

Date of Hearing: May 1, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 3198 (Garcia) – As Amended April 16, 2024

SUBJECT: Joint powers agreements: retail electric services.

SUMMARY: Authorizes public agencies within the Coachella Valley Service area to enter into a joint powers agreement (JPA) to provide retail electric service, as specified. Specifically, **this bill:**

- 1) Defines “Coachella Valley Service Area” to mean the territory within the Imperial Irrigation District’s (IID’s) sphere of influence (SPOI) within the County of Riverside as determined by the Local Agency Formation Commission (LAFCO) of the County of Riverside as set forth in Resolution No. 2020-10-3 adopted on April 23, 2020 and the land within the exterior boundaries of the Torres Martinez Reservation.
- 2) Specifies that a public agency with the authority to provide retail electric services may enter into a JPA with one or more public agencies with jurisdiction within the Coachella Valley Service Area to jointly exercise the authority to provide retail electric services notwithstanding an inability of a party to the JPA to exercise that power independently.
- 3) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique circumstances facing electrical service in the Coachella Valley Service Area.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Bill Summary and Author’s Statement.** This bill authorizes public agencies within the Coachella Valley Service area to enter into a JPA to provide retail electric service, as specified. This bill defines the “Coachella Valley Service Area” to mean the territory within IID’s SOI within the County of Riverside as determined by the LAFCO of the County of Riverside as set forth in Resolution No. 2020-10-3 adopted on April 23, 2020 and the land within the exterior boundaries of the Torres Martinez Reservation. This bill is sponsored by the author.

According to the author, “AB 3198 (Garcia) would remove legal barriers in current statutes to authorize the County of Riverside, IID, CVWD, and local cities to become members of a future JPA.

“IID’s 100 year agreement to provide power in the Coachella Valley is coming to an end in 2033. Should Coachella Valley stakeholders support the formation of a JPA to help address issues related to electric power service in the eastern Coachella Valley, the County of Riverside and CVWD would be excluded from participating due to legal barriers in current state law.”

“The language of this bill was vetted and voted in favor of by local stakeholders at the Coachella Valley Energy Commission. The Coachella Valley Energy Commission is made up of representatives from the Imperial Irrigation District, Tribal Nations, City of La Quinta, City of Coachella, City of Indio, the County of Imperial, the County of Riverside, and the Coachella Valley Water District.”

- 2) **Joint Powers Agencies.** JPA Law allows two or more public agencies to use their powers in common if they sign an agreement. Sometimes an agreement creates a new, separate public entity called a joint powers agency or joint powers authority. Entities that can exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized tribal governments, and even other joint powers authorities.
- 3) **Local Government Boundaries.** The Legislature has the authority to create, dissolve, or otherwise modify the boundaries and services of local governments. Beginning in 1963, the Legislature delegated the ongoing responsibility to control the boundaries of cities, county service areas, and most special districts to LAFCOs in each county. The responsibilities and authority of LAFCOs have been modified in subsequent legislation, including a major revision of the LAFCO statutes in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 [AB 2838 (Hertzberg), Chapter 761, Statutes of 2000]. The courts often refer to LAFCOs as the Legislature’s watchdog over boundary changes.

Local governments can only exercise their powers and provide services where LAFCO allows them to. LAFCOs’ boundary decisions must be consistent with SOIs that LAFCOs adopt to show the future boundaries and service areas of the cities and special districts. Before LAFCOs can adopt their SOIs, they must prepare Municipal Service Reviews (MSRs) which analyze population growth, public facilities, and service demands. LAFCOs may also conduct special studies of local governments.

- 4) **Imperial Irrigation District.** Established by a vote of the people in 1911, IID is one of the nation’s largest irrigation districts. IID entered the electric power business in 1936 in conjunction with the construction of the All-American Canal. IID anticipated that hydroelectric power generated from five falling water drops on the All-American Canal would enable them to set power rates considerably lower than the competition at that time. However, in negotiating repayment contracts with the United States, it was necessary that both the water and power rights of IID and the Coachella Valley Water District (CVWD) be determined.

According to the terms of a 1934 agreement between IID and CVWD, IID was given first rights to water delivered through the All-American Canal and a 99-year lease on any power rights Coachella had on the canal. As rental for power rights, IID agreed to pay CVWD a percentage of the net proceeds from its power system and Coachella in turn authorized IID to provide power service to the Coachella Valley. Currently, IID’s district boundaries encompass all of Imperial County. IID also provides electrical service to parts of San Diego County, as well as the cities of Indio, Indian Wells, Coachella, Rancho Mirage, Palm Desert, and La Quinta in the Coachella Valley, and other areas located in Riverside County.

- 5) **IID Board Representation.** IID’s Board of Directors is comprised of five officials who are elected by registered voters from geographic divisions within the district’s jurisdiction boundary, which is limited to Imperial County. Since the IID’s jurisdictional boundary does

not extend into Riverside County, Riverside County registered voters are ineligible to serve on IID's Board of Directors, nor are they eligible to vote in IID elections. Prior legislation has been introduced to provide Riverside County residents with representation on the IID board.

Most recently, AB 854 (Mayes) from 2019 would have increased the IID Board membership from five to 11 board members and required the six additional Board members to be eligible voters and residents of Riverside County. AB 854 died in the Assembly Appropriations Committee. Additionally, in September 2021, Assembly Bill 1021 (Mayes) was introduced and ultimately vetoed. AB 1021 would have required the LAFCOs in Imperial and Riverside Counties to conduct a study of governance options for the IID electrical service area. However, because state funding was included as part of the 2021 Budget Act, the study referenced in AB 1021 was allowed to proceed.

The Governor's stated in a veto message for AB 1021 that, "This bill would require the Imperial and Riverside County local agency formation commissions to conduct and publish a study by no later than July 1, 2022 of options for providing electrical service to the Imperial Irrigation District's electrical service area and alternative governance structures that would extend voting rights to voters who reside within the electrical service area to provide for proportional representation on the governing board.

"The 2021 Budget Act included \$500,000 from the General Fund to finance such a study. Imperial Irrigation District's electric service in the Coachella Valley is part of a 99-year lease that will reach its full term in 2033. It is valuable to invest the proper resources, time, and stakeholder engagement into studying the complex impacts of the Imperial Irrigation District's impending electrical service agreement expiration. This study should include any options to ensure that the local communities currently served may continue to receive energy service, as well as opportunities to give energy customers a voice.

"For these reasons, I am concerned with the short timeline set forth in the bill to complete the study. However, I do expect that the study funded in this year's Budget Act will be completed in a timely manner to inform continued discussions."

- 6) **Recent LAFCO Study.** The Imperial and Riverside LAFCOs published a study on November 30, 2023, titled *Alternative Governance and Electrical Services Study – Imperial Irrigation District*. The scope of the study was to evaluate potential alternative electrical service governance structures for stakeholders' consideration, specifically concerning IID's extended electrical service territory in the Coachella Valley. According to the study, "IID currently serves approximately 159,000 residential, commercial, and industrial customers. Of this, about 61,900 customers, or 39 percent, reside within IID's current jurisdictional boundary. The remaining customers, approximately 97,100 customers, or 61 percent, reside in the Coachella Valley, outside of IID's legal jurisdictional boundary and their political divisions for IID Board of Director elections. Population projections prepared by IID and the Southern California Association of Governments (SCAG) indicate that growth in the Coachella Valley service territory is expected to outpace population growth in Imperial County."

The study noted a number of different governance options including:

- a) Maintaining the status quo.
- b) Annex the Coachella Valley electrical service territory into IID.
- c) Create a new sub-board of directors to provide oversight on all electrical service provisions related to Coachella Valley.
- d) Establish a Joint Powers Authority with IID.
- e) Sale or disposition of assets to an investor-owned utility.
- f) Form a new publicly owned utility.
- g) Form a vertically integrated publicly owned utility.
- h) Create a community choice aggregation.

This bill would allow for certain public agencies to enter into a JPA. The study noted that the establishment of a joint powers authority, “Offers the greatest amount of flexibility and provides membership the option of either pursuing specific roles and responsibilities, or creating a fully integrated entity (generation, transmission, and distribution) that would be responsible for all electrical service provisions.”

- 7) **Previous Legislation.** AB 1021 (Mayes) of 2021 would have required the LAFCOs in Imperial and Riverside Counties to conduct a study of governance options for the IID electrical service area. AB 1021 was vetoed by the Governor.

AB 2629 (Mayes) of 2020 would have required the State Energy Resources Conservation and Development Commission to study options to extend representation on the board of directors of IID to residents within the energy service area of IID but outside its jurisdictional boundaries. The report would have been due to the Legislature by June 30, 2022. AB 2629 was never heard in the Assembly.

AB 854 (Mayes) of 2019 would have increased the IID Board membership from five to 11 board members and required the six additional Board members to be eligible voters and residents of Riverside County. AB 854 died in the Assembly Appropriations Committee.

AB 2564 (Garcia) of 2008 would have prohibited IID from discriminating against electrical ratepayers residing outside its boundaries and required an election to determine whether a separate electric utility should be formed. AB 2564 was never heard in the Assembly Local Government Committee.

AB 1456 (Benoit) of 2003 declared the intent of the Legislature to address the use of revenues received by IID from sales of electrical power to customers outside that district and to address governance issues relating to the electric power operations of that district. AB 1456 was never heard in the Assembly.

- 8) **Arguments in Support.** According to IID, “In November 2023, the Imperial County and Riverside County Local Agency Formation Commissions collaborated on a joint study titled ‘Alternative Governance and Electrical Services Study - IID.’ This comprehensive study assessed alternative governance structures for electrical services within IID's extended territory in the Coachella Valley. The study identified the formation of a Joint Powers Authority (JPA) as one of the top two preferred options. However, legal barriers in current state law prevent certain local agencies from participating in such a JPA.

“As a result, the Coachella Valley Energy Commission (CVEC), established in 2021 to address governance and electrical service needs in the region, engaged in productive discussions with Assemblymember Garcia that resulted in the introduction of AB 3198. Over the past two months, discussions have taken place at the local level with impacted stakeholders. The amended version of AB 3198 from April 16, 2024 reflects the consensus language formally approved by CVEC during its last meeting.”

- 9) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Coachella Valley Water District
Imperial Irrigation District

Opposition

None on file

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