

**AB 2156 (Achadjian) – CALAFCO
Letter of Support, Assembly Local
Government Committee Analysis,
Assembly Bill**

Attachment 5

25 March 2014

**2013-2014
Board of Directors**

Chair

MARY JANE GRIEGO
Yuba LAFCo

Vice Chair

JOHN LEOPOLD
Santa Cruz LAFCo

Secretary

STEPHEN TOMANELLI
Riverside LAFCo

Treasurer

GAY JONES
Sacramento LAFCo

JULIE ALLEN
Tulare LAFCo

ROBERT BERGMAN
Nevada LAFCo

JAMES CURATALO
San Bernardino LAFCo

LARRY R. DUNCAN
Butte LAFCo

JULIANA INMAN
Napa LAFCo

MICHAEL KELLEY
Imperial LAFCo

DR. WILLIAM KIRBY
Placer LAFCo

MICHAEL R. MCGILL
Contra Costa LAFCo

EUGENE MONTANEZ
Riverside LAFCo

THEODORE NOVELLI
Amador LAFCo

JOSH SUSMAN
Nevada LAFCo

ROGER WELT
Santa Barbara LAFCo

Staff

PAMELA MILLER
Executive Director

MARJORIE BLOM
Executive Officer

CLARK ALSOP
Legal Counsel

STEPHEN LUCAS
Deputy Executive Officer

SAMUEL MARTINEZ
Deputy Executive Officer

DAVID CHURCH
Deputy Executive Officer

JENI TICKLER
Executive Assistant

Honorable Katcho Achadjian, Chair
Assembly Local Government Committee
California State Assembly
State Capitol, Room 4098
Sacramento, CA 95814

RE: SUPPORT of AB 2156: Local Agency Formation Commissions: Studies

Dear Assembly Member Achadjian:

On behalf of the California Association of Local Agency Formation Commissions (CALAFCO), I write to express our support for AB 2156, as amended, authored by you. This bill would specifically define "joint powers agency" and "joint powers authority" for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (C-K-H), and include joint powers agencies and joint powers authorities (JPAs) among the entities from which a local agency formation commission (LAFCo) is authorized to request information in order to conduct studies considered relevant by each commission.

Pursuant to C-K-H, LAFCos are charged with evaluating the provision of municipal services and to conduct studies of existing governmental agencies including their service area and service capacities. As many local agencies across the state are providing municipal services through JPAs, having access to the information that outlines service areas and specific services being delivered by these entities is critical to conducting comprehensive studies that support LAFCos core missions of encouraging the efficient delivery of local services and evaluating local agency boundaries.

The bill is substantively informed by, and consistent with, the earlier work of CalForward (2011) and the Legislative Analyst Office Report of October 21, 2011, the latter of which specifically addressed the relationship between LAFCo and joint powers authorities and joint powers agencies.

CALAFCO would appreciate the opportunity to work on legislation that creates an even stronger association between these entities. Many LAFCos are seeing JPAs being formed as a way to extend services without oversight thus circumventing the LAFCo review and approval process. Such actions inhibit the ability of LAFCo to fulfill the part of their mission that relates to assuring efficient and accountable government services.

AB 2156 is consistent with the CALAFCO legislative policy of assuring LAFCo's ability to review and act to determine the efficient and sustainable delivery of local services to meet current and future needs, and is an important first step in the development of the relationship between LAFCos and JPAs. For these reasons, CALAFCO supports AB 2156 as amended and we thank you for authoring this important piece of legislation.

Yours sincerely,



Pamela Miller
Executive Director

1215 K Street, Suite 1650
Sacramento, CA 95814

Voice 916-442-6536
Fax 916-442-6535

www.calafco.org

cc: Members, Assembly Local Government Committee
Misa Yokoi-Shelton, Associate Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus

Date of Hearing: April 2, 2014

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
K.H. "Katcho" Achadjian, Chair
AB 2156 (Achadjian) – As Amended: March 24, 2014

SUBJECT: Local agency formation commissions: studies.

SUMMARY: Adds joint powers agencies and joint powers authorities to the existing list of governmental agencies a local agency formation commission may request information from in order to conduct its studies. Specifically, this bill:

- 1) Adds joint powers agencies and joint powers authorities (JPAs) to the list of existing governmental agencies a local agency formation commission (LAFCO) may request information from in order to conduct its studies.
- 2) Adds joint powers agreements to the existing list of information, studies, and plans a LAFCO may request in order to conduct its studies.
- 3) Adds JPAs to the list of existing governmental agencies required to comply with information requests from LAFCOs.
- 4) Defines a "joint powers agency or a joint powers authority" to mean an agency or entity formed pursuant to the Joint Exercise of Powers Act that is formed for the local performance of governmental functions that includes the provision of municipal services.

EXISTING LAW:

- 1) Establishes the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
- 2) Requires LAFCOs to initiate and make studies of existing governmental agencies. Requires the studies to include, but not be limited to, inventorying agencies and determining their maximum service area and service capacities.
- 3) Allows LAFCOs, in conducting the studies, to ask for land use information, studies, and plans of cities, counties, districts, including school districts, community college districts, regional agencies and state agencies and departments.
- 4) Requires cities, counties, districts including school districts, community college districts, regional agencies, and state agencies and departments to comply with a LAFCO's request for information.
- 5) Requires LAFCOs to make the studies available to public agencies and any interested person. Allows LAFCOs, in making these studies, to cooperate with the county planning commissions.
- 6) Establishes the Joint Exercise of Powers Act.

FISCAL EFFECT: None

COMMENTS:

- 1) Purpose of this bill. Current law authorizes LAFCOs, in conducting studies, to request specified information from cities, counties, districts, regional agencies, and state agencies and departments in order to inventory agencies and examine issues like their maximum service area and service capacities. This bill adds JPA's that provide municipal services to the list of existing governmental agencies that must comply with requests from LAFCOs for information. This bill is author-sponsored.
- 2) Author's statement. According to the author, "With a LAFCO in each of California's 58 counties, every commission is responsible for coordinating changes in governmental boundaries, conducting studies that review ways to reorganize, simplify, and streamline governmental structures and ensure that services are provided efficiently and economically. As part of their oversight, LAFCOs are authorized to request information and governmental agencies under their review are required to comply with the commission's request.

"While LAFCO efforts are directed toward ensuring that services are provided efficiently and economically, JPAs do not explicitly fall under LAFCO review. LAFCOs don't have statutory authority to review agreements of JPAs, even when JPAs are providing direct services. In addition to the lack of oversight at the local level there is no single state agency tasked with the oversight of JPAs.

"This bill takes the first step in implementing a recommendation from the Legislative Analyst's Office (LAO) to include JPAs among the entities under the purview of LAFCOs. Doing so would ensure greater transparency of JPAs that provide services and give additional tools to LAFCOs to complete their statutory mission on efficient provision of government services."

- 3) Joint Exercise of Powers Act. The Joint Exercise of Powers Act provides the statutory authority for public entities to create and use a joint powers agreement, which is a legal framework for state and local governments to exercise common powers and even create new public entities. They are an attractive tool for local governments because they facilitate more efficient service provision through collaboration, and because they permit local entities to issue bonds without voter ratification.

On March 21, 2012, the Committee held an informational hearing on the state of oversight of JPAs. The hearing found that data collection on JPAs appears to be incomplete and under-resourced, filing compliance is less than ideal, and oversight remains somewhat fragmentary. The uses of JPAs fall into five groups: general public services, financial services, insurance pooling and purchasing discounts, planning services, and regulatory enforcement. This bill only pertains to those JPAs formed for the local performance of governmental functions that includes the provision of municipal services.

- 4) Legislative Analyst's Office recommendation. In a January 2012 letter to Assembly Member Dickinson, the LAO recommended that the Legislature consider expanding JPA oversight authority to LAFCOs.

"We would also suggest the Legislature consider expanding LAFCO authority to oversee JPAs. As we describe, LAFCOs have no statutory authority to oversee the JPAs that districts

or general-purpose governments enter into. This includes JPAs that are providing services, such as wastewater treatment or water supply. Consequently, LAFCOs have no statutory authority to review the financial and service data of these JPA's boundaries or services in the same way that it can do for individual special districts and other local government agencies. We do not think this expanded authority should be undertaken with the intent of discouraging the use of JPAs because those agreements are one strategy that special districts use to achieve higher efficiencies. However, we think that it is important that the entities created under JPAs be subject to some level of oversight akin to the districts and general-purpose governments that utilize them."

5) Arguments in support. According to the California Association of Local Agency Formation Commissions, "LAFCOs are charged with evaluating the provision of municipal services and to conduct studies of existing governmental agencies including their service area and service capacities. As many local agencies across the state are providing municipal services through JPAs, having access to the information that outlines service areas and specific services being delivered by these entities is critical to conducting comprehensive studies that support LAFCOs core mission of encouraging the efficient delivery of local services and evaluating local agency boundaries."

6) Arguments in opposition. None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Local Agency Formation Commissions
Stanislaus Local Agency Formation Commission

Opposition

None on file

Analysis Prepared by: Misa Yokoi-Shelton / L. GOV. / (916) 319-3958

AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2156

Introduced by Assembly Member Achadjian

February 20, 2014

An act to amend Section 56378 of, and to add Section 56047.7 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2156, as amended, Achadjian. Local agency formation commissions: studies.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, sets forth the powers and duties of a local agency formation commission, including, among others, the requirement to conduct studies of existing governmental agencies that include, but are not limited to, inventorying those agencies and determining their maximum service area and service capacities. The commission is authorized to request land use information, studies, and plans of cities, counties, districts, including school districts, community college districts, and regional agencies and state agencies and departments, in connection with conducting the required studies, and the governmental agencies are required to comply with the commission's request.

This bill would include joint powers agencies and joint powers authorities among the entities from which the commission is authorized to request land use information, studies, and plans, for purposes of conducting the studies described above, *and also would include joint powers agreements in the list of items the commission may request in conducting those studies*. The bill would specifically define "joint powers agency" and "joint powers authority" for purposes of the

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56047.7 is added to the Government
2 Code, to read:

3 56047.7. "Joint powers agency" or "joint powers authority"
4 means an agency or entity formed pursuant to the Joint Exercise
5 of Powers Act (Article 1 (commencing with Section 6500) of
6 Chapter 5 of Division 7 of Title 1) that is formed for the local
7 performance of governmental functions that includes the provision
8 of municipal services.

9 SEC. 2. Section 56378 of the Government Code is amended
10 to read:

11 56378. (a) In addition to its other powers, the commission
12 shall initiate and make studies of existing governmental agencies.
13 Those studies shall include, but shall not be limited to, inventorying
14 those agencies and determining their maximum service area and
15 service capacities. In conducting those studies, the commission
16 may request land use information, studies, *joint powers agreements*,
17 and plans of cities, counties, districts, including school districts,
18 community college districts, joint powers agencies and joint powers
19 authorities, regional agencies and state agencies and departments.
20 Cities, counties, districts, including school districts, community
21 college districts, joint powers agencies and joint powers authorities,
22 regional agencies, and state agencies and departments, shall comply
23 with the request of the commission for that information and the
24 commission shall make its studies available to public agencies and
25 any interested person. In making these studies, the commission
26 may cooperate with the county planning commissions.

27 (b) The commission, or the board of supervisors on behalf of
28 the commission, may apply for or accept, or both, any financial
29 assistance and grants-in-aid from public or private agencies or
30 from the state or federal government or from a local government.

O