

Senate Bill No. 188

Passed the Senate May 14, 2015

Secretary of the Senate

Passed the Assembly August 20, 2015

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 188, 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.

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

SECTION 1. This act is intended to remove the sunset date in Section 12811.1 of the Public Utilities Code on the authority of a municipal utility district to collect delinquent fees, tolls, rates, rentals, and other charges on the tax roll. This act is not intended to change existing law regarding the protection provided to a property owner pursuant to Section 12822.6 of the Public Utilities

Code, which prohibits a municipal utility district from collecting delinquent charges or penalties from a property owner accrued by a residential tenant in a nonmaster-metered building.

SEC. 2. Section 12811.1 of the Public Utilities Code, as amended by Section 1 of Chapter 485 of the Statutes of 2010, 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 therefor. 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) 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.

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

SEC. 3. Section 12811.1 of the Public Utilities Code, as added by Section 2 of Chapter 485 of the Statutes of 2010, is repealed.

SEC. 4. 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.

Approved _____, 2015

Governor