

LOCAL GOVERNMENT MODIFICATIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to assessment areas and local districts.

Highlighted Provisions:

This bill:

- ▶ provides that a taxpayer who pays less than the full amount of the items listed on the taxpayer's property tax notice may direct how the county treasurer allocates the partial payment between the amounts due; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

11-42-401, as last amended by Laws of Utah 2015, Chapters 349 and 396

17B-1-902, as last amended by Laws of Utah 2015, Chapter 349

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

Section 1. Section **11-42-401** is amended to read:

11-42-401. Levying an assessment -- Prerequisites -- Assessment list -- Partial



28 **payment allocation.**

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

32 (b) If a local entity that is a municipality or county designates an assessment area in
33 accordance with this chapter, the municipality or county may levy an assessment and collect
34 the assessment in accordance with Subsection 11-42-202(1)(h)(i) or (ii).

35 (c) An assessment billed by a municipality or county in the same manner as a property
36 tax and included on a property tax notice in accordance with Subsection 11-42-202(1)(h)(ii) is
37 enforced in accordance with, constitutes a lien in accordance with, and is subject to other
38 penalty provisions in accordance with this chapter.

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

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

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

45 [~~(iii) state that if less than the full amount of the property tax and assessments included~~
46 ~~on the property tax notice are paid, the payment will be applied proportionately to the balances~~
47 ~~due for property taxes and assessments and other permitted charges described in this section~~
48 ~~unless otherwise specified by the taxpayer and the taxpayer demonstrates that the unpaid fees~~
49 ~~are being challenged by the taxpayer.]~~

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

52 (a) the governing body shall:

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

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

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

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

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

58 (b) the board of equalization, appointed under Section 11-42-403, shall:

- 59 (i) hold hearings;
- 60 (ii) determine if the assessment for each benefitted property meets the requirements of
- 61 Section 11-42-409;
- 62 (iii) make necessary corrections so that assessed properties are not assessed for benefits
- 63 conferred exclusively outside of the assessment area;
- 64 (iv) make necessary corrections so that the benefitted properties are not charged for an
- 65 increase in size or capacity of an improvement where the increased size or capacity is to serve
- 66 property outside of the assessment area;
- 67 (v) make any corrections it considers appropriate to an assessment; and
- 68 (vi) report its findings to the governing body as provided in Section 11-42-403.
- 69 (3) (a) The governing body of a local entity shall prepare the assessment list described
- 70 in Subsection (2)(a)(i) at any time after:
 - 71 (i) the governing body has determined the estimated or actual operation and
 - 72 maintenance costs, if the assessment is to pay operation and maintenance costs;
 - 73 (ii) the governing body has determined the estimated or actual economic promotion
 - 74 costs described in Section 11-42-206, if the assessment is to pay for economic promotion
 - 75 activities; or
 - 76 (iii) for any other assessment, the governing body has determined:
 - 77 (A) the estimated or actual acquisition and construction costs of all proposed
 - 78 improvements within the assessment area, including overhead costs actually incurred and
 - 79 authorized reasonable contingencies;
 - 80 (B) the estimated or actual property price for all property to be acquired to provide the
 - 81 proposed improvements; and
 - 82 (C) the estimated reasonable cost of any work to be performed by the local entity.
- 83 (b) In addition to the requirements of Subsection (3)(a), the governing body of a local
- 84 entity shall prepare the assessment list described in Subsection (2)(a)(i) before:
 - 85 (i) the light service has commenced, if the assessment is to pay for light service; or
 - 86 (ii) the park maintenance has commenced, if the assessment is to pay for park
 - 87 maintenance.
- 88 (4) A local entity may levy an assessment for some or all of the cost of improvements
- 89 within an assessment area, including payment of:

90 (a) operation and maintenance costs of improvements constructed within the
91 assessment area only to the extent the improvements provide benefits to the properties within
92 the assessment area and in accordance with Section 11-42-409;

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

96 (ii) if the local entity itself furnishes utility service or maintains improvements, for the
97 actual costs that are reasonable, including reasonable administrative costs or reasonable costs
98 for reimbursement of actual costs incurred by the local entity, for supplying the utility service
99 or maintenance;

100 (c) the actual costs that are reasonable to supply labor, materials, or equipment in
101 connection with improvements; and

102 (d) (i) the actual costs that are reasonable for valid connection fees; or

103 (ii) the reasonable and generally applicable costs of locally provided utilities.

104 (5) A local entity may not levy an assessment for an amount donated or contributed for
105 an improvement or part of an improvement or for anything other than the costs actually and
106 reasonably incurred by the local entity in order to provide an improvement or conduct
107 operation and maintenance or economic promotion activities.

108 (6) The validity of an otherwise valid assessment is not affected because the actual and
109 reasonable cost of improvements exceeds the estimated cost.

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

114 (b) A local entity may levy an additional assessment described in Subsection (7)(a) in
115 the assessment area designated for the assessment described in Subsection (7)(a) if, after the
116 five-year period expires, the local entity:

117 (i) gives notice in accordance with Section 11-42-402 of the new five-year term of the
118 assessment; and

119 (ii) complies with the applicable levy provisions of this part.

120 (8) (a) (i) A taxpayer who pays less than the full amount \$→ [of the items listed] due ←\$
120a on the

121 taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the
 122 county treasurer allocates the partial payment between the ~~§~~ → [items listed on the taxpayer's
 123 property tax notice] total amount due for property tax, the amount due for assessments, the
 123a amount due for past due local district fees, and any other amounts due on the property tax
 123b notice ←~~§~~ .

124 (ii) The county treasurer shall comply with a direction submitted to the county treasurer
 125 in accordance with Subsection (8)(a)(i).

126 (b) The provisions of Subsection (8)(a) do not:

127 (i) affect the right or ability of a local entity to pursue any available remedy for
 128 non-payment of any item listed on a taxpayer's property tax notice; or

129 (ii) toll or otherwise change any time period related to a remedy described in
 130 Subsection (8)(b)(i).

131 Section 2. Section **17B-1-902** is amended to read:

132 **17B-1-902. Lien for past due service fees -- Partial payment allocation.**

133 (1) (a) A local district may file a lien on a customer's property for past due fees for
 134 commodities, services, or facilities that the district has provided to the customer's property by
 135 certifying, subject to Subsection (2), to the treasurer of the county in which the customer's
 136 property is located the past due fees, including, subject to Section **17B-1-902.1**, applicable
 137 interest and administrative costs.

138 (b) Upon certification under Subsection (1)(a), the past due fees, and if applicable,
 139 interest and administrative costs, become a lien on the customer's property to which the
 140 commodities, services, or facilities were provided.

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

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

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

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

150 (ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax,
 151 fee, interest, or penalty that is included on the property tax notice in accordance with Section

152 ~~59-2-1317~~[, and].

153 ~~[(iii) state that if less than the full amount of the property tax and local district fees~~
 154 ~~included on the property tax notice are paid, the payment will be applied proportionately to the~~
 155 ~~balances due for property taxes and local district fees, which shall include all fees and other~~
 156 ~~permitted charges described in this section unless otherwise specified by the taxpayer and the~~
 157 ~~taxpayer demonstrates that the unpaid fees are being challenged by the taxpayer.]~~

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

161 (4) Nothing in this section may be construed to:

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

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

166 (c) nullify or terminate a valid lien.

167 (5) After all amounts owing under a lien established as provided in this section have
 168 been paid, the local district shall file for record in the county recorder's office a release of the
 169 lien.

170 (6) (a) (i) A taxpayer who pays less than the full amount ~~of the items listed~~ due
 170a on the

171 taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the
 172 county treasurer allocates the partial payment between the ~~items listed on the taxpayer's~~
 173 ~~property tax notice~~ total amount due for property tax, the amount due for assessments, the
 173a amount due for past due local district fees, and any other amounts due on the property tax
 173b notice .

174 (ii) The county treasurer shall comply with a direction submitted to the county treasurer
 175 in accordance with Subsection (6)(a)(i).

176 (b) The provisions of Subsection (6)(a) do not:

177 (i) affect the right or ability of a local entity to pursue any available remedy for
 178 non-payment of any item listed on a taxpayer's property tax notice; or

179 (ii) toll or otherwise change any time period related to a remedy described in
 180 Subsection (6)(b)(i).

181 Section 3. **Retrospective operation.**

182 This bill has retrospective operation to January 1, 2016.

Legislative Review Note
Office of Legislative Research and General Counsel