

**Senate Bill 1266 (McGuire) – Joint Exercise
of Powers Act: agreements: filings and
Senate Committee on Governance and
Finance Analysis Dated April 6, 2016**

Attachment 3

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1266

Introduced by Senator McGuire

February 18, 2016

An act to amend Section 6503.6 of, and to add Section 6503.8 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, as amended, McGuire. Joint Exercise of Powers Act: agreements: filings.

The Joint Exercise of Powers Act generally authorizes 2 or more public agencies, by agreement, to jointly exercise any common power, which is generally termed a joint powers agreement. When a joint powers agreement provides for the creation of an agency or entity, separate from the parties to the agreement and responsible for its administration, existing law requires that agency or entity to cause a notice of the agreement or amendment to be prepared and filed, as specified, with the Secretary of State. Existing law requires an agency or entity that files a notice of agreement or amendment with the Secretary of State to also file a copy of the original joint powers agreement, and any amendments to the agreement, with the Controller.

This bill would require an agency or entity required to file documents with the Controller, as described above, that meets the definition of a joint powers authority or joint powers agency, as specified, that was formed for the purpose of providing municipal services, and that includes a local agency member, as specified, to also file a copy of the agreement or amendment to the agreement with the local agency formation commission in each county within which all or any part of a

local agency member's territory is located within ~~90~~ 30 days after the effective date of the agreement or amendment to the agreement. The bill would also require an agency or entity that meets the definition of a joint powers authority or joint powers agency, as specified, that was formed for the purpose of providing municipal services prior to the effective date of this act, and that includes a local agency member, as specified, to file a copy of the agreement and any amendments to the agreement with the local agency formation commission in each county within which all or any part of a local agency member's territory is located no later than July 1, 2017. *This bill would prohibit an agency or entity administering an agreement or amendment that has failed to make the required filings within the specified timeframes from issuing bonds or incurring any indebtedness until those filings have been made.*

By requiring specified joint powers agencies to file certain documents with a local agency formation commission, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 6503.6 of the Government Code is
2 amended to read:
3 6503.6. (a) When an agency or entity files a notice of
4 agreement or amendment to the agreement with the office of the
5 Secretary of State pursuant to Section 6503.5, the agency or entity
6 shall file a copy of the full text of the original joint powers
7 agreement, and any amendment to the agreement, with the
8 Controller. An agency or entity that meets the definition of a joint
9 powers authority or joint powers agency under Section 56047.7
10 that was formed for the purpose of providing municipal services
11 and that includes a local agency member that is a city, district, or
12 county shall, within ~~90~~ 30 days after the effective date of the

1 agreement or amendment to the agreement, file a copy of the
2 agreement or amendment to the agreement with the local agency
3 formation commission in each county within which all or any part
4 of a local agency member's territory is located.

5 *(b) Notwithstanding any other provision of this chapter, any*
6 *agency or entity administering a joint powers agreement or*
7 *amendment to such an agreement, which agreement or amendment*
8 *becomes effective on or after the effective date of this section,*
9 *which fails to file the notice with a local agency formation*
10 *commission required by this section within 30 days after the*
11 *effective date of the agreement or amendment shall not thereafter,*
12 *and until those filings are completed, issue any bonds or incur*
13 *indebtedness of any kind.*

14 SEC. 2. Section 6503.8 is added to the Government Code, to
15 read:

16 6503.8. *(a) No later than July 1, 2017, an agency or entity*
17 *that meets the definition of a joint powers authority or joint powers*
18 *agency under Section 56047.7 that was formed for the purpose of*
19 *providing municipal services prior to the effective date of this*
20 *section, and that includes a local agency member that is a city,*
21 *district, or county, shall cause a copy of the agreement and any*
22 *amendments to the agreement to be filed with the local agency*
23 *formation commission in each county within which all or any part*
24 *of a local agency member's territory is located.*

25 *(b) Notwithstanding any other provision of this chapter, any*
26 *agency or entity administering a joint powers agreement or*
27 *amendment to such an agreement, which fails to file the notice*
28 *with a local agency formation commission required by this section*
29 *on or before July 1, 2017, shall not thereafter, and until those*
30 *filings are completed, issue any bonds or incur indebtedness of*
31 *any kind.*

32 SEC. 3. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

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SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Robert M. Hertzberg, Chair

2015 - 2016 Regular

Bill No:	SB 1266	Hearing Date:	4/6/16
Author:	McGuire	Tax Levy:	No
Version:	3/28/16 Amended	Fiscal:	Yes
Consultant:	Weinberger		

JOINT EXERCISE OF POWERS ACT: AGREEMENTS: FILINGS

Requires joint powers agencies and joint powers authorities that provide municipal services to file copies of specified documents with local agency formation commissions.

Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 sets forth the powers and duties of local agency formation commissions (LAFCOs). Located in every county, LAFCOs are responsible for coordinating changes in governmental boundaries and conducting studies that review ways to reorganize, simplify, and streamline governmental structures to ensure that services are provided efficiently and economically. A LAFCO must make its studies available to public agencies and any interested person.

The Joint Exercise of Powers Act allows two or more public agencies to use their powers in common if they sign a joint powers agreement. Sometimes an agreement creates a new, separate government called a joint powers agency or joint powers authority (JPA). State law requires a JPA to file a notice of its joint powers agreement, or any amendment to the agreement, with the Secretary of State's Office within 30 days after the agreement or amendment takes effect. State law requires that whenever a JPA is required to submit a notice of a joint powers agreement or amendment to the Secretary of State's Office, the JPA must also file a copy of the full text of the original joint powers agreement, and any amendments to the agreement, with the State Controller.

State law requires LAFCOs to conduct studies of existing governmental agencies, including studies to inventory those agencies and determine their maximum service area and service capacities. To support those studies government agencies must comply with a LAFCO's request for information. The Legislature recently included JPAs that provide municipal services in the list of agencies from which a LAFCO can request information and added joint powers agreements to the list of documents that a LAFCO may request (AB 2156, Achadjian, 2014). Despite this new statutory authority, some LAFCO officials still find it difficult to obtain sufficient information about the activities of JPAs that provide municipal services. In some cases, they are not even aware of the existence of these JPAs and have no knowledge of amendments that are made to existing agreements. Despite the fact that JPAs are submitting information to the State Controller, LAFCOs can't request this information if they don't know when new JPAs are formed or when existing agreements are amended. LAFCO officials want the Legislature to require JPAs to provide LAFCOs with information that is similar to what JPAs already must submit to the State Controller under current law.

Proposed Law

Senate Bill 1266 requires that whenever current law requires a JPA to file a copy of the full text of its joint powers agreement, and any amendments to the agreement, with the State Controller, it must also file those same documents with a LAFCO, if the JPA:

- Meets a specified statutory definition of a JPA formed for the purposes of providing municipal services, and
- Includes a local agency member that is a city, county, or district.

Within 90 days after the agreement or amendment takes effect, any JPA that meets these conditions must file a copy of the agreement or amendment with the LAFCO in each county within which all or any part of a local agency member's territory is located.

SB 1266 also applies retroactively to qualifying JPAs that were formed before January 1, 2017. Specifically, the bill requires that a JPA must, by July 1, 2017, file a copy of its agreement or amendment with the LAFCO in each county within which all or any part of a local agency member's territory is located, if the JPA:

- Was formed for the purposes of providing municipal services before January 1, 2017,
- Meets a specified statutory definition of a JPA formed for the purposes of providing municipal services,
- Includes a local agency member that is a city, county, or district.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. Many existing JPAs provide municipal services to communities throughout California. However, LAFCO officials frequently possess no information about the existence and activities of some JPAs that provide municipal services. This lack of information about municipal service-providing JPAs makes it difficult for LAFCOs to fulfill their statutory responsibility to plan and oversee the responsive, efficient and effective delivery local government services. A 2011 report produced by the Legislative Analyst's Office noted that LAFCOs lack the legal authority to ensure that JPAs are providing services and using public funds efficiently and in a manner consistent with current law. The LAO suggested that JPAs should be subject to a higher level of LAFCO oversight and identified "provid[ing] LAFCOs with copies of all JPA agreements, including amendments" as a policy option. SB 1266 does not grant LAFCOs any authority over JPAs' formation, boundaries, organization, or services, fully preserving the flexibility and autonomy that JPAs enjoy under current law. The bill helps LAFCOs provide better oversight of municipal service delivery by providing them with crucial information about JPAs that provide those services.

2. Truth or consequences. SB 1266 requires JPAs to submit documents that will help LAFCO officials learn more about JPAs' true role in providing municipal services to communities throughout California. The bill does not, however, impose any consequences on JPAs that fail to provide LAFCOs with the required information. Existing law prohibits any JPA that fails to provide notice to the Secretary of State's office within the required time period from issuing bond or other indebtedness until the required notice is filed with the Secretary of State. To encourage compliance with SB 1266's provisions, the Committee may wish to consider

amending the bill to impose the same consequences on JPAs that fail to provide required information to LAFCOs that current law imposes on JPAs that fail to provide notice to the Secretary of State.

3. Timing. SB 1266 requires a JPA to submit specified information to a LAFCO within 90 days of the effective date of a joint powers agreement or amendment. However, state law already requires a JPA to submit the same information to the State Controller's Office within 30 days of the effective date of a joint powers agreement or amendment. It's unclear what purpose is served by having a longer filing period for submitting information to LAFCOs. To avoid confusion and conform SB 1266's provisions to deadlines in existing state law, the Committee may wish to consider amending SB 1266 to require that JPAs must submit information to LAFCOs within 30 days of the effective date of a joint powers agreement or amendment.

4. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because SB 1266 imposes new filing duties on joint powers agency officials, Legislative Counsel says that it imposes a new state mandate. SB 1266 requires the state to reimburse local agencies if the Commission on State Mandates determines that the bill imposes a reimbursable mandate.

Support and Opposition (3/31/16)

Support: California Association of Local Agency Formation Commissions; Alameda County LAFCO; California Association of Joint Powers Authorities; Contra Costa County LAFCO; Imperial County LAFCO; Marin County LAFCO; San Mateo County LAFCO; Yolo County LAFCO.

Opposition: Unknown.

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