

LEGISLATIVE BILL 939

Approved by the Governor April 9, 2004

Introduced by Government, Military and Veterans Affairs Committee:
Schimek, 27, Chairperson; Aguilar, 35; Brown, 6; Burling, 33;
Combs, 32; Smith, 48

AN ACT relating to political subdivisions; to amend sections 13-501, 13-804, and 13-2504, Revised Statutes Supplement, 2002; to require certain political subdivisions to provide the Auditor of Public Accounts with information regarding interlocal and joint public agency agreements; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 13-501, Revised Statutes Supplement, 2002, is amended to read:

13-501. Sections ~~2-958, 3-504, 12-914, 13-501 to 13-512, 16-702, 16-706, 16-718, 17-702, 17-703, 17-708, 17-711, 17-715, 17-718, 18-1006, 19-1302, 23-132, 23-904, 23-920, 23-3519, 23-3552, 31-513, 35-509, 39-1621, 39-1634, 46-543, 46-544, 71-1611, 79-1083, 79-10,126, and 79-1225~~ and section 2 of this act shall be known and may be cited as the Nebraska Budget Act.

Sec. 2. The auditor shall, on or before December 1 each year, request information from each governing body in a form prescribed by the auditor regarding agreements to which the governing body is a party under the Interlocal Cooperation Act and the Joint Public Agency Act. Each governing body shall provide such information to the auditor on or before December 31.

Sec. 3. Section 13-804, Revised Statutes Supplement, 2002, is amended to read:

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

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the Interlocal Cooperation 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.

(3) Any such agreement shall specify the following:

- (a) Its duration;
- (b) The general organization, composition, and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to the entity;
- (c) Its purpose or purposes;
- (d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget;
- (e) 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;
- (f) The manner of levying, collecting, and accounting for any tax authorized under sections 13-318 to 13-326 or 13-2813 to 13-2816; and
- (g) Any other necessary and proper matters.

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

- (a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, the public agencies party to the agreement shall be represented; and
- (b) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

(5) No agreement made pursuant to the Interlocal Cooperation Act shall relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint board or other legal or administrative entity created by an agreement

made pursuant to the act, which performance may be offered in satisfaction of the obligation or responsibility.

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

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

(8) Any governing body as defined in section 13-503 which is a party to an agreement made pursuant to the Interlocal Cooperation Act shall provide information to the Auditor of Public Accounts regarding such agreements as required in section 2 of this act.

Sec. 4. Section 13-2504, Revised Statutes Supplement, 2002, is amended to read:

13-2504. (1) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the Joint Public Agency 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.

(2) Any such agreement shall specify the following:

(a) Its duration;

(b) The general organization, composition, and nature of any joint public agency created by the agreement together with the powers delegated to the entity;

(c) Its purpose or purposes;

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

(e) The permissible method or methods to be employed in amending the agreement or accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination consistent with section 13-2518;

(f) The manner of levying, collecting, and accounting for any tax authorized under sections 13-318 to 13-326 or 13-2813 to 13-2816 and any allocation of tax authority under section 13-2507; and

(g) Any other necessary and proper matters.

(3) No agreement made pursuant to the Joint Public Agency Act shall relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint public agency created by an agreement made pursuant to the act, which performance may be offered in satisfaction of the obligation or responsibility.

(4) Participating public agencies may transfer property, other assets, and employees to a joint public agency as provided in the agreement. Notwithstanding other provisions of law, if employees are transferred any vested employment rights shall be transferred with the employee and the employee shall be vested with the joint public agency at the time of transfer.

(5) Any governing body as defined in section 13-503 which is a party to an agreement made pursuant to the Joint Public Agency Act shall provide information to the Auditor of Public Accounts regarding such agreements as required in section 2 of this act.

Sec. 5. Original sections 13-501, 13-804, and 13-2504, Revised Statutes Supplement, 2002, are repealed.