

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

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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.

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.



1 protect life and property; related construction, operation, and maintenance of capital facilities  
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  
4 within the district. These services and activities may be either those of a routine nature provided for  
5 all properties, or may be particular to those in the central business utility district.

6 II. The legislative body of each municipality shall define the central business service district,  
7 select 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  
10 accruing 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.

12 31:137 Method of Appropriation. Each municipality shall adopt a budgetary appropriation for  
13 capital and operating expenditures including replacement and upgrades, or services to be performed  
14 in a central business utility district as part of its budget process. The expense of constructing and  
15 maintaining the facilities needed to perform the authorized services to the district, or paying off any  
16 capital debt or interest incurred in constructing or maintaining the district on an annual basis shall  
17 be included in the budgetary appropriation. At the end of the fiscal year, a full accounting of  
18 expenditures shall be made.

19 31:138 Assessments. Upon adoption of the budgetary appropriation, the municipality may levy  
20 assessments in an amount not greater than the net appropriation to a central business utility  
21 district fund. The assessments shall be made against the owners or users, or both, of properties in  
22 the central business utility district and shall be based upon a formula determined by the  
23 municipality to be in relative proportion to benefits received by each property owner or user, or both,  
24 in the central business utility district. Assessments shall be billed and collected as specified by  
25 ordinance adopted by majority vote of the governing body of the municipality after a public hearing.  
26 Government property and non-profit organizations within the district shall be subject to the  
27 assessment. Interest and other collection procedures shall be made by the tax collector or other  
28 official responsible for property tax collection. Enforcement powers for nonpayment shall be the  
29 same 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  
31 governmental units shall apply to all municipal activities performed in connection with a central  
32 business utility district.

33 31:140 Water Assessment Fund.

34 I. The funds received from the collection of water assessments shall be kept as a separate  
35 and 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

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

3 II. Except when a capital reserve fund is established pursuant to paragraph III, all water  
4 assessment funds shall be held in the custody of the municipal treasurer. Estimates of anticipated  
5 water assessments and anticipated expenditures from the water assessment fund shall be submitted  
6 to the governing body under RSA 32:6 if applicable, and shall be included as part of the municipal  
7 budget submitted to the legislative body for approval. Notwithstanding RSA 41:29 or RSA 48:16, the  
8 treasurer shall pay out amounts from the water assessment fund only upon order of the governing  
9 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.

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

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

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

3 31:142 Stormwater Assessment Fund.

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

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

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

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.

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

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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.