

101ST GENERAL ASSEMBLY State of Illinois 2019 and 2020 SB2136

Introduced 2/15/2019, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

70 ILCS 2305/7.6 70 ILCS 2305/7.8 new 70 ILCS 2305/11 70 ILCS 2305/16

from Ch. 42, par. 287 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 11153 AWJ 56385 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning local government.

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

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

(70 ILCS 2305/7.6)

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

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

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

- 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 <u>Sec. 7.8. Nutrient trading.</u>
- 6 (a) The sanitary district may participate in any available
- 7 <u>nutrient trading program in the State for meeting water quality</u>
- 8 standards.
- 9 (b) The authorization granted to the sanitary district
- 10 under this Section shall not be construed as modifying or
- limiting any other law or rule. Any actions taken pursuant to
- 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
- trading program under subsection (a), the sanitary district
- 17 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.
- 20 (70 ILCS 2305/11) (from Ch. 42, par. 287)
- 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
- threshold, shall be let to the lowest responsible bidder

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

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

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

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

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

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

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

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

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

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

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

A contract for any work or other public improvement, to be paid for in whole or in part by special assessment or special taxation, shall be entered into and the performance thereof controlled by the provisions of Division 2 of Article 9 of the "Illinois Municipal Code", approved May 29, 1961, as heretofore or hereafter amended, as near as may be. However, contracts may be let for making proper and suitable connections between the mains and outlets of the respective sanitary sewers in the district with any conduit, conduits, main pipe or pipes that 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)
- Sec. 16. Entering other property for improvements;
- 24 <u>emergency improvements.</u>
- 25 (a) When, in making any improvements which any district is

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

- (b) If the board of trustees determine there is an emergency affecting the public health or safety, the sanitary 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.
- 20 (Source: Laws 1911, p. 299.)
- 21 Section 99. Effective date. This Act takes effect upon 22 becoming law.