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## Local Government Committee

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### HB 2358

**Brief Description:** Concerning water-sewer districts.

**Sponsors:** Representatives Kochmar, Gregerson and Pike.

#### Brief Summary of Bill

- Modifies water-sewer district (district) provisions governing the sale of district real property.
- Authorizes districts meeting specified revenue criteria to issue warrants for payment of claims and other district obligations.
- Grants districts the authority to enter into contracts for asset management service of their water storage assets.
- Authorizes districts to acquire, lease, or sell pollution control facilities, and to issue and secure revenue bonds to defray the cost of acquiring or improving such facilities.

**Hearing Date:** 1/14/16

**Staff:** Michaela Murdock (786-7289).

#### **Background:**

##### Water-Sewer Districts – General Information.

Water-sewer districts (districts) may purchase, construct, maintain, and supply waterworks to furnish water to inhabitants within and outside of the district. Districts may also develop and operate systems of sewers and drainage, and are authorized to create facilities, systems, and programs for the collection, interception, treatment, disposal, and control of pollution from wastewater. Districts may also fix rates and charges for services, enter into contracts, levy taxes, and issue bonds and instruments evidencing indebtedness. Water-sewer districts are governed by boards of elected commissioners (boards).

##### Sales of Real Property.

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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.*

A board may sell real property at a public or private sale if it: (1) determines that the property is not and will not be needed for district purposes; and (2) provides notice of the sale in accordance with specific requirements, including the estimated value of the property or, if an appraisal has been made, the property's appraised value.

The authority to engage in the private sale of real property is limited to property with an estimated value of \$5,000 or less. In conducting such a sale, the board may, as it deems appropriate, determine the estimated value based upon the advice of real estate brokers and appraisers.

If the estimated value of the property to be sold exceeds \$5,000, the value must be established by a written broker price opinion from three licensed and disinterested real estate brokers, or by a professionally designated real estate appraiser. A signed broker price opinion or appraisal must be filed with the secretary of the board and made available for public inspection.

With limited exceptions, real property of the district may not be sold for less than 90 percent of its value. However, if after 120 days of offering the property for sale it cannot be sold at 90 percent or more of its estimated or appraised value, the board may adopt a resolution stating that the district has been unable to sell the property. The district may then, subject to public notice requirements and right of refusal authorizations, sell the property at the highest price it can obtain at public auction. The applicable notice must, among other requirements, describe the property, state the time and place at which it will be offered for sale, and state the terms of sale.

#### Treasurer Duties – Warrants.

The county treasurer is the treasurer of a district. However, with the approval of the county treasurer, the board of any district with more than 2,500 water customers or sewer customers may designate another person to act as the district treasurer. The district treasurer must have experience in financial or fiscal matters.

All taxes and revenue collected by the district, except those funds received for specified obligations, must be maintained in a maintenance or general fund created and maintained by the district treasurer. Disbursements from the general fund are authorized only by warrants of the county auditor issued with the authority of the board or upon a resolution of the board. The district treasurer must also maintain special funds as prescribed by the district, and similarly, disbursements may occur by warrants of the county auditor.

#### Contract and Competitive Bidding.

All work ordered by a district, which has an estimated cost in excess of \$50,000, must be let by contract and competitive bidding. Notice calling for bid proposals must be published in a newspaper of general circulation in the district. Competitive bidding requirements may be waived if an applicable exemption applies to the work. Contracts let by competitive bidding must be awarded to the lowest responsible bidder. Alternatively, a district may let contracts using the small works roster process.

#### Pollution Control Facilities - Municipal Powers.

Municipalities, defined as any city, town, county, or port district in state, are authorized under pollution control statutes to acquire, lease, or sell facilities (*e.g.*, any land, building, structure, machinery, system, fixture, or equipment) used to abate, control, or prevent pollution that is

located within the municipality. Municipalities are also authorized to issue revenue bonds to defray the cost of acquiring or improving a facility or facilities, and to secure the payment of the bonds.

### **Summary of Bill:**

#### Sales of Real Property.

Provisions governing the sale of real property by districts are modified. The board must base their determination of the estimated value of real property to be sold by the district on a written appraisal report by a state-licensed or state-certified real estate appraiser, or a written brokers price opinion. The appraisal report or brokers price report must have been prepared less than six months before the date of sale. Provisions that apply to notice of the district's intention to sell real property are modified to specify that notices must refer to the appraisal report or the brokers price opinion, as applicable.

If a purchaser for real property cannot be found within 120 days of publication of the initial notice of intention to sell, the board may adopt a resolution stating that the district has been unable to sell the real property at 90 percent or more of the estimated value. The district may then, subject to public notice requirements and right of refusal authorizations, sell the property at the highest price it can obtain at public auction. The notice of intent to sell at public auction, in addition to current requirements, must now state the minimum opening bid.

#### Treasurer Duties – Warrants.

The board of a district with revenues of \$5 million or more in each of the preceding three years that were audited by the State Auditor in accordance with state law is authorized to adopt a policy to issue its own warrants for the payment of claims or other obligations of the district.

Similarly, the board of a district with revenues greater than \$250,000 and less than \$5 million in each of the preceding three years that were audited by the State Auditor in accordance with state law is authorized to adopt a policy to issue its own warrants for the payment of claims or other district obligations. Adoption of the policy is authorized, however, only if both the county treasurer and the district agree to adopt the policy.

For both categories of districts, the board may authorize the issuing of one general certificate that permits the county treasurer to pay all warrants specified in the general certificate. The district may then issue the warrants specified in the general certificate.

#### Asset Management Services.

Water-sewer districts are expressly authorized to contract for asset management service of their water storage assets (*i.e.*, water storage structures and associated distribution systems, such as water tanks, towers, wells, meters, or water filters). Water-sewer districts may negotiate a fair and reasonable water storage asset management service contract with firms that submit the best proposals. Services provided under the contract may include financing, designing, improving, operating, maintaining, repairing, testing, inspecting, cleaning, administering, or managing the water storage asset.

If a water-sewer district chooses to contract for asset management services, the water-sewer district must publish advance notice of its requirements to procure asset management services.

The district may:

- negotiate with the firm that submits the best proposal based on criteria established by the district;
- terminate negotiations if unable to negotiate a satisfactory contract; and
- select another firm to continue negotiations with until a contract is reached, or terminate the selection process.

If a district chooses to negotiate a contract under these procurement procedures, no other statutory procurement requirements apply.

Pollution Control Facilities - Powers.

Water-sewer districts are added to the definition of a "municipality" under pollution control statutes, and are thereby authorized: to acquire, lease, or sell facilities located within a district that are used to abate, control, or prevent pollution; and to issue and secure payment of revenue bonds to defray the cost of acquiring or improving such facilities.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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