Legal Opinions



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Special Charges

Q. What is a special charge?

A. A special charge is a charge against real property to compensate for all or part of the cost to the municipality of providing a service to a particular parcel. Under the statute, "service" includes snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, storm water management, tree care, removal and disposition of dead animals, soil conservation work, and snow removal from private roads and driveways. See Wis. Stat. § 66.0627. However, this list is not exhaustive; special charges may be imposed for any service rendered to real estate property. For example, a town could use a special charge to bill a property owner for the service of installing a fire number sign.

Special charges may only be imposed for "current services rendered," meaning services that have already been provided to a property. See Wis. Stat. § 66.0627. This means that special charges can only be assessed *after* the service to the property has been performed; municipalities may *not* bill in advance for a future service (you cannot put charges on the December 2021 tax bill for a service that will be provided in 2022). After a service has been provided, the municipality can bill property owners, letting them know that the special charge will be added to the next year's property tax bill if not paid by a specified deadline. Note that, although special charges are typically added to property tax bills, special charges may be imposed on any real property, including property that would otherwise be tax exempt, such as a church or private college.

Q. What notice is required before imposing a special charge?

A. Municipalities must provide public notice prior to imposing a special charge. However, state law gives town and village boards discretion to decide the best way to provide notice of a special charge. See Wis. Stat. § 66.0627(3)(a). For example, many towns include a notice of special charges in a town newsletter that is mailed to all property owners and/or on the town website. The notice could also be published in a newspaper or posted on municipal posting boards in the community. A sample special charge resolution and notice is available in the Wisconsin Town Law Forms: https://docs.legis.wisconsin.gov/statutes/townlaw/forms/resolution_and_notice_of_special_charges?view=section.

A few types of services require additional notice. Before a special charge for street tarring or the repair of sidewalks, curbs or gutters may be imposed, the town or village board must hold a public hearing. The hearing must be preceded by a class 1 notice under ch. 985, published or posted at least 20 days before the hearing. A copy of the notice must also be mailed to interested parties at least 10 days before the

hearing. The notice must state the date, time, location, and subject matter of the hearing, and that any interested person may testify. See Wis. Stat. § 66.0627(3)(b).

Q. Are there limitations on how much a town or village can bill for services via special charges?

A. Yes. A special charge can be imposed for either part or all of the cost of providing a service to a property. A municipality may *not* charge more than its actual, reasonable, direct costs associated with providing the service, meaning that a town or village may not make a profit from a special charge. See Wis. Stat. § 66.0628. Additionally, special charges are not payable in installments. See Wis. Stat. § 66.0627(4). If a special charge is not paid by the due date, the special charge is considered delinquent. A delinquent special charge becomes a lien on the property, which is included in the next tax roll for collection.

Q. How do special charges affect a municipality's tax levy?

A. Your town or village's tax levy will be affected if you implement a new or increased special charge for one of the five "covered services" listed in Wis. Stat. s. 66.0602(2m)(b). The covered services are "garbage collection, fire protection, snow plowing, street sweeping, or storm water management, except that garbage collection may not be a covered service for any political subdivision that owned and operated a landfill on January 1, 2013." If your town or village imposes a special charge for a covered service that was either fully or partially paid for with tax levy funds in 2013, the town or village must take a negative adjustment to its current levy limit.

This reduction is taken as an adjustment on the Municipal Levy Limit Worksheet, Section D, Line Q. You must reduce your current tax levy either by an amount equal to the estimated amount of fee revenue collected in special charges for providing the covered service or the amount your town or village spent in 2013 to pay for the service out of the tax levy, whichever is less. Therefore, if the special charge generates more revenue than the 2013 levy amount, your municipality will come out ahead.

The law provides an option for avoiding this levy reduction if the electors give their approval in advance. Per Wis. Stat. § 66.0602(2m)(b)4., a town or village board could adopt a resolution stating that the levy limit should *not* be reduced and then ask the voters to approve that resolution in a referendum at the next regularly scheduled spring primary, spring election, partisan primary, or general election. Note that referendum questions must be submitted to the county clerk at least 70 days in advance of the election. See Wis. Stat. § 8.37.

Q. If we issue someone a citation for an ordinance violation and it goes unpaid, can we put the outstanding fine on their property tax bill as a special charge?

A. No. As noted above, special charges may only be assessed for services rendered to a real estate property. An ordinance forfeiture is a penalty for violating an ordinance, not a fee for a service that the town provided to a real estate property. Therefore, unpaid forfeitures may *not* be placed on tax bills. If a fine remains unpaid, the town or village must pursue the claim in court to collect the outstanding amount.