

HOUSE BILL No. 2094

By Committee on Local Government

1-19

1 AN ACT concerning municipalities; **concerning contracts; dealing with**
2 **the interlocal cooperation act**; amending K.S.A. 12-2908 and **K.S.A.**
3 **2016 Supp. 12-2904** and repealing the existing ~~section~~ **sections**.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 12-2908 is hereby amended to read as follows: 12-
7 2908. (a) When used in this act, "municipality" means a city, county ~~or~~,
8 township, *school district, library district, road district, water district,*
9 *drainage district, sewer district* ~~or~~, *fire district, park and recreation*
10 *district, recreation commission, any other political or taxing subdivision*
11 *of the state or instrumentality thereof, or any other authority,*
12 *commission, agency, quasi-municipal corporation created under the*
13 *laws of the state.*

14 (b) Any municipality may contract with any municipality to perform
15 any governmental service, activity or undertaking which each contracting
16 municipality is authorized by law to perform. The contract shall be
17 authorized by the governing body of the municipality and shall state the
18 purpose of the contract and the powers and duties of the parties thereunder.

19 (c) A contract entered into pursuant to this section shall not be
20 regarded as an interlocal agreement under the provisions of K.S.A. 12-
21 2901 et seq., and amendments thereto.

22 **Sec. 2. K.S.A. 2016 Supp. 12-2904 is hereby amended to read as**
23 **follows: 12-2904. (a) Subject to the limitations of subsection (g), any**
24 **power or powers, privileges or authority exercised or capable of exercise**
25 **by a public agency of this state including but not limited to those**
26 **functions relating to economic development, public improvements,**
27 **public utilities, police protection, public security, public safety and**
28 **emergency preparedness, including but not limited to, intelligence,**
29 **antiterrorism and disaster recovery, libraries, data processing services,**
30 **educational services, building and related inspection services, flood**
31 **control and storm water drainage, weather modification, sewage**
32 **disposal, refuse disposal, park and recreational programs and facilities,**
33 **ambulance service, fire protection, the Kansas tort claims act or claims**
34 **for civil rights violations, may be exercised and enjoyed jointly with any**
35 **other public agency of this state or with any private agency, and jointly**
36 **with any public agency of any other state or of the United States to the**

1 *extent that the laws of such other state or of the United States permit*
2 *such joint exercise or enjoyment. Any agency of the state government*
3 *when acting jointly with any public or private agency may exercise and*
4 *enjoy all of the powers, privileges and authority conferred by this act*
5 *upon a public agency.*

6 *(b) Any public agency may enter into agreements with one or more*
7 *public or private agencies for joint or cooperative action pursuant to the*
8 *provisions of this act. Appropriate action by ordinance, resolution or*
9 *otherwise pursuant to law of the governing bodies of the participating*
10 *public agencies shall be necessary before any such agreement may enter*
11 *into force.*

12 *(c) Any public agency may enter into agreements with Native*
13 *American Indian tribes for joint or cooperative actions. Such*
14 *agreements shall be considered to be an interlocal agreement and shall*
15 *be subject to the procedures and limitations of the interlocal cooperation*
16 *act.*

17 *The provisions of this subsection shall not be construed as*
18 *authorizing a public agency to enter into a gaming compact pursuant to*
19 *the interlocal cooperation act.*

20 *(d) Any such agreement shall specify the following:*

21 *(1) Its duration.*

22 *(2) The precise organization, composition and nature of any*
23 *separate legal or administrative entity created thereby together with the*
24 *powers delegated thereto.*

25 *(3) Its purpose or purposes.*

26 *(4) The manner of financing the joint or cooperative undertaking*
27 *and of establishing and maintaining a budget therefor.*

28 *(5) 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 *(6) Any other necessary and proper matters.*

32 *(e) In addition to the requirements of subsection (d), if the*
33 *agreement does not establish a separate legal entity to conduct the joint*
34 *or cooperative undertaking, the agreement also shall contain the*
35 *following:*

36 *(1) Provision for an administrator or a joint board or one of the*
37 *participating public agencies to be responsible for administering the*
38 *joint or cooperative undertaking. In the case of a joint board public*
39 *agencies party to the agreement shall be represented.*

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

42 *(f) No agreement made pursuant to this act shall relieve any public*
43 *agency of any obligation or responsibility imposed upon it by law except*

1 *that to the extent of actual and timely performance thereof by a joint*
2 *board or other legal or administrative entity created by an agreement*
3 *made hereunder, such performance may be offered in satisfaction of the*
4 *obligation or responsibility.*

5 *(g) Every agreement made hereunder, except: (1) Agreements*
6 *between two or more public agencies establishing a council or other*
7 *organization of local governments for the study of common problems of*
8 *an area or region and for the promotion of intergovernmental*
9 *cooperation; and (2) agreements entered into regarding joint or*
10 *cooperative action that are subject to the oversight and regulation of a*
11 *Kansas regulatory agency, prior to and as a condition precedent to its*
12 *entry into force, shall be submitted to the attorney general who shall*
13 *determine whether the agreement is in proper form and compatible with*
14 *the laws of this state. The attorney general shall approve any agreement*
15 *submitted hereunder unless the attorney general shall find that it does*
16 *not meet the conditions set forth herein and shall detail in writing*
17 *addressed to the governing bodies of the public and private agencies*
18 *concerned the specific respects in which the proposed agreement fails to*
19 *meet the requirements of law. Failure to disapprove an agreement*
20 *submitted hereunder within 90 days of its submission shall constitute*
21 *approval thereof.*

22 ~~Sec. 2.~~ 3. K.S.A. 12-2908~~-is~~ and K.S.A. 2016 Supp. 12-2904 are
23 hereby repealed.

24 ~~Sec. 3.~~ 4. This act shall take effect and be in force from and after its
25 publication in the statute book.