

SESSION OF 2002

**SUPPLEMENTAL NOTE ON SENATE
SUBSTITUTE FOR HOUSE BILL NO. 2831**

As Amended by Senate Committee of the Whole

Brief*

Senate Sub. for HB 2831 amends the Interlocal Cooperation Act. The definition of the term "public agency" is expanded to include an entity created under KSA 12-2901 *et seq.*, or Article 72 of the KSAs, and any state officer (includes the Governor, Attorney General, Secretary of State, State Treasurer, and Insurance Commissioner).

One amendment concerns language in the law which permits a public agency to enter into agreements for joint or cooperative action. Among other things, such an agreement must specify the precise organization, composition, and nature of any separate legal or administrative entity created, including the powers delegated to it. A condition now attached to this clause that the "entity may be legally created" is deleted. In connection with this amendment, a new provision is added which validates an interlocal agreement entered into by a community college board of trustees pursuant to the Interlocal Cooperation Act prior to the publication of this bill in the *Kansas Register*.

Another amendment prohibits an interlocal agreement from authorizing or enabling a public agency to purchase a private business concern.

Finally, an amendment permits a public agency to enter into an agreement with Native American Indian tribes for joint or cooperative actions. These agreements are considered to be an interlocal agreement and are subject to the Interlocal Cooperation Act. The amendment specifies that these agreements may not be construed to authorize a public agency to enter into a gaming compact under the Interlocal Cooperation Act.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/cgi-bin/fulltext/bills.cgi>

Background

The Senate Committee on Education addressed the subject matter contained in HB 2831 and HB 2844, as passed by the House, in a manner quite different from the House passed measures.

HB 2831 and HB 2844 both were designed to secure specific statutory validation of interlocal agreements – one being the Southwest Plains Regional Service Center (school districts) and the other the Western Kansas Community College Virtual Education Consortium. In the latter case, the Attorney General had opined that community colleges had no legal authority to enter into an interlocal agreement that created a separate legal entity. (See the supplemental note on these two bills for more detailed information about these entities.)

After discussion with a staff member of the Attorney General's office, the Senate Committee on Education opted to amend the Interlocal Cooperation Act to the end that such entities legally could be formed and operate under the general law and to validate the separate legal entity formed by the community college consortium.

Senate Committee of the Whole amendments:

- ! Prohibited an interlocal agreement from enabling a public agency to purchase a private business; and

- ! Authorized public agencies to enter into interlocal agreements with Native American Indian tribes.