

Senator Deidre M. Henderson proposes the following substitute bill:

LOCAL GOVERNMENT MODIFICATIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: R. Curt Webb

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies the contents of a property tax notice;
- ▶ 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

59-2-1317, as last amended by Laws of Utah 2015, Chapter 349



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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 payment allocation.

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

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

(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 if less than the full amount of the property tax and assessments included on the property tax notice 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 and the taxpayer demonstrates that the unpaid fees are being challenged 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

- 57 (B) the amount of the assessment to be levied against the property;
- 58 (ii) appoint a board of equalization as provided in Section 11-42-403; and
- 59 (iii) give notice as provided in Section 11-42-402; and
- 60 (b) the board of equalization, appointed under Section 11-42-403, shall:
- 61 (i) hold hearings;
- 62 (ii) determine if the assessment for each benefitted property meets the requirements of
- 63 Section 11-42-409;
- 64 (iii) make necessary corrections so that assessed properties are not assessed for benefits
- 65 conferred exclusively outside of the assessment area;
- 66 (iv) make necessary corrections so that the benefitted properties are not charged for an
- 67 increase in size or capacity of an improvement where the increased size or capacity is to serve
- 68 property outside of the assessment area;
- 69 (v) make any corrections it considers appropriate to an assessment; and
- 70 (vi) report its findings to the governing body as provided in Section 11-42-403.
- 71 (3) (a) The governing body of a local entity shall prepare the assessment list described
- 72 in Subsection (2)(a)(i) at any time after:
- 73 (i) the governing body has determined the estimated or actual operation and
- 74 maintenance costs, if the assessment is to pay operation and maintenance costs;
- 75 (ii) the governing body has determined the estimated or actual economic promotion
- 76 costs described in Section 11-42-206, if the assessment is to pay for economic promotion
- 77 activities; or
- 78 (iii) for any other assessment, the governing body has determined:
- 79 (A) the estimated or actual acquisition and construction costs of all proposed
- 80 improvements within the assessment area, including overhead costs actually incurred and
- 81 authorized reasonable contingencies;
- 82 (B) the estimated or actual property price for all property to be acquired to provide the
- 83 proposed improvements; and
- 84 (C) the estimated reasonable cost of any work to be performed by the local entity.
- 85 (b) In addition to the requirements of Subsection (3)(a), the governing body of a local
- 86 entity shall prepare the assessment list described in Subsection (2)(a)(i) before:
- 87 (i) the light service has commenced, if the assessment is to pay for light service; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

123 **17B-1-902. Lien for past due service fees -- Partial payment allocation.**

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

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

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

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

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

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

141 (ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax,
142 fee, interest, or penalty that is included on the property tax notice in accordance with Section
143 59-2-1317[; ~~and~~].

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

149 (3) A lien under Subsection (1) is not valid if certification under Subsection (1) is

150 made after the filing for record of a document conveying title of the customer's property to a
151 new owner.

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

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

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

157 (c) nullify or terminate a valid lien.

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

161 Section 3. Section **59-2-1317** is amended to read:

162 **59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for**
163 **providing notice.**

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

165 (a) collect the taxes; and

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

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

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

169 (iii) that the property may be subject to a detailed review in the next year under Section
170 [59-2-303.1](#);

171 (iv) the amount of taxes levied;

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

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

176 (vii) if applicable, the amount of an assessment assessed in accordance with Section
177 [11-42-401](#);

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

180 (ix) the date the taxes are due;

- 181 (x) the street address at which the taxes may be paid;
- 182 (xi) the date on which the taxes are delinquent;
- 183 (xii) the penalty imposed on delinquent taxes;
- 184 (xiii) a statement that explains the taxpayer's right to direct allocation of a partial
- 185 payment in accordance with Subsection (7);
- 186 [~~xiii~~] (xiv) other information specifically authorized to be included on the notice
- 187 under this chapter; and
- 188 [~~xiv~~] (xv) other property tax information approved by the commission.
- 189 (2) For any property for which property taxes are delinquent, the notice described in
- 190 Subsection (1) shall state, "Prior taxes are delinquent on this parcel."
- 191 (3) Except as provided in Subsection (4), the county treasurer shall:
- 192 (a) mail the notice required by this section, postage prepaid; or
- 193 (b) leave the notice required by this section at the taxpayer's residence or usual place of
- 194 business, if known.
- 195 (4) (a) Subject to the other provisions of this Subsection (4), a county treasurer may, at
- 196 the county treasurer's discretion, provide the notice required by this section by electronic mail if
- 197 a taxpayer makes an election, according to procedures determined by the county treasurer, to
- 198 receive the notice by electronic mail.
- 199 (b) A taxpayer may revoke an election to receive the notice required by this section by
- 200 electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.
- 201 (c) A revocation of an election under this section does not relieve a taxpayer of the
- 202 duty to pay a tax due under this chapter on or before the due date for paying the tax.
- 203 (d) A county treasurer shall provide the notice required by this section using a method
- 204 described in Subsection (3), until a taxpayer makes a new election in accordance with this
- 205 Subsection (4), if:
- 206 (i) the taxpayer revokes an election in accordance with Subsection (4)(b) to receive the
- 207 notice required by this section by electronic mail; or
- 208 (ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.
- 209 (e) A person is considered to be a taxpayer for purposes of this Subsection (4)
- 210 regardless of whether the property that is the subject of the notice required by this section is
- 211 exempt from taxation.

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

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

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

217 (6) This section does not apply to property taxed under Section 59-2-1302 or
218 59-2-1307.

219 (7) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax
220 notice may, on a form provided by the county treasurer, direct how the county treasurer
221 allocates the partial payment between:

222 (i) the total amount due for property tax;

223 (ii) the amount due for assessments;

224 (iii) the amount due for past due local district fees; and

225 (iv) any other amounts due on the property tax notice.

226 (b) The county treasurer shall comply with a direction submitted to the county treasurer
227 in accordance with Subsection (7)(a).

228 (c) The provisions of this Subsection (7) do not:

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

231 (ii) toll or otherwise change any time period related to a remedy described in
232 Subsection (7)(c)(i).

233 Section 4. **Retrospective operation.**

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