

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 187

Introduced By: Mines, 18

Read first time: January 9, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Interlocal Cooperation Act; to amend
2 section 13-804, Revised Statutes Cumulative Supplement,
3 2006; to prohibit certain interlocal agreements; and to
4 repeal the original section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-804, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 13-804. (1) Any power or powers, privileges, or authority
4 exercised or capable of exercise by a public agency of this state may
5 be exercised and enjoyed jointly with any other public agency of this
6 state and jointly with any public agency of any other state or of the
7 United States to the extent that laws of such other state or of the
8 United States permit such joint exercise or enjoyment. Any agency of
9 state government when acting jointly with any public agency may
10 exercise and enjoy all of the powers, privileges, and authority
11 conferred by the Interlocal Cooperation Act upon a public agency.

12 (2) ~~Any~~ Except as otherwise provided in subsection (3) of
13 this section, two or more public agencies may enter into agreements
14 with one another for joint or cooperative action pursuant to the
15 Interlocal Cooperation Act. Appropriate action by ordinance,
16 resolution, or otherwise pursuant to law of the governing bodies of
17 the participating public agencies shall be necessary before any such
18 agreement may enter into force.

19 (3) No agreements shall be entered into pursuant to the
20 Interlocal Cooperation Act between:

21 (a) A school district and a public power district for the
22 purpose of contracting for utilities for use by the school district;
23 or

24 (b) A school district and an educational service unit for
25 the purpose of contracting for the services of full-time or part-time
26 employees for use by the school district.

27 ~~(3)~~ (4) Any such agreement entered into pursuant to

1 the Interlocal Cooperation Act shall specify the following:

2 (a) Its duration;

3 (b) The general organization, composition, and nature of any
4 separate legal or administrative entity created by the agreement
5 together with the powers delegated to the entity;

6 (c) Its purpose or purposes;

7 (d) The manner of financing the joint or cooperative
8 undertaking and of establishing and maintaining a budget;

9 (e) The permissible method or methods to be employed in
10 accomplishing the partial or complete termination of the agreement and
11 for disposing of property upon such partial or complete termination;

12 (f) The manner of levying, collecting, and accounting for
13 any tax authorized under sections 13-318 to 13-326 or 13-2813 to
14 13-2816; and

15 (g) Any other necessary and proper matters.

16 ~~(4)~~ (5) In the event that the agreement does not
17 establish a separate legal entity to conduct the joint or cooperative
18 undertaking, the agreement shall, in addition to items enumerated in
19 subsection ~~(3)~~ (4) of this section, contain the following:

20 (a) Provision for an administrator or a joint board
21 responsible for administering the joint or cooperative undertaking. In
22 the case of a joint board, the public agencies party to the agreement
23 shall be represented; and

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

26 ~~(5)~~ (6) No agreement made pursuant to the Interlocal
27 Cooperation Act shall relieve any public agency of any obligation or

1 responsibility imposed upon it by law except to the extent of actual
2 and timely performance by a joint board or other legal or
3 administrative entity created by an agreement made pursuant to the
4 act, which performance may be offered in satisfaction of the
5 obligation or responsibility.

6 ~~(6)~~ (7) In the event that an agreement made pursuant to
7 ~~this section~~ the Interlocal Cooperation Act creates a joint
8 entity, such joint entity shall be subject to control by its members
9 in accordance with the terms of the agreement; shall constitute a
10 separate public body corporate and politic of this state, exercising
11 public powers and acting on behalf of the public agencies which are
12 parties to such agreement; and shall have power (a) to sue and be
13 sued, (b) to have a seal and alter the same at pleasure or to dispense
14 with its necessity, (c) to make and execute contracts and other
15 instruments necessary or convenient to the exercise of its powers, and
16 (d) from time to time, to make, amend, and repeal bylaws, rules, and
17 regulations, not inconsistent with the Interlocal Cooperation Act and
18 the agreement providing for its creation, to carry out and effectuate
19 its powers and purposes.

20 ~~(7)~~ (8) No entity created by local public agencies
21 pursuant to the Interlocal Cooperation Act shall be considered a state
22 agency, and no employee of such an entity shall be considered a state
23 employee.

24 ~~(8)~~ (9) Any governing body as defined in section 13-503
25 which is a party to an agreement made pursuant to the Interlocal
26 Cooperation Act shall provide information to the Auditor of Public
27 Accounts regarding such agreements as required in section 13-513.

1 Sec. 2. Original section 13-804, Revised Statutes Cumulative
2 Supplement, 2006, is repealed.