

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 188

Introduced by Senator Hancock
(Coauthors: Senators Wieckowski and Wolk)
(Coauthor: Assembly Member Bonilla)

February 9, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

SB 188, as amended, Hancock. Municipal utility district: utility charges: delinquencies.

(1) 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, in addition to the above-described methods, establishes 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 act, until January 1, 2016, authorizes 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 act, until January 1, 2016, requires a municipal utility district that exercises these collection measures to reimburse the county for the reasonable expenses incurred by the county.

This bill would extend the operation of these provisions indefinitely. 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.

(2) The act prohibits a municipal utility district from collecting delinquent fees or charges using the above-described collection measures for the furnishing of electrical services and, beginning January 1, 2016, for the furnishing of water or sewer service to residential property.

This bill would permanently authorize a municipal utility district to collect delinquent fees or charges using the above-described collection measures for the furnishing of water or sewer service to residential property.

(3) The act requires any district that places a lien on a property for water or sewer service on or before December 31, 2014, pursuant to the above-described collection measures, 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.

This bill would delete this provision.

(4) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 *SECTION 1. This act is intended to remove the sunset date in*
2 *Section 12811.1 of the Public Utilities Code on the authority of a*
3 *municipal utility district to collect delinquent fees, tolls, rates,*
4 *rentals, and other charges on the tax roll. This act is not intended*
5 *to change existing law regarding the protection provided to a*
6 *property owner pursuant to Section 12822.6 of the Public Utilities*
7 *Code, which prohibits a municipal utility district from collecting*
8 *delinquent charges or penalties from a property owner accrued*
9 *by a residential tenant in a nonmaster-metered building.*

10 ~~SECTION 1.~~

11 *SEC. 2. Section 12811.1 of the Public Utilities Code, as*
12 *amended by Section 1 of Chapter 485 of the Statutes of 2010, is*
13 *amended to read:*

14 12811.1. (a) Except when prohibited by Section 12822.6, a
15 district may, by resolution or ordinance, require the owner of record
16 of real property within the district to pay the fees, tolls, rates,
17 rentals, or other charges for services rendered to a lessee, tenant,
18 or subtenant, and those fees, tolls, rates, rentals, and other charges
19 that have become delinquent, together with interest and penalties
20 thereon, are a lien on the property when a certificate is filed in the
21 office of the county recorder pursuant to subdivision (b) and the
22 lien has the force, effect, and priority of a judgment lien. No lien
23 may be created under this section on any publicly owned property.

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

33 (c) A district may, by resolution or ordinance, provide that any
34 delinquent fees, tolls, rates, rentals, or other charges, together with
35 interest and penalties thereon, including any delinquent fees, tolls,

1 rates, rentals, or other charges for services rendered to a lessee,
2 tenant, or subtenant, may be collected on the tax roll in the same
3 manner as property taxes. Before any entity may collect any
4 delinquent fees, tolls, rates, rentals, or other charges, together with
5 interest and penalties thereon, including any delinquent fees, tolls,
6 rates, rentals, or other charges for services rendered to a lessee,
7 tenant, or subtenant on the tax roll, the district shall prepare a
8 report, provide notice, conduct a public hearing, and file a
9 certificate in the office of the county recorder, as follows:

10 (1) The general manager shall prepare and file with the district
11 board of directors a report that describes each affected parcel of
12 real property and the amount of the delinquent fees, tolls, rates,
13 rentals, or other charges, together with interest and penalties
14 thereon, including any delinquent fees, tolls, rates, rentals, or other
15 charges for services rendered to a lessee, tenant, or subtenant for
16 each affected parcel for the year. The general manager shall give
17 notice of the filing of the report and of the time, date, and place
18 for a public hearing by publishing the notice pursuant to Section
19 6066 of the Government Code in a newspaper of general
20 circulation, and by mailing the notice to the owner of each affected
21 parcel at least 14 days prior to the date of the hearing.

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

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

1 or charges, together with interest and penalties thereon, including
2 any delinquent fees, tolls, rates, rentals, or other charges for
3 services rendered to a lessee, tenant, or subtenant, on the tax bills
4 for each affected parcel of real property and collect the delinquent
5 fees, tolls, rates, rentals, or charges, together with interest and
6 penalties thereon, including any delinquent fees, tolls, rates, rentals,
7 or other charges for services rendered to a lessee, tenant, or
8 subtenant, in the same manner as property taxes.

9 (4) The district may recover any delinquent fees, tolls, rates,
10 rentals, or other charges, together with interest and penalties
11 thereon, including any delinquent fees, tolls, rates, rentals, or other
12 charges for services rendered to a lessee, tenant, or subtenant, by
13 recording in the office of the county recorder of the county in
14 which the affected parcel is located, a certificate declaring the
15 amount of the delinquent fees, tolls, rates, rentals, or charges,
16 together with interest and penalties thereon, including any
17 delinquent fees, tolls, rates, rentals, or other charges for services
18 rendered to a lessee, tenant, or subtenant, due, and the name and
19 last known address of the person liable ~~therefor~~. *therefor*. From
20 the time of recordation of the certificate, the amount of the
21 delinquent fees, tolls, rates, rentals, or charges, together with
22 interest and penalties thereon, including any delinquent fees, tolls,
23 rates, rentals, or other charges for services rendered to a lessee,
24 tenant, or subtenant, constitutes a lien against the affected real
25 property of the delinquent property owner in that county. This lien
26 shall have the force, effect, and priority of a judgment lien. Within
27 30 days of receipt of payment of all amounts due, including
28 recordation fees paid by the district, the district shall file for
29 recordation a release of the lien.

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

- 1 (d) Notwithstanding Sections 6103 and 27383 of the
2 Government Code, in filing any instrument, paper, or notice
3 pursuant to this section, the district shall pay all applicable
4 recording fees prescribed by law.
- 5 (e) A district shall reimburse the county for the reasonable
6 expenses incurred by the county pursuant to this section.
- 7 (f) The remedies in this section are cumulative and in addition
8 to any other remedy provided by law. The district may pursue
9 remedies alternatively or consecutively.
- 10 (g) This section does not apply to delinquent fees or charges
11 for the furnishing of electrical service.
- 12 ~~SEC. 2.~~
- 13 *SEC. 3.* Section 12811.1 of the Public Utilities Code, as added
14 by Section 2 of Chapter 485 of the Statutes of 2010, is repealed.
- 15 ~~SEC. 3.~~
- 16 *SEC. 4.* No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act, within the meaning of Section
21 17556 of the Government Code.