

Liability and Insurance Implications of Regionalization and Collaboration of Municipal Services

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RHODE ISLAND INTERLOCAL
 **The Trust**
RISK MANAGEMENT TRUST

Intermunicipal Cooperation

What are we talking about?

- Purchasing goods
- Purchasing services
- Sharing goods and services
- Sharing employees
- Creating new entities to work on behalf of multiple cities, towns and school districts

Intermunicipal Agreements

§ 45-5-20. Power of city and town councils to establish intermunicipal agreements for joint purchasing of common-use items

Cooperative Purchasing

City and town councils may establish joint agreements between two (2) or more municipalities for the purpose of purchasing materials, supplies, tools, and other items common in usage between units of local government.

Help from the State

City or town councils may, jointly or independently, seek the services of the division of purchases, department of administration, in procuring items necessary to the operation of the city or town which it governs and which items are common in usage to those procured by the state, and the division of purchasers shall, upon request, by a city or town council, furnish lists of supplies and equipment to city or town purchasing agents.

What Do You Want To Do?

- Share Services?
- Share Equipment?
- Share Employees?

How Do You Want To Do It?

- Loan employees and equipment?
- Share common employees and equipment?
- Create new entities?

Are You Covered?

- Do you have an agreement relating to the shared service, employee, or equipment?
- Is there a statute that governs?
- How is the risk allocated?

More Intermunicipal Agreements

§ 45-5-20.1. Power of city and town councils and regional school districts to jointly establish an insurance corporation, to obtain insurance, and to enter into a cooperative risk management program

Insurance and Risk Sharing

Cities and town councils, school committees, water and fire districts may, through passage of a resolution, establish agreements between two (2) or more cities, town councils, school committees, and water and fire districts for obtaining or effecting insurance by self insurance, for obtaining or effecting insurance from any insurer authorized to transact insurance in the state, or for obtaining and effecting insurance secured in accordance with any other method provided by law, or by combination and of the provisions of this section for obtaining and effecting insurance.

Insurance and Risk Sharing

Agreements made pursuant to this section may provide for pooling of self insurance reserves, risks, claims and losses, and of administrative expenses associated with the same, among local government units.

Are You *REALLY* Covered?

- Does the other entity have insurance?
- Is it sufficient?
- Is there an “other insurance” clause?
- Are there restrictions on assuming liability by contract?

Simple Issues

❖ Sharing Equipment

- Agree that the party using the equipment will be responsible for damage to the equipment itself
- Agree that the party using the equipment will be responsible for damage caused by the use of the equipment (both property and liability)
- Agree that if the operator comes with the equipment, he or she is “owned” by the entity using the equipment

Simple Issues (but getting harder!)

❖ Sharing Employees

- Determine who “owns” the employee for workers’ compensation purposes (remembering that a “loaned” employee is still within the course and scope of the loaning entity’s employment)
- Determine who “owns” the employee for liability purposes
- If possible, have an indemnification provision in your agreement

More Complex Issues

❖ Sharing Services

- How are they shared?
- Who gets priority if there is an overlapping need?
- How are disputes resolved?
- Who directs the services?

Jurisdictional Authority of Police Officers in Rhode Island

RIGL 45-42-2 Nonemergency police power. – (a) Notwithstanding any law to the contrary, and consistent with the provisions of chapter 40.1 of this title entitled "Interlocal Contracting and Joint Enterprises", where the territories of one city or town lies adjacent to another city or town, the chiefs of police of the adjacent city or town may enter into an agreement, which is subject to approval by each city or town council by adoption of a resolution in support of it, by which the chief may request that the other city or town police force provide assistance in a nonemergency situation for all those police services prescribed by law within any portion of the jurisdiction of the city or town of the chief granting the authority. (emphasis added) ...

Jurisdictional Authority of Police Officers in Rhode Island

- Legal authority of joint police operations:
 - RIGL 45-42-2 – Non-Emergencies
 - Request must be made by Chief or designee
 - Statute is silent as to who's authority officer come under
 - Statute specific that each agency is responsible to the negligence of its own employees

Jurisdictional Authority of Police Officers in Rhode Island

- Legal authority of joint police operations:
 - Considerations:
 - Is new or extended legal authority needed for the type of joint operation your communities are considering?
 - Are the policies in place directing police officer when operating under proposed joint operations agreements.
 - Training officers on said policies
 - Agreements specifically detailing the how liability will be apportioned between the involved communities.