

SENATE BILL No. 383

By Joint Committee on State-Tribal Relations

1-14

AN ACT amending the interlocal cooperation act; amending K.S.A. 12-2903 and 12-2904 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-2903 is hereby amended to read as follows: 12-2903. ~~For the purposes of this~~ *As used in the interlocal cooperation act:*

(a) ~~The term~~ "Public agency" shall mean any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district or other municipal corporation, quasi-municipal corporation or political subdivision of this state or of any other state and any *state officer*, agency or instrumentality of this state or any other state or of the United States;

(b) ~~The term~~ "State" shall mean a state of the United States and the District of Columbia;

(c) ~~The term~~ "Private agency" shall mean an individual, firm, association or corporation.

(d) "*State officer*" shall mean the governor, attorney general, secretary of state, state treasurer and insurance commissioner.

(e) "*Native American Indian tribes*" shall mean federally-recognized Native American Indian tribes.

(f) "*Gaming compact*" shall mean a gaming compact as defined by K.S.A. 46-2301, and amendments thereto.

Sec. 2. K.S.A. 12-2904 is hereby amended to read as follows: 12-2904. (a) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state including but not limited to those functions relating to economic development, public improvements, public utilities, police protection, libraries, data processing services, educational services, building and related inspection services, flood control and storm water drainage, weather modification, sewage disposal, refuse disposal, park and recreational programs and facilities, ambulance service, fire protection, the Kansas tort claims act or claims for civil rights violations, may be exercised and enjoyed jointly with any other public agency of this state or with any private agency, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise

1 or enjoyment. Any agency of the state government when acting jointly
2 with any public or private agency may exercise and enjoy all of the powers,
3 privileges and authority conferred by this act upon a public agency.

4 (b) Any public agency may enter into agreements with one or more
5 public or private agencies for joint or cooperative action pursuant to the
6 provisions of this act. Appropriate action by ordinance, resolution or oth-
7 erwise pursuant to law of the governing bodies of the participating public
8 agencies shall be necessary before any such agreement may enter into
9 force.

10 (c) *Any public agency may enter into agreements with Native Amer-
11 ican Indian tribes for joint or cooperative actions. Such agreements shall
12 be considered to be an interlocal agreement and shall be subject to the
13 procedures and limitations of the interlocal cooperation act.*

14 *The provisions of this subsection shall not be construed as authorizing
15 a public agency to enter into a gaming compact pursuant to the interlocal
16 cooperation act.*

17 ~~(e)~~ (d) Any such agreement shall specify the following: ~~(1) Its dura-~~
18 ~~tion.~~

19 (1) *The duration of the agreement;*

20 (2) *the precise organization, composition and nature of any separate
21 legal or administrative entity created thereby together with the powers
22 delegated thereto, provided such entity may be legally created;;*

23 (3) ~~Its~~ *the purpose or purposes of the agreement;;*

24 (4) *the manner of financing the joint or cooperative undertaking and
25 of establishing and maintaining a budget therefor;;*

26 (5) *the permissible method or methods to be employed in accom-
27 plishing the partial or complete termination of the agreement and for
28 disposing of property upon such partial or complete termination; and*

29 (6) *any other provision deemed necessary and proper matters.*

30 ~~(d) In the event that~~ (e) *If the agreement does not establish a sep-
31 arate legal entity to conduct the joint or cooperative undertaking, the
32 agreement, in addition to items 1, 3, 4, 5 and 6 enumerated in subdivision
33 (e) hereof the provisions listed in subsection (d), shall contain the
34 following:*

35 (1) *Provision for an administrator or a joint board or one of the par-
36 ticipating public agencies to be responsible for administering the joint or
37 cooperative undertaking. In the case of a joint board public agencies party
38 to the agreement shall be represented; and*

39 (2) *The manner of acquiring, holding and disposing of real and per-
40 sonal property used in the joint or cooperative undertaking.*

41 ~~(e)~~ (f) *No agreement made pursuant to this act shall relieve any public
42 agency of any obligation or responsibility imposed upon it by law except
43 that to the extent of actual and timely performance thereof by a joint*

1 board or other legal or administrative entity created by an agreement
2 made hereunder, such performance may be offered in satisfaction of the
3 obligation or responsibility.

4 ~~(f)~~ (g) Every agreement made hereunder, except agreements be-
5 tween two or more public agencies establishing a council or other organ-
6 ization of local governments for the study of common problems of an area
7 or region and for the promotion of intergovernmental cooperation, prior
8 to and as a condition precedent to its entry into force, shall be submitted
9 to the attorney general who shall determine whether the agreement is in
10 proper form and compatible with the laws of this state. The attorney
11 general shall approve any agreement submitted hereunder unless the at-
12 torney general shall find that it does not meet the conditions set forth
13 herein and shall detail in writing addressed to the governing bodies of
14 the public and private agencies concerned the specific respects in which
15 the proposed agreement fails to meet the requirements of law. Failure
16 to disapprove an agreement submitted hereunder within 90 days of its
17 submission shall constitute approval thereof.

18 Sec. 3. K.S.A. 12-2903 and 12-2904 are hereby repealed.

19 Sec. 4. This act shall take effect and be in force from and after its
20 publication in the statute book.

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