

SB0193S01 compared with SB0193

~~deleted text~~ shows text that was in SB0193 but was deleted in SB0193S01.

inserted text shows text that was not in SB0193 but was inserted into SB0193S01.

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Senator Deidre M. Henderson proposes the following substitute bill:

LOCAL GOVERNMENT AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: ~~_____~~ Michael S. Kennedy

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

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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:

None

Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

ENACTS:

17B-1-902.1, Utah Code Annotated 1953

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

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

11-42-202. Requirements applicable to a notice of a proposed assessment area

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designation.

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

(a) state that the local entity proposes to:

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

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

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

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

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

(i) the general nature of the improvements; and

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

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

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

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

(i) by directly billing a property owner; or

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

(g) state:

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

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

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

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

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

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

(j) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

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

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements; and

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

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

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

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

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

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

(B) current operation and maintenance costs;

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

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

(A) operation and maintenance costs; or

(B) economic promotion activities; and

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

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

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

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

(c) provisions for any improvements described in Subsection 11-42-102(24)(a)(ii).

(3) Each notice required under Subsection 11-42-201(2)(a) shall:

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

(B) 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 at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

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

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

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

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

Prerequisites -- Assessment list.

(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 ~~is~~ that is a municipality or county ~~is~~ designates an assessment area

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in accordance with this chapter, the ~~{}~~ municipality or county ~~{ local entity }~~ may levy an assessment and collect the assessment in accordance with Subsection 11-42-202(1)(f)(i) or (ii).

(c) An assessment billed by a ~~{}~~ municipality or county ~~{ local entity }~~ in the same manner as a property tax and included on a property tax notice in accordance with Subsection 11-42-202(1)(f)(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;

(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; and

(iii) state that ~~{the property owner may pay the assessment separate from the other taxes, fees, charges, interest, or penalties}~~ **if less than the full amount of the property tax and assessments** included on the property tax notice ~~{in accordance with Section 59-2-1317 and how the property owner may make that payment}~~ **are paid, the payment will be applied proportionately to the balances due for property taxes and assessments and other permitted charges described in this section unless otherwise specified by the taxpayer.**

(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 hold hearings, make any corrections it considers appropriate to an assessment, and 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:

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(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 and authorized contingencies;

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

(C) the reasonable cost of any work to be done 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;

(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 reasonable cost of supplying the utility service or maintenance;

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

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

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

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connections.

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

(6) The validity of an otherwise valid assessment is not affected because the actual 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 complies with the applicable levy provisions of this part.

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

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

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

(2) A lien under this section:

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

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

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

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

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Section 4. Section ~~{11-42-502}~~17B-1-107 is amended to read:

~~{~~ ~~11-42-502. Enforcement of an assessment lien -- Methods of enforcing lien -- Redemption of property -- Remedies are cumulative to other remedies:~~

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

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

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

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

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

~~———— (ii) Subsection (1)(b)(i) does not apply to a penalty or interest charges related to a bond, even if the penalty or charges are collected through the assessment.~~

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

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

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

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

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

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

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

~~———— (3) (a) In a foreclosure under Subsection (1)(c):~~

~~———— (i) the local entity may bid at the sale;~~

~~———— (ii) the local entity's governing body shall designate a trustee satisfying the~~

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~~requirements of Section 57-1-21;~~

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

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

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

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

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

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

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

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

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

~~—— Section 5. Section 11-42-504 is amended to read:~~

~~—— 11-42-504. Assessments on property that the local entity acquires at tax sale or foreclosure -- Transferring title of property in lieu of paying assessments --~~
Reimbursement:

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

~~—— (b) A local entity may make payments required under this Subsection (1) from the~~

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~~guaranty fund or reserve fund.~~

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

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

~~—— (c) Each local entity that sells property it has received from a tax sale or foreclosure shall place the money it receives from the sale into the guaranty fund, reserve fund, or other local entity fund, as the case may be, to the extent of full reimbursement as required in this section.~~

~~—— Section 6. Section 17B-1-107 is amended to read:~~

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

If a local district records a lien upon real property or a groundwater right for an unpaid assessment by the owner and the owner then pays the assessment in full, including, subject to Section 17B-1-902.1, any interest and [~~penalties~~] administrative costs, the local district recording the lien shall record the release of the lien.

Section ~~{7}~~5. Section **17B-1-418** is amended to read:

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

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

Section ~~{8}~~6. Section **17B-1-643** is amended to read:

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

~~{ (1) (a) A local district may only impose or increase a fee to offset the local district's~~

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demonstrable cost of providing an authorized service rendered to a customer or to the district collectively:

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

—— (i) for operation and maintenance;

—— (ii) for capital facilities;

—— (iii) for administration;

—— (iv) for reasonable reserve accounts;

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

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

‡ ~~§§(1)§(2)~~ (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which:

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

(ii) 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 ~~§§(1)§(2)~~(a) shall be held in the evening beginning no earlier than 6 p.m.

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

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

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

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

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

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~~(F)~~ (ii) (A) in a newspaper or combination of newspapers of general circulation in the local district, if there is a newspaper or combination of newspapers of general circulation in the local district; or

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

~~(B)~~ (c) (i) The notice described in Subsection ~~(F)~~(2)(b)~~(i)(A)(F)~~ ~~(F)~~~~(3)(b)~~~~(ii)(A)~~:

~~(F)~~ (A) 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;

~~(H)~~ (B) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

~~(H)~~ (C) whenever possible, shall appear in a newspaper that is published at least one day per week;

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

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

(ii) The notice described in Subsection ~~(F)~~(2)(b)~~(i)(A)~~ ~~(F)~~~~(3)(b)~~ shall state that the local district board intends to impose or increase a fee for a service provided by the local 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.

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

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

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

(ii) Each notice under Subsection ~~(F)~~(2)~~(E)~~ ~~(F)~~~~(3)~~(d)(i) shall comply with Subsection ~~(F)~~(2)~~(b)~~ ~~(F)~~~~(3)~~(c)(ii).

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

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

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

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

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

(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.

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

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

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

Section ~~§9~~7. Section **17B-1-902** is amended to read:

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

(1) (a) A local district may [certify, to the treasurer of the county in which the customer's property is located,] file a lien on a customer's property for past due fees [and charges] for commodities, services, or facilities that the district has provided to the customer's property~~[-(b) Subject]~~ by certifying, subject to Subsection (2), to the treasurer of the county in which the customer's property is located the past due fees [and charges], including, subject to ~~Subsection (4)~~Section 17B-1-902.1, applicable interest [and penalties, upon their] and

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administrative costs.

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

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

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

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

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

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

(iii) state that ~~the property owner may pay the unpaid fee, administrative cost, or interest separate from the other taxes, fees, charges, interest, or penalties~~if less than the full amount of the property tax and local district fees included on the property tax notice ~~in accordance with Section 59-2-1317 and how the property owner may make that payment~~are paid, the payment will be applied proportionately to the balances due for property taxes and local district fees, which shall include all fees and other permitted charges described in this section unless otherwise specified by the taxpayer.

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

~~[(4)(a) A]~~ [(3)] (4) Nothing in this section may be construed to:

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

(b) preclude the certification of a lien under Subsection (1) with respect to past due

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fees [or charges] for commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or

(c) nullify or terminate a valid lien.

[~~(4)~~ (5) After all amounts owing under a lien established as provided in this section have been paid, the local district ~~{may charge a one-time penalty charge not to exceed 8% for a past due fee.~~

~~(b)~~ shall file for record in the county recorder's office a release of the lien.

Section 8. Section 17B-1-902.1 is enacted to read:

17B-1-902.1. Interest -- Collection of administrative costs.

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

~~(~~(c)~~b)~~ If a local district charges interest as described in Subsection (~~(4)~~1)(b), the local district shall calculate the interest rate for a calendar year:

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

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

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

~~(~~(5)~~2)~~ (a) A local district may charge and collect only one of the following:

(i) a one-time penalty charge not to exceed 8% for a past-due fee; or

(ii) an administrative cost for some or all of the following:

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

~~(~~(ii)~~B)~~ reasonable attorney fees ~~{associated with}~~ actually incurred for collection ~~{or, if applicable,}~~ and foreclosure costs~~;~~ and

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

(C) any other cost.

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

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~~{ (c) A local district may collect an administrative cost to cover the time value of money only if the local district clearly identifies and makes available to the public the opportunity costs and the local district's value calculation methods.~~

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

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

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

~~— (c) nullify or terminate a valid lien.~~

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

‡ Section ~~{10}~~9. Section **17B-1-903** is amended to read:

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

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

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

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

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

(a) use a customer's failure to pay for water furnished or sewer service provided to the

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customer's property as a basis for not furnishing water or providing sewer service to the property after ownership of the property is transferred to a subsequent owner; or

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

Section ~~111~~10. Section **17B-2a-506** is amended to read:

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

(1) An irrigation district may:

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

and

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

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

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

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

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

(i) shall:

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

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

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

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

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

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

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

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

Section ~~{12}~~11. Section **59-2-1317** is amended to read:

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

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

(a) collect the taxes; and

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

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

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

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

(iv) the amount of taxes levied;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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†

Legislative Review Note

~~as of 2-3-15 12:44 PM~~

~~Office of Legislative Research and General Counsel~~; Section 12. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) The actions affecting the following take effect on January 1, 2016:

(a) Section 11-42-401;

(b) Section 17B-1-902; and

(c) Section 59-2-1317.