

Date of Hearing: June 15, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

SB 1266 (McGuire) – As Amended April 12, 2016

**SENATE VOTE:** 36-0

**SUBJECT:** Joint Exercise of Powers Act: agreements: filings

**SUMMARY:** Requires joint powers authorities (JPA) or joint powers agencies that provide municipal services to file joint powers agreements and amendments with local agency formation commissions. Specifically, **this bill:**

- 1) Requires a JPA to file with a local agency formation commission (LAFCO) the full text of the joint powers agreement, and any amendments to the agreement, in the same manner as filed with the State Controller under existing law, if the JPA:
  - a) Meets the definition of a JPA provided in existing law which defines a JPA formed for the local performance of governmental functions that includes the provision of municipal services; and,
  - b) Includes a local agency member that is a city, county, or district.
- 2) Requires the filing to be with the LAFCO in each county within which all or any part of a local agency's member's territory is located.
- 3) Requires a JPA formed prior to January 1, 2017, and that meets the criteria in 1) above, to file a copy of the agreement and any amendments to the agreement with the LAFCO in each county which all or any part of a local agency's territory is located no later than July 1, 2017.
- 4) Prohibits any agency or entity administering a joint powers agreement or amendment to an agreement which fails to file the notice with a LAFCO, from issuing any bonds or incurring indebtedness of any kind until filings are completed.
- 5) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made, pursuant to current law governing state mandated local costs.

**EXISTING LAW:**

- 1) Establishes the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act).
- 2) Requires LAFCOs to initiate and make studies of existing governmental agencies, which include, but not be limited to, inventorying agencies and determining their maximum service area and service capacities.
- 3) Authorizes LAFCOs, in conducting the studies, to request for land use information, studies, and plans of cities, counties, districts, including school districts, community college districts, regional agencies, JPAs, and state agencies and departments.

- 4) Requires cities, counties, districts, including school districts, community college districts, regional agencies, JPAs, and state agencies and departments to comply with a LAFCO's request for information.
- 5) Defines, in the Act, 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.
- 6) Establishes the Joint Exercise of Powers Act.
- 7) Requires a JPA, when a joint powers agreement provides for the creation of an agency or entity that is separate from the parties to the agreement, to prepare and file notice of the agreement or amendment within 30 days after the effective date with the office of the Secretary of State and with the State Controller.
- 8) Requires the notice to contain a) the name of each public agency party to the agreement; b) the effective date of the agreement; c) a statement of the purpose of the agreement or the power to be exercised; and d) a description of the amendment, if any.
- 9) Prohibits a JPA that failed to file notice, pursuant to 7), above, from issuing any bonds or incurring indebtedness until such filings are completed.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:**

- 1) **Bill Summary.** This bill requires JPAs that are formed for the purposes of providing municipal services, which include a local agency member that is a city, district, or county, to file a copy of the full text of the joint powers agreement and any amendments to the agreement with LAFCOs. JPAs that fit the specified criteria, but were formed prior to January 1, 2017, would be required to file the agreement and amendments with LAFCO, no later than July 1, 2017. Similar to the prohibition established in existing law for failing to file with the Controller's office, JPAs would be prohibited from issuing bonds or incurring indebtedness until filings are completed with LAFCO.
- 2) **Author's Statement.** According to the author, "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 [LAO] 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 "providing 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."

- 3) **Background.** 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.

Current law authorizes LAFCOs, in conducting studies, to request specified information from local and state agencies in order to inventory agencies and examine issues like their maximum service area and service capacities. AB 2156 (Achadjian), Chapter 21, Statutes of 2014, added JPAs that provide municipal services to the list of existing governmental agencies that must comply with requests from LAFCOs for information. AB 2156 sought to address some of the issues identified by the LAO in 2012.

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 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."

- 4) **JPAs.** 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.

- 5) **Arguments in Support.** The California Association of Local Agency Formation Commissions argues "Under existing law, there is no means for LAFCOs to be informed of the existence and activities of local municipal service providing JPAs, which creates an increasing challenge for LAFCOs in meeting their standing directive to plan and oversee the responsive, efficient and effective delivery local government services. This is especially true given the expanding role of JPAs in delivering municipal services. This bill closes that gap."
- 6) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Association of Local Agency Formation Commissions [SPONSOR]  
Local Agency Formation Commissions of Alameda, Contra Costa, Imperial, Marin, Merced,  
Napa, Riverside, San Diego. San Luis Obispo, San Mateo, and Yolo

**Opposition**

None on file

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