SB 353-LOCAL – AS INTRODUCED

2012 SESSION

12-2910 06/01

SENATE BILL **353-LOCAL**

AN ACT relative to establishing water and sewer infrastructure in the commercial district of a town.

SPONSORS: Sen. Prescott, Dist 23

COMMITTEE: Public and Municipal Affairs

ANALYSIS

This bill permits municipalities to establish central business utility districts to protect the water supply and to enable municipalities to provide utility services in compliance with federal, state, and local requirements.

Explanation:Matter added to current law appears in **bold italics.**Matter removed from current law appears [in brackets and struckthrough.]Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 353-LOCAL – AS INTRODUCED

12-2910 06/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to establishing water and sewer infrastructure in the commercial district of a town.

Be it Enacted by the Senate and House of Representatives in General Court convened:

New Subdivision; Central Business Utility Districts. Amend RSA 31 by inserting after section
 133 the following new subdivision:

3

Central Business Utility Districts

4 31:134 Statement of Purpose. An adequate supply of water is indispensable to the health, $\mathbf{5}$ welfare, and safety of the people of the state and essential to the natural environment of the state. 6 Therefore, the general court declares and determines that the waters of New Hampshire constitute a 7 limited and precious public resource to be protected, conserved, and managed in the interest of 8 present and future generations. This requires careful stewardship over all uses and management of 9 water, wastewater, and stormwater within the state. To maximize health and safety, ecological and 10aesthetic values, and the overall well-being of the people, the state of New Hampshire must enable 11 municipalities to protect water supplies, prevent pollution in the public waters of the state, prevent 12nuisances and potential health hazards resulting from improvements to the land within local 13watersheds, and provide utility services in compliance with federal, state, and local requirements. 14The establishment of central business utility districts in high density areas of predominantly 15commercial uses will enable municipalities to provide property services at a more intensive level 16than is provided in the balance of the municipality; provide funds for capital expenditures towards 17constructing and maintaining those utilities; provide funds for the operation and maintenance of 18those utilities; and authorize the establishment of charges to owners and users of property within 19such central business utility districts in an amount not to exceed the costs to the municipality of 20providing such utility services at levels over and above those provided in the balance of the 21municipality.

22 31:135 Authority Granted. For the purposes of this subdivision, the legislative body of any city 23 or town shall have the authority by a majority vote to establish one or more central business utility 24 districts and designate a governing body to oversee the services provided to the district. In the case 25 where a utility district encompasses land within more than one municipality, the district may be 26 authorized by majority vote of the legislative bodies within each affected jurisdiction.

27

31:136 Services Provided; Cost.

I. The services provided by a central business utility district under the this subdivision may include property-related services, including but not limited to providing public drinking water and water for domestic uses; water for fire suppression; wastewater and stormwater management including treatment, reuse, and disposal; flood control and the impoundment and release of water to

SB 353-LOCAL – AS INTRODUCED - Page 2 -

1 protect life and property; related construction, operation, and maintenance of capital facilities $\mathbf{2}$ needed in the performance of these services; and other business development services and activities 3 related to the maintenance of an attractive, useful, and economically viable business environment $\mathbf{4}$ within the district. These services and activities may be either those of a routine nature provided for all properties, or may be particular to those in the central business utility district. $\mathbf{5}$

6

II. The legislative body of each municipality shall define the central business service district, 7select specific services and levels of services to be provided, and, subject to RSA 31:137, authorize the 8 department, agency, or other party that is to undertake the work.

9 III. The costs of providing services in the central business utility district shall be those 10accruing to the municipality, which result exclusively from the provision of services in the district, 11 and which exceed those being provided in the balance of the municipality.

1231:137 Method of Appropriation. Each municipality shall adopt a budgetary appropriation for 13capital and operating expenditures including replacement and upgrades, or services to be performed 14in a central business utility district as part of its budget process. The expense of constructing and 15maintaining the facilities needed to perform the authorized services to the district, or paying off any 16capital debt or interest incurred in constructing or maintaining the district on an annual basis shall 17be included in the budgetary appropriation. At the end of the fiscal year, a full accounting of 18 expenditures shall be made.

1931:138 Assessments. Upon adoption of the budgetary appropriation, the municipality may levy 20assessments in an amount not greater than the net appropriation to a central business utility 21district fund. The assessments shall be made against the owners or users, or both, of properties in 22the central business utility district and shall be based upon a formula determined by the 23municipality to be in relative proportion to benefits received by each property owner or user, or both, 24in the central business utility district. Assessments shall be billed and collected as specified by 25ordinance adopted by majority vote of the governing body of the municipality after a public hearing. 26Government property and non-profit organizations within the district shall be subject to the 27assessment. Interest and other collection procedures shall be made by the tax collector or other 28official responsible for property tax collection. Enforcement powers for nonpayment shall be the 29same as those provided under RSA 80 relative to property tax collection.

30 31:139 Limit on Liability. The provisions of RSA 507-B relative to bodily injury actions against 31governmental units shall apply to all municipal activities performed in connection with a central 32business utility district.

33

31:140 Water Assessment Fund.

34I. The funds received from the collection of water assessments shall be kept as a separate 35and distinct fund to be known as the water assessment fund. Such fund shall be allowed to 36 accumulate from year to year, shall not be commingled with municipal tax revenues, and shall not be 37 deemed part of the municipality's general fund accumulated surplus. Such fund shall be expended

SB 353-LOCAL – AS INTRODUCED - Page 3 -

only for the purposes of this subdivision as it relates to public drinking water and domestic supplies,
 or for the previous expansion or replacement of water lines or water treatment facilities.

II. Except when a capital reserve fund is established pursuant to paragraph III, all water assessment funds shall be held in the custody of the municipal treasurer. Estimates of anticipated water assessments and anticipated expenditures from the water assessment fund shall be submitted to the governing body under RSA 32:6 if applicable, and shall be included as part of the municipal budget submitted to the legislative body for approval. Notwithstanding RSA 41:29 or RSA 48:16, the treasurer shall pay out amounts from the water assessment fund only upon order of the governing body of the district. Expenditures shall be within amounts appropriated by the legislative body.

10 III. At the option of the governing body of the district, all or part of any surplus in the water 11 assessment fund may be placed in one or more capital reserve funds under RSA 35:7 and placed in 12 the custody of the trustees of trust funds. If such a reserve fund is created, then the governing body 13 of the district may expend such funds pursuant to RSA 35:15 without prior approval or appropriation 14 by the local legislative body, but all such expenditures shall be reported to the municipality pursuant 15 to RSA 31:46. This section shall not be construed to prohibit the establishment of other capital 16 reserve funds for any lawful purpose relating to municipal water.

17

31:141 Sewer Assessment Fund.

I. The funds received from the collection of sewer assessments shall be kept as a separate and distinct fund to be known as the sewer assessment fund. Such fund shall be allowed to accumulate from year to year, shall not be commingled with town or city tax revenues, and shall not be deemed part of the municipality's general fund accumulated surplus. Such fund shall be expended only for the purposes of this subdivision as it relates to wastewater, or for the previous expansion or replacement of sewage lines or sewage treatment facilities.

24II. Except when a capital reserve fund is established pursuant to paragraph III, all sewer 25assessment funds shall be held in the custody of the municipal treasurer. Estimates of anticipated 26sewer assessments and anticipated expenditures from the sewer assessment fund shall be submitted 27to the governing body under RSA 32:6 if applicable, and shall be included as part of the municipal 28budget submitted to the local legislative body for approval. Notwithstanding RSA 41:29 or 29RSA 48:16, the treasurer shall pay out amounts from the sewer assessment fund only upon order of 30 the governing body of the district. Expenditures shall be within amounts appropriated by the local 31legislative body.

32 III. At the option of the governing body of the district, all or part of any surplus in the sewer 33 assessment fund may be placed in one or more capital reserve funds under RSA 35:7 and placed in 34 the custody of the trustees of trust funds. If such a reserve fund is created, then the governing body 35 of the district may expend such funds pursuant to RSA 35:15 without prior approval or appropriation 36 by the local legislative body, but all such expenditures shall be reported to the municipality pursuant

SB 353-LOCAL – AS INTRODUCED - Page 4 -

to RSA 31:146. This section shall not be construed to prohibit the establishment of other capital
reserve funds for any lawful purpose relating to municipal sewers.

3

31:142 Stormwater Assessment Fund.

I. The funds received from stormwater utility assessments shall be kept as a separate and distinct fund to be known as the stormwater utility assessment fund. Such fund shall be allowed to accumulate from year to year, shall not be commingled with town or city tax revenues, and shall not be deemed part of the municipality's general fund accumulated surplus. Such fund shall be expended only for stormwater treatment, conveyance, and discharge systems.

9 II. Except when a capital reserve fund is established pursuant to paragraph III, all 10stormwater utility assessment funds shall be held in the custody of the municipal treasurer. 11 Estimates of anticipated stormwater assessments and anticipated expenditures from the stormwater 12utility fund shall be submitted to the governing body under RSA 32:6 if applicable, and shall be 13included as part of the municipal budget submitted to the local legislative body for approval. 14Notwithstanding RSA 41:29 or RSA 48:16, the treasurer shall pay out amounts from the stormwater utility assessment fund only upon order of the governing body of the district. Expenditures shall be 1516within amounts appropriated by the local legislative body.

17III. At the option of the governing body of the district, all or part of any surplus in the 18stormwater utility assessment fund may be placed in one or more capital reserve funds under 19RSA 35:7 and placed in the custody of the trustees of trust funds. If such a reserve fund is created, 20then the governing body of the district may expend such funds pursuant to RSA 35:15 without prior 21approval or appropriation by the local legislative body, but all such expenditures shall be reported to 22the municipality pursuant to RSA 31:146. This section shall not be construed to prohibit the 23establishment of other capital reserve funds for any lawful purpose relating to municipal stormwater 24management.

25 31:143 District Utility Fund. Notwithstanding RSA 31:140 through RSA 31:142, the local 26 legislative body upon establishing a utility district may vote to establish a separate and distinct fund 27 to be known as the district utility fund. Such fund shall be allowed to accumulate from year to year, 28 shall not be commingled with town or city tax revenues, and shall not be deemed part of the 29 municipality's general fund accumulated surplus. Such fund shall function as a collective water, 30 sewer, and stormwater fund and shall be authorized to be managed in the same ways as water, 31 sewer, or stormwater funds are used under RSA 31:140 through RSA 31:142.

32

31:144 Abatement and Appeal of Assessments.

I. Any person aggrieved by an assessment made under this subdivision may, within 2 months of the notice of assessment, apply in writing to the governing body of the district for an abatement of the assessment.

SB 353-LOCAL – AS INTRODUCED - Page 5 -

1	II. Upon receipt of an application under paragraph I, the governing body of the district shall
2	review the application and shall, in writing, grant or deny the application in whole or in part to
3	correct any error in the assessment within 6 months after the notice of assessment.
4	III. If the governing body of the district neglects or refuses to abate the assessment, any
5	person aggrieved may petition the superior court in the county where the property is located within 8
6	months of the notice of assessment.
7	IV. For purposes of this section, "notice of assessment" means the date the shown on the
8	assessment bill.
9	V. Each assessment bill shall require a separate abatement request and appeal.
10	VI. For good cause shown, the governing body of the district may abate any such assessment
11	made by them or by their predecessors.
12	31:145 Liens and Collection of Assessments. In the collection of assessments under RSA 31:138,
13	municipalities shall have the same liens and use the same collection procedures as authorized by
14	RSA 38:22. Interest on overdue charges shall be assessed in accordance with RSA 76:13.
15	31:146 Reports. In municipalities adopting this chapter, the governing body of the district shall
16	annually, at the time other municipal officers report, make a report to the municipality of the
17	condition of the plant financially and otherwise, showing the funds of the district, the expenses and
18	income thereof, and all other material facts. This report shall be published in the annual report of
19	the municipality.
20	2 Effective Date. This act shall take effect 60 days after its passage.