



Limited Purpose Government Entities – Taxation & Fees

Political Subdivisions Interim Committee - July 2016

Agenda

Discuss limited purpose local government entities' powers to tax, collect fees, and levy special assessments.

1. Legal overview
2. Statutory overview
3. Policy issues
4. Examples

Tax vs. Fee

Tax	Fee
<ul style="list-style-type: none">• Raises revenue for general governmental purposes	<ol style="list-style-type: none">1. Fee for service<ul style="list-style-type: none">• Raises revenue to compensate the government for the provision of a specific service or benefit2. Regulatory fee<ul style="list-style-type: none">• Raises revenue to defray the government's costs of regulating and policing a business or activity engaged in by the one paying the fee

Reasonableness

Reasonableness Defined

Fee for Service	Regulatory Fee
<ul style="list-style-type: none">• Reasonable relationship to:<ul style="list-style-type: none">• The services provided;• The benefits received; or• The need created.• Equal among those who are similarly situated	<ul style="list-style-type: none">• Reasonable relationship to the cost of regulation

Example

Highlands at Jordanelle, LLC v. Wasatch County

- New development around newly created Jordanelle Reservoir
- County granted applications for higher building density around the reservoir
- Fire protection special service district charged a fee for service on each approved residential unit, regardless of whether any construction had occurred
- Landowners sued challenging the reasonableness of the fee

Reasonable?

Example

Highlands at Jordanelle, LLC v. Wasatch County

Yes

- Fire protection services have to be anticipated
- No increase in cost for providing fire protection services on undeveloped land, but the density determinations did increase the need for services
- Difficult to distribute fire protection services and benefits equally
- Benefits: lower fire-insurance premiums, increased safety and peace of mind, marketability

Example

Settlers Landing, LLC v. West haven Special Service District

- Special service district that provides culinary water and sewer services
- Each residential unit charged the same monthly fee regardless of size, number of occupants, or actual use
- Calculated by taking the district's annual budget, dividing that amount by the number of residential units, and dividing that amount by twelve

Reasonable?

Example

Settlers Landing, LLC v. West haven Special Service District

Yes

- Actual usage has little to no bearing on the district's costs/expenses
- District's administrative costs are driven by the number of users, not actual use

Comparison

	Property Tax	Fee	Special Assessment	Other
Local District	✓			
Special Service District				
Assessment Area				
Community Reinvestment Agency				
Interlocal Entity				
Conservation District				
Local Building Authority				

Taxation – Local Districts

Type of Local District	Tax Rate Limit
Water Conservancy District	.0001 before planning/design, acquisition, or commencement of construction .0002 after the earliest of the above activities .0001 in addition, only to pay bonds or other debt
Cemetery Maintenance District	.0004
Drainage District	.0004
Mosquito Abatement District	.0004
Public Transit District	.0004
Metropolitan Water District	.0005
Basic Local District	.0008
Fire Protection District	.0008
Improvement District	.0008
Municipal Services District	.0008
Service Area	.0014 any other service area .0023 if located in a 1 st or 2 nd class county that provides fire protection/paramedic/emergency services or law enforcement

Fees

1. Entity may charge a fee for a commodity, service, or facility provided to a customer.
2. Before imposing a new fee or increasing an existing fee, the entity must hold a public hearing.
3. Failure to pay a fee creates a lien on the customer's property.
 - a. Lien has the same priority as a property tax lien.
 - b. Entity may also charge interest and an administrative cost related to the collection of past-due fees.
4. An entity, after customer fails to pay past-due fees and has been provided required notice, may file a civil action against the customer.

Special Assessments

1. Entity may levy an assessment against property within a defined assessment area.
 - a. Assessment is billed in same manner as a property tax and included on a property tax notice.
 - b. Assessment may pay costs of improvements within the assessment area, including:
 - a. operation and maintenance; and
 - b. labor, materials, or equipment in connection with improvements
2. Assessment levied constitutes a lien that has the same priority, but is separate from, a property tax lien.



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