

Intergovernmental Agreements: Good Marriages or Expensive Divorces

IAPD/IPRA
CONFERENCE
Session 121
JANUARY 26, 2013

ADAM SIMON
SCOTT PUMA

Ancel
Glink

DIAMOND BUSH
DiCIANNI
& KRAFTHEFER

Chicago
Vernon Hills
Naperville
Crystal Lake
Bloomington

Intergovernmental Cooperation

- Sources of Authority
- Drafting Strategies
- Case Studies
- Questions

Sources of Authority



Illinois Constitution, Article VII, Sec. 10



Units of local government and school districts may contract or otherwise associate among themselves, ...to exercise, combine, or transfer any power or function, in any manner not prohibited by law or by ordinance...Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities.

Intergovernmental Cooperation Act 5 ILCS 220



- Contains very broad grants of authority
- Always included with other sources of power since it is supplemental authority

Intergovernmental Cooperation Act 5 ILCS 220

Contracting: Any power or powers, privileges, functions, or authority exercised or which may be exercised by a public agency of this State may be exercised, combined, transferred, and enjoyed jointly with any other public agency of this State...except where specifically and expressly prohibited by law.



Intergovernmental Cooperation Act 5 ILCS 220

Purchasing: Any expenditure of funds by a public agency organized pursuant to an intergovernmental agreement in accordance with the provisions of this Act and consisting of 5 public agencies or less...shall be in accordance with any law or ordinance applicable to the public agency with the largest population which is a party to the agreement.



Intergovernmental Cooperation Act 5 ILCS 220

Provision of Personnel: All personnel rules applicable to an employee of a public agency shall continue to apply to such employee if the employee is assigned to perform services for another public agency pursuant to an intergovernmental agreement.



Intergovernmental Cooperation Act 5 ILCS 220

Joint Self-Insurance. An intergovernmental contract may, among other undertakings, authorize public agencies to jointly self-insure and authorize each public agency member of the contract to utilize its funds to pay to a joint insurance pool its costs and reserves to protect, wholly or partially, itself or any public agency member of the contract against liability or loss in the designated insurable area.



Intergovernmental Cooperation Act 5 ILCS 220

County Participation: A county may participate in an intergovernmental agreement under this Act notwithstanding the absence of specific authority under State law to perform the action involved provided that the unit of local government contracting with the county has authority to perform the action.

Government Joint Purchasing Act 30 ILCS 525

- Under any *agreement* of governmental units that desire to make joint purchases, one of the governmental units shall conduct the competitive selection process*. Where the State of Illinois is a party to the joint purchase agreement, the Department of Central Management Services shall conduct the letting of bids.
- The credit or liability of each governmental unit shall remain separate and distinct. Disputes between bidders and governmental units shall be resolved between the immediate parties.

Government Joint Purchasing Act 30 ILCS 525

- Any governmental unit may, without violating any bidding requirement otherwise applicable to it, procure personal property, supplies and services under any contract let by the State pursuant to lawful procurement procedures.

Local Government Property Transfer Act 50 ILCS 605

Purchasing:

- 1) Transferee municipality, shall by ordinance declare that it necessary or convenient
- 2) Transferor municipality shall have the power to transfer all of the right, title and interest held by it immediately prior to such transfer, in and to such real estate to the transferee municipality (2/3)
- 3) Upon such terms as may be agreed upon by the corporate authorities of both municipalities.

Local Government Property Transfer Act 50 ILCS 605

Leasing too!

- Any municipality may lease for any term not exceeding 50 years to any other municipality real property owned or held by the transferor municipality, or any part thereof or interest therein, upon such terms and conditions and for such uses as may be agreed upon by the corporate authorities of both the transferor and transferee municipalities.

Special Recreation Associations 70 ILCS 1205/8-10b

- Any 2 or more park districts...are authorized to take any action jointly relating to recreational programs for the handicapped
- Enter into agreements ...for the purpose of providing for the establishment, maintenance and management of joint recreational programs for the handicapped of all the participating districts and municipal areas.



Tort Immunity Act 745 ILCS 10/9-107



- A local public entity may enter into intergovernmental contracts with a term of not to exceed 12 years for the provision of joint self-insurance
- Combine with authority under Intergovernmental Cooperation Act

Public Funds Investment Act 30 ILCS 235

Any public agency may also invest any public funds in a Public Treasurers' Investment Pool created under Section 17 of the State Treasurer Act.



Illinois Institutional Investors Trust

- Formerly Park District Liquid Assets Fund
- Product of intergovernmental agreement
- Park Districts may enter into agreements of any definite or indefinite term regarding the deposit, redeposit, investment, reinvestment or withdrawal of park district, risk management association, self-insurance pool or joint recreational program funds (70 ILCS 1205/8-8)

Public Building Commission Act 50 ILCS 20 / 70 ILCS 1205/8-12

- PBC may be organized by the governing body of any municipality with 3,000 or more inhabitants
- Requires referendum approval
- A Public Building Commission may be created for the limited purpose of constructing, acquiring, enlarging, improving, repairing or replacing a specific public improvement, building or facility

Public Building Commission Act
50 ILCS 20 / 70 ILCS 1205/8-12

- A Public Building Commission shall have authority to rent all or any part or parts of such building, buildings, or other facilities to...any municipal corporation with which the Commission has entered into an intergovernmental agreement or contract under the Intergovernmental Cooperation Act.

Public Building Commission Act
50 ILCS 20 / 70 ILCS 1205/8-12

- A municipal corporation that enters into a lease with a Public Building Commission shall provide by ordinance for the levy and collection of a direct annual tax sufficient to pay the annual rent.
- This tax shall not be included within any statutory limitation of rate or amount for that municipal corporation but shall be excluded therefrom and be in addition thereto and in excess thereof.
- Exempt from the Tax Cap when lease payments are used to retire bonded indebtedness

Public Building Commission Act
50 ILCS 20 / 70 ILCS 1205/8-12

- Under Park District Code, the lease may not exceed 20 years
- "for the purpose of securing office or other space for its administrative corporate functions..."
- No prior appropriation required



Joint Airports Act 620 ILCS 20

Any park district may enter into an agreement with any county or municipality, or both, to jointly establish and operate an airport and its facilities. This authority applies without regard to whether any part of the county or municipality lies within the park district.

Illinois Association of Park Districts 70 ILCS 1205/8-17



Park Districts may join IAPD, and through IAPD provide and disseminate information and research services, employ personnel and do any and all other acts for the purpose of improving local and park district government.

Drafting Strategies

Key Issues

- Source of Authority
- Financial Commitments
- Personnel and/or Property
- Schedule (if applicable)
- Insurance & Indemnity
- Dispute Resolution (mediation?)
- Annual Review
- Opportunity for Renewal Terms



Case Studies



Park District of Highland Park and City of Highland Park

- Financed and Constructed Aquatic Park
- Financed and Constructed Recreation Center
- Financed and Constructed Golf Course amenities
- Exchange of real property to maximize efficiency of public holdings
- 99 Year Lease for Golf Course



Gurnee Park District and Village of Gurnee

- Financed and constructed Aquatic Park



Round Lake Area Park District and School District No. 46

- Shared Impact Fees to Create More Efficient Public Campus Requiring Less Land
- Financed and Constructed School and Park lands
- Park District gets use of indoor facilities and School District gets use of outdoor facilities



Grand Illinois Trail



- Illinois Department of Natural Resources
- Village of Island Lake Park & Rec Dept.
 - Village facilitated developer construction of bike path and dedication to DNR in exchange for DNR agreeing to operate and maintain as part of Grand Illinois Trail
- Lake Michigan to Mississippi River 500 mi. bike path requires cooperation from many jurisdictions

Schaumburg Park District and Village of Schaumburg

- Jointly developed Schaumburg's minor league baseball stadium
 - Park District granted ground lease to Village
 - Village owns and maintains stadium



Crystal Lake Park District and City of Crystal Lake

- City and Park District combined resources to implement regional storm water management initiatives
 - Prevents flooding
 - Reduces property damage



Hoffman Estates Park District & Palatine Park District

- Proposed residential development in Village of Hoffman Estates and Palatine PD
- Disconnect property from PPD and annex to HEPD
- Payments in Lieu of Taxes



Hoffman Estates Park District, Streamwood Park District & City of Elgin

- Off-Leash Dog Park
- Shared Access – All Resident Rates
- Shared Capital Expenses
- Minimum operating standards/schedule

More Ideas

■ Economic Development

- ☐ Cooperation among local governments can increase financial incentives for new commercial/industrial development without relying on tax increment financing
- ☐ Shared resources for business recruitment
- ☐ Be creative regarding the resources which can be shared



More Ideas

■ Ordinance Enforcement

- ☐ Prosecution Services
- ☐ Police Services
 - Municipal Police Services (or Sheriff)
 - Mutual Aid with Park Rangers
- ☐ Administrative Adjudication



More Ideas

■ Joint Purchasing

- ☐ What services do you purchase that are identical to your neighbors?
 - Paving and Seal coating
 - Mowing and Turf Maintenance
 - Tree Trimming/Planting
 - Painting
- ☐ IAPD Affinity Programs



Questions



Thank you!

Adam B. Simon, asimon@ancelglink.com

Scott A. Puma, spuma@ancelglink.com

Twitter: @AncelGlinkParks

175 E. Hawthorn Parkway, Suite 145

Vernon Hills, Illinois 60061

847-247-7400

Ancel
Glink

DIAMOND BUSH
DiCIANNI
& KRAFTHOFER
