

**AMENDMENTS TO INTERLOCAL
COOPERATION ACT**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

This act modifies the Interlocal Cooperation Act to specify matters that can be the subject of an interlocal agreement between two or more public agencies. The act modifies provisions relating to the approval of certain agreements and imposes additional requirements on agreements that are required to be approved by a public agency's legislative body. The act provides for the powers, immunities, and privileges of law enforcement officers performing duties under an interlocal agreement for law enforcement services. The act expands the entities with which a political subdivision may share its revenues. The act enacts provisions relating to the status of employees of public agencies who perform duties under an interlocal agreement with another public agency. The act also makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

11-13-202, as renumbered and amended by Chapter 286, Laws of Utah 2002

11-13-212, as renumbered and amended by Chapter 286, Laws of Utah 2002

11-13-215, as renumbered and amended by Chapter 286, Laws of Utah 2002

11-13-216, as renumbered and amended by Chapter 286, Laws of Utah 2002

11-13-222, as renumbered and amended by Chapter 286, Laws of Utah 2002

ENACTS:

11-13-202.5, Utah Code Annotated 1953

11-13-203.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-13-202** is amended to read:

11-13-202. Agreements for joint or cooperative action, for providing or exchanging services, or for law enforcement services -- Effective date of agreement.

(1) Any two or more public agencies may enter into an agreement with one another under this chapter:

(a) for joint or cooperative action [~~under this chapter.~~];

(b) to provide services that they are each authorized by statute to provide;

(c) to exchange services that they are each authorized by statute to provide;

(d) for a public agency to provide law enforcement services to one or more other public agencies, if the public agency providing law enforcement services under the interlocal agreement is authorized by law to provide those services, or to provide joint or cooperative law enforcement services between or among public agencies that are each authorized by law to provide those services; or

(e) to do anything else that they are each authorized by statute to do.

(2) An agreement under Subsection (1) does not take effect until [~~the governing body of each public agency entering into the agreement adopts a resolution approving the agreement.~~] it has been approved, as provided in Section 11-13-202.5, by each public agency that is a party to it.

Section 2. Section **11-13-202.5** is enacted to read:

11-13-202.5. Approval of certain agreements -- Review by attorney.

(1) Each agreement under Section 11-13-202 and each agreement under Section 11-13-212 shall be approved by:

(a) except as provided in Subsections (1)(b) and (c), the commission, board, council, or other body or officer vested with the executive power of the public agency;

(b) the legislative body of the public agency if the agreement:

(i) requires the public agency to adjust its budget for a current or future fiscal year;

(ii) includes an out-of-state public agency as a party;

(iii) provides for the public agency to acquire or construct:

(A) a facility; or

(B) an improvement to real property;

(iv) provides for the public agency to acquire or transfer title to real property;

(v) provides for the public agency to issue bonds;
(vi) creates an interlocal entity; or
(vii) provides for the public agency to share taxes or other revenues; or
(c) if the public agency is a public agency under Subsection 11-13-103(13)(b), the director or other head of the applicable state department, division, or agency.

(2) If an agreement is required under Subsection (1) to be approved by the public agency's legislative body, the resolution or ordinance approving the agreement shall:

- (a) specify the effective date of the agreement; and
- (b) if the agreement creates an interlocal entity:
 - (i) declare that it is the legislative body's intent to create an interlocal entity;
 - (ii) describe the public purposes for which the interlocal entity is created; and
 - (iii) describe the powers, duties, and functions of the interlocal entity.

(3) The officer or body required under Subsection (1) to approve an agreement shall, before the agreement may take effect, submit the agreement to the attorney authorized to represent the public agency for review as to proper form and compliance with applicable law.

Section 3. Section **11-13-203.5** is enacted to read:

11-13-203.5. Powers, immunities, and privileges of law enforcement officers under an agreement for law enforcement -- Requirements for out-of-state officers.

(1) While performing duties under an agreement for law enforcement services under Subsection 11-13-202(1)(d), whether inside or outside the law enforcement officer's own jurisdiction, each law enforcement officer shall possess:

- (a) all law enforcement powers that the officer possesses within the officer's own jurisdiction, including the power to arrest; and
- (b) the same immunities and privileges as if the duties were performed within the officer's own jurisdiction.

(2) Each agreement between a Utah public agency and an out-of-state public agency under Subsection 11-13-202(1)(d) providing for reciprocal law enforcement services shall require each person from the other state assigned to law enforcement duty in this state:

(a) to be certified as a peace officer in the state of the out-of-state public agency; and
(b) to apply to the Peace Officer Standards and Training Council, created in Section
53-6-106, for recognition before undertaking duties in this state under the agreement.

Section 4. Section **11-13-212** is amended to read:

11-13-212. Contracts between public agencies or with interlocal entities to perform services, activities, or undertakings -- Facilities and improvements.

(1) (a) Public agencies may contract with each other and one or more public agencies may contract with an interlocal entity created under this chapter to perform any service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform.

(b) Each contract under Subsection (1)(a) shall be authorized [~~by the governing body of each party to the contract~~] as provided in Section 11-13-202.5.

(c) Each contract under Subsection (1)(a) shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties.

(d) In order to perform a service, activity, or undertaking provided for in a contract under Subsection (1)(a), a public agency may create, construct, or otherwise acquire facilities or improvements in excess of those required to meet the needs and requirements of the parties to the contract.

(2) An interlocal entity created by agreement under this chapter may create, construct, or otherwise acquire facilities or improvements to render services or provide benefits in excess of those required to meet the needs or requirements of the public agencies that are parties to the agreement if it is determined by the public agencies to be necessary to accomplish the purposes and realize the benefits set forth in Section 11-13-102.

Section 5. Section **11-13-215** is amended to read:

11-13-215. Sharing tax or other revenues.

~~[Any]~~ (1) A county, city, town, or other local political subdivision may, at the discretion of the local governing body, share its tax and other revenues with other counties, cities, towns, or local political subdivisions, the state, or a federal government agency. ~~[Any]~~

(2) Each decision to share tax and other revenues shall be ~~[by local ordinance, resolution,~~

or interlocal agreement] made as provided in Section 11-13-202.5.

Section 6. Section **11-13-216** is amended to read:

11-13-216. Term of agreements.

Except as provided in Subsection 11-13-204(3), each agreement [~~entered into~~] under this chapter shall extend for a term of not to exceed 50 years [~~and shall be authorized by resolutions adopted by the respective governing bodies~~].

Section 7. Section **11-13-222** is amended to read:

11-13-222. Officers and employees performing services under agreements.

[~~Officers~~] (1) Each officer and [employees] employee performing services for two or more public agencies [pursuant to agreements executed] under an agreement under this chapter shall be considered to be [officers and employees];

(a) an officer or employee of the public agency employing [their] the officer or employee's services even though [performing] the officer or employee performs those functions outside of the territorial limits of any one of the contracting public agencies[;]; and [shall be considered officers and employees]

(b) an officer or employee of the public agencies under the provisions of Title 63, Chapter 30, [Utah] Governmental Immunity Act.

(2) Unless otherwise provided in an agreement that creates an interlocal entity, each employee of a public agency that is a party to the agreement shall:

(a) remain an employee of that public agency, even though assigned to perform services for another public agency under the agreement; and

(b) continue to be governed by the rules, rights, entitlements, and status that apply to an employee of that public agency.

(3) All of the privileges, immunities from liability, exemptions from laws, ordinances, and rules, pensions and relief, disability, workers compensation, and other benefits that apply to an officer, agent, or employee of a public agency while performing functions within the territorial limits of the public agency apply to the same degree and extent when the officer, agent, or employee performs functions or duties under the agreement outside the territorial limits of that

public agency.