

3 Senate Bill No. 1596
4 As Amended

5 SENATE BILL NO. 1596 - By: LASTER of the Senate and BILLY of the
6 House.

7 [intergovernmental cooperative agreements - governmental
8 entities -
9 emergency]

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 74 O.S. 2001, Section 1003, is
12 amended to read as follows:

13 Section 1003. A. For the purposes of ~~Section 1001 et seq. of~~
14 ~~this title~~ the Interlocal Cooperation Act, the term "public agency"
15 shall mean:

- 16 1. Any political subdivision of this state;
- 17 2. Any agency of the state government or of the United States;
- 18 3. Each and every public trust of this state regardless of
19 whether the beneficiary of such trust is a municipality, a county,
20 or the State of Oklahoma, except the Oklahoma Ordnance Works
21 Authority;
- 22 4. Any corporation organized not for profit pursuant to the
23 provisions of the Oklahoma General Corporation Act, Section 1001 et
24 seq. of Title 18 of the Oklahoma Statutes, for the primary purpose
25 of developing and providing rural water supply and sewage disposal

1 facilities to serve rural residents or to provide community-based
2 services or assistance to clients of the Department of Mental Health
3 and Substance Abuse Services as provided in Section 2-106 of Title
4 43A of the Oklahoma Statutes; ~~and~~

5 5. Any political subdivision of another state; and

6 6. Any federally recognized Indian Tribal Government within
7 this state.

8 B. The term "state" shall mean a state of the United States and
9 the District of Columbia.

10 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1004, is
11 amended to read as follows:

12 Section 1004. A. Any power or powers, privileges or authority
13 exercised or capable of exercise by a public agency of this state
14 may be exercised and enjoyed jointly with any other public agency of
15 this state, and jointly with any public agency of any other state or
16 of the United States or of an Indian Tribe to the extent that laws
17 of such other state or of the United States or of the Indian Tribe
18 permit such joint exercise or enjoyment. Any agency of the state
19 government when acting jointly with any public agency may exercise
20 and enjoy all of the powers, privileges and authority conferred by
21 ~~this act~~ the Interlocal Cooperation Act upon a public agency.

22 B. Any two or more public agencies may enter into agreements
23 with one another for joint or cooperative action pursuant to the

1 provisions of this act. Appropriate action by ordinance, resolution
2 or otherwise pursuant to law of the governing bodies of the
3 participating public agencies shall be necessary before any such
4 agreement may enter into force.

5 C. Any such agreement shall specify the following:

6 1. Its duration;

7 2. The precise organization, composition and nature of any
8 separate legal or administrative entity created thereby together
9 with the powers delegated thereto, provided such entity may be
10 legally created;

11 3. Its purpose or purposes;

12 4. The manner of financing the joint or cooperative undertaking
13 and of establishing and maintaining a budget therefor;

14 5. The permissible method or methods to be employed in
15 accomplishing the partial or complete termination of the agreement
16 and for disposing of property upon such partial or complete
17 termination; and

18 6. Any other necessary and proper matters.

19 D. In the event that the agreement does not establish a
20 separate legal entity to conduct the joint or cooperative
21 undertaking, the agreement shall, in addition to paragraphs 1, 3, 4,
22 5 and 6 ~~set forth in~~ of subsection C of this section, contain the
23 following:

1 1. Provisions for an administrator or a joint board responsible
2 for administering the joint or cooperative undertaking. In the case
3 of a joint board, public agencies party to the agreement shall be
4 represented; and

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

7 E. No agreement made pursuant to this act shall relieve any
8 public agency of any obligation or responsibility imposed upon it by
9 law except that, to the extent of actual and timely performance
10 thereof by a joint board or other legal or administrative entity
11 created by an agreement made hereunder, the performance may be
12 offered in satisfaction of the obligation or responsibility.

13 F. Every agreement made hereunder, except those agreements
14 authorized by Section 601 of Title 69 of the Oklahoma Statutes which
15 shall be approved by the district attorney, shall, prior to and as a
16 condition precedent to its entry into force, be submitted to the
17 Attorney General who shall determine whether the agreement is in
18 proper form and compatible with the laws of this state. The
19 Attorney General shall approve any agreement submitted to the
20 Attorney General hereunder unless the Attorney General shall find
21 that it does not meet the conditions set forth herein and shall
22 detail in writing addressed to the governing bodies of the public
23 agencies concerned the specific respects in which the proposed

1 agreement fails to meet the requirements of law. Failure to
2 disapprove an agreement submitted hereunder within sixty (60) days
3 of its submission shall constitute approval thereof.

4 G. Financing of joint projects by agreements shall be as
5 provided by law.

6 SECTION 3. AMENDATORY 74 O.S. 2001, Section 1005, is
7 amended to read as follows:

8 Section 1005. Prior to its entry into force, an agreement made
9 pursuant to ~~this act~~ the Interlocal Cooperation Act shall be filed
10 with the county clerk and with the Secretary of State. In the event
11 that an agreement entered into pursuant to this act is between or
12 among one or more public agencies of this state and one or more
13 public agencies of another state or of the United States or of an
14 Indian Tribe, said agreement shall have the status of an interstate
15 compact, but in any case or controversy involving performance or
16 interpretation thereof or liability thereunder, the public agencies
17 party thereto shall be real parties in interest and the state may
18 maintain an action to recoup or otherwise make itself whole for any
19 damages or liability which it may incur by reason of being joined as
20 a party therein. Such action shall be maintainable against any
21 public agency or agencies whose default, failure of performance, or
22 other conduct caused or contributed to the incurring of damage or
23 liability by the state.

1 SECTION 4. AMENDATORY 74 O.S. 2001, Section 1221, as
2 amended by Section 2, Chapter 485, O.S.L. 2002 (74 O.S. Supp. 2005,
3 Section 1221), is amended to read as follows:

4 Section 1221. A. The State of Oklahoma acknowledges federal
5 recognition of Indian Tribes recognized by the Department of
6 Interior, Bureau of Indian Affairs.

7 B. The State of Oklahoma recognizes the unique status of Indian
8 Tribes within the federal government and shall work in a spirit of
9 cooperation with all federally recognized Indian Tribes in
10 furtherance of federal policy for the benefit of both the State of
11 Oklahoma and Tribal Governments.

12 C. 1. The Governor, or named designee, is authorized to
13 negotiate and enter into cooperative agreements on behalf of this
14 state with federally recognized Indian Tribal Governments within
15 this state to address issues of mutual interest. Except as
16 otherwise provided by this subsection, such agreements shall become
17 effective upon approval by the Joint Committee on State-Tribal
18 Relations.

19 2. If the cooperative agreements specified and authorized by
20 paragraph 1 of this subsection involve trust responsibilities,
21 approval by the Secretary of the Interior or designee shall be
22 required.

1 3. Any cooperative agreement specified and authorized by
2 paragraph 1 of this subsection involving the surface water and/or
3 groundwater resources of this state or which in whole or in part
4 apportions surface and/or groundwater ownership shall become
5 effective only upon the consent of the Oklahoma Legislature
6 authorizing such cooperative agreement.

7 D. 1. The governing board of a political subdivision of this
8 state is authorized to negotiate and enter into intergovernmental
9 cooperative agreements in behalf of the political subdivision, with
10 a federally recognized Indian Tribal Government within this state to
11 address issues of mutual interest. ~~Except as otherwise provided by~~
12 ~~this subsection, such~~ Such agreements shall ~~be effective upon~~ not
13 require approval by the Joint Committee on State-Tribal Relations
14 ~~and or~~ or the Governor, ~~or named designee.~~

15 2. Agreements for juvenile detention facilities made pursuant
16 to Section 1108 of Title 10 of the Oklahoma Statutes shall become
17 effective upon approval by the board of county commissioners.

18 3. Any cooperative agreement specified and authorized by
19 paragraph 1 of this subsection involving the surface water and/or
20 groundwater resources of this state shall become effective only upon
21 the consent of the Oklahoma Legislature authorizing such cooperative
22 agreement.

1 4. Agreements between the Military Department of the State of
2 Oklahoma and an Indian tribe for the management or operation of a
3 juvenile facility shall not be subject to the requirements of this
4 section.

5 E. An executed original of every agreement approved pursuant to
6 this section shall be filed with the Secretary of State.

7 SECTION 5. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-21-06 - DO
12 PASS, As Amended and Coauthored.