

Part 2 Drainage District Act

17B-2a-201 Title.

This part is known as the "Drainage District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-202 Definitions.

As used in this part:

- (1) "Ditch" includes a drain or natural or constructed watercourse, whether open, covered, or tiled, and whether inside or outside the drainage district.
- (2) "Drainage" includes the reclamation, protection, or betterment of land by leading, carrying, withholding, or pumping excess water from land through canals, ditches, pipes, or other means.

Enacted by Chapter 329, 2007 General Session

17B-2a-203 Provisions applicable to drainage districts.

- (1) Each drainage district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to drainage districts.
- (3) A drainage district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Amended by Chapter 15, 2023 General Session

17B-2a-204 Prohibition against creating a drainage district.

No new drainage district may be created.

Enacted by Chapter 329, 2007 General Session

17B-2a-205 Additional drainage district powers.

In addition to the powers conferred on a drainage district under Section 17B-1-103, a drainage district may:

- (1) enter upon land for the purpose of examining the land or making a survey;
- (2) locate a necessary drainage canal with any necessary branches on land that the district's board of trustees considers best;
- (3) issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;
- (4) after the payment or tender of compensation allowed, go upon land to construct proposed works, and thereafter enter upon that land to maintain or repair the works;
- (5) appropriate water for useful and beneficial purposes;
- (6) regulate and control, for the benefit of landholders within the district, all water developed, appropriated, or owned by the district;

- (7) appropriate, use, purchase, develop, sell, and convey water and water rights in the same manner and for the same use and purposes as a private person;
- (8) widen, straighten, deepen, enlarge, or remove any obstruction or rubbish from any watercourse, whether inside or outside the district; and
- (9) if necessary, straighten a watercourse by cutting a new channel upon land not already containing the watercourse, subject to the landowner receiving compensation for the land occupied by the new channel and for any damages, as provided under the law of eminent domain.

Amended by Chapter 15, 2023 General Session

17B-2a-206 Drainage district board of trustees.

- (1) Subject to Subsection (2), each member of the board of trustees of a drainage district shall be appointed by the legislative body of the county in which the district is located.
- (2) If a drainage district is located in more than one county, a county legislative body may not appoint more than two members.

Enacted by Chapter 329, 2007 General Session

17B-2a-207 Public highways, roads, or streets or railroad rights-of-way benefitted by district works.

If a drainage district board of trustees determines that a public highway, road, street, or railroad right-of-way is or will be benefitted by district drainage canals or other works that have been or will be constructed:

- (1) the district shall assess benefits and taxes against the public highway, road, street, or railroad right-of-way in the same manner as if the highway, road, street, or railroad right-of-way were in private ownership;
- (2) the district may treat the highway, road, street, or railroad right-of-way the same as it would treat private land; and
- (3) the state or local entity having control of the public highway, road, or street or the owner of the railroad right-of-way shall pay the applicable taxes assessed against the land, whether or not it owns the fee simple title to the land covered by the highway, road, street, or railroad right-of-way.

Enacted by Chapter 329, 2007 General Session

17B-2a-208 Bridge or culvert across a public highway, road, or street, or a railroad right-of-way -- Notice to railway authority -- Option of railway authority to construct bridge or culvert.

- (1)
 - (a) A drainage district may construct each necessary bridge and culvert across or under a public highway, road, street, or railroad right-of-way to enable the district to construct and maintain a canal, drain, or ditch necessary as part of the drainage system of the district.
 - (b) Before a drainage district constructs a bridge or culvert across or under a railroad right-of-way, the district shall first give notice to the railway authority empowered to build or construct bridges and culverts.
- (2)

- (a) A railway authority may, within 30 days after the notice under Subsection (1)(b) and at its own expense, build the bridge or culvert according to its own plans.
- (b) Each railway authority that builds a bridge or culvert as provided in Subsection (2)(a) shall construct the bridge or culvert:
 - (i) so as not to interfere with the free and unobstructed flow of water passing through the canal or drain; and
 - (ii) at points that are indicated by a competent drainage engineer.

Enacted by Chapter 329, 2007 General Session

17B-2a-209 State land treated the same as private land -- Consent needed to affect school and institutional trust land -- Owner of state land has same rights as owner of private land.

- (1) Subject to Subsection (2), a drainage district may treat state land the same as private land with respect to the drainage of land for agricultural purposes.
- (2) A drainage district may not affect school or institutional trust land under this part or Chapter 1, Provisions Applicable to All Special Districts, without the consent of the director of the School and Institutional Trust Lands Administration acting in accordance with Sections 53C-1-102 and 53C-1-303.
- (3) The state and each person holding unpatented state land under entries or contracts of purchase from the state have all the rights, privileges, and benefits under this part and Chapter 1, Provisions Applicable to All Special Districts, that a private owner of that land would have.

Amended by Chapter 15, 2023 General Session

17B-2a-210 District required to minimize damage when entering on land -- Penalty for preventing or prohibiting a district from entering on land.

- (1) When entering upon land for the purpose of constructing, maintaining, or repairing works, a drainage district may not do more damage than the necessity of the occasion requires.
- (2)
 - (a) A person who willfully prevents or prohibits an agent of a drainage district from entering upon land when the district is authorized to enter the land is guilty of a class C misdemeanor.
 - (b)
 - (i) Each person found guilty under Subsection (2)(a) shall be fined a sum not to exceed \$25 per day for each day the person prevented or prohibited the district from entering upon land.
 - (ii) Each fine under Subsection (2)(b)(i) shall be paid to the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-211 Penalty for wrongfully damaging a district work.

- (1) A person who wrongfully and purposely fills, cuts, injures, destroys, or impairs the usefulness of a drain, ditch, or other work of a drainage district is guilty of a class C misdemeanor.
- (2) Each person who negligently, wrongfully, or purposely fills, cuts, injures, destroys, or impairs the usefulness of a drain, ditch, levee, or other work of a drainage district or obstructs or fills any natural stream or outlet used by a drainage district, whether inside or outside the district, shall be liable to the district for all resulting damages.

Enacted by Chapter 329, 2007 General Session

