

TENNESSEE CODE ANNOTATED

\*\*\* CURRENT THROUGH THE 2011 REGULAR SESSION \*\*\*

Title 7 Consolidated Governments and Local Governmental Functions and Entities  
Special Districts  
Chapter 82 Utility District Law of 1937  
Part 3 Operation and Powers

Tenn. Code Ann. § 7-82-302 (2011)

**7-82-302. Power to operate utilities.**

**(a) (1)** Any district heretofore or hereafter created under authority of this chapter is empowered to conduct, operate and maintain a system or systems for the furnishing of water, sewer, sewage disposal, natural gas, natural gas storage and related facilities, liquefied natural gas storage and related facilities, liquid propane gas storage and related facilities and other gaseous storage and related facilities, artificial gas, police, fire protection, garbage collection and garbage disposal, street lighting, parks and recreational facilities, transit facilities, transmission of industrial chemicals by pipeline to or from industries or plants located within the boundary of the district, transmission of natural gas by pipeline from one (1) or more wells or other sources of natural gas, or from one (1) or more collection points of natural gas located within or without the district, but in no event more than five (5) miles beyond the boundary of the district to one (1) or more utilities, "utilities" to include natural gas transportation pipelines, industries, or plants located within or without the district, but in no event more than one hundred (100) miles beyond the boundary of the district, community antenna television service, except for community antenna television service in counties having a population of more than sixty thousand (60,000) but less than sixty thousand one hundred (60,100), according to the 1960 federal census or any subsequent federal census, or two (2) or more of such systems, and to carry out such purpose it shall have the power and authority to acquire, construct, reconstruct, improve, better, extend, consolidate, maintain and operate such system or systems, within or without the district, and to purchase from, and furnish, deliver and sell to any municipality, the state, any public institution and the public, generally, any of the services authorized by this chapter.

**(2)** Powers relating to garbage disposal shall include the power of one (1) or more utility districts, acting individually or jointly, to engage in the conversion of garbage into steam power. In connection with the construction, financing, operation or maintenance of a facility for converting garbage into steam power, a utility district shall have the same power and authority as a municipality has under § 7-54-103(d) in connection with energy production facilities, and shall comply with the requirements set out in § 7-54-110, it being the intent of the general assembly to further the energy and environmental objectives of Acts 1983, chapter 226 and title 68, chapter 211.

**(3)** Powers relating to natural gas shall include the power to own and operate natural gas vehicle fueling stations; provided, that no utility district is authorized to franchise the operation of any such natural gas vehicle fueling station to another entity; provided, further, that subdivision (a)(1)(B) shall not prohibit nor in any way be construed to prohibit any other person, firm or corporation from owning and operating a natural gas vehicle fueling station within the area embraced by the district.

**(b)** With respect to the conduct and operation of a police protection system, nothing contained in this chapter shall be construed as meaning or intending any encroachment upon the police powers of the sheriff of any county in this state, but shall only empower the district to conduct and operate such police protection system when it is enabled to do so through legal arrangements with the sheriff of the county, and other constituted authorities, in a manner consistent with all provisions of the Constitution of Tennessee. The inclusion of the power of conducting and operating a police protection system as one of the purposes for which a district may be created shall not in anywise affect the validity of this section, the general assembly hereby expressly declaring its purpose to enact the remainder of this section without the provision contained in this section authorizing the conduct and operation of a police protection system, if the inclusion of such provision should be held to be invalid.

**(c)** "Transit facilities" means all real and personal property needed to provide public passenger transportation by means of trolley coach, bus, motor coach, or any combination of trolley coach, bus, and motorcoach, including terminal, maintenance and storage facilities.

**(d)** Community antenna television service shall be limited to all practices permitted by rules and regulations promulgated from time to time by the federal communications commission. This provision shall not apply to counties having populations over six hundred thousand (600,000), according to the 1970 federal census or any subsequent federal census. Such community antenna television service shall include the right to acquire and hold such real and personal property as may be needed to accomplish this subsection (d).

**(e) (1)** Districts created on or after July 1, 1967, shall be empowered to furnish only those services stated in the order creating the district. Districts incorporated before July 1, 1967, shall be authorized to furnish only the services being furnished on that date, or that shall be furnished by facilities to be constructed from the proceeds of bonds issued not later than July 1, 1968. Supplemental petitions for authority to furnish other services contained in this section may be addressed to the county mayor, who shall give notice and hold hearings on such petitions in the same manner, on the same issues, and under the same conditions as for original incorporation.

**(2)** A supplemental petition shall be filed with the utility management review board simultaneously with the filing of the petition with the county mayor or county mayors but is not subject to approval or disapproval by the utility management review board as set

forth in §§ 7-82-201(a) and 7-82-202(a). In the order granting a supplemental petition, the county mayor or mayors may exclude territory within the district's boundaries that is already receiving the service sought to be furnished by the district from the grant of authority to the district to provide such service under this subsection (e).

**(f)** A system or facilities for "the transmission of industrial chemicals by pipeline," as used in this section, means and includes facilities or a system used or useful in the transmission by pipeline of industrial chemicals and related commodities, in liquid, gaseous, or solid form, including raw materials, processed products, or by-products, to or from plants or industries located within the boundary of the district, on an individual basis, or in company with other plants, and to or from docks, terminals or tank farms located within or without the boundary of the district, but within the same county. Such system or facilities include, but are not limited to, the pipelines, docks, terminals, tank farms, compressor stations, storage and temperature treatment facilities, rights-of-way, and together with all real and personal property and equipment appurtenant to, or useful in connection with, such facilities. Before any district shall be authorized to conduct, operate or maintain such system or facilities for transmission of industrial chemicals by pipeline, as provided in this section, the board of commissioners of the district, whether previously installed in such office or nominated only, shall submit a petition signed in their own names to the county mayor in which the order approving the creation of the district was or shall be entered, whereupon the county mayor shall, upon notice published, as provided by § 7-82-202, and public hearing, determine whether or not the project so proposed shall promote industry and develop trade to provide against low employment, and enter an order so finding. On the issue of whether or not industry, trade and employment shall be so promoted and developed, the county mayor shall take into consideration the plants proposed to be served by the facilities for transmission of industrial chemicals by pipeline, but no project so proposed to be undertaken shall be found not to promote and develop industry, trade and employment for either of the following reasons:

- (1)** That the project shall provide service for a single plant; or
- (2)** That the project shall serve to maintain existing industry and employment rather than encourage new industry and additional employment.

Any party in interest, including any subscriber to existing services of the district, shall have the right of appeal from the order as provided by § 7-82-204, but no consent to the undertaking of such district services by any number of existing subscribers shall be required, notwithstanding § 7-82-303.

**(g)** Incorporated cities and towns having a population of five thousand (5,000) or more shall have the prior right as respects utility districts to extend water, sewer or other utilities in any territory within five (5) miles of their corporate limits; where an incorporated city or town has a population of less than five thousand (5,000), the limit shall be three (3) miles; provided, that this provision shall not apply within the boundaries of a utility district or to facilities heretofore extended by a utility district

beyond its boundaries; and provided, further, that a utility district may extend water, sewer or other utility facilities into such an area through agreement with the city or town concerned. A city or town shall lose its prior right under the following conditions:

**(1)** Where an agreement cannot be reached, the utility district, by a resolution setting out the area to be served and the type of utility, shall notify the city or town of its intention to serve the area;

**(2)** After receipt of such notice, the city or town shall have sixty (60) days in which to adopt an appropriate ordinance or resolution determining to serve the area within a specified time. The utility district may, within ten (10) days, appeal to the county mayor of the county in which the major part of the land area is located if it considers the time so determined is too long, whereupon the county mayor after hearing both parties, shall determine a reasonable time for the city or town to provide the services, and further appeal may be taken by either party as provided in § 7-82-204; and

**(3)** Upon failure of the city or town to provide the services within the time so determined, the utility district shall be authorized to serve any part of the area not already served by the city or town.

**(h)** A system or facilities for "the transmission of natural gas by pipeline," as used in this section, means and includes facilities or a system used or useful in the transmission by pipeline of natural gas from one (1) or more wells or other sources of natural gas or from one (1) or more collection points of natural gas located within or without the district, but in no event more than five (5) miles beyond the boundary of the district, to one (1) or more utilities, plants or industries located within or without the district, but in no event more than one hundred (100) miles distant from the boundary of the district; provided, that a portion of the system or facilities shall be located within the boundary of the district. Such system or facilities shall include, but not be limited to, pipelines, collection facilities, terminal facilities, rights-of-way and all real and personal property, including machinery and equipment, appurtenant to, or useful in connection with, such system or facilities. No district shall be authorized to conduct, operate or maintain such system or facilities for transmission of natural gas by pipeline, as provided in this section, unless the board of commissioners of the district, whether previously installed in such office or nominated only, shall submit a petition signed in their own names to the county mayor in which the order approving the creation of the district was or shall be entered, and the county mayor shall, upon notice published as provided by § 7-82-202 and public hearing, determine either that the project so proposed shall promote commerce, preserve the natural resources, or aid in the prevention of environmental pollution, and enter an order so finding. On the issue of whether or not such purpose or purposes shall be so promoted, preserved or aided, the county mayor shall take into consideration the utilities, plants or industries proposed to be served by the facilities for transmission of natural gas by pipeline, but no project so proposed to be undertaken shall be found not to promote commerce, preserve the natural resources, or aid in the prevention of environmental pollution for the reason that the project shall provide service for a single utility, plant or industry. Any party in interest, including any subscriber to existing

services of the district, shall have the right of appeal from the order as provided by § 7-82-204, but no consent to the undertaking of such district services by any number of existing subscribers shall be required, notwithstanding § 7-82-303.

(i) Section 7-82-501, authorizing the issuance of revenue bonds for the purpose of constructing, acquiring, reconstructing, improving, bettering or extending any facility or system authorized by this chapter, is hereby made applicable to any district undertaking to exercise the power conferred by this section to conduct, operate and maintain a system or facilities for the transmission of industrial chemicals or natural gas by pipeline.

(j) Any district providing propane gas service on April 15, 1998, is empowered to provide such service within the county or counties in which it is providing service on that date without any further proceedings before or approvals of any county mayor, the utility management review board or any other person or agency; provided, that the authorization contained in this subsection (j) shall not preclude any other person, firm or corporation, public or private, from furnishing propane gas service within the area served by the district. Any such utility district is further empowered to sell or dispose of its propane gas service operation, in whole or in part.

**HISTORY:** Acts 1937, ch. 248, § 5; 1947, ch. 76, § 2; C. Supp. 1950, § 3695.30; Acts 1951, ch. 262, § 2; 1957, ch. 128, § 1; 1959, ch. 166, § 2; 1961, ch. 216, § 1; 1963, ch. 98, § 1; 1963, ch. 372, § 1; 1965, ch. 87, §§ 2-4; 1965, ch. 182, § 1; 1968, ch. 529, § 3; 1974, ch. 722, §§ 1-3; 1977, ch. 214, § 1; 1978, ch. 892, § 1; modified; impl. am. Acts 1978, ch. 934, §§ 16, 22, 36; modified; T.C.A. (orig. ed.), § 6-2608; Acts 1984, ch. 796, § 2; 1998, ch. 977, § 1; 2003, ch. 90, § 2; 2005, ch. 485, § 1; 2009, ch. 316, § 1; 2009, ch. 472, § 1.