

Effective 2/27/2023

17B-1-103 Special district status and powers -- Registration as a limited purpose entity.

- (1) A special district:
 - (a) is:
 - (i) a body corporate and politic with perpetual succession;
 - (ii) a quasi-municipal corporation; and
 - (iii) a political subdivision of the state; and
 - (b) may sue and be sued.
- (2) A special district may:
 - (a) acquire, by any lawful means, or lease any real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;
 - (b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;
 - (c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);
 - (d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;
 - (e) borrow money and incur indebtedness for any lawful district purpose;
 - (f) issue bonds, including refunding bonds:
 - (i) for any lawful district purpose; and
 - (ii) as provided in and subject to Part 11, Special District Bonds;
 - (g) levy and collect property taxes:
 - (i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and
 - (ii) as provided in and subject to Part 10, Special District Property Tax Levy;
 - (h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;
 - (i) invest money as provided in Title 51, Chapter 7, State Money Management Act;
 - (j)
 - (i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:
 - (A) maintaining and operating the district;
 - (B) acquiring, purchasing, constructing, improving, or enlarging district facilities;
 - (C) issuing bonds and paying debt service on district bonds; and
 - (D) providing a reserve established by the board of trustees; and
 - (ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;
 - (k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;
 - (l) enter into a contract that the special district board of trustees considers necessary, convenient, or desirable to carry out the district's purposes, including a contract:
 - (i) with the United States or any department or agency of the United States;
 - (ii) to indemnify and save harmless; or
 - (iii) to do any act to exercise district powers;
 - (m) purchase supplies, equipment, and materials;

- (n) encumber district property upon terms and conditions that the board of trustees considers appropriate;
 - (o) exercise other powers and perform other functions that are provided by law;
 - (p) construct and maintain works and establish and maintain facilities, including works or facilities:
 - (i) across or along any public street or highway, subject to Subsection (3) and if the district:
 - (A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and
 - (B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;
 - (ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or
 - (iii) across any stream of water or watercourse, subject to Section 73-3-29;
 - (q) perform any act or exercise any power reasonably necessary for the efficient operation of the special district in carrying out its purposes;
 - (r)
 - (i) except for a special district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or
 - (ii) for a special district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right to facilitate a groundwater management plan;
 - (s) contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public;
 - (t) upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:
 - (i)
 - (A) with another political subdivision of the state; or
 - (B) with a public or private owner of property on which the district has a right-of-way or adjacent to which the district owns fee title to property; and
 - (ii) to allow the use of property:
 - (A) owned by the district; or
 - (B) on which the district has a right-of-way; and
 - (u) if the special district receives, as determined by the special district board of trustees, adequate monetary or nonmonetary consideration in return:
 - (i) provide services or nonmonetary assistance to a nonprofit entity;
 - (ii) waive fees required to be paid by a nonprofit entity; or
 - (iii) provide monetary assistance to a nonprofit entity, whether from the special district's own funds or from funds the special district receives from the state or any other source.
- (3) With respect to a special district's use of a street or highway, as provided in Subsection (2)(p)
- (i):

- (a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:
 - (i) an excavation and the refilling of an excavation;
 - (ii) the relaying of pavement; and
 - (iii) the protection of the public during a construction period; and
 - (b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:
 - (i) may not require the district to pay a license or permit fee or file a bond; and
 - (ii) may require the district to pay a reasonable inspection fee.
- (4)
- (a) A special district may:
 - (i) acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:
 - (A) the purpose of the facilities is to harness energy that results inherently from the district's operation of a project or facilities that the district is authorized to operate or from the district providing a service that the district is authorized to provide;
 - (B) the generation of electricity from the facilities is incidental to the primary operations of the district; and
 - (C) operation of the facilities will not hinder or interfere with the primary operations of the district;
 - (ii)
 - (A) use electricity generated by the facilities; or
 - (B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.
 - (b) A district may not act as a retail distributor or seller of electricity.
 - (c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.
- (5) A special district may adopt and, after adoption, alter a corporate seal.
- (6)
- (a) Each special district shall register and maintain the special district's registration as a limited purpose entity, in accordance with Section 67-1a-15.
 - (b) A special district that fails to comply with Subsection (6)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.
- (7)
- (a) As used in this Subsection (7), "knife" means a cutting instrument that includes a sharpened or pointed blade.
 - (b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a special district.
 - (c) Unless specifically authorized by the Legislature by statute, a special district may not adopt or enforce a regulation or rule pertaining to a knife.

Amended by Chapter 15, 2023 General Session