



San Diego County
Local Agency Formation Commission
 Regional Service Planning | Subdivision of the State of California

7

AGENDA REPORT
 Consent | Information

June 3, 2019

TO: Commissioners

FROM: Robert Barry, Chief Policy Analyst

SUBJECT: Informational Report on Senate Bill 1266 Implementation | Joint Power Authority Filings with San Diego LAFCO

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive an informational report on joint-power authority filings made with the Commission. The report has been prepared consistent with the current workplan and serves as a formal follow up to new requirements under Senate Bill (SB) 1266 for joint-power authorities (JPAs) providing municipal services to file their agreements with LAFCOs effective January 1, 2017. The report is being provided to the Commission for information only.

BACKGROUND

Senate Bill 1266

SB 1266 (McGuire) was sponsored by CALAFCO and amended State law beginning January 1, 2017 to require all new stand-alone JPAs that provide a municipal service to file their agreements and subsequent amendments with LAFCOs. The legislation also established July 1, 2017 for preexisting JPAs to file agreements and amendments with LAFCOs. The legislation – pertinently – specifies JPAs cannot incur new bonded debt unless they are registered filers with LAFCO. Additional background information on the legislation in terms of scope and intent is provided is attached.

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2018-2019 Workplan

San Diego LAFCO's current workplan was adopted at a noticed hearing held on April 4, 2018 and outlines over two-dozen project goals for the fiscal year 2018-2019. This includes a project to prepare an informational report addressing JPA filings made with the Commission pursuant to SB 1266 with the underlying intent to formally identify those agencies readily in compliance with statute. The report also serves as a reminder to other agencies to file their agreements and amendments with the Commission.

DISCUSSION

This item is for San Diego LAFCO to receive an informational report on JPA filings made with the Commission since the enactment of SB 1266. The report summarizes the JPAs on file and has been prepared as part of the current workplan and consistent with the intent of the underlying legislation to sunlit these agencies' activities and role therein in providing urban-supporting municipal services – including, but not limited to – water, wastewater, and public safety in San Diego County. Additional discussion follows.

Outreach

San Diego LAFCO actively tracked SB 1266 through the legislative process that culminated in the Governor's signature on August 26, 2017. Subsequent outreach followed and headlined by a December 19th memorandum to all local agencies under the Commission's oversight advising them of the new JPA filing requirements. Staff also provided a presentation on the filing requirements to the Special Districts Advisory Committee on February 17, 2017 as well as created a website page dedicated to posting JPA filings.¹

JPAs on File

As of date, San Diego LAFCO has received 23 JPA filings under SB 1266. All of these filings were made in advance of the statutory deadline. The 23 JPAs filed with LAFCO are summarized below, including a brief description of function and members.

- **Automated Regional Justice Information System Authority**
Provides operation, maintenance, enhancement, and implementation of the telecommunication features initiated under the State Office of Criminal Justice.
 - City of Carlsbad, City of Coronado, City of El Cajon, City of Escondido, City of La Mesa, City of National City, City of Poway, City of San Marcos, City of Solana Beach, and County of San Diego
- **California Municipal Finance Authority**
Issues bonds for any activities permitted under the Joint Exercise Powers Act.
 - City of Imperial Beach

¹ <http://www.sdlafco.org/Webpages/JPA.htm>

- **California Statewide Communities Development Authority**
Issues bonds to finance development projects within the territorial limits of members.
 - City of Imperial Beach and Rainbow Municipal Water District (MWD)
- **Chula Vista Bayfront Facilities Financing Authority Agreement**
Issuance of bonds for the purpose of acquisition, construction, or improvement of public facilities or other public capital improvements.
 - City of Chula Vista and San Diego Unified Port District
- **Chula Vista Municipal Financing Authority**
Issuance of bonds for the purpose of acquisition, construction, or improvement of public facilities or other public capital improvements.
 - City of Chula Vista
- **Chula Vista Public Financing Authority Agreement**
Issuance of bonds for the purpose of acquisition, construction, or improvement of public facilities or other public capital improvements.
 - City of Chula Vista
- **Chula Vista-El Dorado-Livermore-Menlo Park Housing Finance Agency**
Financing of home mortgages within member agency territories.
 - City of Chula Vista, County of El Dorado, City of Livermore, and City of Menlo Park
- **Encina Wastewater Authority**
Provides for the collection, transmission, treatment and disposal or reuse of wastewater and wastewater treatment byproducts, and to construct and operate facilities for the collective benefit of the members.
 - City of Vista, City of Encinitas, City of Carlsbad, Buena Sanitation District (SD), Vallecitos Water District (WD), and Leucadia Wastewater District (WWD)
- **Escondido – Chula Vista Housing Finance Agency**
Exercise of common powers to lend and finance long-term, low-interest home mortgages.
 - City of Escondido and City of Chula Vista
- **Fallbrook and Palomar HDs Joint Powers Authority**
Facilitates healthcare services for the Fallbrook community and creates a healthcare network for San Diego’s north county communities.
 - Fallbrook HD and Palomar Health HD
- **Fallbrook Healthcare and North County Fire Protection Districts’ Joint Powers Authority**
Provides programs and activities to enhance and expand availability of health care and emergency health services.
 - Fallbrook Healthcare District (HD) and North County Fire Protection District (FPD)

- **Heartland Fire Rescue Joint Powers Authority**
Provides management, equipment, and operating of fire protection and emergency medical services to members.
 - City of El Cajon, City of La Mesa, and City of Lemon Grove
- **Imperial Beach Public Financing Authority**
Provides financing for public capital improvements.
 - City of Imperial Beach
- **Metro Sewer Public Financing Authority**
Provides financing of public capital improvements for the Metro wastewater system.
 - City of Chula Vista, City of Coronado, City of Del Mar, City of El Cajon, City of Imperial Beach, City of La Mesa, City of National City, City of Poway, Padre Dam MWD, San Diego County SD, Otay WD, and Lemon Grove SD
- **Metro Wastewater Joint Powers Authority**
Provides for the financing of public capital improvements for Metro's wastewater system.
 - City of Chula Vista, City of Coronado, City of Del Mar, City of El Cajon, City of Imperial Beach, City of La Mesa, City of National City, City of Poway, Padre Dam MWD, San Diego County SD, Otay WD, and Lemon Grove SD
- **National City Joint Powers Financing Authority**
Issuance of bonds for the purpose of acquisition, construction, or improvement of public facilities or other public capital improvements.
 - City of National City
- **North City West School Facilities Financing Authority**
Provides holding, receiving, management, and disbursement of funds for the purpose of constructing and equipping public school facilities.
 - City of San Diego, San Dieguito Union High School District, Solana Beach School District, and Del Mar Union School District
- **San Elijo Joint Powers Authority**
Provides financing, operation, maintenance, construction, upgrading, and expansion of a joint sewage treatment system.
 - City of Encinitas and City of Solana Beach
- **South Coast Organization Operating Transit Authority**
Management and operation of transportation services and transit service systems.
 - County of San Diego and City of Chula Vista

- **Southern California Coastal Water Research Project Authority**
Enhance the scientific foundation for management of Southern California’s ocean and associated coastal watershed resources.
 - City of Los Angeles, Orange County, City of San Diego, County Sanitation District No.2 of Los Angeles County, and Los Angeles County District

- **State Water Project Contractors Authority**
Acquisition, construction, operation, and maintenance of the facilities used for the treatment, storage, and provision of water resources.
 - Metropolitan Water District of Southern California

- **Sweetwater Authority**
Provides for the operation, ownership, and maintenance of the Sweetwater water system for purpose of supplying water for domestic, irrigation, sanitation, industrial, fire protection, recreation and other private or public uses.
 - City of National City and South Bay Irrigation District (ID)

ANALYSIS

San Diego LAFCO’s implementation of SB 1266 has resulted in the filing of agreement and/or amendment documents to date for 23 local JPAs. Staff assumes – but without any measured certainty – these filings accurately reflect the volume of JPA’s providing municipal services in San Diego County. The preceding qualification is appropriate given SB 1266 did not establish any new regulatory authority for the Commission over JPAs; instead and purposefully the legislation directs the Commission to serve as a depository for associated filings to further sunlight the scope of municipal-serving local government and incorporate the information into other tasks as appropriate. Presentation of this report summarizes the collection of information to date and – importantly – serves as a reminder to local agencies of their filing requirements and will be supplemented by planned presentations to the Cities and Special Districts Advisory Committees. Additional considerations for future implementation by the Commission may include clarification of the term “municipal services,” to better differentiate JPAs formed to directly provide services versus JPAs formed for financing purposes.

RECOMMENDATION

It is recommended San Diego LAFCO receive the item for information purposes with the invitation to provide related direction to staff on future updates as appropriate.

ALTERNATIVES FOR ACTION

This item is being presented for information only; no action.

PROCEDURES

This item has been placed on the San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

Respectfully,

A handwritten signature in black ink, appearing to read 'R. Barry', with a stylized flourish at the end.

Robert Barry
Chief Policy Analyst

Attachments:

- 1) SB 1266
- 2) SB 1266 Background Information

Senate Bill No. 1266

CHAPTER 173

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

[Approved by Governor August 22, 2016. Filed with
Secretary of State August 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, 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 amendment 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 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.

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

SECTION 1. Section 6503.6 of the Government Code is amended to read:

6503.6. (a) When an agency or entity files a notice of agreement or amendment to the agreement with the office of the Secretary of State pursuant to Section 6503.5, the agency or entity shall file a copy of the full text of the original joint powers agreement, and any amendment to the agreement, with the Controller. An agency or entity that meets the definition of a joint powers authority or joint powers agency under Section 56047.7 that was formed for the purpose of providing municipal services and that includes a local agency member that is a city, district, or county shall, within 30 days after the effective date of the agreement or amendment to the agreement, 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.

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

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

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

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

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

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San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

MEMORANDUM

June 3, 2019

TO: Commissioners
FROM: Robert Barry, Chief Policy Analyst
SUBJECT: Supplement to Agenda Item No. 7 |
Implementation of Senate Bill 1266

This memorandum provides additional background and related context to SB 1266 relative to the San Diego LAFCO’s duties and interests.

Senate Bill 1266 (McGuire) was sponsored by CALAFCO and amended State law beginning January 1, 2017 to require all new stand-alone Joint powers authorities and joint powers agencies (JPAs) that provide a municipal service to file their agreements and subsequent amendments with LAFCOs. The legislation also established a deadline of July 1, 2017 for preexisting JPAs to file agreements and amendments with LAFCOs. The legislation – pertinently – specifies JPAs cannot incur new bonded debt unless they are registered filers with LAFCO. In accordance with SB 1266 local agencies are required to file with LAFCO the full text of JPAs, and any amendments to the agreement, in the same manner as filed with the State Controller under existing law. These documents must be filed with the LAFCO in each county within which all or any part of a focal agency member's territory is located.

LAFCOs are charged with overseeing the efficient provision of government services and “encouraging the orderly formation and development of local agencies based on local conditions and circumstances.” LAFCOs were previously limited in the information they could obtain from JPAs, which often provide vital municipal services relevant to understanding the needs in each county but are not themselves subject to LAFCO authority. Therefore, in 2014, the State Legislature provided LAFCOs the power to request information and joint powers agreements from JPAs that provide municipal services. However, some LAFCOs still found it difficult to obtain information for local JPAs. As a result, the Legislature approved SB 1266 to require JPAs to provide LAFCOs with the same information JPAs provide the State Controller. For LAFCO purposes, SB 1266 applies to JPAs that include a city, county or special district as a member agency, and are or were formed as separate legal entities to provide municipal

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services, in accordance with Government Code §56047. 7.¹ Pursuant to SB 1266, LAFCO only serves as a repository for specific types of JPAs and does not have statutory authority to require cities, counties and districts to file financing mechanism JPAs with LAFCO, nor is LAFCO charged with regulating local agency financing tools.

Specifically, SB 1266:

- (1) Requires a JPA to file with a 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 (original) 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 above notice(s) with a LAFCO, from issuing any bonds or incurring indebtedness of any kind until filings are completed.

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