

SB0181S01 compared with SB0181

~~{deleted text}~~ shows text that was in SB0181 but was deleted in SB0181S01.

inserted text shows text that was not in SB0181 but was inserted into SB0181S01.

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Senator Wayne A. Harper proposes the following substitute bill:

POLITICAL SUBDIVISIONS PROPERTY AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: ~~{_____}~~ Jack R. Draxler

LONG TITLE

General Description:

This bill enacts language prohibiting a political subdivision or educational entity from disposing of property unless the political subdivision or educational entity receives ~~{consideration in the form of}~~ fair market value for the property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits, with certain exceptions, a political subdivision or educational entity from disposing of property unless the political subdivision or educational entity receives ~~{consideration in the form of}~~ fair market value for the property; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

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None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{ 10-8-2, as last amended by Laws of Utah 2010, Chapter 90~~

+ 17-50-302, as last amended by Laws of Utah 2010, Chapter 385

17-50-312, as last amended by Laws of Utah 2007, Chapter 291

17B-1-103, as last amended by Laws of Utah 2011, Chapters 68 and 272

17B-1-301, as last amended by Laws of Utah 2011, Chapter 209

~~{ 17C-1-202, as renumbered and amended by Laws of Utah 2006, Chapter 359~~

~~17C-1-207, as last amended by Laws of Utah 2012, Chapter 235~~

+ 17D-1-103, as enacted by Laws of Utah 2008, Chapter 360

ENACTS:

11-50-101, Utah Code Annotated 1953

11-50-102, Utah Code Annotated 1953

11-50-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{10-8-2}~~11-50-101 is ~~{amended to read:~~

~~10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.~~

~~(1) (a) A municipal legislative body may:~~

~~(i) appropriate money for corporate purposes only;~~

~~(ii) provide for payment of debts and expenses of the corporation;~~

~~(iii) subject to Subsections (4) and (5) and Title 11, Chapter 50, Part 2, Certain Prohibitions on Disposal of Political Subdivision Property, purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;~~

~~(iv) improve, protect, and do any other thing in relation to this property that an~~

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~~individual could do; and~~

~~—— (v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return:~~

~~—— (b) A municipality may:~~

~~—— (i) furnish all necessary local public services within the municipality;~~

~~—— (ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and~~

~~—— (iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities:~~

~~—— (c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall, upon the first contact with the owner of the property sought to be acquired, deliver to the owner a copy of a booklet or other materials provided by the Office of the Property Rights Ombudsman, created under Section 13-43-201, dealing with the property owner's rights in an eminent domain proceeding:~~

~~—— (d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality:~~

~~—— (2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the provisions of Subsection (3):~~

~~—— (b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year:~~

~~—— (3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to the following:~~

~~—— (a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.~~

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~~—— (b) The criteria for a determination under this Subsection (3) shall be established by the municipality's legislative body. A determination of value received, made by the municipality's legislative body, shall be presumed valid unless it can be shown that the determination was arbitrary, capricious, or illegal.~~

~~—— (c) The municipality may consider intangible benefits received by the municipality in determining net value received.~~

~~—— (d) (i) Prior to the municipal legislative body making any decision to appropriate any funds for a corporate purpose under this section, a public hearing shall be held:~~

~~—— (ii) Notice of the hearing described in Subsection (3)(d)(i) shall be published:~~

~~—— (A) (I) in a newspaper of general circulation at least 14 days before the date of the hearing; or~~

~~—— (II) if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the municipality for the same time period; and~~

~~—— (B) on the Utah Public Notice Website created in Section 63F-1-701, at least 14 days before the date of the hearing.~~

~~—— (c) A study shall be performed before notice of the public hearing is given and shall be made available at the municipality for review by interested parties at least 14 days immediately prior to the public hearing, setting forth an analysis and demonstrating the purpose for the appropriation. In making the study, the following factors shall be considered:~~

~~—— (i) what identified benefit the municipality will receive in return for any money or resources appropriated;~~

~~—— (ii) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and~~

~~—— (iii) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, blight elimination, job preservation, the preservation of historic structures and property, and any other public purpose.~~

~~—— (f) (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.~~

~~—— (ii) The appeal shall be filed within 30 days after the date of that decision, to the~~

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~~district court.~~

~~—— (iii) Any appeal shall be based on the record of the proceedings before the legislative body.~~

~~—— (iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.~~

~~—— (g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.~~

~~—— (h) This section applies only to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.~~

~~—— (4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:~~

~~—— (i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and~~

~~—— (ii) allow an opportunity for public comment on the proposed disposition.~~

~~—— (b) Each municipality shall, by ordinance, define what constitutes:~~

~~—— (i) a significant parcel of real property for purposes of Subsection (4)(a); and~~

~~—— (ii) reasonable notice for purposes of Subsection (4)(a)(i).~~

~~—— (5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:~~

~~—— (i) the property is located:~~

~~—— (A) outside the boundaries of the municipality; and~~

~~—— (B) in a county of the first or second class; and~~

~~—— (ii) the intended use of the property is contrary to:~~

~~—— (A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or~~

~~—— (B) the property's current zoning designation.~~

~~—— (b) Each notice under Subsection (5)(a) shall:~~

~~—— (i) indicate that the municipality intends to acquire real property;~~

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~~— (ii) identify the real property; and~~

~~— (iii) be sent to:~~

~~— (A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and~~

~~— (B) each affected entity.~~

~~— (c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(7).~~

~~— (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.~~

~~— (ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.~~

~~— Section 2. Section 11-50-101 is } enacted to read:~~

CHAPTER 50. PROPERTY OF POLITICAL SUBDIVISIONS

Part 1. General Provisions

11-50-101. Title.

This chapter is known as "Property of Political Subdivisions."

Section ~~{3}~~2. Section 11-50-102 is enacted to read:

11-50-102. Definitions.

(1) "Consideration" means something:

(a) of value given or done in exchange for something given or done by another, including money, a service, or labor;

~~— (b); or~~

(b) provided in the public interest supporting health, safety, and welfare of the citizens of a political subdivision.

(2) "Educational entity" means:

~~— (a) } a school district or charter school; and~~

~~— (b) an institution of higher education as described in Section 53B-2-101;.~~

(3) "Fair market value" means the {amount};consideration at which property would

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change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(4) "Political subdivision" means:

(a) a county;

(b) a municipality;

(c) a local district;

(d) a special service district; or

(e) an entity created by an interlocal agreement adopted in accordance with Title 11,

Chapter 13, Interlocal Cooperation Act ~~{; or}~~.

~~{~~ (f) an agency as defined in Section 17C-1-102.

~~}~~ (5) "Property" means anything of value, whether real or personal, tangible or intangible, including:

(a) an interest in property;

(b) a benefit, privilege, right, or other interest with respect to anything of value;

(c) proprietary software;

(d) a computer program that is developed or purchased by or for a political subdivision or educational entity for its own use; or

(e) data collected or compiled by a political subdivision, whether stored electronically or otherwise.

(6) "Record" has the same meaning as defined in Section 63G-2-103.

Section ~~{4}~~3. Section **11-50-201** is enacted to read:

Part 2. Certain Prohibitions on Disposal of Political Subdivision Property

11-50-201. Consideration for political subdivision property.

(1) A political subdivision or educational entity:

(a) shall hold property in trust for the public's interest; and

(b) except as provided in Subsection (2), may not sell, alienate, give away, or otherwise dispose of property without receiving ~~{consideration in the form of}~~ fair market value for the property.

(2) Subsection (1) does not apply to:

(a) property conveyed in accordance with Section 11-13-214;

(b) property described in Section 11-13-215;

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(c) a service or assistance provided by a county in accordance with Section 17-50-303;

(d) property that is:

(i) ~~subject to Subsection (3)~~, a record requested in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) is requested for a purpose, including media purposes, other than commercial use;
or

(e) property requested by, conveyed to, or otherwise disposed to the state, another political subdivision, or the federal government;

(f) the acquisition or disposal of property in accordance with Section 10-8-2; or

(g) any transfer of property specifically authorized by law.

(3) (a) If a records request has apparent significant commercial value, the custodian of the property may require the requestor to attest in writing, under penalty of perjury, whether the material is to be used for commercial resale purposes.

(b) If the request is for commercial resale purposes, the requestor shall pay fair market value for the property as provided in Subsection (1).

Section ~~5~~4. Section **17-50-302** is amended to read:

17-50-302. General county powers.

(1) (a) Except as provided in Subsection (1)(b), a county may:

(i) as prescribed by statute:

(A) levy a tax;

(B) perform an assessment;

(C) collect a tax;

(D) borrow money; or

(E) levy and collect a special assessment for a conferred benefit; or

(ii) provide a service, exercise a power, or perform a function that is reasonably related to the safety, health, morals, and welfare of county inhabitants, except as limited or prohibited by statute.

(b) A county or a governmental instrumentality of a county may not perform an action described in Subsection (1)(a)(i) or provide a service, exercise a power, or perform a function described in Subsection (1)(a)(ii) in another county or a municipality within the other county without first entering into an agreement under Title 11, Chapter 13, Interlocal Cooperation Act,

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or other contract with the other county to perform the action, provide the service, exercise the power, or perform the function.

(2) (a) A county may:

(i) sue and be sued;

(ii) subject to Subsection (2)(c), acquire real property by tax sale, purchase, lease, contract, or gift, and hold the real property as necessary and proper for county purposes;

(iii) (A) subject to Subsection (2)(b), acquire real property by condemnation, as provided in Title 78B, Chapter 6, Part 5, Eminent Domain; and

(B) hold the real property as necessary and proper for county purposes;

(iv) as may be necessary to the exercise of its powers, acquire personal property by purchase, lease, contract, or gift, and hold such personal property; and

(v) subject to Title 11, Chapter 50, Part 2, Certain Prohibitions on Disposal of Political Subdivision Property, manage and dispose of its property as the interests of its inhabitants may require.

(b) (i) For purposes of Subsection (2)(a)(iii), water rights that are not appurtenant to land do not constitute real property that may be acquired by the county through condemnation.

(ii) Nothing in Subsection (2)(a)(iii) may be construed to authorize a county to acquire by condemnation the rights to water unless the land to which those water rights are appurtenant is acquired by condemnation.

(c) (i) Except as provided in Subsection (2)(c)(iv), each county intending to acquire real property for the purpose of expanding the county's infrastructure or other facilities used for providing services that the county offers or intends to offer shall provide written notice, as provided in this Subsection (2)(c), of its intent to acquire the property if:

(A) the property is located:

(I) outside the boundaries of the unincorporated area of the county; and

(II) in a county of the first or second class; and

(B) the intended use of the property is contrary to:

(I) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(II) the property's current zoning designation.

(ii) Each notice under Subsection (2)(c)(i) shall:

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(A) indicate that the county intends to acquire real property;

(B) identify the real property; and

(C) be sent to:

(I) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(II) each affected entity.

(iii) A notice under this Subsection (2)(c) is a protected record as provided in Subsection 63G-2-305(7).

(iv) (A) The notice requirement of Subsection (2)(c)(i) does not apply if the county previously provided notice under Section 17-27a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(B) If a county is not required to comply with the notice requirement of Subsection (2)(c)(i) because of application of Subsection (2)(c)(iv)(A), the county shall provide the notice specified in Subsection (2)(c)(i) as soon as practicable after its acquisition of the real property.

Section ~~16~~5. Section **17-50-312** is amended to read:

17-50-312. Acquisition, management, and disposal of property.

(1) Subject to Subsection (4) and Title 11, Chapter 50, Part 2, Certain Prohibitions on Disposal of Political Subdivision Property, a county may purchase, receive, hold, sell, lease, convey, or otherwise acquire and dispose of any real or personal property or any interest in such property if the action is in the public interest and complies with other law.

(2) Any property interest acquired by the county shall be held in the name of the county unless specifically otherwise provided by law.

(3) The county legislative body shall, subject to Title 11, Chapter 50, Part 2, Certain Prohibitions on Disposal of Political Subdivision Property, provide by ordinance, resolution, rule, or regulation for the manner in which property shall be acquired, managed, and disposed of.

(4) (a) Before a county may dispose of a significant parcel of real property, the county shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

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- (ii) allow an opportunity for public comment on the proposed disposition.
- (b) Each county shall, by ordinance, define what constitutes:
 - (i) a significant parcel of real property for purposes of Subsection (4)(a); and
 - (ii) reasonable notice for purposes of Subsection (4)(a)(i).

Section ~~7~~6. Section **17B-1-103** is amended to read:

17B-1-103. Local district status and powers.

- (1) A local district:
 - (a) is:
 - (i) a body corporate and politic with perpetual succession;
 - (ii) a quasi-municipal corporation; and
 - (iii) a political subdivision of the state; and
 - (b) may sue and be sued.
- (2) A local district may:
 - (a) acquire, by any lawful means, or lease any real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;
 - (b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;
 - (c) subject to Title 11, Chapter 50, Part 2, Certain Prohibitions on Disposal of Political Subdivision Property, transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);
 - (d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;
 - (e) borrow money and incur indebtedness for any lawful district purpose;
 - (f) issue bonds, including refunding bonds:
 - (i) for any lawful district purpose; and
 - (ii) as provided in and subject to Part 11, Local District Bonds;
 - (g) levy and collect property taxes:
 - (i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and
 - (ii) as provided in and subject to Part 10, Local District Property Tax Levy;

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(h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;

(i) invest money as provided in Title 51, Chapter 7, State Money Management Act;

(j) (i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:

(A) maintaining and operating the district;

(B) acquiring, purchasing, constructing, improving, or enlarging district facilities;

(C) issuing bonds and paying debt service on district bonds; and

(D) providing a reserve established by the board of trustees; and

(ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;

(k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;

(l) enter into a contract that the local district board of trustees considers necessary, convenient, or desirable to carry out the district's purposes, including a contract:

(i) with the United States or any department or agency of the United States;

(ii) to indemnify and save harmless; or

(iii) to do any act to exercise district powers;

(m) purchase supplies, equipment, and materials;

(n) encumber district property upon terms and conditions that the board of trustees considers appropriate;

(o) exercise other powers and perform other functions that are provided by law;

(p) construct and maintain works and establish and maintain facilities, including works or facilities:

(i) across or along any public street or highway, subject to Subsection (3) and if the district:

(A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and

(B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;

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(ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or

(iii) across any stream of water or watercourse, subject to Section 73-3-29;

(q) perform any act or exercise any power reasonably necessary for the efficient operation of the local district in carrying out its purposes;

(r) (i) except for a local district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or

(ii) for a local district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right to facilitate a groundwater management plan;

(s) contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public; and

(t) upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:

(i) with:

(A) another political subdivision of the state; or

(B) a public or private owner of property:

(I) on which the district has a right-of-way; or

(II) adjacent to which the district owns fee title to property; and

(ii) to allow the use of property:

(A) owned by the district; or

(B) on which the district has a right-of-way.

(3) With respect to a local district's use of a street or highway, as provided in

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Subsection (2)(p)(i):

(a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:

- (i) an excavation and the refilling of an excavation;
- (ii) the relaying of pavement; and
- (iii) the protection of the public during a construction period; and

(b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:

- (i) may not require the district to pay a license or permit fee or file a bond; and
- (ii) may require the district to pay a reasonable inspection fee.

(4) (a) A local district may:

(i) acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:

(A) the purpose of the facilities is to harness energy that results inherently from the district's:

- (I) operation of a project or facilities that the district is authorized to operate; or
- (II) providing a service that the district is authorized to provide;

(B) the generation of electricity from the facilities is incidental to the primary operations of the district; and

(C) operation of the facilities will not hinder or interfere with the primary operations of the district;

(ii) (A) use electricity generated by the facilities; or

(B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.

(b) A district may not act as a retail distributor or seller of electricity.

(c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.

(5) A local district may adopt and, after adoption, alter a corporate seal.

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(6) (a) As used in this Subsection (6), "knife" means a cutting instrument that includes a sharpened or pointed blade.

(b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a local district.

(c) Unless specifically authorized by the Legislature by statute, a local district may not adopt or enforce a regulation or rule pertaining to a knife.

Section ~~8~~7. Section **17B-1-301** is amended to read:

17B-1-301. Board of trustees duties and powers.

(1) (a) Each local district shall be governed by a board of trustees which shall manage and conduct the business and affairs of the district and shall determine all questions of district policy.

(b) All powers of a local district are exercised through the board of trustees.

(2) The board of trustees may:

(a) fix the location of the local district's principal place of business and the location of all offices and departments, if any;

(b) fix the times of meetings of the board of trustees;

(c) select and use an official district seal;

(d) subject to Subsections (3) and (4), employ employees and agents, or delegate to district officers power to employ employees and agents, for the operation of the local district and its properties and prescribe or delegate to district officers the power to prescribe the duties, compensation, and terms and conditions of employment of those employees and agents;

(e) require district officers and employees charged with the handling of district funds to provide surety bonds in an amount set by the board or provide a blanket surety bond to cover officers and employees;

(f) contract for or employ professionals to perform work or services for the local district that cannot satisfactorily be performed by the officers or employees of the district;

(g) through counsel, prosecute on behalf of or defend the local district in all court actions or other proceedings in which the district is a party or is otherwise involved;

(h) adopt bylaws for the orderly functioning of the board;

(i) adopt and enforce rules and regulations for the orderly operation of the local district or for carrying out the district's purposes;

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(j) prescribe a system of civil service for district employees;

(k) on behalf of the local district, enter into contracts that the board considers to be for the benefit of the district;

(l) acquire, construct or cause to be constructed, operate, occupy, control, and use buildings, works, or other facilities for carrying out the purposes of the local district;

(m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess property necessary to carry out the purposes of the district, dispose of property, subject to Title 11, Chapter 50, Part 2, Certain Prohibitions on Disposal of Political Subdivision Property, when the board considers it appropriate, and institute and maintain in the name of the district any action or proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district property;

(n) delegate to a district officer the exercise of a district duty; and

(o) exercise all powers and perform all functions in the operation of the local district and its properties as are ordinarily exercised by the governing body of a political subdivision of the state and as are necessary to accomplish the purposes of the district.

(3) (a) As used in this Subsection (3), "interim vacancy period" means:

(i) if any member of the local district board is elected, the period of time that:

(A) begins on the day on which a municipal general election described in Section 17B-1-306 is held to elect a local district board member; and

(B) ends on the day on which the local district board member-elect begins the member's term; or

(ii) if any member of the local district board is appointed, the period of time that:

(A) begins on the day on which an appointing authority posts a notice of vacancy in accordance with Section 17B-1-304; and

(B) ends on the day on which the person who is appointed by the local district board to fill the vacancy begins the person's term.

(b) (i) The local district may not hire during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection (3)(b)(i):

(A) the local district may hire an interim manager, a chief executive officer, a chief

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administrative officer, or a similar position during an interim vacancy period; and

(B) the interim manager's, chief executive officer's, chief administrative officer's, or similar position's employment shall terminate once a new manager, chief executive officer, chief administrative officer, or similar position is hired by the new local district board after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if:

(i) all the elected local district board members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the local district board; and

(ii) all the appointed local district board members who were appointed whose term of appointment was expiring are re-appointed to the local district board.

(4) A local district board that hires an interim manager, a chief executive officer, a chief administrative officer, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the interim manager, chief executive officer, chief administrative officer, or similar position.

Section ~~{9}~~8. Section ~~{17C-1-202}~~17D-1-103 is amended to read:

~~{~~ 17C-1-202. Agency powers:

~~_____ (1) A community development and renewal agency may:~~

~~_____ (a) sue and be sued;~~

~~_____ (b) enter into contracts generally;~~

~~_____ (c) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;~~

~~_____ (d) subject to Title 11, Chapter 50, Part 2, Certain Prohibitions on Disposal of Political Subdivision Property, sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;~~

~~_____ (e) enter into a lease agreement on real or personal property, either as lessee or lessor;~~

~~_____ (f) provide for urban renewal, economic development, and community development as provided in this title;~~

~~_____ (g) receive tax increment as provided in this title;~~

~~_____ (h) if disposing of or leasing land, retain controls or establish restrictions and~~

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~~covenants running with the land consistent with the project area plan;~~

~~—— (i) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds so received for any of the purposes of this title;~~

~~—— (j) borrow money or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this title and comply with any conditions of the loan or assistance;~~

~~—— (k) issue bonds to finance the undertaking of any urban renewal, economic development, or community development or for any of the agency's other purposes, including:~~

~~—— (i) reimbursing an advance made by the agency or by a public entity or the federal government to the agency;~~

~~—— (ii) refunding bonds to pay or retire bonds previously issued by the agency; and~~

~~—— (iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with an urban renewal, economic development, or community development project; and~~

~~—— (l) transact other business and exercise all other powers provided for in this title.~~

~~—— (2) The establishment of controls or restrictions and covenants under Subsection (1)(h) is a public purpose.~~

~~—— Section 10. Section **17C-1-207** is amended to read:~~

~~—— **17C-1-207. Public entities may assist with urban renewal, economic development, or community development project.**~~

~~—— (1) In order to assist and cooperate in the planning, undertaking, construction, or operation of urban renewal, economic development, or community development within the area in which it is authorized to act, a public entity may:~~

~~—— (a) (i) provide or cause to be furnished:~~

~~—— (A) parks, playgrounds, or other recreational facilities;~~

~~—— (B) community, educational, water, sewer, or drainage facilities; or~~

~~—— (C) any other works which the public entity is otherwise empowered to undertake;~~

~~—— (ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;~~

~~—— (iii) in any part of the project area:~~

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- ~~—— (A) (I) plan or replan any property within the project area;~~
- ~~—— (II) plat or replat any property within the project area;~~
- ~~—— (III) vacate a plat;~~
- ~~—— (IV) amend a plat; or~~
- ~~—— (V) zone or rezone any property within the project area; and~~
- ~~—— (B) make any legal exceptions from building regulations and ordinances;~~
- ~~—— (iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;~~
- ~~—— (v) enter into an agreement with another public entity concerning action to be taken pursuant to any of the powers granted in this title;~~
- ~~—— (vi) do any and all things necessary to aid or cooperate in the planning or carrying out of the urban renewal, economic development, or community development;~~
- ~~—— (vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and~~
- ~~—— (viii) lend, grant, or contribute funds to an agency for an urban renewal, economic development, or community development project; and~~
- ~~—— (b) 15 days after posting public notice:~~
 - ~~—— (i) purchase or otherwise acquire property or lease property from an agency; or~~
 - ~~—— (ii) subject to Title 11, Chapter 50, Part 2, Certain Prohibitions on Disposal of Political Subdivision Property, sell, grant, convey, or otherwise dispose of the public entity's property or lease the public entity's property to an agency.~~
- ~~—— (2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.~~
- ~~—— (3) A grant or contribution of funds from a public entity to an agency, or from an agency under a project area plan or project area budget, is not subject to the requirements of Section 10-8-2.~~
- ~~—— Section 11. Section **17D-1-103** is amended to read:~~

‡ **17D-1-103. Special service district status, powers, and duties -- Limitation on districts providing jail service.**

- (1) A special service district:

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(a) is a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;

(b) is a quasi-municipal corporation; and

(c) may sue and be sued.

(2) A special service district may:

(a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;

(b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:

(i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a local district, another special service district, or any other political subdivision of the state; or

(ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;

(c) acquire or construct facilities;

(d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

(e) subject to Title 11, Chapter 50, Part 2, Certain Prohibitions on Disposal of Political Subdivision Property, sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the special service district's property or assets, including water and water rights;

(f) mortgage, pledge, or otherwise encumber all or any part of the special service district's property or assets, including water and water rights;

(g) enter into a contract with respect to the use, operation, or maintenance of all or any part of the special service district's property or assets, including water and water rights;

(h) accept a government grant or loan and comply with the conditions of the grant or loan;

(i) use an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district, subject to reimbursement as provided in

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Subsection (3);

(j) employ one or more officers, employees, or agents, including one or more engineers, accountants, attorneys, or financial consultants, and establish their compensation;

(k) designate an assessment area and levy an assessment as provided in Title 11, Chapter 42, Assessment Area Act;

(l) contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district;

(m) borrow money and incur indebtedness;

(n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of acquiring, constructing, and equipping any of the facilities required for the services the special service district is authorized to provide, including:

(i) bonds payable in whole or in part from taxes levied on the taxable property in the special service district;

(ii) bonds payable from revenues derived from the operation of revenue-producing facilities of the special service district;

(iii) bonds payable from both taxes and revenues;

(iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the special service district;

(v) tax anticipation notes;

(vi) bond anticipation notes;

(vii) refunding bonds;

(viii) special assessment bonds; and

(ix) bonds payable in whole or in part from mineral lease payments as provided in Section 11-14-308;

(o) except as provided in Subsection (4), impose fees or charges or both for commodities, services, or facilities that the special service district provides;

(p) provide to an area outside the special service district's boundary, whether inside or outside the state, a service that the special service district is authorized to provide within its boundary, if the governing body makes a finding that there is a public benefit to providing the service to the area outside the special service district's boundary;

(q) provide other services that the governing body determines will more effectively

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carry out the purposes of the special service district; and

(r) adopt an official seal for the special service district.

(3) Each special service district that uses an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district shall reimburse the county or municipality a reasonable amount for what the special service district uses.

(4) (a) A special service district that provides jail service as provided in Subsection 17D-1-201(10) may not impose a fee or charge for the service it provides.

(b) Subsection (4)(a) may not be construed to limit a special service district that provides jail service from:

(i) entering into a contract with the federal government, the state, or a political subdivision of the state to provide jail service for compensation; or

(ii) receiving compensation for jail service it provides under a contract described in Subsection (4)(b)(i).

†

Legislative Review Note

~~as of 2-8-13 12:47 PM~~

~~Office of Legislative Research and General Counsel}~~