

§2203. Joint exercise of powers

Any power or powers, privileges or authority exercised or capable of exercise by a party to an agreement under this chapter may be exercised and enjoyed jointly or cooperatively with any other party to the extent that federal laws, when applicable, permit the joint or cooperative exercise. When acting jointly or cooperatively with any party, any agency of State Government may exercise all of the powers, privileges and authority conferred by this chapter upon a public agency. [PL 2009, c. 636, Pt. D, §3 (AMD).]

1. Agreement. Any 2 or more parties may enter into agreements with one another for joint or cooperative action under this chapter. The governing bodies of the participating parties must take appropriate action by ordinance, resolution or other action under law before any such agreement may become effective.

[PL 2009, c. 636, Pt. D, §3 (AMD).]

2. Specifications. Any agreement made under this chapter must specify the following:

A. Its duration; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The precise organization, composition and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to that entity, provided the entity may be legally created; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Its purpose; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for the undertaking; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The method to be used to partially or completely terminate the agreement and to dispose of property upon termination; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Any other necessary and proper matters. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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3. Additional items. If the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement, in addition to the items listed in subsection 2, must contain the following.

A. It must provide for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, all parties to the agreement must be represented. [PL 2009, c. 636, Pt. D, §3 (AMD).]

B. It must provide the manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2009, c. 636, Pt. D, §3 (AMD).]

4. Responsibility. No agreement made under this chapter may relieve any party of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint board or other legal or administrative entity created by an agreement made under this chapter. This performance may be offered in satisfaction of the obligation or responsibility.

[PL 2009, c. 636, Pt. D, §3 (AMD).]

5. Liability. An action is maintainable against any party whose default, failure of performance or other conduct caused or contributed to the incurring of damage or liability by the other parties jointly.

[PL 2009, c. 636, Pt. D, §3 (AMD).]

6. Notice to regional councils. Any agreement made under this chapter is subject to the reporting requirements of section 2342, subsection 6, if applicable.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Liberal construction. It being the intent of the Legislature to avoid the proliferation of special purpose districts and inflexible enabling laws, this chapter must be liberally construed toward that end.

[PL 2009, c. 636, Pt. D, §3 (AMD).]

8. Limitation. Notwithstanding any other provision of this chapter:

A. No powers, privileges or authority may be jointly or cooperatively exercised unless each type of power, privilege or authority exercised is capable of being exercised by at least one of the parties within the entire jurisdictional area of the agreement, or by each of the several parties within each of their several jurisdictions if all of the several jurisdictions make up the total jurisdictional area of the agreement; or [PL 2009, c. 636, Pt. D, §3 (AMD).]

B. No essential legislative powers, taxing authority or eminent domain power may be delegated by agreement to a joint authority or administrative entity. [PL 2009, c. 636, Pt. D, §3 (AMD).]
[PL 2009, c. 636, Pt. D, §3 (AMD).]

9. Included powers. Without limiting the powers, privileges or authority that may be jointly or cooperatively exercised pursuant to this chapter, any 2 or more parties may enter into an agreement to establish a regional municipal utility district for any or all of the following purposes:

A. To provide or, through public-private partnerships, to support or promote the provision of any of the following:

- (1) Broadband services; and
- (2) Internet services; and [PL 2015, c. 222, §1 (NEW).]

B. To issue revenue bonds in support of any of the activities undertaken pursuant to paragraph A.
[PL 2015, c. 222, §1 (NEW).]

Nothing in this subsection exempts a regional municipal utility district from any applicable provisions of Title 35-A.

[PL 2015, c. 222, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2009, c. 636, Pt. D, §3 (AMD). PL 2015, c. 222, §1 (AMD).

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