

CHAPTER 54-40.3
JOINT POWERS AGREEMENTS

54-40.3-01. Joint powers agreements - General authority.

1. Any county, city, township, city park district, school district, or other political subdivision of this state, upon approval of its respective governing body, may enter into an agreement with any other political subdivision of this state for the cooperative or joint administration of any power or function that is authorized by law or assigned to one or more of them. Any political subdivision of this state may enter into a joint powers agreement with a political subdivision of another state or political subdivision of a Canadian province if the power or function to be jointly administered is a power or function authorized by the laws of this state for a political subdivision of this state and is authorized by the laws of the other state or province. A joint powers agreement may provide for:
 - a. The purpose of the agreement or the power or function to be exercised or carried out.
 - b. The duration of the agreement and the permissible method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of any property upon the partial or complete termination.
 - c. The precise organization, composition, and nature of any separate administrative or legal entity, including an administrator or a joint board, committee, or joint service council or network, responsible for administering the cooperative or joint undertaking. Two or more political subdivisions which enter into a number of joint powers agreements may provide a master administrative structure for the joint administration of any number of those agreements, rather than creating separate administrative structures for each agreement. However, no essential legislative powers, taxing authority, or eminent domain power may be delegated by an agreement to a separate administrative or legal entity.
 - d. The manner in which the parties to the agreement will finance the cooperative or joint undertaking and establish and maintain a budget for that undertaking. The parties to the agreement may expend funds pursuant to the agreement, use unexpended balances of their respective current funds, enter into a lease-option to buy and contract for deed agreements between themselves and with private parties, accumulate funds from year to year for the provision of services and facilities, and otherwise share or contribute property in accordance with the agreement in cooperatively or jointly exercising or carrying out the power or function. The agreement may include the provision of personnel, equipment, or property of one or more of the parties to the agreement that may be used instead of other financial support.
 - e. The manner of acquiring, holding, or disposing of real and personal property used in the cooperative or joint undertaking.
 - f. The acceptance of gifts, grants, or other assistance and the manner in which those gifts, grants, or assistance may be used for the purposes set forth in the agreement.
 - g. The process to apply for federal or state aid, or funds from other public and private sources, to the parties for furthering the purposes of the agreement.
 - h. The manner of responding for any liability that might be incurred through performance of the agreement and insuring against that liability.
 - i. Any other necessary and proper matters agreed upon by the parties to the agreement.
2. Any county, city, township, city park district, school district, or other political subdivision of this state may enter into an agreement in the manner provided in subsection 1 with any agency, board, or institution of the state for the undertaking of any power or function which any of the parties is permitted by law to undertake. Before an agreement entered into pursuant to this subsection is effective, the respective governing body or officer of the state agency, board, or institution must approve the

agreement and the attorney general must determine that the agreement is legally sufficient.

3. An agreement made pursuant to this chapter does not relieve any political subdivision or the state of any obligation or responsibility imposed by law except to the extent of actual and timely performance by a separate administrative or legal entity created by the agreement. This actual and timely performance satisfies the obligation or responsibility of the political subdivision.

54-40.3-02. Clarification of constitutional authority and effect of other statutes - Construction.

1. The specificity of this chapter, chapter 54-40, or any other law may not be construed to limit the general authority of a political subdivision to enter into agreements pursuant to section 10 of article VII of the Constitution of North Dakota, except for specific limitations on that authority, and subject to specific procedural requirements, imposed by this chapter, any other law, or a home rule charter.
2. This chapter does not dispense with the procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.

54-40.3-03. Political subdivisions encouraged to file agreements with advisory commission on intergovernmental relations.

A political subdivision entering into a joint powers agreement pursuant to this chapter or any other law is encouraged to file one copy of the agreement and explanatory material with the advisory commission on intergovernmental relations, to assist the commission in providing information for other political subdivisions exploring cooperative arrangements.

54-40.3-04. Joint exercise of police power.

A state or a local criminal justice agency of this state, with the approval of its governing body, may enter an agreement in the manner provided in section 54-40.3-01 with another state or a political subdivision of another state, for the joint exercise of peace officer duties. A peace officer acting under an agreement pursuant to this section must be licensed under chapter 12-63, or if the peace officer is from another state, the officer must be licensed or certified by the other state's licensing or certifying authority. A peace officer acting under an agreement pursuant to this section has full peace officer authority in any jurisdiction that is a party to the agreement. Before an agreement entered under this section is effective, the governing body for each criminal justice agency must have approved the agreement and the attorney general must have determined the agreement is legally sufficient.

54-40.3-05. Application of open records law.

If a joint powers agreement is entered into between a political subdivision of this state and a political subdivision of another state which creates a joint emergency services communications system, the joint powers agreement must address which jurisdiction's open records law will apply in the event a request is made for records that originated from the partner state but is in the possession of the joint emergency services communications system located in North Dakota. The agreement may provide that the emergency services records may be provided pursuant to the open records law of the originating state. If the joint powers agreement does not address this matter, it will be presumed that records will be provided pursuant to North Dakota law.