

Senate Study Bill 3182 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act allowing political subdivisions of this state to
2 engage in partnerships to merge certain agency operations,
3 workforces, duties, or services and providing for the
4 assignment of employees and the elimination of positions in
5 such agencies.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 280.1 Purpose.

2 The purpose of this chapter is to enable political
3 subdivisions in this state to consolidate the provision of
4 services or facilities with other political subdivisions in
5 this state and to cooperate in other ways of mutual advantage
6 pursuant to public agency partnerships. This chapter shall be
7 liberally construed to that end.

8 Sec. 2. NEW SECTION. 280.2 Definitions.

9 For the purposes of this chapter:

10 1. "*Assigning agency*" means an agency or department of a
11 public agency dissolved by agreement between public agencies to
12 merge operations, workforces, duties, or services into a merged
13 agency.

14 2. "*Merged agency*" means an agency or department of a public
15 agency expanding operations, workforces, duties, or services by
16 incorporation of an assigning agency pursuant to an agreement
17 between public agencies.

18 3. "*Public agency*" means any political subdivision of this
19 state.

20 Sec. 3. NEW SECTION. 280.3 Agreement with other agencies
21 — contracts.

22 1. A public agency may enter into an agreement with one
23 or more other public agencies to merge specified operations,
24 workforces, duties, or services pursuant to the provisions of
25 this chapter. Appropriate action by ordinance, resolution, or
26 other applicable law of the governing bodies involved shall be
27 necessary before any such agreement may enter into force.

28 2. Any one or more public agencies may contract with any
29 one or more other public agencies to perform any governmental
30 service, activity, or undertaking which any of the public
31 agencies entering into the contract is authorized by law to
32 perform, provided that such contract shall be authorized by the
33 governing body of each party to the contract. Such contract
34 shall set forth fully the purposes, powers, rights, objectives,
35 and responsibilities of the contracting parties.

1 Sec. 4. NEW SECTION. **280.4 Specifications.**

2 An agreement pursuant to this chapter shall specify the
3 following:

4 1. The duration of the agreement.

5 2. The purpose or purposes of the agreement, including the
6 specific operations, workforces, duties, or services to be
7 assigned from the assigning agency to the merged agency.

8 3. The manner of financing the merged agency's undertakings
9 and of establishing and maintaining a budget therefor,
10 including the provision of benefits to merged agency employees
11 pursuant to section 280.9, subsections 6 and 7.

12 4. The permissible method or methods to be employed in
13 accomplishing the partial or complete termination of the
14 agreement and for disposing of property upon such partial or
15 complete termination.

16 5. The manner of acquiring, holding, and disposing of real
17 and personal property used in the merged agency's undertakings.

18 6. Any other necessary and proper matters.

19 Sec. 5. NEW SECTION. **280.5 Additional provisions.**

20 1. An agreement pursuant to this chapter may also include
21 a provision for a joint board responsible for administering
22 the merged agency. In the case of a joint board, all public
23 agencies that are a party to the agreement shall be represented
24 on the joint board.

25 2. A joint board specified in the agreement shall be a
26 governmental body for purposes of chapter 21 and a government
27 body for purposes of chapter 22.

28 3. *a.* A summary of the proceedings of each regular,
29 adjourned, or special meeting of the joint board created in the
30 agreement, including the schedule of bills allowed, shall be
31 published after adjournment of the meeting in one newspaper
32 of general circulation within the geographic area served by
33 the joint board. The summary of the proceedings shall include
34 the date, time, and place the meeting was held, the members
35 present, and the actions taken at the meeting. The joint board

1 shall furnish the summary of the proceedings to be submitted
2 for publication to the newspaper within twenty days following
3 adjournment of the meeting. The publication of the schedule
4 of bills allowed shall include a list of all salaries paid for
5 services performed, showing the name of the person or firm
6 performing the service and the amount paid. The publication
7 of the schedule of bills allowed may consolidate amounts paid
8 to the same claimant if the purpose of the individual bills is
9 the same. However, the names and gross salaries of persons
10 regularly employed by the joint board shall only be published
11 annually.

12 *b.* A joint board which had a cash balance, including
13 investments, of less than one hundred thousand dollars at
14 the end of the previous fiscal year and which had total
15 expenditures of less than one hundred thousand dollars during
16 the prior fiscal year is not required to publish as required in
17 paragraph "a". However, such a joint board shall file without
18 charge, in an electronic format, the information described in
19 paragraph "a" with the office of the county recorder in the most
20 populous county served by the joint board. The county recorder
21 shall make the information submitted available to the public,
22 which information shall also include access to a copy of the
23 agreement creating the joint board.

24 4. A joint board that is responsible for the operation of
25 a public facility or a public improvement may undertake the
26 emergency repair of the facility or improvement in the manner
27 provided in section 384.103, subsection 2. If an emergency
28 repair is undertaken by the joint board, the chairperson, chief
29 officer, or chief official of the joint board shall perform
30 the duties assigned to the chief officer or official of the
31 governing body of the city under section 384.103, subsection 2.

32 Sec. 6. NEW SECTION. 280.6 Obligations not excused.

33 Except as provided in this chapter, no agreement made
34 pursuant to this chapter shall relieve any public agency of
35 any obligation or responsibility imposed upon it by law except

1 that to the extent of actual and timely performance thereof
2 by merged agency or a joint board pursuant to an agreement
3 made under this chapter, such performance may be offered in
4 satisfaction of the obligation or responsibility.

5 Sec. 7. NEW SECTION. 280.7 Filing with secretary of state.

6 1. a. Before entry into force, an agreement made pursuant
7 to this chapter shall be filed, in an electronic format, with
8 the secretary of state in a manner specified by the secretary
9 of state.

10 b. Any amendment, modification, or notice of termination of
11 an agreement made pursuant to this chapter shall be filed, in
12 an electronic format, with the secretary of state within thirty
13 days of the effective date of the amendment, modification, or
14 termination, in a manner specified by the secretary of state.

15 2. a. In addition to subsection 1, each joint board
16 subject to section 280.5, subsection 1, shall submit, in an
17 electronic format, an initial report to the secretary of state
18 as prescribed by the secretary of state. The report shall
19 include, as applicable, the board members of any joint board
20 created, whether the joint board is exempt from the publication
21 requirements of section 280.5, subsection 3, a valid electronic
22 mail address, and any additional information the secretary of
23 state deems appropriate.

24 b. Following submission of an initial report pursuant to
25 paragraph "a", each joint board shall submit, in an electronic
26 format, a biennial report to the secretary of state in a manner
27 prescribed by the secretary of state by April 1 of every
28 odd-numbered year.

29 Sec. 8. NEW SECTION. 280.8 Agency to furnish aid.

30 An assigning agency may appropriate funds and may sell,
31 lease, give, or otherwise supply the merged agency to combine
32 the operations, workforces, duties, or services of such public
33 agencies by providing such personnel or services therefor as
34 may be within its legal power to furnish.

35 Sec. 9. NEW SECTION. 280.9 Authority to assign employees.

1 1. Any department, agency, or instrumentality of a public
2 agency may participate in a program of assignment of employees
3 with departments, agencies, or instrumentalities of any other
4 public agency as an assigning agency or as a merged agency
5 pursuant to an agreement entered into under this chapter.

6 2. The assigning agency and the merged agency shall agree
7 to the assignment of employees. Such an agreement shall be
8 for the permanent assignment of employees from the assigning
9 agency to the merged agency unless such agreement is terminated
10 pursuant to the terms of the agreement.

11 3. An assigning agency and a merged agency shall make
12 reasonable efforts to place employees of an assigning agency
13 in comparable employment upon dissolution of an assigning
14 agency. No employee shall be assigned or detailed without the
15 employee's expressed consent or by using undue coercion to
16 obtain such consent.

17 4. Elected officials shall not be assigned from an assigning
18 agency nor detailed to a merged agency.

19 5. An employee being permanently assigned to a merged agency
20 shall not be subject to the provisions of section 400.8 if the
21 employee meets minimum job qualifications for an open position
22 to which the employee is being assigned at the merged agency.

23 6. An employee being permanently assigned to a merged agency
24 shall:

25 a. Be placed on the payroll of the merged agency at a job
26 classification determined by the merged agency, but shall, at
27 a minimum, maintain the salary earned by the employee at the
28 assigning agency at the time of being assigned to the merged
29 agency.

30 b. Be allowed to maintain the rank or position earned by the
31 employee at the assigning agency if a job of equivalent rank or
32 position is available at the merged agency.

33 c. Upon assignment to a merged agency be assigned a
34 seniority classification based upon the period of employment
35 with the assigning agency.

1 *d.* Upon assignment to a merged agency, be credited with any
2 unexpended benefit time, including but not limited to vacation,
3 holiday, and sick leave, accrued in the course of employment
4 with the assigning agency.

5 *e.* Except as otherwise provided in this section, upon
6 assignment to a merged agency, be subject to the personnel
7 policies and collective bargaining agreements of that merged
8 agency.

9 7. An employee being permanently assigned to a merged agency
10 shall, at the time of being assigned, either elect to maintain
11 participation in the benefit programs offered to employees of
12 the assigning agency until the time of the termination of the
13 employee's employment with the merged agency or elect to enroll
14 in the benefit programs offered to employees of the merged
15 agency.

16 8. *a.* An assigning agency or merged agency may eliminate
17 positions in order to merge operations, workforces, duties, or
18 services.

19 *b.* An assigning agency or a merged agency that eliminates a
20 position pursuant to this subsection may provide an employee
21 whose position is eliminated with severance payments not to
22 exceed eight weeks of salary. Such an agency may also provide
23 for the extension of health benefits for a period not to exceed
24 eight weeks. The provision of payments and benefits under this
25 paragraph shall be subject to negotiation with the employee or
26 with the employee's labor bargaining unit where appropriate.

27 *c.* The elimination of any position pursuant to this
28 subsection shall not constitute outsourcing or privatization.

29 9. Details relating to any matter subject to this section
30 shall be the subject of an agreement between the assigning and
31 merged agencies.

32 Sec. 10. NEW SECTION. **280.10 Powers are additional to**
33 **others.**

34 The powers granted by this chapter shall be in addition
35 to any specific grant for intergovernmental agreements and

1 contracts.

2 Sec. 11. NEW SECTION. 280.11 No limitation on contract.

3 Any contract or agreement authorized by this chapter shall
4 not be limited as to period of existence, except as may be
5 limited by the agreement or contract itself.

6 Sec. 12. Section 400.8, Code 2011, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 4. This section shall not apply to the
9 assignment of employees conducted pursuant to section 280.8.

10

EXPLANATION

11 This bill allows political subdivisions of this state to
12 engage in partnerships to merge certain agency operations,
13 workforces, duties, or services and provides for the assignment
14 of employees and the elimination of positions in such agencies.

15 The bill allows political subdivisions of this state to
16 enter into public agency agreements to merge operations,
17 workforces, duties, or services.

18 The bill provides that a public agency may enter into
19 contracts with any one or more other public agencies to perform
20 any governmental service, activity, or undertaking that the
21 public agency is authorized by law to perform.

22 The bill provides that "assigning agency" means an agency
23 or department of a political subdivision that is dissolved by
24 agreement to merge operations, workforces, duties, or services
25 into a merged agency. The bill provides that "merged agency"
26 means an agency or department of a political subdivision
27 that expands operations, workforces, duties, or services by
28 incorporation of an assigning agency.

29 The bill requires that the governing bodies of the political
30 subdivisions adopt such an agreement by appropriate legal
31 action before an agreement may enter into force.

32 The bill requires that such an agreement specify the
33 duration of the agreement, the purpose or purposes of the
34 agreement, the manner of financing, the means by which the
35 agreement may be partially or completely terminated, and the

1 manner of acquiring, holding, and disposing of property along
2 with any other necessary and proper matters.

3 The bill allows the agreement to provide for the operation of
4 a joint administration board subject to certain open meeting
5 and public record requirements for the merged agency. The bill
6 also provides for certain emergency repairs authorized by a
7 joint board.

8 The bill requires that any such agreement be filed with
9 the secretary of state in an electronic format along with
10 any subsequent amendments, modifications, or notices of
11 termination. The bill provides for separate reporting
12 requirements to the secretary of state for independent merged
13 agencies and merged agencies with joint boards.

14 The bill provides that an assigning agency may appropriate
15 funds and may sell, lease, give, or otherwise supply the merged
16 agency.

17 The bill provides that any department, agency, or
18 instrumentality of a political subdivision of this state
19 is authorized to participate in a program of assignment of
20 employees with departments, agencies, or instrumentalities
21 of any other political subdivision of this state as an
22 assigning agency or as a merged agency. The bill requires
23 that an assigning agency and a merged agency agree to such
24 assignment of employees and that an employee give consent to
25 such assignment. The bill provides that an elected official
26 shall not be assigned from an assigning agency nor detailed
27 to a merged agency. The bill provides that an employee
28 permanently assigned to a merged agency who meets minimum job
29 qualifications for an open position shall not be subject to the
30 civil service examination and appointment requirements of Code
31 section 400.8.

32 The bill requires that an employee being permanently
33 assigned to a merged agency shall be placed on the payroll
34 of the new merged agency at a job classification determined
35 by the merged agency, but shall, at a minimum, maintain the

1 salary earned by the employee at the assigning agency. The
2 bill requires that such an employee be allowed to maintain the
3 employee's rank or position if a job of equivalent rank or
4 position is available at the merged agency. The bill requires
5 that such an employee be assigned a seniority rank by the
6 merged agency based upon the employee's period of employment
7 with the assigning agency and credited with any unexpended
8 benefits accrued during employment with the assigning agency.
9 The bill also requires that, except as otherwise provided,
10 any such employee be subject to the personnel policies and
11 collective bargaining agreements of the merged agency. The
12 bill also requires such an employee to elect whether to
13 maintain participation in the benefits programs offered by the
14 assigning agency or elect to enroll in the benefits programs
15 offered to employees of the merged agency.

16 The bill allows an assigning agency or a merged agency to
17 eliminate positions in order to merge operations, workforces,
18 duties, or services. The bill also provides that an assigning
19 agency or merged agency may provide certain severance payments
20 or benefits to an employee whose position is eliminated. Such
21 severance shall be subject to negotiation with the employee or
22 with the employee's labor bargaining unit where appropriate.
23 The bill provides that any such elimination of a position shall
24 not constitute outsourcing or privatization.

25 The bill requires that details related to the assignment of
26 employees be subject to agreement between an assigning agency
27 and a merged agency.

28 The bill provides that the powers granted pursuant to the
29 bill are additional to any specific grant for intergovernmental
30 agreements and contracts.