

# Chapter 1 Military Installation Development Authority Act

## Part 1 General Provisions

### 63H-1-101 Title.

This chapter is known as the "Military Installation Development Authority Act."

Enacted by Chapter 23, 2007 General Session

### 63H-1-102 Definitions.

As used in this chapter:

- (1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.
- (2) "Base taxable value" means:
  - (a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or
  - (b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:
    - (i) before the year in which the authority creates the project area; or
    - (ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.
- (3) "Board" means the governing body of the authority created under Section 63H-1-301.
- (4)
  - (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:
    - (i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or
    - (ii) an included municipality.
  - (b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.
- (5) "Develop" means to engage in development.
- (6)
  - (a) "Development" means an activity occurring:
    - (i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or
    - (ii) on military land associated with a project area.
  - (b) "Development" includes the demolition, construction, reconstruction, modification, expansion, maintenance, operation, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.
- (7) "Development project" means a project to develop land within a project area.
- (8) "Elected member" means a member of the authority board who:
  - (a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

- (b)
  - (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and
  - (ii) concurrently serves in an elected state, county, or municipal office.
- (9) "Included municipality" means a municipality, some or all of which is included within a project area.
- (10)
  - (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.
  - (b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.
- (11) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.
- (12) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.
- (13) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.
- (14) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.
- (15) "Municipal services revenue" means revenue that the authority:
  - (a) collects from the authority's:
    - (i) levy of a municipal energy tax;
    - (ii) levy of a MIDA energy tax;
    - (iii) levy of a telecommunications tax;
    - (iv) imposition of a transient room tax; and
    - (v) imposition of a resort communities tax;
  - (b) receives under Subsection 59-12-205(2)(a)(ii)(B); and
  - (c) receives as dedicated tax collections.
- (16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.
- (17) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.
- (18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:
  - (a) the base taxable value of property in the project area;
  - (b) the projected property tax allocation expected to be generated within the project area;
  - (c) the amount of the property tax allocation expected to be shared with other taxing entities;
  - (d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;
  - (e) the property tax allocation expected to be used to cover the cost of administering the project area plan;
  - (f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

- (i)
    - (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or
    - (B) a legal description of the portion of the project area from which the property tax allocation will be collected; and
  - (ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and
  - (g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.
- (19) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.
- (20)
- (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (20)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.
  - (b) "Property tax" does not include a privilege tax on the taxable value:
    - (i) attributable to a portion of a facility leased to the military for a calendar year when:
      - (A) a lessee of military land has constructed a facility on the military land that is part of a project area;
      - (B) the lessee leases space in the facility to the military for the entire calendar year; and
      - (C) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or
    - (ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:
      - (A) a hotel;
      - (B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and
      - (C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.
- (21) "Property tax allocation" means the difference between:
- (a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and
  - (b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.
- (22) "Public entity" means:
- (a) the state, including each department or agency of the state; or
  - (b) a political subdivision of the state, including the authority or a county, city, town, school district, special district, special service district, or interlocal cooperation entity.
- (23)
- (a) " Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:
    - (i) benefit the public, the authority, the military, or military-related entities; and
    - (ii)
      - (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;
      - (B) are owned by a utility; or
      - (C) are publicly maintained or operated by the military, the authority, or another public entity.

- (b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:
  - (i) are privately owned; and
  - (ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.
- (c) "Public infrastructure and improvements" includes:
  - (i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;
  - (ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;
  - (iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and
  - (iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.
- (24) "Remaining municipal services revenue" means municipal services revenue that the authority has not:
  - (a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or
  - (b) redirected to use in accordance with Subsection 63H-1-502(3).
- (25) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.
- (26) "Taxable value" means the value of property as shown on the last equalized assessment roll.
- (27) "Taxing entity":
  - (a) means a public entity that levies a tax on property within a project area; and
  - (b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.
- (28) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.
- (29) "Transient room tax" means a tax under Section 59-12-352.

Amended by Chapter 16, 2023 General Session

**63H-1-103 Severability.**

If a court determines that any provision of this chapter, or the application of any provision of this chapter, is invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Enacted by Chapter 282, 2020 General Session

**63H-1-104 Loan approval committee -- Approval of infrastructure loans.**

- (1) As used in this section:
  - (a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.
  - (b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.
  - (c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.
  - (d) "Military development fund" means the same as that term is defined in Section 63A-3-401.5.
  - (e) "Loan approval committee" means a committee consisting of:
    - (i) the board member who is appointed by the governor under Subsection 63H-1-302(2)(a);
    - (ii) the board member who is appointed by the governor under Subsection 63H-1-302(2)(c);

- (iii) the board members who are appointed by the president of the Senate and the speaker of the House of Representatives under Subsection 63H-1-302(3); and
- (iv) a voting or nonvoting board member designated by the board.
- (2) The loan approval committee may approve an infrastructure loan from the military development fund to a borrower for an infrastructure project undertaken by the borrower.
- (3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.
- (4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.
- (5) Beginning May 5, 2021, the loan approval committee shall assume jurisdiction from the State Infrastructure Bank Fund relating to the terms of a loan under Subsection 63B-27-101(3)(a)(i).
- (6) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:
  - (a) the Executive Appropriations Committee;
  - (b) the State Finance Review Commission created in Section 63C-25-201.
- (7)
  - (a) A meeting of the loan approval committee does not constitute a meeting of the board, even if a quorum of the board is present at a loan approval committee meeting.
  - (b) A quorum of board members present at a meeting of the loan approval committee may not conduct board business at the loan approval committee meeting.
- (8)
  - (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
  - (b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:
    - (i) Sections 63A-3-106 and 63A-3-107; and
    - (ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 207, 2022 General Session

Amended by Chapter 463, 2022 General Session

## **Part 2**

### **Authority Creation and Powers**

#### **63H-1-201 Creation of military installation development authority -- Status and powers of authority -- Limitation.**

- (1) There is created a military installation development authority.
- (2) The authority is:
  - (a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area;
  - (b) a political subdivision of the state; and
  - (c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

- (a) facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area, or development of military land associated with a project area;
- (b) sue and be sued;
- (c) enter into contracts generally;
- (d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire any interest in real or personal property:
  - (i) in a project area; or
  - (ii) outside a project area for public infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;
- (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;
- (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
  - (i) in a project area; or
  - (ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;
- (g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;
- (h) exercise powers and perform functions under a contract, as authorized in the contract;
- (i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;
- (j) receive the property tax allocation and other taxes and fees as provided in this chapter;
- (k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;
- (l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;
- (m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
- (n) hire employees, including contract employees;
- (o) transact other business and exercise all other powers provided for in this chapter;
- (p) enter into a development agreement with a developer of land within a project area;
- (q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;
- (r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;
- (s) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;
- (t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;
- (u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:
  - (i) provides law enforcement services only to military land within a project area; and

- (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state;
  - (v) by itself or through a subsidiary, act as a facilitator under Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, to provide expertise and knowledge to another governmental entity interested in public-private partnerships;
  - (w) enter into an intergovernmental support agreement under Title 10, U.S.C. Sec. 2679 with the military to provide support services to the military in accordance with the agreement;
  - (x) act as a developer, or assist a developer chosen by the military, to develop military land as part of an enhanced use lease under Title 10, U.S.C. Sec. 2667; and
  - (y) develop public infrastructure and improvements.
- (4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).
- (5) The authority shall provide support to a subsidiary that enters into an agreement under Subsection (3)(v) that the authority determines necessary for the subsidiary to fulfill the requirements of the agreement.
- (6) Because providing procurement, utility, construction, and other services for use by a military installation, including providing public infrastructure and improvements for use or occupancy by the military, are core functions of the authority and are typically provided by a local government for the local government's own needs or use, these services provided by the authority for the military under this chapter are considered to be for the authority's own needs and use.
- (7) A public infrastructure district created by the authority under Title 17D, Chapter 4, Public Infrastructure District Act, is a subsidiary of the authority.

Amended by Chapter 274, 2022 General Session

**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 special district under Title 17B, Limited Purpose Local Government Entities - Special 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)
- (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:
    - (i) notwithstanding Section 52-4-104, 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:
      - (A) the board chair, for the authority board; or
      - (B) the subsidiary board chair, for a subsidiary board;
    - (ii) 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
    - (iii) 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:
      - (A) is not required to establish an anchor location; and
      - (B) may convene and conduct the meeting without the determination otherwise required under Subsection 52-4-207(5)(a)(i).
  - (b) Except as provided in Subsection (7)(c), the authority is not required to physically post notice notwithstanding any other provision of law.
  - (c) The authority shall physically post notice in accordance with Subsection 52-4-202(3)(a).
- (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 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, 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 17D, Chapter 4, 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.
  - (c)
    - (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).
    - (ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:
      - (A) the entire public infrastructure district; or
      - (B) one or more tax areas within the public infrastructure district.
- (11)
- (a) Terms defined in Section 57-11-2 apply to this Subsection (11).
  - (b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:
    - (i)
      - (A) has a development review committee using at least one professional planner;
      - (B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

- (C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and
  - (ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).
- (12)
- (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution, Article IV, Section 10.
  - (b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

Amended by Chapter 16, 2023 General Session  
Amended by Chapter 100, 2023 General Session  
Amended by Chapter 435, 2023 General Session

**63H-1-203 Levy of a municipal tax -- Direct tax payment to MIDA.**

- (1) A levy of a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax, or resort communities tax, including an increase in the applicable tax rate, requires the affirmative vote of:
  - (a) the authority board; and
  - (b) a majority of all elected members of the authority board.
- (2) If the authority board levies a municipal energy tax, a consumer who acquires taxable energy shall pay the tax directly to the authority on a monthly basis if the consumer's energy supplier is not required under federal law to collect the tax in the manner described in Section 10-1-307.

Amended by Chapter 362, 2013 General Session

**63H-1-204 MIDA energy tax.**

- (1) By ordinance, an authority board may levy a MIDA energy tax, within a project area, on an energy supplier as defined in Section 10-1-303.
- (2) The maximum rate of the MIDA energy tax is 6% of the delivered value as defined in Section 10-1-303, except that delivered value does not include the amount of a tax paid under this section.
- (3)
  - (a) An energy supplier may recover an amount equal to the MIDA energy tax from its customers, if the energy supplier includes the amount as a separate billing line item.
  - (b) The MIDA energy tax levied under this section is in addition to the rate approved by the Public Service Commission and charged to the customer.
- (4) If the authority has levied a municipal energy tax in the project area, the MIDA energy tax paid by a customer is reduced by any municipal energy tax paid by that customer on the same delivered value.
- (5)
  - (a) The MIDA energy tax is payable by the energy supplier to MIDA on a monthly basis as described by the ordinance levying the tax.
  - (b) The ordinance shall allow the energy supplier to retain 1% of the tax remittance each month to offset the energy supplier's costs of collecting and remitting the tax.

Enacted by Chapter 362, 2013 General Session

**63H-1-205 MIDA accommodations tax.**

- (1) As used in this section:
  - (a) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).
  - (b) "Accommodations and services" does not include amounts paid or charged that are not part of a rental room rate.
- (2) By ordinance, the authority board may impose a MIDA accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located on:
  - (a) authority-owned or other government-owned property within the project area; or
  - (b) privately owned property on which the authority owns a condominium unit that is part of the place of accommodation.
- (3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.
- (4) A provider may recover an amount equal to the MIDA accommodations tax from customers, if the provider includes the amount as a separate billing line item.
- (5) If the authority imposes the tax described in this section, neither the authority nor a public entity may impose, on the amounts paid or charged for accommodations and services, any other tax described in:
  - (a) Title 59, Chapter 12, Sales and Use Tax Act; or
  - (b) Title 59, Chapter 28, State Transient Room Tax Act.
- (6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall be administered, collected, and enforced in accordance with:
  - (a) the same procedures used to administer, collect, and enforce the tax under:
    - (i) Title 59, Chapter 12, Part 1, Tax Collection; or
    - (ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
  - (b) Title 59, Chapter 1, General Taxation Policies.
- (7) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (8)
  - (a) A tax under this section is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).
  - (b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to a tax imposed under this section.
- (9) The State Tax Commission shall:
  - (a) except as provided in Subsection (9)(b), distribute the revenue collected from the tax to the authority; and
  - (b) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this section.
- (10)
  - (a) If the authority imposes, repeals, or changes the rate of tax under this section, the implementation, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the authority.
  - (b) The notice required in Subsection (10)(a)(ii) shall state:
    - (i) that the authority will impose, repeal, or change the rate of a tax under this section;
    - (ii) the effective date of the implementation, repeal, or change of the tax; and

(iii) the rate of the tax.

(11) In addition to the uses permitted under Section 63H-1-502, the authority may allocate revenue from the MIDA accommodations tax to a county in which a place of accommodation that is subject to the MIDA accommodations tax is located, if:

- (a) the county had a transient room tax described in Section 59-12-301 in effect at the time the authority board imposed a MIDA accommodations tax by ordinance; and
- (b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Amended by Chapter 414, 2021 General Session

**63H-1-206 Property exchange -- Freeway interchange construction.**

- (1)
  - (a) If the authority receives title to real property from the Secretary of the United States Air Force, pursuant to Section 2831 of the National Defense Authorization Act for Fiscal Year 2020, for construction of an interchange by the Department of Transportation, the authority shall exchange the real property intended for the interchange with the Department of Transportation for any unused remainder of real property that the Department of Transportation does not need for the freeway after the interchange is complete.
  - (b) The authority or a subsidiary of the authority is the designee of the state, within the meaning of Section 2831(a) of the National Defense Authorization Act for Fiscal Year 2020.
- (2) An exchange described in Subsection (1) shall occur at no cost to the authority or the Department of Transportation, regardless of the value of the real property.
- (3)
  - (a) The authority shall demolish the structures on and, as required by the Secretary of the United States Air Force and the Utah Department of Environmental Quality, environmentally mitigate the real property that the authority exchanges with the Department of Transportation under this section.
  - (b) The Department of Transportation shall remove unneeded freeway improvements from the real property that the Department of Transportation exchanges with the authority under this section.
- (4) Upon the authority's receipt of title to real property under this section, the real property automatically becomes included within the project area adjacent to the real property.

Amended by Chapter 282, 2020 General Session

**63H-1-207 Authority jurisdiction over Department of Transportation property.**

- (1) As used in this section:
  - (a) "Highway land" means land that is:
    - (i) owned by the Department of Transportation, created in Section 72-1-201; and
    - (ii) within an authority project area that was created to provide military recreation facilities and support.
  - (b) "Highway land" does not include:
    - (i) a class A state road that is in active use; and
    - (ii) a shoulder or appurtenance that is contiguous to a class A state road that is in active use.
- (2) Notwithstanding any other provision of statute, the authority has jurisdiction and control over highway land, subject to Subsection (3).

- (3) The executive director of the Department of Transportation may, in consultation with the authority, transfer, sell, trade, or lease the highway land or any interest in the highway land as provided in Section 72-5-111 and any applicable rules and regulations.

Enacted by Chapter 282, 2020 General Session

**63H-1-208 Former rail line.**

- (1) A former rail line automatically becomes included within a project area located at an air force base if:
  - (a) the authority acquires title to the former rail line as provided in Subsection (2); and
  - (b) a portion of the former rail line is adjacent to the project area.
- (2) Notwithstanding Section 72-5-117, the Department of Transportation may transfer to the authority, at no cost to the authority, title to that portion of a former rail line adjacent to a project area located at an air force base that the Department of Transportation does not need for construction of a freeway interchange.
- (3) The authority may:
  - (a) develop the former rail line; or
  - (b) transfer title of all or part of the former rail line, at no cost, to another governmental entity or nonprofit entity who agrees to receive the title.
- (4) A governmental entity or nonprofit entity that agrees to receive title to all or part of a former rail line under Subsection (3)(b) assumes responsibility for the maintenance of and any construction that remains to be completed on the former rail line.

Amended by Chapter 12, 2023 General Session

**63H-1-209 Immunity from contaminated property claims.**

- (1) As used in this section:
  - (a) "Agency" means the same as that term is defined in Section 57-25-102.
  - (b) "Claim" means an action, suit, claim, demand, allegation, or cause of action, whether grounded in law or equity, made in a court of competent jurisdiction, mediation, arbitration, before a regulatory body, or in another dispute resolution forum.
  - (c) "Contaminated property" means real property in a project area that is:
    - (i) affected by historical contamination; and
    - (ii) owned by a governmental entity.
  - (d) "Environmental covenant" means the same as that term is defined in Section 57-25-102.
  - (e) "Governmental entity" means the same as that term is defined in Section 63G-7-102.
  - (f) "Hazardous materials" means the same as that term is defined in Section 19-6-302.
  - (g) "Hazardous substances" means the same as that term is defined in Section 19-6-302.
  - (h) "Historical contamination" means the placement, disposal, or release of hazardous materials or hazardous substances onto, into, under, or in a way that affects real property, and which placement, disposal, or release of hazardous materials or hazardous substances occurred prior to ownership of the real property by a governmental entity.
  - (i) "Ownership," "own," "owned," "owns," or "acquires" means to have an ownership or other established interest in real property, including holding title to, leasing, operating on, or maintaining real property.
- (2) In addition to the liability protection provided by Subsections 63G-7-201(4)(I) and 63G-7-201(4)(s)(iii) and the other provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah, the

protections of Subsection (3) apply to a governmental entity that owns or approves the use of contaminated property.

- (3)
- (a) Ownership of contaminated property by a governmental entity, or a governmental entity's approval of the use of contaminated property does not subject a governmental entity, its agents, or its officers or employees to any liability for or related to a claim arising from, proximately caused by, or related to historical contamination.
  - (b) No governmental entity waives immunity from suit or liability by this section.
  - (c) A claim made against a governmental entity, its agents, or its officers or employees in violation of this section shall subject the claimant to the payment of double the attorney fees and costs incurred by the governmental entity related to the claim.
  - (d) This Subsection (3) does not limit or alter:
    - (i) claims against or the liability of the party that placed, disposed of, or released the hazardous materials or hazardous substances onto, into, under, or in a way that affects contaminated property; or
    - (ii) a workers' compensation claim made by an employee of an entity that works on contaminated property or conducts work related to contaminated property.
- (4) If a governmental entity that owns contaminated property develops the contaminated property for public or governmental purposes, including recreation, government offices, parking, or related uses, then Subsection (3) extends to that governmental entity, regardless of whether the governmental entity had a role in approving use of the contaminated property, if the governmental entity:
- (a) obtains a certificate of completion from the Utah Department of Environmental Quality following participation in the voluntary cleanup program, as set forth in Section 19-8-111; or
  - (b) complies with the terms of an environmental covenant signed by an agency and properly recorded in the county records against the property.

Enacted by Chapter 12, 2023 General Session

### **Part 3 Authority Board**

#### **63H-1-301 Authority board -- Delegation of power.**

- (1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.
- (2) All powers of the authority are exercised through the board.
- (3) The board may by resolution delegate powers to authority staff, including the power to adopt a rule governing the use of electronic meetings under Section 52-4-207.

Amended by Chapter 274, 2022 General Session

#### **63H-1-302 Number of board members -- Appointment.**

- (1) The authority's board shall consist of seven members.
- (2) The governor shall appoint five members of the board as follows:
  - (a) one member shall be appointed who is interested in supporting military efforts in the state;

- (b) subject to Subsection (4)(d), three members shall be appointed, each of whom is a mayor or member of the legislative body of a municipality or county that is adjacent or in close proximity to a project area or proposed project area; and
  - (c) one member shall be appointed from the executive branch or a state agency that is involved with military issues.
- (3) The president of the Senate and the speaker of the House of Representatives shall each appoint one board member.
- (4)
- (a) Each vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.
  - (b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.
  - (c) If a mayor or member of a legislative body appointed under Subsection (2)(b) leaves office as mayor or a member of the legislative body, a vacancy on the board occurs and the governor shall appoint another mayor or member of a legislative body, as provided in Subsection (2)(b), to fill the vacancy.
  - (d) If there are more than three project areas where development is actively occurring located in different counties or municipalities, the governor:
    - (i) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the highest-value project area, as measured by the planned taxable value of the land within the project area to be developed by the private sector;
    - (ii) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the second-highest-value project area, as measured by the planned taxable value of the land within the project area to be developed by the private sector; and
    - (iii) may appoint one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to a project area where development is actively occurring for which there is no representation on the board.
  - (e) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.
- (5) The authority may:
- (a) appoint nonvoting members of the board, including a member from a municipality or county that is adjacent to or in close proximity to a project area for which there is no representation on the board under Subsection (2)(b); and
  - (b) set terms for nonvoting members appointed under Subsection (5)(a).

Amended by Chapter 498, 2019 General Session

**63H-1-303 Term of board members.**

- (1) The term of board members is four years, except that the term of the members of the initial board shall be staggered so that the term of approximately half the board members expires every two years.
- (2) Each board member shall serve until a successor is duly appointed and qualified.

Amended by Chapter 92, 2009 General Session

## Part 4 Project Area Plan and Budget

### 63H-1-401 Preparation of project area plan -- Required contents of project area plan.

- (1)
  - (a) The authority board shall adopt a project area plan as provided in this part.
  - (b) In order to adopt a project area plan, the authority board shall:
    - (i) prepare a draft project area plan;
    - (ii) give notice as required under Subsection 63H-1-402(2);
    - (iii) hold at least one public meeting, as required under Subsection 63H-1-402(1); and
    - (iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt the draft project area plan as the project area plan.
  - (c) Before adopting a draft project area plan as the project area plan, the authority board may make modifications to the draft project area plan that the board considers necessary or appropriate.
  - (d)
    - (i) A lease or development agreement that the authority enters before the creation of a project area shall provide that the board is not required to create a project area.
    - (ii) An authority may not be required to pay any amount or incur any loss or penalty for the board's failure to create a project area.
- (2) Each project area plan and draft project area plan shall contain:
  - (a) a legal description of the boundary of the project area that is the subject of the project area plan;
  - (b) the authority's purposes and intent with respect to the project area; and
  - (c) the board's findings and determination that:
    - (i) there is a need to effectuate a public purpose;
    - (ii) there is a public benefit to the proposed development project;
    - (iii) it is economically sound and feasible to adopt and carry out the project area plan; and
    - (iv) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.
- (3)
  - (a) A project area described in a project area plan:
    - (i) shall include military land; and
    - (ii) may include public or private land, whether or not it is contiguous to military land, if:
      - (A) the legislative body of the county in which the public or private land is located, if the public land or private land is located in an unincorporated county, passes a resolution consenting to the inclusion of the land in the project area;
      - (B) the legislative body of an included municipality passes a resolution consenting to the inclusion of the land in the project area; and
      - (C) the owner of the public or private land consents to the inclusion of the land in the project area.
  - (b)
    - (i) Consent provided under Subsection (3)(a)(ii)(A), (B), or (C) is irrevocable.
    - (ii) The authority may rely on a consent provided under Subsection (3)(a)(ii)(A), (B), or (C) for long-term planning, contractual commitments, and issuing bonds or other indebtedness.



Amended by Chapter 463, 2022 General Session

**63H-1-402 Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.**

- (1) The authority board shall hold at least one public meeting to consider and discuss the draft project area plan.
- (2) At least 10 days before holding a public meeting under Subsection (1), the authority board shall give notice of the public meeting to:
  - (a) a taxing entity; and
  - (b) a municipality that is located within one-half mile of the proposed project area.
- (3) Following consideration and discussion of the project area plan, the board may adopt the draft project area plan as the project area plan.

Amended by Chapter 9, 2010 General Session

**63H-1-403 Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.**

- (1) Upon the effective date of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:
  - (a) in a newspaper of general circulation within or near the project area; and
  - (b) as required by Section 45-1-101.
- (2)
  - (a) Each notice under Subsection (1) shall include:
    - (i) the board resolution adopting the project area plan or a summary of the resolution;
    - (ii) a statement that the project area plan is available for general public inspection as provided in Subsection (4); and
    - (iii) an email address to which a person may send an email requesting an electronic copy of the project area plan.
  - (b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).
- (3) The project area plan becomes effective on the date designated in the board resolution adopting the project area plan.
- (4) The authority shall make the adopted project area plan available to the general public by:
  - (a) providing an electronic link to the project area plan on the authority's website, if the authority has a website; and
  - (b) sending an email free of charge with an electronic copy of the project area plan to any person who submits an email to the authority at an email address identified in the notice under Subsection (2).
- (5) Within 10 days after the effective date of a project area plan that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:
  - (a) the State Tax Commission;
  - (b) the Utah Geospatial Resource Center created in Section 63A-16-505; and
  - (c) the assessor and recorder of each county where the project area is located.
- (6)

- (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.
- (b) For a project area created before December 1, 2018, a legal action or other challenge is barred.
- (c) For a project area created after December 1, 2018, and before May 14, 2019, a legal action or other challenge is barred after July 1, 2019.

Amended by Chapter 162, 2021 General Session  
Amended by Chapter 345, 2021 General Session  
Amended by Chapter 414, 2021 General Session

**63H-1-403.5 Amendment to a project area plan.**

- (1) The authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.
- (2) The provisions of this part apply to the authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.
- (3) An amendment to a project area plan does not affect the base taxable value determination for property already within the project area before the amendment.

Amended by Chapter 282, 2020 General Session

**63H-1-405 Project area budget.**

- (1) Before the authority may receive or use the property tax allocation, the authority board shall prepare and adopt a project area budget.
- (2) The authority board may amend an adopted project area budget as and when the authority board considers it appropriate.
- (3) If the authority adopts a budget under Part 7, Authority Budget and Reports, that also meets the requirements of this part, the authority need not separately adopt a budget under this part.

Amended by Chapter 282, 2020 General Session

**Part 5  
Authority Funds**

**63H-1-501 Authority receipt and use of property tax allocation -- Contractual annual payment -- Distribution of property tax allocation.**

- (1)
  - (a) The authority may:
    - (i) subject to Subsection (1)(b):
      - (A) receive up to 75% of the property tax allocation for up to 25 years, as provided in this part; and
      - (B) after the time period described in Subsection (1)(a)(i)(A) expires, receive up to 75% of the property tax allocation for up to 15 years, if the board determines the additional years will produce significant benefit; and

- (ii) use the property tax allocation before, during, and after the period described in Subsection (1)(a)(i).
- (b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i)(A) begins on the day on which the authority receives the first property tax allocation from that parcel.
- (2)
  - (a) For purposes of Subsection (1)(b), the authority may designate an improved portion of a parcel in a project area as a separate parcel.
  - (b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (2)(a) is for purposes of Subsection (1)(b) only and does not constitute a subdivision for any other purpose.
  - (c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (2)(a).
- (3) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.
- (4)
  - (a) If the authority or an entity designated by the authority has not issued a certificate of occupancy for a private parcel within a project area, the private parcel owner shall make an annual payment to the authority:
    - (i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value of the parcel; and
    - (ii) until the parcel becomes subject to the property tax described in Subsection (3).
  - (b) The authority may use the revenue from payments described in Subsection (4)(a) for any purpose described in Subsection 63H-1-502(1).
  - (c) The authority may submit for recording to the office of the recorder of the county in which a private parcel described in Subsection (4)(a) is located:
    - (i) a copy of an agreement between the authority and the private parcel owner that memorializes the payment obligation under Subsection (4)(a); or
    - (ii) a notice that describes the payment obligation under Subsection (4)(a).
  - (d) An owner of a private parcel described in Subsection (4)(a) may not be required to make a payment that exceeds or is in addition to the payment described in Subsection (4)(a)(i) until the private parcel becomes subject to the property tax described in Subsection (3).
  - (e) Upon the transfer of title of a private parcel described in Subsection (4)(a), the amount of the annual payment required under Subsection (4)(a) shall be:
    - (i) treated the same as a property tax; and
    - (ii) prorated between the previous owner and the owner who acquires title from the previous owner.
  - (f) A person who fails to pay or is delinquent in paying an annual payment described in Subsection (4)(a) is subject to the same penalties and interest as the failure or delinquent payment of a property tax in accordance with Title 59, Chapter 2, Property Tax Act.
  - (g) If requested by the authority, a county treasurer shall:
    - (i) include the annual payment described in Subsection (4)(a) on a county property tax notice in accordance with Section 59-2-1317; and
    - (ii) collect the annual payment as part of the property tax collection.
- (5) Each county that collects property tax on property within a project area shall pay and distribute to the authority the property tax allocation and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

- (6)
  - (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax allocation.
  - (b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax allocation.
- (7) The following property owned by the authority is not subject to any property tax under Title 59, Chapter 2, Property Tax Act, or any privilege tax under Title 59, Chapter 4, Privilege Tax, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:
  - (a) a hotel;
  - (b) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and
  - (c) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

Amended by Chapter 463, 2022 General Session

**63H-1-502 Allowable uses of property tax allocation and other funds.**

- (1) Other than municipal services revenue, the authority may use the property tax allocation and other funds available to the authority:
  - (a) for any purpose authorized under this chapter;
  - (b) for administrative, overhead, legal, and other operating expenses of the authority;
  - (c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;
  - (d) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax allocation funds were collected;
  - (e) to pay the cost of the installation and construction of public infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:
    - (i)
      - (A) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and
      - (B) for a passenger ropeway, at least one end of the ropeway is located within the project area; or
    - (ii)
      - (A) the funds expended are appropriated by the Legislature; and
      - (B) the authority is directed to expend the funds, and the project or purpose is directed, by the Legislature;
  - (f) to pay the principal and interest on bonds issued by the authority;
  - (g) to pay for a morale, welfare, and recreation program of a United States Air Force base in Utah, affiliated with the project area from which the funds were collected; or
  - (h) to pay for the promotion of:
    - (i) a development within the project area; or
    - (ii) amenities outside of the project area that are associated with a development within the project area.
- (2) The authority may use revenue generated from the authority's operation of public infrastructure and improvements to:
  - (a) operate and maintain the public infrastructure and improvements; and
  - (b) pay for authority operating expenses, including administrative, overhead, and legal expenses.
- (3) For purposes of Subsection (1), the authority may use:

- (a) tax revenue received under Subsection 59-12-205(2)(a)(ii)(B);
  - (b) resort communities tax revenue;
  - (c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated;
  - (d) MIDA accommodations tax revenue, received under Section 63H-1-205;
  - (e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;
  - (f) municipal energy tax revenue generated from hotels located on authority-owned or other public-entity-owned property; or
  - (g) payments received under Subsection 63H-1-501(4).
- (4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

Amended by Chapter 82, 2022 General Session  
Amended by Chapter 463, 2022 General Session

**63H-1-503 Use of municipal services revenue.**

- (1) The authority may use municipal services revenue to pay for:
- (a) administrative, overhead, legal, and other operating expenses of the authority; and
  - (b) municipal services within the project area from which the revenue was collected.
- (2) Unless otherwise provided by agreement between the authority and each county and municipality levying a property tax on property within a project area, the authority shall distribute any remaining municipal services revenue equally among all counties and municipalities that levy a property tax on property within a project area.

Enacted by Chapter 92, 2009 General Session

**63H-1-504 Authority funds nonlapsing.**

All funds received by the authority are nonlapsing.

Enacted by Chapter 9, 2010 General Session

**Part 6  
Authority Bonds**

**63H-1-601 Resolution authorizing issuance of authority bonds -- Characteristics of bonds.**

- (1) The authority may not issue bonds under this part unless the authority board first:
- (a) adopts a parameters resolution that sets forth:
    - (i) the maximum:
      - (A) amount of the bonds;
      - (B) term; and
      - (C) interest rate; and
    - (ii) the expected security for the bonds; and
  - (b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.
- (2)

- (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.
- (b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.
- (3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:
  - (a) in a newspaper having general circulation in the authority's boundaries; and
  - (b) as required in Section 45-1-101.
- (4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).
- (5) For a period of 30 days after the publication, any person in interest may contest:
  - (a) the legality of the resolution or proceeding;
  - (b) any bonds that may be authorized by the resolution or proceeding; or
  - (c) any provisions made for the security and payment of the bonds.
- (6)
  - (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.
  - (b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).
- (7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:
  - (a) the Executive Appropriations Committee; and
  - (b) the State Finance Review Commission created in Section 63C-25-201.

Amended by Chapter 207, 2022 General Session

**63H-1-602 Sources from which bonds may be made payable -- Authority powers regarding bonds.**

- (1) The principal and interest on bonds issued by the authority may be made payable from:
  - (a) the income and revenues of the projects financed with the proceeds of the bonds;
  - (b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;
  - (c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of a project area;
  - (d) property tax allocation funds;
  - (e) authority revenues generally;
  - (f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development of military land; or
  - (g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).
- (2) In connection with the issuance of authority bonds, the authority may:

- (a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;
- (b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and
- (c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Amended by Chapter 377, 2015 General Session

**63H-1-603 Authority to purchase agency bonds.**

- (1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.
- (2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting securities.

Enacted by Chapter 23, 2007 General Session

**63H-1-604 Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.**

- (1) A member of the authority board or other person executing an authority bond is not liable personally on the bond.
- (2)
  - (a) A bond issued by the authority is not a general obligation or liability of the state or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.
  - (b) A bond issued by the authority is not payable out of any funds or properties other than those of the authority.
  - (c) The community, the state, and its political subdivisions may not be liable on a bond issued by the authority.
  - (d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.
- (3) A bond issued by the authority under this part is fully negotiable.

Enacted by Chapter 23, 2007 General Session

**63H-1-605 Obligee rights -- Board may confer other rights.**

- (1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:
  - (a) by mandamus, suit, action, or other proceeding, compel an authority and its board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry out the covenants and agreements of the authority and to fulfill all duties imposed on the authority by this part; and
  - (b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

- (2)
- (a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, an authority board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.
- (b)
- (i) The rights that the board may confer under Subsection (2)(a) are the rights to:
- (A) cause possession of all or part of a development project to be surrendered to an obligee;
- (B) obtain the appointment of a receiver of all or part of an authority's development project and of the rents and profits from it; and
- (C) require the authority and its board and employees to account as if the authority and the board and employees were the trustees of an express trust.
- (ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i) (B), the receiver:
- (A) may enter and take possession of the development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and
- (B) shall keep money collected as receiver for the authority in separate accounts and apply it pursuant to the authority obligations as the court directs.

Enacted by Chapter 23, 2007 General Session

**63H-1-606 Bonds exempt from taxes -- Authority may purchase its own bonds.**

- (1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.
- (2) The authority may purchase its own bonds at a price that its board determines.
- (3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on its rents, fees, grants, properties, or revenues.

Enacted by Chapter 23, 2007 General Session

**Part 7**  
**Authority Budget and Reports**

**63H-1-701 Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.**

- (1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.
- (2) Each annual authority budget shall be adopted before June 30.
- (3) The authority's fiscal year shall be the period from July 1 to the following June 30.
- (4)



- (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.
  - (b) The authority shall provide notice of the public hearing on the annual budget by publishing notice, as a class A notice under Section 63G-30-102, for at least one week immediately before the day of the public hearing.
  - (c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.
- (5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:
- (a) revenues and expenditures for the budget year;
  - (b) legal fees; and
  - (c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.
- (6)
- (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of each county in which a project area of the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.
  - (b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Amended by Chapter 435, 2023 General Session

**63H-1-702 Amending the authority annual budget.**

- (1) The authority board may by resolution amend an annual authority budget.
- (2) An amendment of the annual authority budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.
- (3) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Enacted by Chapter 23, 2007 General Session

**63H-1-703 Authority report.**

- (1)
  - (a) On or before November 1 of each year, the authority shall prepare and file a report with the county auditor of each county in which a project area of the authority is located, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.
  - (b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the authority files a copy with the State Tax Commission.
- (2) Each report under Subsection (1) shall contain:
  - (a) an estimate of the property tax allocation to be paid to the authority for the calendar year ending December 31; and
  - (b) an estimate of the property tax allocation to be paid to the authority for the calendar year beginning the next January 1.

Amended by Chapter 414, 2021 General Session

**63H-1-704 Audit requirements.**

The authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 23, 2007 General Session

**63H-1-705 Audit report.**

- (1) The authority shall, within 180 days after the end of the authority's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.
- (2) Each audit report under Subsection (1) shall include:
  - (a) the property tax allocation collected by the authority for each project area;
  - (b) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the authority's project areas; and
  - (c) the actual amount expended for:
    - (i) acquisition of property;
    - (ii) site improvements or site preparation costs;
    - (iii) installation of public utilities or other public improvements; and
    - (iv) administrative costs of the authority.

Amended by Chapter 377, 2015 General Session

**63H-1-706 Authority chief financial officer is a public treasurer -- Certain authority funds are public funds.**

- (1) The authority's chief financial officer:
  - (a) is a public treasurer, as defined in Section 51-7-3; and
  - (b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.
- (2) Notwithstanding Subsection 63E-2-110(2)(a), property tax allocation funds, municipal services revenue, and appropriations that the authority receives from the state:
  - (a) are public funds; and
  - (b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 377, 2015 General Session

**Part 8  
Authority Dissolution**

**63H-1-801 Dissolution of authority -- Restrictions -- Filing copy of ordinance -- Authority records -- Dissolution expenses.**

- (1) The authority may not be dissolved unless the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

- (2) Upon the dissolution of the authority:
  - (a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution:
    - (i) in a newspaper of general circulation in the county in which the dissolved authority is located;  
and
    - (ii) as required in Section 45-1-101; and
  - (b) all title to property owned by the authority vests in the state.
- (3) The books, documents, records, papers, and seal of each dissolved authority shall be deposited for safekeeping and reference with the state auditor.
- (4) The authority shall pay all expenses of the deactivation and dissolution.

Amended by Chapter 282, 2021 General Session