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**Local Government Committee**

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**HB 1238**

**Brief Description:** Revising provisions relating to water-sewer districts.

**Sponsors:** Representatives Takko, Curtis, Simpson and Moeller.

**Brief Summary of Bill**

- Creates a procedure for a water-sewer district to annex territory within a city following the district's acquisition of water and/or sewer facilities located within that city.
- Requires cities and counties to consult with public utilities operating water/sewer systems during the predesign phase of construction projects involving the relocation of water and/or sewer facilities.
- Expands the statutory powers of water/sewer districts by allowing sewer facilities to use or sell natural gas generated as a byproduct of the sewage treatment process.
- Increases the maximum length of leases of unused water/sewer district property from 25 to 50 years.

**Hearing Date:** 1/23/07

**Staff:** Thamas Osborn (786-7129).

**Background:**

**Powers and Authority of Water-Sewer Districts**

Water-sewer district (district) powers include the authority to purchase, construct, maintain, and supply waterworks to furnish water to inhabitants within and outside of the district. District powers also include the authority to purchase, construct, maintain and operate systems of sewers and drainage.

**Annexation of Territory by Water-Sewer Districts**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

There are two primary methods by which a water-sewer district may increase its territory through annexation: (1) the "petition/election method," which requires an initial petition by the voters, approval of the proposed annexation by the board of the water-sewer district (board) and the county legislative authority, and culminating in a special election; and (2) the "petition method," which requires a petition signed by the owners of 60 percent of the property in the annexation area and the subsequent approval of the proposed annexation by the board.

#### **"Petition/Election" Method of Annexation**

Annexations of territory by a district under the petition/election method allow the annexation of either: (1) territory that is within the county or counties in which a district is located; or (2) territory that is adjoining or in close proximity to the district but which is located in another county. Such annexations must be accomplished in accordance with the following procedures:

- A petition must be filed with the board that is signed by 10 percent of the number of registered voters residing in the proposed annexation area and who voted in the last municipal general election. In areas in which no registered voters reside, an annexation may be initiated through a petition signed by those individuals owning a majority of the acreage in the territory.
- The board must concur with the annexation proposal set forth in the petition and then file the petition with the county auditor.
- Upon certification by the county auditor, the petition is then forwarded for consideration by the county legislative authority.
- The county legislative authority must hold a public hearing on the petition.
- A special election must then be held, provided the county legislative authority finds that the proposed annexation will "be conducive to the public health, welfare, and convenience and to be of special benefit to the land proposed to be annexed."
- The special election is held within the boundaries of the territory subject to the proposed annexation.
- The annexation is accomplished if approved by a majority of the votes cast.

#### **"Petition Method" of Annexation**

Annexations of territory by a district under the petition method allow the annexation of an area that is contiguous to the district. Such annexations must be accomplished in accordance with the following procedures:

- A petition signed by the owners of at least 60 percent of the property within the proposed annexation area must be filed with the board of the district to which annexation is desired.
- If the board is interested in considering the annexation proposed in the petition, it must hold a public hearing subject to specified public notice requirements.
- Following the hearing the board must determine by resolution whether or not the area in question will be annexed to the district.

#### **Relocation of Utility Facilities Necessitated by Road Construction or Improvement**

State law allows a county or the state to move the location of the facilities of a utility where reasonably necessary in order to construct, alter or improve a road or highway. As a general rule the costs associated with moving the utility's facilities are at the expense of the utility. However, the state may bear the expenses associated with the removal of a utility in certain instances where federal funding is available for the reimbursement of such expenses.

#### **Selling Electricity Generated as a Byproduct of the Sewage Treatment Process**

Sewer facilities operated by water-sewer districts may include facilities that combine sewage treatment/disposal and the generation of electricity. The resulting electricity is characterized as being a byproduct of the sewer system and may be used by the water-sewer district or sold to any entity legally authorized to distribute electricity.

**Summary of Bill:**

**Annexation by a Water-Sewer District of Territory Within a City**

A board may initiate proceedings for the annexation of territory within a city subsequent to the district acquiring water and/or sewer facilities located within that city. The commencement of such annexation proceedings requires that the board enter into an agreement with the city regarding the proposed annexation. Such annexations must be accomplished in accordance with the following procedural requirements:

- The board must pass a resolution calling for the proposed annexation to be submitted to the voters for their approval.
- The resolution must be filed with the county legislative authority who must then cause a public hearing to be held in accordance with specified procedural requirements.
- Following the final hearing, the county legislative authority may adjust the proposed annexation boundary lines as it deems proper, although adjusted boundary lines may not include any territory outside of the boundary lines described in the board's resolution proposing the annexation.
- A special election must be held upon a finding by the county legislative authority that the proposed annexation will "be conducive to the public health, welfare, and convenience," and "will be of special benefit to the land included within the boundaries of the proposed annexation."
- The special election must be held within the boundaries of the territory subject to the proposed annexation.
- The annexation is accomplished if approved by a majority of the votes cast.

**Consultation Process for Public Projects Requiring Relocation of Water-Sewer Facilities**

In order to coordinate design with respect to public construction projects, counties and cities must consult with public utilities operating water-sewer systems during the "pre-design phase" of construction projects involving the relocation of water and/or sewer facilities.

**Relieving Water-Sewer Districts from Certain Executive/Legislative Reporting Requirements**

A state association of water/wastewater districts is removed from the coverage of a statute requiring that associations of municipal corporations submit biennial reports to the Governor and the Legislature containing joint recommendations regarding changes which would affect the efficiency of such municipal corporations.

**Selling Natural Gas Generated as a Byproduct of the Sewage Treatment Process**

The statutory powers of water/sewer districts are expanded by allowing sewer facilities to include facilities that combine sewage treatment/disposal and natural gas generation. The resulting natural gas is characterized as being a byproduct of the sewer system and may be used by the water-sewer district or sold to any entity legally authorized to distribute natural gas.

**Authorizing Water-Sewer Districts to Increase the Maximum Term of Leases**

Increases the maximum length of leases of unused water-sewer district property from 25 to 50 years.

**Appropriation:** None.

**Fiscal Note:** Requested on 1/17/2007.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.