

**17B-2a-1004 Additional water conservancy district powers -- Limitations on water conservancy districts.**

- (1) In addition to the powers conferred on a water conservancy district under Section 17B-1-103, a water conservancy district may:
- (a) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
  - (b) acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections 17B-1-103(2)(a) and (b), whether inside or outside the district;
  - (c) acquire or construct works, facilities, or improvements, as provided in Subsection 17B-1-103(2)(d), whether inside or outside the district;
  - (d) acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district, and encumber, sell, lease, transfer an interest in, or dispose of water, works, water rights, and sources of water;
  - (e) fix rates and terms for the sale, lease, or other disposal of water;
  - (f) acquire rights to the use of water from works constructed or operated by the district or constructed or operated pursuant to a contract to which the district is a party, and sell rights to the use of water from those works;
  - (g) levy assessments against lands within the district to which water is allotted on the basis of:
    - (i) a uniform district-wide value per acre foot of irrigation water; or
    - (ii) a uniform unit-wide value per acre foot of irrigation water, if the board divides the district into units and fixes a different value per acre foot of water in the respective units;
  - (h) fix rates for the sale, lease, or other disposal of water, other than irrigation water, at rates that are equitable, though not necessarily equal or uniform, for like classes of service;
  - (i) adopt and modify plans and specifications for the works for which the district was organized;
  - (j) investigate and promote water conservation and development;
  - (k) appropriate and otherwise acquire water and water rights inside or outside the state;
  - (l) develop, store, treat, and transport water;
  - (m) acquire stock in canal companies, water companies, and water users associations;
  - (n) acquire, construct, operate, or maintain works for the irrigation of land;
  - (o) subject to Subsection (2), sell water and water services to individual customers and charge sufficient rates for the water and water services supplied;
  - (p) own property for district purposes within the boundaries of a municipality; and
  - (q) coordinate water resource planning among public entities.
- (2)
- (a) A water conservancy district and another political subdivision of the state may contract with each other, and a water conservancy district may contract with one or more public entities and private persons, for:
    - (i) the joint operation or use of works owned by any party to the contract; or
    - (ii) the sale, purchase, lease, exchange, or loan of water, water rights, works, or related services.
  - (b) An agreement under Subsection (2)(a) may provide for the joint use of works owned by one of the contracting parties if the agreement provides for reasonable compensation.
  - (c) A statutory requirement that a district supply water to its own residents on a priority basis does not apply to a contract under Subsection (2)(a).
  - (d) An agreement under Subsection (2)(a) may include terms that the parties determine, including:

- (i) a term of years specified by the contract;
  - (ii) a requirement that the purchasing party make specified payments, without regard to actual taking or use;
  - (iii) a requirement that the purchasing party pay user charges, charges for the availability of water or water facilities, or other charges for capital costs, debt service, operating and maintenance costs, and the maintenance of reasonable reserves, whether or not the related water, water rights, or facilities are acquired, completed, operable, or operating, and notwithstanding the suspension, interruption, interference, reduction, or curtailment of water or services for any reason;
  - (iv) provisions for one or more parties to acquire an undivided ownership interest in, or a contractual right to the capacity, output, or services of, joint water facilities, and establishing:
    - (A) the methods for financing the costs of acquisition, construction, and operation of the joint facilities;
    - (B) the method for allocating the costs of acquisition, construction, and operation of the facilities among the parties consistent with their respective interests in or rights to the facilities;
    - (C) a management committee comprised of representatives of the parties, which may be responsible for the acquisition, construction, and operation of the facilities as the parties determine; and
    - (D) the remedies upon a default by any party in the performance of its obligations under the contract, which may include a provision obligating or enabling the other parties to succeed to all or a portion of the ownership interest or contractual rights and obligations of the defaulting party; and
  - (v) provisions that a purchasing party make payments from:
    - (A) general or other funds of the purchasing party;
    - (B) the proceeds of assessments levied under this part;
    - (C) the proceeds of impact fees imposed by any party under Title 11, Chapter 36a, Impact Fees Act;
    - (D) revenues from the operation of the water system of a party receiving water or services under the contract;
    - (E) proceeds of any revenue-sharing arrangement between the parties, including amounts payable as a percentage of revenues or net revenues of the water system of a party receiving water or services under the contract; and
    - (F) any combination of the sources of payment listed in Subsections (2)(d)(v)(A) through (E).
- (3)
- (a) A water conservancy district may enter into a contract with another state or a political subdivision of another state for the joint construction, operation, or ownership of a water facility.
  - (b) Water from any source in the state may be appropriated and used for beneficial purposes within another state only as provided in Title 73, Chapter 3a, Water Exports.
- (4)
- (a) Except as provided in Subsection (4)(b), a water conservancy district may not sell water to a customer located within a municipality for domestic or culinary use without the consent of the municipality.
  - (b) Subsection (4)(a) does not apply if:
    - (i) the property of a customer to whom a water conservancy district sells water was, at the time the district began selling water to the customer, within an unincorporated area of a county; and

- (ii) after the district begins selling water to the customer, the property becomes part of a municipality through municipal incorporation or annexation.
- (5) A water conservancy district may not carry or transport water in transmountain diversion if title to the water was acquired by a municipality by eminent domain.
- (6) A water conservancy district may not be required to obtain a franchise for the acquisition, ownership, operation, or maintenance of property.
- (7) A water conservancy district may not acquire by eminent domain title to or beneficial use of vested water rights for transmountain diversion.

Amended by Chapter 47, 2011 General Session