

Senate Substitute for HOUSE BILL No. 2831

AN ACT concerning the interlocal agreement act; relating to the powers and duties of public agencies thereunder; 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 act: (a) The term “public agency” shall mean~~ *As used in the interlocal cooperation act:*

(a) *“Public agency” means:*

(1) Any county, township, city, ~~town, village,~~ school district, library district, road district, drainage ~~or levee~~ district, sewer district, water district, ~~or fire district or;~~

(2) *any entity created pursuant to K.S.A. 12-2901 et seq. or chapter 72 of the Kansas Statutes Annotated, and amendments thereto;*

(3) *any other municipal corporation, quasi-municipal corporation or political subdivision of this state or of any other state and which is not specified in paragraphs (1) and (2);*

(4) *any state officer; and*

(5) any agency or instrumentality of this state or any other state or of the United States;

(b) ~~The term “state” shall mean~~ *“State” means* a state of the United States and the District of Columbia;

(c) ~~The term “private agency” shall mean~~ *“Private agency” means* an individual, firm, association or corporation.

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

(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) *Subject to the limitations of subsection (g), 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 or enjoyment. Any agency of the state government when acting jointly with any public or private agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.*

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

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

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

~~(e)~~ (d) Any such agreement shall specify the following:

(1) Its duration.

(2) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, ~~provided such entity may be legally created.~~

(3) Its purpose or purposes.

(4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor.

(5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

(6) Any other necessary and proper matters.

~~(d)~~ (e) In ~~the event that~~ *addition to the requirements of subsection (d), if* the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement, ~~in addition to items 1, 3, 4, 5 and 6 enumerated in subdivision (c) hereof,~~ *also* shall contain the following:

(1) Provision for an administrator or a joint board or one of the participating public agencies to be responsible for administering the joint or cooperative undertaking. In the case of a joint board public agencies party to the agreement shall be represented.

(2) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

~~(e)~~ (f) No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, such performance may be offered in satisfaction of the obligation or responsibility.

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

New Sec. 3. Any interlocal agreement entered into by the board of trustees of a community college in accordance with the provisions of the interlocal cooperation act prior to the effective date of this act is hereby authorized and validated and shall be deemed to have been entered into under the authority of law.

Sec. 4. K.S.A. 12-2903 and 12-2904 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.