

**19-27a02. Board of county commissioners serves as governing body of district; powers and duties.** The board of county commissioners shall be the governing body of any sewer district it creates and, as provided by this act, shall have the power to:

- (a) Create, construct, reconstruct, extend, enlarge, operate and maintain a sewer system in the sewer district;
- (b) sue and be sued;
- (c) enter contracts and interlocal agreements pursuant to K.S.A. 12-2901 et seq., and amendments thereto;
- (d) combine sewer districts;
- (e) acquire, by purchase or condemnation, any real or personal property necessary to provide an adequate sewage system;
- (f) improve sewers and appurtenances thereof, through, under or along any street, public highway, alley or park and across any land within the county and to a connection with any creek, ravine, river or any other place within 10 miles of the district;
- (g) construct, extend, enlarge, improve, operate and maintain sewage disposal plants at any point along or near the line of the sewer;
- (h) acquire, by contract or purchase, easements, rights-of-way or any other interests in sewers, sewage plants or other means of disposal of sanitary sewage, either within or outside the state, in the manner and on the terms the governing body deems advisable;
- (i) issue permits to any individual or corporation to build any sewers in any lateral or joint sewer district under plans and specifications and under terms approved by the governing body and under its inspection. The cost of the construction shall be borne entirely by the person or corporation contracting for the improvements;
- (j) exercise powers of local legislation and administration, in conformance with K.S.A. 19-101a, 19-101b and 19-101c, and amendments thereto, as may be necessary and convenient for the purpose of providing sewer services and governing the operation and transaction of business of sewer districts;
- (k) create lateral sewer districts and assess the cost thereof against the owner of the property benefited or against the maintenance budget of the main sewer district. There may not be included in a lateral sewer district any unplatted contiguous tract of land, under one ownership, which exceeds 10 acres in area without the consent of the owner of the land;
- (l) dissolve any lateral sewer district in the main sewer district. The property located within the lateral district may be included in one or more other lateral sewer districts;
- (m) create an area-wide sewage disposal district, for the elimination or prevention of pollution of the waters of the state in any drainage area, to be served by a single sewage system;
- (n) (1) adopt any rule, regulation, standard, limitation or requirement which is necessary to provide for the efficient and economical operation of the sewer system. Before any such rule, regulation, standard, limitation or requirement takes effect, they shall be published once each week for two consecutive weeks in a newspaper of general circulation in the district. Except as otherwise provided by this section, the violation of any rule, regulation, standard, limitation or requirement shall be a misdemeanor punishable by a fine not to exceed \$500. The governing body shall have the authority to maintain special proceedings or civil actions in any court of competent jurisdiction for the purpose of enforcing or preventing the violation thereof and to abate nuisances maintained in violation thereof;
- (2) if any industrial user neglects, fails or refuses to comply with any rule, regulation, standard, limitation or requirement adopted pursuant to this section, in addition to any other remedy provided by statute or common law, the governing body is hereby authorized after notice and opportunity for a hearing, to refuse the discharge of wastewater from the premises of the industrial user and to take any action necessary to prevent violating discharges by the industrial user from the sewage system until the time the violations cease and are corrected. The governing body may condition the use of the sewage system upon the terms that are determined to ensure that successive violations do not occur. The governing body is hereby authorized, after notice and an opportunity for hearing, to assess a penalty against the industrial user in an amount not to exceed \$500 for the first violation and in an amount not to exceed \$5,000 for the second violation and in an amount not to exceed \$10,000 for the third and each successive violation. For the purposes of this subsection, each day of violation after notice and a reasonable time to cease or correct the violation shall be considered a separate and successive violation;
- (3) if the governing body determines any violation by an industrial user of any rule, regulation, standard, limitation or requirement poses a threat or danger to the public health, safety or welfare or to the proper operation of the sewage system, the governing body is hereby authorized to take immediate and effective emergency action to issue or obtain any preliminary injunctive relief, without notice or hearing, to prevent the discharge of the wastewater creating the threat or danger;
- (4) if the governing body finds any violation by an industrial user of any rule, regulation, standard, limitation or requirement, after notice and opportunity for hearing, to be intentional, willful, and knowingly in violation or with reckless disregard thereof, the governing body is hereby authorized to refuse any future discharge of wastewater from the violating industrial user and to prevent violating discharges by the industrial user into the sewage system of the sewer district. The governing body is hereby authorized to assess a civil penalty upon the violating industrial user in an amount not to exceed \$10,000;
- (5) if the governing body finds any violation by an industrial user of any rule, regulation, standard, limitation or requirement, after notice and opportunity for hearing, to have directly caused or contributed to any actual detriment to the public health, safety or welfare or to have directly caused or contributed to any damage to the sewage system or treatment process and that the industrial user knew or should have known that its violation could cause those effects, the governing body is hereby authorized to assess against the industrial user a civil penalty in an amount not to exceed \$10,000 or to collect from the industrial user the actual damages caused by the violation, whichever is greater;
- (6) whenever the governing body takes any action to prevent violating discharges into the sewage system of the sewer district, the governing body is hereby authorized to assess against the violator all costs of such action;
- (7) all penalties, damages and costs assessed or awarded pursuant to the authority of this section shall be a lien upon the premises of the violator from the date assessed or awarded until the date fully paid. All proceeds received or collected from fines, penalties, damages or costs shall be used by the governing body first to defray the costs of administering any rule, regulation, standard, limitation or requirement adopted pursuant to this section and then to defray the costs of any repairs, replacements, maintenance or reconstruction necessitated by violations thereof, and then to defray the general operation and maintenance costs of the sewer district;
- (o) take any action necessary to prevent, control, reduce and eliminate water pollution in order to comply with the clean water act, 33 U.S.C. § 1251 et seq., and amendments thereto; and
- (p) take any action consistent with the provisions of this act for the safe, proper and economical operation of any sewer district.

**History:** L. 1983, ch. 99, § 3; July 1.