

Senate Bill No. 1035

CHAPTER 485

An act to amend, repeal, and add Section 12811.1 of the Public Utilities Code, relating to utility charges.

[Approved by Governor September 29, 2010. Filed with
Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1035, Hancock. Municipal utility district: utility charges: delinquencies.

The existing Municipal Utility District Act authorizes the formation of a municipal utility district. The act authorizes a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage, or refuse matter. The act authorizes a municipal utility district, by resolution or ordinance, to require the owner of record of privately owned real property within the district to pay the fees, tolls, rates, rentals, or other charges for certain utility services rendered to a lessee, tenant, or subtenant, and provides that those charges that have become delinquent, together with interest and penalties, are a lien on the property when a certificate is filed by the district in the office of the county recorder and that the lien has the force, effect, and priority of a judgment lien. The act exempts water and sewer services to residential property and electrical services from this provision.

This bill, in addition to the above-described methods for collecting delinquent charges, would establish procedures, until January 1, 2016, for a municipal utility district to collect delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, for services rendered to a lessee, tenant, or subtenant, through the tax roll, in the same manner as property taxes. The bill, until January 1, 2016, would authorize a municipal utility district to collect delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, for services rendered to a lessee, tenant, or subtenant, by recording in the office of the county recorder of the county in which the affected parcel is located, a certificate declaring the amount of the delinquent charges, together with interest and penalties thereon, which would then constitute a lien against the affected real property of the delinquent property owner in that county and have the force, effect, and priority of a judgment lien. The bill, until January 1, 2016, would delete the above-described exemption for water and sewer services to residential property, thereby exempting only electrical services from these collection provisions. The bill would require any district

that places a lien on a property for water or sewer service on or before December 31, 2014, to submit a report containing certain information to the Assembly and Senate Committees on Judiciary and to the Assembly and Senate Committees on Local Government on or before January 1, 2015. By requiring county auditors and recorders to undertake certain actions in response to the exercise of collection measures by a municipal utility district, the bill would impose a state-mandated local program. The bill would require a municipal utility district that exercises these collection measures to reimburse the county for the reasonable expenses incurred by the county.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 12811.1 of the Public Utilities Code is amended to read:

12811.1. (a) Except when prohibited by Section 12822.6, a district may, by resolution or ordinance, require the owner of record of real property within the district to pay the fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, and those fees, tolls, rates, rentals, and other charges that have become delinquent, together with interest and penalties thereon, are a lien on the property when a certificate is filed in the office of the county recorder pursuant to subdivision (b) and the lien has the force, effect, and priority of a judgment lien. No lien may be created under this section on any publicly owned property.

(b) A lien under this section attaches when the district files for recordation in the office of the county recorder a certificate specifying the amount of the delinquent fees, tolls, rates, rentals, or other charges together with interest and penalties thereon; the name of the owner of record of the property to which services were rendered by the district; and the legal description of the property. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.

(c) A district may, by resolution or ordinance, provide that any delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, may be collected on the tax roll in the same manner as property taxes. Before any entity may collect any delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant on the tax roll, the district shall prepare a report, provide notice,

conduct a public hearing, and file a certificate in the office of the county recorder, as follows:

(1) The general manager shall prepare and file with the district board of directors a report that describes each affected parcel of real property and the amount of the delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant for each affected parcel for the year. The general manager shall give notice of the filing of the report and of the time, date, and place for a public hearing by publishing the notice pursuant to Section 6066 of the Government Code in a newspaper of general circulation, and by mailing the notice to the owner of each affected parcel at least 14 days prior to the date of the hearing.

(2) At the public hearing, the board of directors shall hear and consider any objections or protests to the report. At the conclusion of the public hearing, the board of directors may adopt or revise the delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant. The board of directors shall make its determination on each affected parcel and its determinations shall be final.

(3) On or before August 10 of each year following these determinations, the general manager shall file with the county auditor a copy of the final report adopted by the board of directors. The county auditor shall enter the amount of the delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, against each of the affected parcels of real property as they appear on the current assessment roll. The county tax collector shall include the amount of the delinquent fees, tolls, rates, rentals, or charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, on the tax bills for each affected parcel of real property and collect the delinquent fees, tolls, rates, rentals, or charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, in the same manner as property taxes.

(4) The district may recover any delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, by recording in the office of the county recorder of the county in which the affected parcel is located, a certificate declaring the amount of the delinquent fees, tolls, rates, rentals, or charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, due, and the name and last known address of the person liable therefore. From the time of recordation of the certificate, the amount of the

delinquent fees, tolls, rates, rentals, or charges, together with interest and penalties thereon, including any delinquent fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, constitutes a lien against the affected real property of the delinquent property owner in that county. This lien shall have the force, effect, and priority of a judgment lien. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.

(5) The district shall not recover on the tax roll any delinquent fees, tolls, rates, rentals, or other charges for services for commercial use to a commercial tenant under an account established by the commercial tenant, from any subsequent tenant or the property owner, due to nonpayment of charges by a previous commercial tenant. For this purpose, the term “subsequent commercial tenant” shall not include an entity or adult person that was located at the same address during the period the charges or penalties accrued. This paragraph does not apply to master-metered accounts.

(d) Notwithstanding Sections 6103 and 27383 of the Government Code, in filing any instrument, paper, or notice pursuant to this section, the district shall pay all applicable recording fees prescribed by law.

(e) A district shall reimburse the county for the reasonable expenses incurred by the county pursuant to this section.

(f) Any district that places a lien on a property for water or sewer service pursuant to this section on or before December 31, 2014, shall submit to the Assembly and Senate Committees on Judiciary and to the Assembly and Senate Committees on Local Government, on or before January 1, 2015, a report containing the following information:

(1) The total number of liens created under this section for water or sewer service and the total dollar amount of those liens.

(2) The overall effectiveness of the liens and any problems associated with the use of those liens.

(g) The remedies in this section are cumulative and in addition to any other remedy provided by law. The district may pursue remedies alternatively or consecutively.

(h) This section does not apply to delinquent fees or charges for the furnishing of electrical service.

(i) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 2. Section 12811.1 is added to the Public Utilities Code, to read:

12811.1. (a) A district, by resolution or ordinance, may require the owner of record of real property within the district to pay the fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, and those fees, tolls, rates, rentals, and other charges that have become delinquent, together with interest and penalties thereon, are a lien on the property when a certificate is filed in the office of the county recorder pursuant to subdivision (b) and the lien has the force, effect, and priority of

a judgment lien. A lien shall not be created under this section on any publicly owned property.

(b) A lien under this section attaches when the district files for recordation in the office of the county recorder a certificate specifying the amount of the delinquent fees, tolls, rates, rentals, or other charges together with interest and penalties thereon; the name of the owner of record of the property to which services were rendered by the district; and the legal description of the property. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.

(c) Notwithstanding Sections 6103 and 27383 of the Government Code, in filing any instrument, paper, or notice pursuant to this section, the district shall pay all applicable recording fees prescribed by law.

(d) The remedies in this section are in addition to any other remedy provided by law.

(e) This section does not apply to delinquent fees or charges for the furnishing of water or sewer service to residential property or electrical service.

(f) This section shall become operative on January 1, 2016.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.