

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 3080

By: Billy

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 2001, Sections 1003, 1004 and 1005, which relate to the Interlocal Cooperation Act; adding Indian Tribal Governments to definition of a public agency; allowing joint agreements with Indian tribes; giving agreements with Indian tribes interstate compact status; amending 74 O.S. 2001, Section 1221, as amended by Section 2, Chapter 485, O.S.L. 2002 (74 O.S. Supp. 2005, Section 1221), which relates to state and tribal relations; changing approval requirements for cooperative agreements between a political subdivision and an Indian Tribal Government; and declaring an emergency.

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

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

Section 1003. A. For the purposes of Section 1001 et seq. of this title, the term "public agency" shall mean:

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

services or assistance to clients of the Department of Mental Health and Substance Abuse Services as provided in Section 2-106 of Title 43A of the Oklahoma Statutes; ~~and~~

5. Any political subdivision of another state; and

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

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

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

Section 1004. A. 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, or an Indian Tribe to the extent that laws of ~~such the~~ the other state or of, the United States, or the Indian Tribe permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.

B. Any two or more public agencies may enter into agreements with one another 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 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; and

6. Any other necessary and proper matters.

D. 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 paragraphs 1, 3, 4, 5 and 6 set forth in subsection C of this section, contain the following:

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

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

E. 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, the performance may be offered in satisfaction of the obligation or responsibility.

F. Every agreement made hereunder, except those agreements authorized by Section 601 of Title 69 of the Oklahoma Statutes which shall be approved by the district attorney, shall, prior to and as a condition precedent to its entry into force, 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 to the

Attorney General 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 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 sixty (60) days of its submission shall constitute approval thereof.

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

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

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

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

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

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

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

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

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

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

2. Agreements for juvenile detention facilities made pursuant to Section ~~1108~~ 7304-1.3 of Title 10 of the Oklahoma Statutes shall become effective upon approval by the board of county commissioners.

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

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

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

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

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