

**Effective 3/22/2021**

**Superseded 5/4/2022**

**63H-1-202 Applicability of other law.**

- (1) As used in this section:
  - (a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.
  - (b) "Subsidiary board" means the governing body of a subsidiary.
- (2) The authority or land within a project area is not subject to:
  - (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;
  - (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;
  - (c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or
  - (d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.
- (3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.
- (4)
  - (a) The definitions in Section 57-8-3 apply to this Subsection (4).
  - (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:
    - (i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and
    - (ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for \$1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:
      - (A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;
      - (B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and
      - (C) the condominium project may not be dissolved without the consent of all the condominium unit owners.
- (5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.
- (6)
  - (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.
  - (b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.
- (7) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

- (a) notwithstanding Section 54-2-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:
  - (i) the board chair, for the authority board; or
  - (ii) the subsidiary board chair, for a subsidiary board;
- (b) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and
- (c) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:
  - (i) is not required to establish an anchor location; and
  - (ii) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).
- (8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:
  - (a) notwithstanding Section 63G-2-701:
    - (i) the authority may establish an appeals board consisting of at least three members;
    - (ii) an appeals board established under Subsection (8)(a)(i) shall include:
      - (A) one of the authority board members appointed by the governor;
      - (B) the authority board member appointed by the president of the Senate; and
      - (C) the authority board member appointed by the speaker of the House of Representatives;and
    - (iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and
  - (b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.
- (9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.
- (10)
  - (a)
    - (i) A subsidiary created as a public infrastructure district under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, may, subject to limitations of Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.
    - (ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.
  - (b) If a subsidiary created as a public infrastructure district issues a bond:
    - (i) the subsidiary may:
      - (A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and
      - (B) covenant with bondholders not to reduce or impair the property tax levy; and
    - (ii) notwithstanding a provision to the contrary in Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

