7)(a) if, after the  
212 five-year period expires, the local entity complies with the applicable levy provisions of this  
213 part.

214 Section 3. Section **11-42-501** is amended to read:

215 **11-42-501. Assessment constitutes a lien -- Characteristics of an assessment lien.**

216 (1) Each assessment levied under this chapter, including any installment of an  
 217 assessment, interest, [~~and any penalties~~] and administrative costs of collection, subject to  
 218 Section 11-42-502, constitutes a lien against the property assessed as of the effective date of the  
 219 assessment resolution or ordinance.

220 (2) A lien under this section:

221 (a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or  
 222 other encumbrances;

223 (b) [~~is equal to and on a parity with~~] has the same priority as, but is separate and  
 224 distinct from, a lien for general property taxes;

225 (c) applies without interruption, change in priority, or alteration in any manner to any  
 226 reduced payment obligations; and

227 (d) continues until the assessments, reduced payment obligations, and any interest[;  
 228 ~~penalties;~~] and administrative costs, subject to Section 11-42-502, are paid, despite a sale of the  
 229 property for or on account of a delinquent general property tax, special tax, or other assessment  
 230 or the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of  
 231 sale or deed.

232 Section 4. Section **11-42-502** is amended to read:

233 **11-42-502. Enforcement of an assessment lien -- Methods of enforcing lien --**

234 **Redemption of property -- Remedies are cumulative to other remedies.**

235 (1) (a) If an assessment or an installment of an assessment is not paid when due, the  
 236 local entity may sell the property on which the assessment has been levied for the amount due  
 237 plus interest[~~, penalties;~~] and administrative costs, in the manner provided:

238 [(a)] (i) by resolution or ordinance of the local entity;

239 [(b)] (ii) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for  
 240 delinquent general property taxes; or

241 [(c)] (iii) in Title 57, Chapter 1, Conveyances, as though the property were the subject  
 242 of a trust deed in favor of the local entity.

243 (b) (i) A local entity may not charge or collect a penalty fee for a past due assessment.

244 (ii) Subsection (1)(b)(i) does not apply to a penalty or interest charges related to a



245 bond, even if the penalty or charges are collected through the assessment.

246 (iii) A local entity may charge and collect an administrative cost for some or all of the  
247 following:

248 (A) the collection cost of a past due assessment;

249 (B) attorney fees associated with collection or, if applicable, foreclosure costs; and

250 (C) any other cost, including penalties and the time value of money based upon  
251 opportunity costs, incurred by the local entity for a failure of payment only if the cost reflects  
252 the delinquent customer's apportioned share of that cost.

253 (iv) A local entity may not charge interest on an administrative cost.

254 (v) A local entity may collect an administrative cost to cover the time value of money  
255 only if the local entity clearly identifies and makes available to the public the opportunity costs  
256 and its value calculation methods.

257 (2) Except as modified by this chapter, each tax sale under Subsection (1)(b) shall be  
258 governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale  
259 were for the sale of property for delinquent general property taxes.

260 (3) (a) In a foreclosure under Subsection (1)(c):

261 (i) the local entity may bid at the sale;

262 (ii) the local entity's governing body shall designate a trustee satisfying the  
263 requirements of Section 57-1-21;

264 (iii) each trustee designated under Subsection (3)(a)(ii) has a power of sale with respect  
265 to the property that is the subject of the delinquent assessment lien;

266 (iv) the property that is the subject of the delinquent assessment lien is considered to  
267 have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to  
268 exercise the trustee's power of sale under Subsection (3)(a)(iii);

269 (v) if no one bids at the sale and pays the local entity the amount due on the  
270 assessment, plus interest and costs, the property is considered sold to the local entity for those  
271 amounts; and

272 (vi) the local entity's chief financial officer may substitute and appoint one or more  
273 successor trustees, as provided in Section 57-1-22.

274 (b) The designation of a trustee under Subsection (3)(a)(ii) shall be disclosed in the  
275 notice of default that the trustee gives to commence the foreclosure, and need not be stated in a

276 separate instrument.

277 (4) (a) The redemption of property that is the subject of a tax sale under Subsection  
278 (1)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

279 (b) The redemption of property that is the subject of a foreclosure proceeding under  
280 Subsection (1)(c) is governed by Title 57, Chapter 1, Conveyances.

281 (5) (a) The remedies provided for in this part for the collection of an assessment and  
282 the enforcement of an assessment lien are cumulative.

283 (b) The use of one or more of the remedies provided for in this part may not be  
284 considered to deprive the local entity of any other remedy or means of collecting the  
285 assessment or enforcing the assessment lien.

286 Section 5. Section **11-42-504** is amended to read:

287 **11-42-504. Assessments on property that the local entity acquires at tax sale or**  
288 **foreclosure -- Transferring title of property in lieu of paying assessments --**  
289 **Reimbursement.**

290 (1) (a) Each local entity that purchases property at a tax sale or foreclosure under this  
291 part shall pay into the assessment fund all applicable annual installments of assessments and  
292 interest for as long as the local entity owns the property.

293 (b) A local entity may make payments required under this Subsection (1) from the  
294 guaranty fund or reserve fund.

295 (2) (a) In lieu of making payments under Subsection (1), a local entity may elect to  
296 transfer title of the property to the owners of all outstanding assessment bonds, refunding  
297 assessment bonds, interim warrants, or bond anticipation notes as payment in full for all  
298 delinquent assessments with respect to the property.

299 (b) If a local entity transfers title to property as provided in Subsection (2)(a) or sells  
300 property it has received from a tax sale or foreclosure, the selling price may not be less than the  
301 amount sufficient to reimburse the local entity for all amounts the local entity paid with respect  
302 to an assessment on the property, including an amount sufficient to reimburse the guaranty  
303 fund or reserve fund, as the case may be, for all amounts paid from the fund for delinquent  
304 assessments or installments of assessments relating to the property, plus interest~~[, penalties,~~  
305 ~~and costs]~~ and administrative costs as described in Section [11-42-502](#).

306 (c) Each local entity that sells property it has received from a tax sale or foreclosure

307 shall place the money it receives from the sale into the guaranty fund, reserve fund, or other  
308 local entity fund, as the case may be, to the extent of full reimbursement as required in this  
309 section.

310 Section 6. Section **17B-1-107** is amended to read:

311 **17B-1-107. Recording a release of lien.**

312 If a local district records a lien upon real property or a groundwater right for an unpaid  
313 assessment by the owner and the owner then pays the assessment in full, including, subject to  
314 Section 17B-1-902, any interest and [~~penalties~~] administrative costs, the local district recording  
315 the lien shall record the release of the lien.

316 Section 7. Section **17B-1-418** is amended to read:

317 **17B-1-418. Annexed area subject to fees and taxes.**

318 When an annexation under Section 17B-1-414 or 17B-1-415 or a boundary adjustment  
319 under Section 17B-1-417 is complete, the annexed area or the area affected by the boundary  
320 adjustment shall be subject to user fees [~~or charges~~] imposed by and property, sales, and other  
321 taxes levied by or for the benefit of the local district.

322 Section 8. Section **17B-1-643** is amended to read:

323 **17B-1-643. Imposing or increasing a fee for service provided by local district.**

324 (1) (a) A local district may only impose or increase a fee to offset the local district's  
325 demonstrable cost of providing an authorized service rendered to a customer or to the district  
326 collectively.

327 (b) For purposes of Subsections (1)(a) and (2)(a)(i), a demonstrable cost is a cost that is  
328 present and reasonably anticipates future costs of the local district that may be allocated to the  
329 authorized service for which a fee is being charged, including costs and amounts needed:

330 (i) for operation and maintenance;

331 (ii) for capital facilities;

332 (iii) for administration;

333 (iv) for reasonable reserve accounts;

334 (v) to satisfy current and future regulatory requirements; or

335 (vi) for contractual and other commitments of the local district, including debt  
336 instruments.

337 ~~[(+)]~~ (2) (a) Before imposing a new fee or increasing an existing fee for a service

338 provided by a local district, each local district board of trustees shall first hold a public hearing  
339 at which:

340 (i) the local district shall demonstrate, subject to Subsection (1)(b), its need to impose  
341 or increase the fee; and

342 (ii) any interested person may speak for or against the proposal to impose a fee or to  
343 increase an existing fee.

344 (b) Each public hearing under Subsection ~~[(1)]~~ (2)(a) shall be held in the evening  
345 beginning no earlier than 6 p.m.

346 (c) A public hearing required under this Subsection ~~[(1)]~~ (2) may be combined with a  
347 public hearing on a tentative budget required under Section [17B-1-610](#).

348 (d) Except to the extent that this section imposes more stringent notice requirements,  
349 the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act,  
350 in holding the public hearing under Subsection ~~[(1)]~~ (2)(a).

351 ~~[(2)]~~ (3) (a) Each local district board shall give notice of a hearing under Subsection  
352 ~~[(1)]~~ (2) as provided in ~~[Subsection (2)]~~ Subsections (3)(b)~~(i) or~~ and (c) or Subsection (3)(d).

353 (b) ~~[(i)-(A)]~~ The notice required under Subsection ~~[(2)]~~ (3)(a) shall be published:

354 (i) on the Utah Public Notice Website established in Section [63F-1-701](#); and

355 ~~[(1)]~~ (ii) (A) in a newspaper or combination of newspapers of general circulation in the  
356 local district, if there is a newspaper or combination of newspapers of general circulation in the  
357 local district; or

358 ~~[(1)]~~ (B) if there is no newspaper or combination of newspapers of general circulation  
359 in the local district, the local district board shall post at least one notice per 1,000 population  
360 within the local district, at places within the local district that are most likely to provide actual  
361 notice to residents within the local district.

362 ~~[(1)]~~ (c) (i) The notice described in Subsection ~~[(2)(b)(i)(A)(1)]~~ (3)(b)(ii)(A):

363 ~~[(1)]~~ (A) shall be no less than 1/4 page in size and the type used shall be no smaller  
364 than 18 point, and surrounded by a 1/4-inch border;

365 ~~[(1)]~~ (B) may not be placed in that portion of the newspaper where legal notices and  
366 classified advertisements appear;

367 ~~[(1)]~~ (C) whenever possible, shall appear in a newspaper that is published at least one  
368 day per week;

369 ~~[(IV)]~~ (D) shall be in a newspaper or combination of newspapers of general interest  
370 and readership in the local district, and not of limited subject matter; and

371 ~~[(V)]~~ (E) shall be run once each week for the two weeks preceding the hearing.

372 (ii) The notice described in Subsection ~~[(2)(b)(i)(A)]~~ (3)(b) shall state that the local  
373 district board intends to impose or increase a fee for a service provided by the local district and  
374 will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be  
375 not less than seven days after the day the first notice is published, for the purpose of hearing  
376 comments regarding the proposed imposition or increase of a fee and to explain the reasons for  
377 the proposed imposition or increase.

378 ~~[(e)]~~ (d) (i) In lieu of providing notice under Subsection ~~[(2)]~~ (3)(b), the local district  
379 board of trustees may give the notice required under Subsection ~~[(2)]~~ (3)(a) by mailing the  
380 notice to those within the district who:

381 (A) will be charged the fee for a district service, if the fee is being imposed for the first  
382 time; or

383 (B) are being charged a fee, if the fee is proposed to be increased.

384 (ii) Each notice under Subsection ~~[(2)(e)]~~ (3)(d)(i) shall comply with Subsection  
385 ~~[(2)(b)]~~ (3)(c)(ii).

386 (iii) A notice under Subsection ~~[(2)(e)]~~ (3)(d)(i) may accompany a district bill for an  
387 existing fee.

388 ~~[(d)]~~ (e) If the hearing required under this section is combined with the public hearing  
389 required under Section 17B-1-610, the notice requirement under this Subsection ~~[(2)]~~ (3) is  
390 satisfied if a notice that meets the requirements of Subsection ~~[(2)(b)]~~ (3)(c)(ii) is combined  
391 with the notice required under Section 17B-1-609.

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

394 ~~[(f)]~~ (g) If no challenge is made to the notice given of a hearing required by Subsection  
395 ~~[(1)]~~ (2) within 30 days after the date of the hearing, the notice is considered adequate and  
396 proper.

397 ~~[(3)]~~ (4) After holding a public hearing under Subsection ~~[(1)]~~ (2), a local district board  
398 may:

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

400 (b) adjust the amount of the proposed new fee or the increase of the existing fee and  
401 then impose the new fee or increase the existing fee as adjusted; or

402 (c) decline to impose the new fee or increase the existing fee.

403 ~~[(4)]~~ (5) This section applies to each new fee imposed and each increase of an existing  
404 fee that occurs on or after July 1, 1998.

405 ~~[(5)]~~ (6) (a) This section does not apply to an impact fee.

406 (b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a,  
407 Impact Fees Act.

408 Section 9. Section **17B-1-902** is amended to read:

409 **17B-1-902. Lien for past due service fees -- Payment of property tax notice --**  
410 **Interest calculated -- Limitations.**

411 (1) (a) A local district may ~~[certify, to the treasurer of the county in which the~~  
412 ~~customer's property is located,]~~ file a lien on a customer's property for past due fees [and  
413 ~~charges]~~ for commodities, services, or facilities that the district has provided to the customer's  
414 ~~property[-(b) Subject]~~ by certifying, subject to Subsection (2), to the treasurer of the county in  
415 which the customer's property is located the past due fees [and charges], including, subject to  
416 Subsection (4), applicable interest [and penalties, upon their] and administrative costs.

417 (b) Upon certification under Subsection (1)(a), the past due fees, and if applicable,  
418 interest and administrative costs, become a lien on the customer's property to which the  
419 commodities, services, or facilities were provided[~~, on a parity with and collectible at the same~~  
420 ~~time and in the same manner as general county taxes that are a lien on the property].~~

421 (c) A lien recorded in accordance with this section has the same priority as, but is  
422 separate and distinct from, a property tax lien.

423 (2) (a) If a local district certifies past due fees under Subsection (1)(a), the county  
424 treasurer shall include on a property tax notice issued in accordance with Section [59-2-1317](#) an  
425 unpaid fee, administrative cost, or interest described in Subsection (1)(a).

426 (b) If an unpaid fee, administrative cost, or interest is included on a property tax notice  
427 in accordance with Subsection (2)(a), the county treasurer shall on the property tax notice:

428 (i) clearly state that the unpaid fee, administrative cost, or interest is for a service  
429 provided by the local district;

430 (ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax,

431 fee, interest, or penalty that is included on the property tax notice in accordance with Section  
432 59-2-1317; and

433 (iii) state that the property owner may pay the unpaid fee, administrative cost, or  
434 interest separate from the other taxes, fees, charges, interest, or penalties included on the  
435 property tax notice in accordance with Section 59-2-1317 and how the property owner may  
436 make that payment.

437 ~~[(2)]~~ (3) A lien under Subsection (1) is not valid if certification under Subsection (1) is  
438 made after the filing for record of a document conveying title of the customer's property to a  
439 new owner.

440 (4) (a) A local district may charge a one-time penalty charge not to exceed 8% for a  
441 past due fee.

442 (b) A local district may charge interest on a past due fee or past due charge.

443 (c) If a local district charges interest as described in Subsection (4)(b), the local district  
444 shall calculate the interest rate for a calendar year:

445 (i) based on the federal short-term rate determined by the secretary of the treasury  
446 under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter;  
447 and

448 (ii) as simple interest at the rate of eighteen percentage points above the federal  
449 short-term rate.

450 (d) If a local district charges interest on a past due fee collected by the local district,  
451 regardless of whether the fee is certified, the local district may charge the interest monthly but  
452 may not compound the interest more frequently than annually.

453 (5) (a) A local district may charge and collect an administrative cost for some or all of  
454 the following:

455 (i) the collection cost of a past due fee or charge;

456 (ii) attorney fees associated with collection or, if applicable, foreclosure costs; and

457 (iii) any other cost, including penalties and the time value of money based upon  
458 opportunity costs, incurred by the local district for a failure of payment only if the cost reflects  
459 the delinquent customer's apportioned share of that cost.

460 (b) A local district may not charge interest on an administrative cost.

461 (c) A local district may collect an administrative cost to cover the time value of money

462 only if the local district clearly identifies and makes available to the public the opportunity  
463 costs and the local district's value calculation methods.

464 [~~3~~] (6) Nothing in this section may be construed to:

465 (a) waive or release the customer's obligation to pay fees [~~or charges~~] that the district  
466 has imposed;

467 (b) preclude the certification of a lien under Subsection (1) with respect to past due  
468 fees [~~or charges~~] for commodities, services, or facilities provided after the date that title to the  
469 property is transferred to a new owner; or

470 (c) nullify or terminate a valid lien.

471 [~~4~~] (7) After all amounts owing under a lien established as provided in this section  
472 have been paid, the local district shall file for record in the county recorder's office a release of  
473 the lien.

474 Section 10. Section 17B-1-903 is amended to read:

475 **17B-1-903. Authority to require written application for water or sewer service**  
476 **and to terminate for failure to pay -- Limitations.**

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

479 (a) before furnishing water or providing sewer service to a property, require the  
480 property owner or an authorized agent to submit a written application, signed by the owner or  
481 an authorized agent, agreeing to pay for all water furnished or sewer service provided to the  
482 property, whether occupied by the owner or by a tenant or other occupant, according to the  
483 rules and regulations adopted by the local district; and

484 (b) if a customer fails to pay for water furnished or sewer service provided to the  
485 customer's property, discontinue furnishing water or providing sewer service to the property  
486 until all amounts for water furnished or sewer service provided are paid, subject to Subsection  
487 (2).

488 (2) Unless a valid lien has been established as provided in Section 17B-1-902, has not  
489 been satisfied, and has not been terminated by a sale as provided in [~~Subsection~~] Section  
490 17B-1-902[~~(2)~~], a local district may not:

491 (a) use a customer's failure to pay for water furnished or sewer service provided to the  
492 customer's property as a basis for not furnishing water or providing sewer service to the



493 property after ownership of the property is transferred to a subsequent owner; or

494 (b) require an owner to pay for water that was furnished or sewer service that was  
495 provided to the property before the owner's ownership.

496 Section 11. Section **17B-2a-506** is amended to read:

497 **17B-2a-506. Different use charges for different units -- Use charges based on the**  
498 **size of the land served -- Use charge may not be based on property value.**

499 (1) An irrigation district may:

500 (a) divide the district into units and apply different use charges to the different units;

501 and

502 (b) base use charges upon the amount of water or electricity the district provides, the  
503 area of the land served, or any other reasonable basis, as determined by the board of trustees.

504 (2) If an irrigation district imposes a use charge based on the size of the land served or  
505 the amount of water allotted to the land:

506 (a) the assessor of the county in which the land is located shall assist the irrigation  
507 district in ascertaining the identity of a parcel served by the district;

508 (b) the district shall notify the treasurer of the county in which the land is located of the  
509 charge to be imposed for each parcel of land served by the district; and

510 (c) the treasurer of the county in which the land is located:

511 (i) shall:

512 (A) provide each landowner a notice of use charges as part of the annual tax notice as  
513 an additional charge separate from ad valorem taxes;

514 (B) collect, receive, and provide an accounting for all money belonging to the district  
515 from use charges; and

516 (C) remit to the irrigation district, by the tenth day of each month, the funds previously  
517 collected by the county as use charges on the district's behalf; and

518 (ii) may receive and account for use charges separately from taxes upon real estate for  
519 county purposes.

520 (3) (a) A use charge described in Subsection (2)(b) shall become a lien on the land  
521 served as provided in Section **17B-1-902** except that the certification described in Subsection  
522 **17B-1-902(1)(a)** is not required.

523 (b) A lien described in Subsection (3)(a) shall remain in force until the use charge is

524 paid.

525 (c) The county treasurer shall release a lien described in Subsection (3)(a) upon receipt  
526 of full payment of the use charge.

527 (4) A use charge may not be calculated on the basis of property value and does not  
528 constitute an ad valorem property tax or other tax.

529 Section 12. Section **59-2-1317** is amended to read:

530 **59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for**  
531 **providing notice.**

532 (1) Subject to the other provisions of this section, the county treasurer shall:

533 (a) collect the taxes; and

534 (b) provide a notice to each taxpayer that contains the following:

535 (i) the kind and value of property assessed to the taxpayer;

536 (ii) the street address of the property, if available to the county;

537 (iii) that the property may be subject to a detailed review in the next year under Section  
538 [59-2-303.1](#);

539 (iv) the amount of taxes levied;

540 (v) a separate statement of the taxes levied only on a certain kind or class of property  
541 for a special purpose;

542 (vi) property tax information pertaining to taxpayer relief, options for payment of  
543 taxes, and collection procedures;

544 (vii) if applicable, the amount of an assessment assessed in accordance with Section  
545 [11-42-401](#);

546 (viii) if applicable, an unpaid fee, administrative cost, or interest for a local district in  
547 accordance with Section [17B-1-902](#);

548 [~~viii~~] (ix) the date the taxes are due;

549 [~~ix~~] (x) the street address at which the taxes may be paid;

550 [~~x~~] (xi) the date on which the taxes are delinquent;

551 [~~xi~~] (xii) the penalty imposed on delinquent taxes;

552 [~~xii~~] (xiii) other information specifically authorized to be included on the notice  
553 under this chapter; and

554 [~~xiii~~] (xiv) other property tax information approved by the commission.

555 (2) For any property for which property taxes are delinquent, the notice described in  
556 Subsection (1) shall state, "Prior taxes are delinquent on this parcel."

557 (3) Except as provided in Subsection (4), the county treasurer shall:

558 (a) mail the notice required by this section, postage prepaid; or

559 (b) leave the notice required by this section at the taxpayer's residence or usual place of  
560 business, if known.

561 (4) (a) Subject to the other provisions of this Subsection (4), a county treasurer may, at  
562 the county treasurer's discretion, provide the notice required by this section by electronic mail if  
563 a taxpayer makes an election, according to procedures determined by the county treasurer, to  
564 receive the notice by electronic mail.

565 (b) A taxpayer may revoke an election to receive the notice required by this section by  
566 electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

567 (c) A revocation of an election under this section does not relieve a taxpayer of the  
568 duty to pay a tax due under this chapter on or before the due date for paying the tax.

569 (d) A county treasurer shall provide the notice required by this section using a method  
570 described in Subsection (3), until a taxpayer makes a new election in accordance with this  
571 Subsection (4), if:

572 (i) the taxpayer revokes an election in accordance with Subsection (4)(b) to receive the  
573 notice required by this section by electronic mail; or

574 (ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

575 (e) A person is considered to be a taxpayer for purposes of this Subsection (4)  
576 regardless of whether the property that is the subject of the notice required by this section is  
577 exempt from taxation.

578 (5) (a) The county treasurer shall provide the notice required by this section to a  
579 taxpayer on or before November 1.

580 (b) The county treasurer shall keep on file in the county treasurer's office the  
581 information set forth in the notice.

582 (c) The county treasurer is not required to mail a tax receipt acknowledging payment.

583 (6) This section does not apply to property taxed under Section [59-2-1302](#) or  
584 [59-2-1307](#).

**Legislative Review Note**  
**as of 2-3-15 12:44 PM**

**Office of Legislative Research and General Counsel**