



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2862

by Rep. Rita Mayfield

SYNOPSIS AS INTRODUCED:

70 ILCS 2305/7.6	
70 ILCS 2305/7.8 new	
70 ILCS 2305/11	from Ch. 42, par. 287
70 ILCS 2305/16	from Ch. 42, par. 292

Amends the North Shore Water Reclamation District Act. Provides that connection fees owed at the time of a property's sale shall be a lien on real estate. Provides that if the district participates in a nutrient trading program, the district shall give preference to trading investments: (i) that will benefit low income or rural communities; and (ii) where local water quality improvements can be realized. Increases the maximum dollar amount of an emergency contract to no more than \$500,000 (rather than \$350,000). Provides that if the board of trustees determine there is an emergency affecting the public health or safety, the district may immediately acquire the necessary right-of-way and authority to work within or adjacent to a public highway right-of-way or easement, public or private utility property or easement, railroad right-of-way, or other public property or easement. Effective immediately.

LRB101 10300 AWJ 55405 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The North Shore Water Reclamation District Act
5 is amended by changing Sections 7.6, 11, and 16 and by adding
6 Section 7.8 as follows:

7 (70 ILCS 2305/7.6)

8 Sec. 7.6. Rates for treatment and disposal of sewage and
9 surface or ground water. The board of trustees shall have the
10 authority by ordinance to establish, revise, and maintain rates
11 or charges for the treatment and disposal of sewage and surface
12 or ground water. Any user charge, industrial waste surcharge,
13 connection fees owed at the time of a property's sale, or
14 industrial cost recovery charge imposed by the sanitary
15 district, together with all penalties, interest, and costs
16 imposed in connection therewith, shall be liens against the
17 real estate which receives the service or benefit for which the
18 charges are being imposed; provided, however, such liens shall
19 not attach to such real estate until such charges or rates have
20 become delinquent as provided by the ordinance of the sanitary
21 district and provided further, that nothing in this Section
22 shall be construed to give the sanitary district a preference
23 over the rights of any purchaser, mortgagee, judgment creditor,

1 or other lien holder arising prior to the filing in the office
2 of the recorder of the county in which real estate is located
3 of notice of the lien, which notice shall consist of a sworn
4 statement setting out (1) a description of the real estate for
5 which the service or the benefit was rendered sufficient to
6 identify the real estate, (2) the amount or amounts of money
7 due for such service or benefit, and (3) the date or dates when
8 such amount or amounts became delinquent. The sanitary district
9 shall have the power to foreclose such lien in the same manner
10 and with the same effect as in the foreclosure of mortgages on
11 real estate.

12 The assertion of liens against real estate by the sanitary
13 district to secure payment of user charges, industrial waste
14 surcharges, connection fees owed at the time of a property's
15 sale, or industrial cost recovery charges imposed by the
16 sanitary district as indicated in the previous paragraph shall
17 be in addition to any other remedy or right of recovery which
18 the sanitary district may have with respect to the collection
19 or recovery of such charges imposed by the sanitary district.
20 Judgment in a civil action brought by the sanitary district to
21 recover or collect such charges shall not operate as a release
22 and waiver of the lien upon the real estate for the amount of
23 the judgment. Only satisfaction of the judgment or the filing
24 of a release or satisfaction of lien shall release said lien.
25 The lien for charges on account of services or benefits
26 provided for in this Section and the rights created hereunder

1 shall be in addition to the lien upon real estate created by
2 and imposed for general real estate taxes.

3 (Source: P.A. 99-669, eff. 7-29-16.)

4 (70 ILCS 2305/7.8 new)

5 Sec. 7.8. Nutrient trading.

6 (a) The sanitary district may participate in any available
7 nutrient trading program in the State for meeting water quality
8 standards.

9 (b) The authorization granted to the sanitary district
10 under this Section shall not be construed as modifying or
11 limiting any other law or rule. Any actions taken pursuant to
12 this Section must be in compliance with all applicable laws and
13 rules, including, but not limited to, the Environmental
14 Protection Act and rules adopted under that Act.

15 (c) If the sanitary district participates in a nutrient
16 trading program under subsection (a), the sanitary district
17 shall give preference to trading investments: (i) that will
18 benefit low income or rural communities; and (ii) where local
19 water quality improvements can be realized.

20 (70 ILCS 2305/11) (from Ch. 42, par. 287)

21 Sec. 11. Except as otherwise provided in this Section, all
22 contracts for purchases or sales by the municipality, the
23 expense of which will exceed the mandatory competitive bid
24 threshold, shall be let to the lowest responsible bidder

1 therefor upon not less than 14 days' public notice of the terms
2 and conditions upon which the contract is to be let, having
3 been given by publication in a newspaper of general circulation
4 published in the district, and the board may reject any and all
5 bids and readvertise. In determining the lowest responsible
6 bidder, the board shall take into consideration the qualities
7 and serviceability of the articles supplied, their conformity
8 with specifications, their suitability to the requirements of
9 the district, the availability of support services, the
10 uniqueness of the service, materials, equipment, or supplies as
11 it applies to network integrated computer systems, the
12 compatibility of the service, materials, equipment or supplies
13 with existing equipment, and the delivery terms. Contracts for
14 services in excess of the mandatory competitive bid threshold
15 may, subject to the provisions of this Section, be let by
16 competitive bidding at the discretion of the district board of
17 trustees. All contracts for purchases or sales that will not
18 exceed the mandatory competitive bid threshold may be made in
19 the open market without publication in a newspaper as above
20 provided, but whenever practical shall be based on at least 3
21 competitive bids. For purposes of this Section, the "mandatory
22 competitive bid threshold" is a dollar amount equal to 0.1% of
23 the total general fixed assets of the district as reported in
24 the most recent required audit report. In no event, however,
25 shall the mandatory competitive bid threshold dollar amount be
26 less than \$10,000, nor more than \$40,000.

1 Cash, a cashier's check, a certified check, or a bid bond
2 with adequate surety approved by the board of trustees as a
3 deposit of good faith, in a reasonable amount, but not in
4 excess of 10% of the contract amount, may be required of each
5 bidder by the district on all bids involving amounts in excess
6 of the mandatory competitive bid threshold and, if so required,
7 the advertisement for bids shall so specify.

8 Contracts which by their nature are not adapted to award by
9 competitive bidding, including, without limitation, contracts
10 for the services of individuals, groups or firms possessing a
11 high degree of professional skill where the ability or fitness
12 of the individual or organization plays an important part,
13 contracts for financial management services undertaken
14 pursuant to "An Act relating to certain investments of public
15 funds by public agencies", approved July 23, 1943, as now or
16 hereafter amended, contracts for the purchase or sale of
17 utilities, contracts for commodities including supply
18 contracts for natural gas and electricity, contracts for
19 materials economically procurable only from a single source of
20 supply, contracts for services, supplies, materials, parts, or
21 equipment which are available only from a single source or
22 contracts for maintenance, repairs, OEM supplies, or OEM parts
23 from the manufacturer or from a source authorized by the
24 manufacturer, contracts for the use, purchase, delivery,
25 movement, or installation of data processing equipment,
26 software, or services and telecommunications and interconnect

1 equipment, software, or services, contracts for duplicating
2 machines and supplies, contracts for goods or services procured
3 from another governmental agency, purchases of equipment
4 previously owned by an entity other than the district itself,
5 purchases of used equipment, purchases at auction or similar
6 transactions which by their very nature are not suitable to
7 competitive bids, and leases of real property where the
8 sanitary district is the lessee shall not be subject to the
9 competitive bidding requirements of this Section.

10 The District may use a design-build procurement method for
11 any public project which shall not be subject to the
12 competitive bidding requirements of this Section provided the
13 Board of Trustees approves the contract for the public project
14 by a vote of 4 of the 5 trustees. For the purposes of this
15 Section, "design-build" means a delivery system that provides
16 responsibility within a single contract for the furnishing of
17 architecture, engineering, land surveying and related services
18 as required, and the labor, materials, equipment, and other
19 construction services for the project.

20 In the case of an emergency affecting the public health or
21 safety so declared by the Board of Trustees of the municipality
22 at a meeting thereof duly convened, which declaration shall
23 require the affirmative vote of four of the five Trustees, and
24 shall set forth the nature of the danger to the public health
25 or safety, contracts totaling not more than the emergency
26 contract cap may be let to the extent necessary to resolve such

1 emergency without public advertisement or competitive bidding.
2 For purposes of this Section, the dollar amount of an emergency
3 contract shall not be less than \$40,000, nor more than \$500,000
4 ~~\$350,000~~. The Resolution or Ordinance in which such declaration
5 is embodied shall fix the date upon which such emergency shall
6 terminate which date may be extended or abridged by the Board
7 of Trustees as in their judgment the circumstances require. A
8 full written account of any such emergency, together with a
9 requisition for the materials, supplies, labor or equipment
10 required therefor shall be submitted immediately upon
11 completion and shall be open to public inspection for a period
12 of at least one year subsequent to the date of such emergency
13 purchase.

14 To address operating emergencies not affecting the public
15 health or safety, the Board of Trustees shall authorize, in
16 writing, officials or employees of the sanitary district to
17 purchase in the open market and without advertisement any
18 supplies, materials, equipment, or services for immediate
19 delivery to meet the bona fide operating emergency, without
20 filing a requisition or estimate therefor, in an amount not in
21 excess of \$100,000; provided that the Board of Trustees must be
22 notified of the operating emergency. A full, written account of
23 each operating emergency and a requisition for the materials,
24 supplies, equipment, and services required to meet the
25 operating emergency must be immediately submitted by the
26 officials or employees authorized to make purchases to the

1 Board of Trustees. The account must be available for public
2 inspection for a period of at least one year after the date of
3 the operating emergency purchase. The exercise of authority
4 with respect to purchases for a bona fide operating emergency
5 is not dependent on a declaration of an operating emergency by
6 the Board of Trustees.

7 The competitive bidding requirements of this Section do not
8 apply to contracts, including contracts for both materials and
9 services incidental thereto, for the repair or replacement of a
10 sanitary district's treatment plant, sewers, equipment, or
11 facilities damaged or destroyed as the result of a sudden or
12 unexpected occurrence, including, but not limited to, a flood,
13 fire, tornado, earthquake, storm, or other natural or man-made
14 disaster, if the board of trustees determines in writing that
15 the awarding of those contracts without competitive bidding is
16 reasonably necessary for the sanitary district to maintain
17 compliance with a permit issued under the National Pollution
18 Discharge Elimination System (NPDES) or any successor system or
19 with any outstanding order relating to that compliance issued
20 by the United States Environmental Protection Agency, the
21 Illinois Environmental Protection Agency, or the Illinois
22 Pollution Control Board. The authority to issue contracts
23 without competitive bidding pursuant to this paragraph expires
24 6 months after the date of the writing determining that the
25 awarding of contracts without competitive bidding is
26 reasonably necessary.

1 No Trustee shall be interested, directly or indirectly, in
2 any contract, work or business of the municipality, or in the
3 sale of any article, whenever the expense, price or
4 consideration of the contract work, business or sale is paid
5 either from the treasury or by any assessment levied by any
6 Statute or Ordinance. No Trustee shall be interested, directly
7 or indirectly, in the purchase of any property which (1)
8 belongs to the municipality, or (2) is sold for taxes or
9 assessments of the municipality, or (3) is sold by virtue of
10 legal process in the suit of the municipality.

11 A contract for any work or other public improvement, to be
12 paid for in whole or in part by special assessment or special
13 taxation, shall be entered into and the performance thereof
14 controlled by the provisions of Division 2 of Article 9 of the
15 "Illinois Municipal Code", approved May 29, 1961, as heretofore
16 or hereafter amended, as near as may be. However, contracts may
17 be let for making proper and suitable connections between the
18 mains and outlets of the respective sanitary sewers in the
19 district with any conduit, conduits, main pipe or pipes that
20 may be constructed by such sanitary district.

21 (Source: P.A. 98-162, eff. 8-2-13; 99-669, eff. 7-29-16.)

22 (70 ILCS 2305/16) (from Ch. 42, par. 292)

23 Sec. 16. Entering other property for improvements;
24 emergency improvements.

25 (a) When, in making any improvements which any district is

1 authorized by this act to make, it shall be necessary to enter
2 upon and take possession of any existing drains, sewers, sewer
3 outlets, plants for the purification of sewage or water, or any
4 other public property, or property held for public use, the
5 board of trustees of such district shall have the power so to
6 do and may acquire the necessary right of way over any other
7 property held for public use in the same manner as is herein
8 provided for acquiring private property, and may enter upon,
9 and use the same for the purposes aforesaid: Provided, the
10 public use thereof shall not be unnecessarily interrupted or
11 interfered with, and that the same shall be restored to its
12 former usefulness as soon as practicable.

13 (b) If the board of trustees determine there is an
14 emergency affecting the public health or safety, the sanitary
15 district may immediately acquire the necessary right-of-way
16 and authority to work within or adjacent to a public highway
17 right-of-way or easement, public or private utility property or
18 easement, railroad right-of-way, or other public property or
19 easement.

20 (Source: Laws 1911, p. 299.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.