



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Details (With Text)

File #: 10-0245 **Version:** 1

Type: Report **Status:** Filed

File created: 2/10/2010 **In control:** Real Estate Development Committee

On agenda: 2/18/2010 **Final action:** 2/18/2010

Title: Report concerning legislation introduced to amend the District's leasing statute to expand the purposes for which a no bid lease can be issued to academic institutions to include any use relating to the school's "community service" programs

Sponsors:

Indexes:

Code sections:

Attachments: 1. 02-18-10_II General Assembly.pdf

Date	Ver.	Action By	Action	Result
2/18/2010	1	Committee of the Whole	Recommended	Pass
2/18/2010	1	Board of Commissioners	Published and Filed	Pass

TRANSMITTAL LETTER FOR BOARD MEETING OF FEBRUARY 18, 2010

COMMITTEE ON REAL ESTATE

Mr. Richard Lanyon, Executive Director

Report concerning legislation introduced to amend the District's leasing statute to expand the purposes for which a no bid lease can be issued to academic institutions to include any use relating to the school's "community service" programs

Dear Sir:

Trinity Christian College ("Trinity") leases approximately 78 acres of District land located on the south side of the Cal-Sag Channel at Cal-Sag Road (Route 83) and Ridgeland Avenue c/k/a Cal-Sag Channel Atlas Parcels Nos. 10.03 and 11.03. The 50 year lease was issued pursuant to the statutory provision that allows the District to issue leases to schools without competitive bidding, provided the leased land will be used exclusively for the schools academic and/or physical education programs. The annual rental is \$68,000.00 and the lease will expire June 30, 2058.

The Board of Commissioners ("Board") was advised by written report at its meeting of May 7, 2009, that Trinity had requested that the District amend its lease to allow the use of the leased land to be expanded to include operating summer sports camps for grade school children, to allow other Christian schools to use the athletic fields and to allow little leagues, youth soccer programs, and other church groups to use the leasehold. The referenced report advised the Board that staff could not recommend approval of the requested amendment because the statutory provision under which the lease was issued expressly provides "...*such lease limit the institutions use of the leased land to only those purposes relating to the operations of such institutions academic or physical education programs*" (70 ILCS 2605/8c11).

Apparently, in response to the District's denial of Trinity's request for the afore-mentioned amendment to its lease, Trinity, through its State Representative Emil Jones III, has caused legislation to be introduced to

amend the District's leasing statute to provide that the District may also issue leases to schools for purposes relating to the operations of the schools "community service" programs without competitive bidding. A copy of the proposed amendment language is attached hereto.

The proposed language, if adopted, could have a significant impact on the District's leasing practices. The purpose of the subject provision of the statute is not to determine who can lease District land but who can lease District land without competitive bidding. The statute currently limits such entities, for the most part, to governmental entities and schools. Additionally, the statute limits the uses for which those entities may use the leased premises to the very purposes for which the entities were established, i.e., governmental entities may bypass the competitive bid requirement only if the lease is to be used for public recreational or other public purposes - and, schools may bypass the competitive bid requirement only if the lease is to be used for its academic or physical educational programs.

The practical effect of the proposed amendment in adding the words "community service" is to greatly expand leases that can be issued without competitive bidding to essentially include almost any school for any purpose. This is true especially in view of the fact that the proposed amendment does not contain a definition for "community services." Therefore, the term or concept of relating to the schools operation of its "community service" program could include any activity that the school self describes as a "community service." The definition of the term "community service" could even be construed as broader than the "public purpose" requirement set forth in the municipality exception for leases. Arguably, even leasing land for a parking lot could be considered as relating to the operations of the schools "community service" program if properly framed by the school/requestor.

However, it should be noted that the subject provision of the statute as current written as well as with the proposed amendment is permissive rather than mandatory. That means that the subject provision allows the District to issue such leases without competitive bidding but does not require that it do so. However, as a practical matter it is likely that the applications for such leases will increase and require the Board in the future to make decisions as to whether a proposed "community service" is in fact a "community service." The Board has historically strived to treat similar parties similarly - the application of the proposed "community service" standard will present many challenges in adhering to that fundamental goal.

In sum, the challenges and problems presented by the amendment as proposed appear, from a staff perspective, to greatly outweigh any District/public interest or benefit. However, the question presented is one of policy and for Board determination as to the District's response to the proposed amendment.

Respectfully Submitted, Frederick M. Feldman, General Counsel, FMF:CL:rg
Recommended, Richard Lanyon, Executive Director

Attachment