

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1146

Introduced by Friesen, 34.

Read first time January 19, 2022

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to the Interlocal Cooperation Act; to amend
- 2 sections 13-804, 13-805, and 13-808, Reissue Revised Statutes of
- 3 Nebraska; to change agreement provisions; to provide for voter
- 4 approval of agreements and project proposals; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-804, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

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

18 (3) Any such agreement shall specify the following:

19 (a) Its duration;

20 (b) The general organization, composition, and nature of any
21 separate legal or administrative entity created by the agreement together
22 with the powers delegated to the entity. Only members of the governing
23 bodies of the public agencies party to the agreement shall comprise the
24 membership of any such separate legal or administrative entity;

25 (c) Its purpose or purposes;

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

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

31 (f) The manner of levying, collecting, and accounting for any tax

1 authorized under sections 13-318 to 13-326 or 13-2813 to 13-2816; and

2 (g) Any other necessary and proper matters.

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

7 (a) Provision for an administrator or a joint board responsible for
8 administering the joint or cooperative undertaking. In the case of a
9 joint board, only members of the governing bodies of the public agencies
10 party to the agreement shall be represented on such joint board; and

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

13 (5) No agreement made pursuant to the Interlocal Cooperation Act
14 shall relieve any public agency of any obligation or responsibility
15 imposed upon it by law except to the extent of actual and timely
16 performance by a joint board or other legal or administrative entity
17 created by an agreement made pursuant to the act, which performance may
18 be offered in satisfaction of the obligation or responsibility.

19 (6) In the event that an agreement made pursuant to this section
20 creates a joint entity, such joint entity shall be subject to control by
21 its members in accordance with the terms of the agreement; shall
22 constitute a separate public body corporate and politic of this state,
23 exercising public powers and acting on behalf of the public agencies
24 which are parties to such agreement; and shall have power (a) to sue and
25 be sued, (b) to have a seal and alter the same at pleasure or to dispense
26 with its necessity, (c) to make and execute contracts and other
27 instruments necessary or convenient to the exercise of its powers, and
28 (d) from time to time, to make, amend, and repeal bylaws, rules, and
29 regulations, not inconsistent with the Interlocal Cooperation Act and the
30 agreement providing for its creation, to carry out and effectuate its
31 powers and purposes.

1 (7) No entity created by local public agencies pursuant to the
2 Interlocal Cooperation Act shall be considered a state agency, and no
3 employee of such an entity shall be considered a state employee.

4 (8) Any governing body as defined in section 13-503 which is a party
5 to an agreement made pursuant to the Interlocal Cooperation Act shall
6 provide information to the Auditor of Public Accounts regarding such
7 agreements as required in section 13-513.

8 Sec. 2. Section 13-805, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 13-805 (1) No joint entity proposed for creation by agreement
11 pursuant to section 13-804 shall be authorized and effective until such
12 agreement is first approved by the eligible voters of the public agencies
13 of this state which are party to such agreement. The proposed agreement
14 shall be submitted by each public agency that is party to the agreement
15 to such eligible voters for approval at the next general election.

16 (2) In the event that an agreement made pursuant to the Interlocal
17 Cooperation Act deals in whole or in part with the provision of services
18 or facilities with regard to which an officer or agency of the state
19 government has constitutional or statutory powers of control, the
20 agreement shall, as a condition precedent to its entry into force, be
21 submitted to the state officer or agency having such power of control and
22 shall be approved or disapproved by the officer or agency as to all
23 matters within the officer's or agency's jurisdiction.

24 Sec. 3. Section 13-808, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 13-808 (1) Any joint entity may issue such types of bonds as its
27 governing body may determine subject only to any agreement with the
28 holders of outstanding bonds, including bonds as to which the principal
29 and interest are payable exclusively from all or a portion of the revenue
30 from one or more projects, from one or more revenue-producing contracts,
31 including securities acquired from any person, bonds issued by any

1 qualified public agency under the Public Facilities Construction and
2 Finance Act, or leases made by the joint entity with any person,
3 including any of those public agencies which are parties to the agreement
4 creating the joint entity, or from its revenue generally or which may be
5 additionally secured by a pledge of any grant, subsidy, or contribution
6 from any person or a pledge of any income or revenue, funds, or money of
7 the joint entity from any source whatsoever or a mortgage or security
8 interest in any real or personal property, commodity, product, or service
9 or interest therein.

10 (2) Any bonds issued by such joint entity shall be issued on behalf
11 of those public agencies which are parties to the agreement creating such
12 joint entity and shall be authorized to be issued for the specific
13 purpose or purposes for which the joint entity has been created. Such
14 specific purposes may include, but shall not be limited to, joint
15 projects authorized by the Public Facilities Construction and Finance
16 Act; solid waste collection, management, and disposal; waste recycling;
17 sanitary sewage treatment and disposal; public safety communications;
18 correctional facilities; water treatment plants and distribution systems;
19 drainage systems; flood control projects; fire protection services;
20 ground water quality management and control; river-flow enhancement;
21 education and postsecondary education; hospital and other health care
22 services; bridges, roads, and streets; and law enforcement.

23 (3) As an alternative to issuing bonds for financing public safety
24 communication projects, any joint entity may enter into a financing
25 agreement with the Nebraska Investment Finance Authority for such
26 purpose.

27 (4) Any joint entity formed for purposes of providing or assisting
28 with the provision of public safety communications may enter into an
29 agreement with any other joint entity relating to (a) the operation,
30 maintenance, or management of the property or facilities of such joint
31 entity or (b) the operation, maintenance, or management of the property

1 or facilities of such other joint entity.

2 (5) No joint entity shall issue bonds under this section for any
3 building or infrastructure project proposed by such joint entity until
4 such proposed project is first approved by the eligible voters of the
5 public agencies of this state which comprise the joint entity. The
6 project proposal shall be submitted by the joint entity to such eligible
7 voters for approval at the next general election.

8 Sec. 4. Original sections 13-804, 13-805, and 13-808, Reissue
9 Revised Statutes of Nebraska, are repealed.