

2021 Kansas Statutes

12-2904a. Same; powers and duration of separate legal entities created thereby; certain functions prohibited. (a) Any interlocal agreement entered into under the provisions of K.S.A. 12-2901 et seq., and amendments thereto, may authorize the creation of a separate legal entity to conduct the joint or cooperative action provided for in the agreement. Such separate legal entity shall constitute a body corporate and politic, and shall have, in addition to any other powers reasonably necessary to the exercise of its function under the agreement, the following powers to:

- (1) Sue and be sued in its corporate name;
- (2) take and hold any property, real or personal, in fee simple or otherwise;
- (3) sell, lease, lend or otherwise transfer any property or interest in property owned by it;
- (4) make contracts; and
- (5) have and use a corporate seal.

Any such separate legal entity shall not constitute a municipality within the meaning of K.S.A. 10-1101, and amendments thereto, or a political subdivision of the state under any provision of the law of this state establishing limits on bonded indebtedness.

(b) In addition to its other powers, any separate legal entity referred to in this section shall be authorized, subject to any limitations imposed by contract, to issue bonds, notes or other evidence of indebtedness, in its own name, on behalf of the public agencies that are or become parties to the agreement creating the separate legal entity for those purposes for which such public agencies are authorized pursuant to the constitution and laws of this state to issue bonds, notes or other evidence of indebtedness. Such bonds, notes or other indebtedness may be payable from or secured by any property, interest or income of the separate legal entity, from whatever source derived, but shall not constitute a charge against or indebtedness of any public agency on behalf of which such bonds, notes or other indebtedness are issued. In issuing such bonds, notes or other indebtedness, the separate legal entity shall act as the constituted authority of the public agencies on behalf of which such bonds, notes or other indebtedness are issued, and the interest on such bonds, notes or other indebtedness shall be exempt from taxation under the laws of this state. Nothing in this act shall be construed to authorize any separate legal entity to issue or sell bonds, notes or other evidence of indebtedness, or use the proceeds thereof, to purchase, condemn, or otherwise acquire a utility plant or distribution system owned or operated by a regulated public utility as defined by K.S.A. 66-104 and amendments thereto.

(c) The duration of any separate legal entity referred to in this section may be perpetual or as otherwise provided in the agreement under which it was created; however, any property owned or held by such separate legal entity shall become the property of the public agencies that are parties to such agreement, according to the terms of that agreement or as otherwise determined according to equitable principles, if and when at any time no bond, note or other indebtedness of the authority is not currently outstanding and unpaid. No property of such separate legal entity shall inure to the benefit of any private individual, corporation or association other than for fair value received.

(d) No such separate legal entity shall operate or administer any arrangement or program under which any two or more municipalities, as defined in K.S.A. 75-6102, and amendments thereto, have agreed to pool their liabilities incurred as a result of negligent or wrongful act or omission of their employees or any other liabilities or losses incurred by such municipalities regardless of the cause thereof.

History: L. 1987, ch. 60, § 8; May 28.