

CHAPTER 148
SENATE BILL No. 387

AN ACT relating to public security; concerning the interlocal agreement act; requiring certain information for homeland security as part of budget estimates; amending K.S.A. 2003 Supp. 12-2904, 75-3717 and 75-3721 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2003 Supp. 12-2904 is hereby amended to read as follows: 12-2904. (a) Subject to the limitations of subsection (g), any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state including but not limited to those functions relating to economic development, public improvements, public utilities, police protection, *public security, public safety and emergency preparedness, including but not limited to, intelligence, antiterrorism and disaster recovery*, libraries, data processing services, educational services, building and related inspection services, flood control and storm water drainage, weather modification, sewage disposal, refuse disposal, park and recreational programs and facilities, ambulance service, fire protection, the Kansas tort claims act or claims for civil rights violations, may be exercised and enjoyed jointly with any other public agency of this state or with any private agency, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public or private agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.

(b) Any public agency may enter into agreements with one or more public or private agencies 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 public agency may enter into agreements with Native American Indian tribes for joint or cooperative actions. Such agreements shall be considered to be an interlocal agreement and shall be subject to the procedures and limitations of the interlocal cooperation act.

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

(d) 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.

(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.

(6) Any other necessary and proper matters.

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

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

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

(f) 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, such performance may be offered in satisfaction of the obligation or responsibility.

(g) Every agreement made hereunder, except agreements between two or more public agencies establishing a council or other organization

of local governments for the study of common problems of an area or region and for the promotion of intergovernmental cooperation, prior to and as a condition precedent to its entry into force, shall 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 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 and private 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 90 days of its submission shall constitute approval thereof.

Sec. 2. K.S.A. 2003 Supp. 75-3717 is hereby amended to read as follows: 75-3717. (a) As provided in this section, each state agency, not later than October 1 of each year, shall file with the division of the budget its budget estimates for the next fiscal year, and all amendments and revisions thereof, except that, in lieu of such annual filing, each agency listed in subsection (f), not later than October 1, 2000, and every two years thereafter, shall file budget estimates for the next fiscal year and for the ensuing fiscal year thereafter. Each agency listed in subsection (f) may file adjustments to such agency's budget that was approved by the legislature during a prior fiscal year. All such budget estimates shall be in the form provided by the director of the budget. Each agency's budget estimates shall include:

(1) A full explanation of the agency's request for any appropriations for the expansion of present services or the addition of new activities, including an estimate of the anticipated expenditures for the next fiscal year and for each of the three ensuing fiscal years which would be required to support each expansion of present services or addition of new services as requested by the state agency; ~~and~~

(2) a listing of all programs of the agency that provide services for children and their families and the following information regarding each such program: Of the amount of the agency's request for appropriations to fund the program, that amount which will be spent on services for children or families with children and the number of children or families with children who are served by the program; *and*

(3) *a listing of the sources and amounts of all federal funds received or budgeted for by a state agency for the purpose of homeland security or for the purpose of sustaining, enhancing or improving the safety and security of the state, the amount of such funds budgeted for expenditure on administrative cost and the amount of such funds budgeted for expenditure on aid to each unit of local government.*

(b) At the same time as each state agency submits to the division of the budget a copy of its budget estimate, and all amendments and revisions thereof, each such state agency shall submit a copy of such estimate, and all amendments and revisions thereof, directly to the legislative research department for legislative use.

(c) The director of the budget shall require the agencies to submit a sufficient number of copies of their budget estimates, and all amendments and revisions thereof, to the director's office to satisfy the requirements of such office and one additional copy for legislative use which shall be retained in the division of the budget until the budget of the governor is submitted to the legislature. On or before the day that such budget is submitted to the legislature such legislative use copy, posted to reflect the governor's budget recommendations, shall be submitted to the legislative research department for use by the ways and means committee of the senate and the committee on appropriations of the house of representatives. Following presentation of the governor's budget report to the legislature, the legislative research department may request and shall receive detailed information from the division of the budget on the governor's budget recommendations.

(d) The director of the budget may prepare budget estimates for any state agency failing to file a request.

(e) As used in this section, "services for children and their families" includes but is not limited to any of the following services, whether provided directly or made accessible through subsidies or other payments:

(1) Financial support for children and families with children or enforcement of the obligation to support a child or a family with one or more children;

- (2) prenatal care, health care for children or immunizations for children;
- (3) mental health or retardation services for children;
- (4) nutrition for children or families with children or nutritional counseling or supplements for pregnant or nursing women;
- (5) child care, early childhood education or parenting education;
- (6) licensure or regulation of child care or early childhood education programs;
- (7) treatment, counseling or other services to preserve families;
- (8) care, treatment, placement or adoption of children without functioning families;
- (9) services to prevent child abuse and to treat and protect child abuse victims;
- (10) services for children who are pregnant, substance abusers or otherwise involved in high risk behavior;
- (11) services related to court proceedings involving children; and
- (12) youth employment services.

(f) On a biennial basis, the following state agencies shall file budget estimates under the provisions of subsection (a): Abstracters' board of examiners, behavioral sciences regulatory board, board of accountancy, board of examiners in optometry, board of nursing, consumer credit commissioner, Kansas board of barbering, Kansas board of examiners in fitting and dispensing of hearing aids, Kansas dental board, Kansas real estate commission, Kansas state board of cosmetology, office of the securities commissioner of Kansas, real estate appraisal board, state bank commissioner, state board of healing arts, state board of mortuary arts, state board of pharmacy, state board of technical professions, state board of veterinary examiners, governmental ethics commission and state department of credit unions.

Sec. 3. K.S.A. 2003 Supp. 75-3721 is hereby amended to read as follows: 75-3721. (a) On or before the eighth calendar day of each regular legislative session, the governor shall submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan for the each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include (i) any proposed expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either current or new sources of revenue, or (ii) any proposed expenditures of moneys in the ending balance in the state general fund required by K.S.A. 75-6702, and amendments thereto.

(B) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the incoming governor's recommendations thereon. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service

for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative measure or measures reflecting the incoming governor's budget for all of the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency budget estimates regarding programs that provide services for children and their families. Such document shall be provided to the ~~Kansas commission on children, youth and families, established by the governor's executive order number 91-145~~ *Kansas children's cabinet established by K.S.A. 38-1901, and amendments thereto*, and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the governor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

(f) The budget estimate for the judicial branch of state government as submitted to the director of the budget pursuant to K.S.A. 20-158, and amendments thereto, shall be included in the governor's budget report.

(g) *The division of the budget shall compile a Kansas homeland security budget document consisting of the information contained in agency budget estimates under subsection (a)(3) of K.S.A. 75-3717, and amendments thereto. Such document shall be provided to the house of representatives committee on appropriations, the senate committee on ways and means and such other committees upon request.*

Sec. 4. K.S.A. 2003 Supp. 12-2904, 75-3717 and 75-3721 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 17, 2004.
