INTergovernmental Cooperation Agreements – Texas
Survey of State Law

Background

In the face of declining resources and increasing demand for services, many local health departments (LHDs) are exploring innovative ways to improve efficiency, meet accreditations standards, and reduce costs by sharing service delivery and other functions with other LHDs, agencies, and entities.

One method for such cross-jurisdictional collaboration is the utilization of state interlocal agreement acts. These acts permit localities to enter into agreements with other entities to provide health and other services, and govern the terms of those agreements. Many permit the creation of new entities to accomplish public health goals.

The goal of these acts is, as stated for example by Florida’s Interlocal Cooperation Act, “to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord the best geographic, economic, population, and other factors influencing the needs and development of local communities.” Fla. Stat. § 163.01.

In 2012, with the extremely helpful assistance of pro bono attorneys from the firm of McDermott Will & Emery LLP and the Iowa Health System, the Network conducted a survey of intergovernmental cooperation laws currently in effect in all 50 states. The results of that survey are provided below.

Please be advised that this table should be used only as a guide. While we do not know it to contain any errors, we do know that it is incomplete. We also caution that in many cases other laws and regulations may be used to share services and personnel between organizations and such actions may be permissible even without explicit enabling legislation. We strongly suggest that interested persons and entities contact us for assistance in this complicated area of law.
## Texas Intergovernmental Cooperation Agreements Summary

As of September 2013

<table>
<thead>
<tr>
<th>Name/Title and citation of relevant law(s)</th>
<th>Specific to public health? (Y/N)</th>
<th>Can entities enter into agreements? (Y/N); If Yes: Describe activities Describe requirements</th>
<th>Can new entity be created? (Y/N); If Yes: Is new entity limited in duration? (Y/N) Can new entity issue bonds? (Y/N) Does new entity have taxing authority? (Y/N) Describe powers of new entity</th>
<th>Is outside approval required? If Yes, explain.</th>
</tr>
</thead>
</table>
| **Texas Health & Safety Code**
General Powers of Municipalities and Counties. § 121.003. | Yes | **Affiliations with the Texas Department of Health**

A local health unit, local health department, or public health district may become affiliated with the [Texas Department of Health] to facilitate the exchange of information and the coordination of public health services.

To be affiliated with the department, a local health unit, local health department, or public health district must annually provide to the [Texas Department of Health] information relating to:

1. services provided;
2. staffing patterns; and
3. funding sources and budget.

The department may contract with a local health unit, local health department, or public health district for the provision of public health services. Texas Health & Safety § 121.005. | Yes. Under the Texas Health and Safety Code, the terms of a cooperative agreement must include: (1) a description of the organizational structure; and (2) terms relating to financial administration. Texas Health & Safety § 121.044(b). | Yes. A cooperative agreement must be:

1. approved by the governing body of each member; and
2. signed by the appropriate officers of each governing body. Texas Health & Safety § 121.044. |
| **Public Health Districts.** § 121.041. | Yes | **Establishing Public Health Districts and Public Health District Cooperation**

By a majority vote of each governing body, a public health district may be established by: (1) two or more counties; (2) two or more municipalities; (3) a county and one or more municipalities in the county; or (4) two or more counties and one or more municipalities in those counties. Texas Health & Safety § 121.043. | The Texas Health and Safety Code is Silent with respect to the remaining questions. | |
<table>
<thead>
<tr>
<th>Name/Title and citation of relevant law(s)</th>
<th>Specific to public health? (Y/N)</th>
<th>Can entities enter into agreements? (Y/N); If Yes: Describe activities Describe requirements</th>
<th>Can new entity be created? (Y/N); If Yes: Is new entity limited in duration? (Y/N) Can new entity issue bonds? (Y/N) Does new entity have taxing authority? (Y/N) Describe powers of new entity</th>
<th>Is outside approval required? If Yes, explain</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Interlocal Cooperation Act.</strong> Texas Gov't Code § 791.001 et seq.</td>
<td>No, but the Texas Health and Safety Code provides</td>
<td>Yes. A local government may contract or agree with another local government to perform governmental functions and services in accordance with this chapter. Texas Gov't Code § 791.011(a). An interlocal contract may be to: (1) study the feasibility of the performance of a</td>
<td>The Texas Interlocal Cooperation Act is silent as to whether an entity may be created. If the cooperative agreement provides for the creation of a new entity, then, because a cooperative agreement is limited in duration, any entity created by agreement must also be limited in duration. However, the agreement may be</td>
<td>An Interlocal contract must be authorized by the governing body of each party to the contract. Texas Gov't § 791.011(d).</td>
</tr>
</tbody>
</table>

A written cooperative agreement that sets out fully the terms of operation of the district.

The terms in a cooperative agreement must include:

1. organizational structure;
2. financial administration; and
3. procedures for: (A) modification of the cooperative agreement; (B) admission, withdrawal, and expulsion of members; (C) dissolution of the district; and (D) selection and removal of a director.

A cooperative agreement must be:

1. approved by the governing body of each member; and
2. signed by the appropriate officers of each governing body.

A modification of a cooperative agreement must be in writing. A modification is effective on approval by the governing body of each member.

A copy of a cooperative agreement and of each modification shall be:

1. included in the minutes of the governing body of each member; and
2. filed with the clerk of each county and municipality in the district and with the department.

Texas Health & Safety § 121.044.
<table>
<thead>
<tr>
<th>Name/Title and citation of relevant law(s)</th>
<th>Specific to public health? (Y/N)</th>
<th>Can entities enter into agreements? (Y/N); If Yes: Describe activities Describe requirements</th>
<th>Can new entity be created? (Y/N); If Yes: Is new entity limited in duration? (Y/N) Can new entity issue bonds? (Y/N) Does new entity have taxing authority? (Y/N) Describe powers of new entity</th>
<th>Is outside approval required? If Yes, explain.</th>
</tr>
</thead>
<tbody>
<tr>
<td>that municipalities and counties may cooperate to provide services and to promote public health in accordance with this Interlocal Cooperation Act.</td>
<td></td>
<td></td>
<td></td>
<td>renewed. Texas Gov’t Code § 791.011. The Texas Interlocal Cooperation Act is silent with respect to the remaining questions.</td>
</tr>
<tr>
<td>Interagency Cooperation Act. Texas Gov’t Code § 771.001 et seq.</td>
<td>No</td>
<td>Yes. An agency may agree or contract with another agency for the provision of necessary and authorized services and resources. Texas Gov’t Code § 771.003.</td>
<td></td>
<td>Before an agency may provide or receive a service or resource under a cooperative agreement, the agency must have entered into a written agreement or contract that has been approved by the administrator of each agency that is a party to the agreement or contract. Texas Gov’t Code § 771.004(a).</td>
</tr>
</tbody>
</table>
1. The governing bodies of municipalities and the commissioners courts of counties may cooperate with one another in making necessary improvements and providing services to promote the public health in accordance with The Interlocal Cooperation Act. Texas Health & Safety § 121.003(b).

2. “Local government” means a: (A) county, municipality, special district, junior college district, or other political subdivision of this state or another state; (B) local government corporation created under Subchapter D, Chapter 431, Transportation Code; (C) political subdivision corporation created under Chapter 304, Local Government Code; (D) local workforce development board created under Section 2308.253; or (E) combination of two or more entities described by Paragraph (A), (B), (C), or (D).

3. Texas Gov’t Code § 791.003. (3) “Governmental functions and services” means all or part of a function or service in any of the following areas: (A) police protection and detention services; (B) fire protection; (C) streets, roads, and drainage; (D) public health and welfare; (E) parks and recreation; (F) library and museum services; (G) records center services; (H) waste disposal; (I) planning; (J) engineering; (K) administrative functions; (L) public funds investment; (M) comprehensive health care and hospital services; or (N) other governmental functions in which the contracting parties are mutually interested.

4. Texas Gov’t Code § 771.002(1). “Agency” includes: (A) a department, board, bureau, commission, court, office, authority, council, or institution of state government; (B) a state university or college, a junior college district, or any service or part of a state institution of higher education; (C) a local workforce development board created under Section 2308.253; and (D) any statewide job or employment training program for disadvantaged youth that is substantially financed by federal funds and that was created by executive order not later than December 30, 1986.

5. Texas Gov’t Code § 771.002(3). “Services” means special or technical services, including the services of employees.

6. “Resources” means materials and equipment.