



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 7a

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer

MEETING DATE: April 4, 2016

SUBJECT: Legislative Report

RECOMMENDATION

Receive the verbal report from staff and discuss taking formal action to provide letters of support for each of the bills described in this report.

BACKGROUND

The California Association of LAFCOs or “CALAFCO” was established in 1971 to assist all 58 commissions in fulfilling their prescribed regulatory and planning duties. This includes serving as an advocacy resource in proposing and/or reviewing new legislation and facilitated through an appointed 16-member Legislative Committee. The Committee reviews, discusses, and offers recommendations to the CALAFCO Board of Directors with regard to new legislation that would have either a direct impact on LAFCO law or laws LAFCO helps to administer. Committee actions are guided by the Board’s adopted policies, which are annually reviewed and amended to reflect current year priorities. The Legislative Committee met on February 26th and March 18th to review and discuss several bills. This report provides discussion of several bills that may be of interest to Napa LAFCO. CALAFCO has taken a support position for all of the following bills and requested support from all LAFCOs.

Juliana Inman, Chair
Councilmember, City of Napa

Greg Pitts, Commissioner
Councilmember, City of St. Helena

Joan Bennett, Alternate Commissioner
Councilmember, City of American Canyon

Diane Dillon, Vice Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Keith Caldwell, Alternate Commissioner
County of Napa Supervisor, 5th District

Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

Senate Bill 1266 (McGuire)

CALAFCO is sponsoring legislation this year to create a direct communication connection with joint powers agreements (JPAs). CALAFCO has been working for several months with stakeholders on this bill, resulting in a scope that has been narrowed considerably from its original format. The current bill will focus only on stand-alone JPAs that were formed to provide municipal services. The intent of SB 1266 is that stand-alone JPAs meeting the definition found in G.C. Section 56047.7 that were formed to provide municipal services and have at least one public agency member shall file a copy of their agreement or amendment to that agreement with LAFCO.

CALAFCO has proposed amendments to the bill that have been agreed upon by all stakeholders. Based on the Legislative Committee's feedback in February, CALAFCO will be further amending the language to enhance its readability, but the policies therein will not change. CALAFCO's proposed amendments are included along with an information sheet and FAQ on the bill as Attachment One.

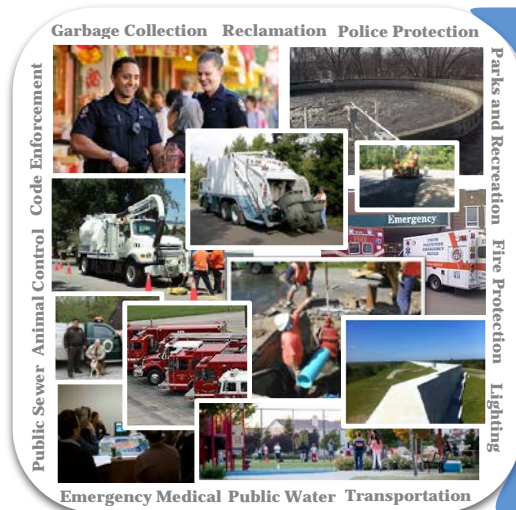
Senate Bills 971, 972, and 973 (Senate Governance and Finance Committee)

SB 971, SB 972, and SB 973 represent the Validating Acts of 2016. Annual Validating Acts are important measures for the operation of local governments. Enactment of the Validating Acts helps all public agencies with respect to protecting investors from minor errors that might otherwise threaten bonds, boundary changes, and other official acts. These acts are particularly relevant for LAFCOs given that they validate jurisdictional boundaries of local agencies. CALAFCO has taken a support position (Attachment Two).

ATTACHMENTS

- 1) SB 1266 Information Sheet, FAQ, and Amended Language
- 2) CALAFCO Letter of Support for SB 971, 972, and 973

FEBRUARY 2016



SB 1266

Legislative proposal to enhance the timely documentation and facilitation of shared local public services involving counties, cities, and special districts in all 58 California counties.

PROPOSAL TO AMEND JPA ACT

CALAFCO is sponsoring Senate Bill 1266 authored by Senator Mike McGuire (Senate District 2) to amend State law to expand the filing requirements for certain stand-alone and municipal service providing joint-power authorities (JPAs) at the time of their establishment or amendment to include LAFCOs. SB 1266's key purpose is to enhance the documentation and facilitation of shared local public services to produce more accountable and efficient government while concurrently improving the public's awareness of these arrangements. SB 1266 calls for certain local JPAs to file their agreements and amendments with LAFCOs just as they currently do with the Secretary of State and in doing so provide two important and distinct public policy benefits...

- SB 1266 helps LAFCOs meet their long-standing directive from the Legislature to document, assess, and facilitate shared local public service opportunities in all 58 counties.
- SB 1266 advances LAFCOs' service to the general public as a community resource by developing more inclusive repositories on local public services, and as such responds affirmatively to an earlier recommendation made by the Legislative Analyst's Office as well as consistent with recent grand jury reports in Kern and Marin Counties.

THE PROBLEM...

Under existing State law there is no direct means for LAFCOs to be noticed and informed on the existence and activities of local serving JPAs. This lack of direct notice, notably, is an increasing challenge to LAFCOs in meeting their standing directive to plan and oversee responsive and efficient local government given JPAs' expanding role in delivering municipal services while keeping the public appropriately informed.

THE SOLUTION...

SB 1266 creates a needed communication connection under State law between certain and local JPAs and LAFCOs with the former providing notice to the latter at the time of establishment or agreement amendment to help reconcile the referenced information gap. This communicative connection would allow LAFCOs to be directly and timely informed on relevant JPA formations while also being better positioned in working with local agencies to promote new and expanded shared local services that produce more accountable and efficient government in California.

THE SCOPE...

SB 1266 recognizes not all stand-alone JPAs are directly involved in the delivery of local municipal services relative to LAFCOs' interests. The proposal is purposefully limited to those JPAs with a county, city, or special district member. SB 1266 also applies only to local municipal serving JPAs as defined under existing State law, and as such excludes administrative pooling agencies, such as risk-management, group insurance, and debt-financing.





CALAFCO LEGISLATIVE PROPOSAL

Senate Bill 1266 / Connecting LAFCOs and JPAs

Frequently Asked Questions

What Are LAFCOs? Local agency formation commissions (LAFCOs) serve as regional growth management arms of the State of California and are responsible for overseeing the establishment, expansion, and organization of cities and special districts and their municipal services in meeting current and future community needs (Government Code Section 56000 et seq.). LAFCOs operate in all 58 counties and exercise regulatory and planning powers to accomplish the State's interest to discourage urban sprawl, protect against the premature conversion of open-space and agricultural lands, and produce efficient and accountable local government. Legislation has also expanded LAFCOs focus to regularly prepare independent studies (Municipal Service Reviews) on the adequacy and performance of local governmental services with an emphasis to identify and facilitate shared service opportunities.

What Are JPAs? Joint-power authorities (JPAs) consists of two or more public agencies that either contract to jointly exercise shared powers or contract to form a separate legal entity to provide a particular service or services. Common examples of the latter type include water, wastewater, fire protection, and transit (Government Code Section 6500 et seq.). Separate JPAs are located throughout California and have appointed governing boards with the independent authority to make and enter into contracts, employ agents and employees, acquire, construct, and manage public facilities and improvements, incur debts, liabilities, or obligations, and sue or be sued. The board composition and voting rights therein varies from agency to agency and is spelled out in individual JPA agreements.

How Many JPAs Exist in California? That number is unclear. There is no known statewide, regional, or local database that indices JPAs at this time. Upon formation, separate JPAs are required to file their agreement with the Secretary of State (SOS). This is also the case when amendments are made to the agreements. However, the SOS does not publish the compiled database of JPA agreements.

What is the Problem? Under existing State law there is no direct means for LAFCOs to be noticed and informed of the existence and activities of stand-alone and separate JPAs. This lack of direct notice creates an information gap in regional service planning (among other factors) by impeding the ability of LAFCOs to meet their standing directive by the Legislature to plan and oversee responsive and efficient local government services given JPAs expanding role in delivering urban supporting public services in all 58 counties. This referenced information gap also serves to limit the general public's awareness of and participation in on JPA activities within their communities, especially the effectiveness in which their services are delivered.

What is the Proposed Solution? SB 1266 creates a formal communication connection under State law between certain legally separate and municipal serving JPAs and LAFCOs with the former providing notice to the latter at the time of establishment or amendment. Creating this communication connection would help reconcile the existing information gap between LAFCOs and JPAs. SB 1266 also advances LAFCOs' role as a community resource by developing more inclusive repositories on local public services available to the general public, and as such affirmatively responds to earlier and separate recommendations made by the Legislative Analyst's Office (reference their October 2011 report) as well as grand jury reports in Kern and Marin Counties.

Are the Reports Filed with the Secretary of State Accessible to the Public and Other Government Agencies? As public documents they are accessible by request. However, the impediments are the documents are not posted on the SOS's website, therefore you must either call or file a written request for the document and you must know the name of the JPA. In those instances in which the LAFCO is not aware that the JPA exists, there is no way for them to request the information.

Does the Bill Create New Authority for LAFCOs? No. SB 1266 is specifically limited to expanding a noticing requirement for certain legally separate JPAs to file their agreements and amendments with the local LAFCO(s) just as they are currently required to do with the SOS. The formation, organization, and related decision-making for JPAs would be unaffected by the proposed legislation.

Are all JPAs Affected by the Bill? No. SB 1266 is purposefully limited to those legally separate JPAs with a county, city, or special district member. SB 1266 is also limited to local municipal serving JPAs as defined under existing State law (Government Code Section 56047.7), and as such excludes certain types of administrative pooling functions, such as risk-management, group insurance, and debt-financing.

Can the Filings be Submitted Electronically to the SOS or to the Affected LAFCO? Current JPA law does not prescribe how the agreements and amendments are to be filed with the SOS. LAFCO will gladly accept electronic files from the JPA, which is why the method of delivery in the proposed legislation is not prescribed.

Original Revisions / New Revisions as of 2-12-16

6503.6. Whenever an agency or entity files a notice of agreement or amendment 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 amendments to the agreement, with the Controller, ~~and if~~ Any such agency or entity that meets the definition of a joint-powers authority or joint-powers agency under Section 56047.7 and formed for the purposes of providing municipal services that includes a local agency member that is a city, district, or county ~~local agency as defined in Section 56054, that agency or entity shall, within 90 days after the effective date of the agreement or amendment thereto, file a copy of the agreement or amendment with the local agency formation commissions in all affected counties as defined in Section 56012—~~ each county within which all or any part a local agency member's territory is located.

6503.7. Within 90 days after the effective date of this section, any separate agency or entity constituted pursuant to a joint powers agreement entered into prior to the effective date of this section and responsible for the administration of the agreement shall cause a notice of the agreement to be prepared and filed with the office of the Secretary of State. The agency or entity shall also furnish an additional copy of the notice of the agreement to the Secretary of State who shall forward the copy to the Controller. The notice shall contain all the information required for notice given pursuant to Section 6503.5. Notwithstanding any other provision of this chapter, any joint powers agency that is required and fails to file notice pursuant to this section within 90 days after the effective date of this section shall not, thereafter, and until such filings are completed, issue any bonds, incur any debts, liabilities or obligations of any kind, or in any other way exercise any of its powers. For purposes of recovering the costs incurred in filing and processing the notices required to be filed pursuant to this section and Section 6503.5, the Secretary of State may establish a schedule of fees. Such fees shall be collected by the office of the Secretary of State at the time the notices are filed and shall not exceed the reasonably anticipated cost to the Secretary of State of performing the work to which the fees relate.

6503.8. ~~No later than July 1, 2017, any separate~~ an agency or entity that meets the definition of a joint-powers authority or joint-powers agency under Section 56047.7 and formed for the purposes of providing municipal services prior to the effective date of this section, constituted pursuant to a joint powers agreement that includes, as a local agency member that is a city, district, or county, a local agency as defined in Section 56054 and was entered into prior to the effective date of this section shall, as the agency responsible for the administration of the agreement, cause a copy of the agreement to be filed with the local agency formation commissions in ~~all affected counties, as defined in Section 56012~~ each county within which all or any part a local agency member's territory is located.

Note: **black** existing statute / **red** original submitted revisions / **blue** new and as of 2-12-16

Just New Revisions as of 2-12-16

6503.6. Whenever an agency or entity files a notice of agreement or amendment 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 amendments to the agreement, with the Controller. Any such agency or entity that meets the definition of a joint-powers authority or joint-powers agency under Section 56047.7 and formed for the purposes of providing municipal services that includes a local agency member that is a city, district, or county shall, within 90 days after the effective date of the agreement or amendment thereto, file a copy of the agreement or amendment with the local agency formation commission in each county within which all or any part a local agency member's territory is located.

6503.7. Within 90 days after the effective date of this section, any separate agency or entity constituted pursuant to a joint powers agreement entered into prior to the effective date of this section and responsible for the administration of the agreement shall cause a notice of the agreement to be prepared and filed with the office of the Secretary of State. The agency or entity shall also furnish an additional copy of the notice of the agreement to the Secretary of State who shall forward the copy to the Controller. The notice shall contain all the information required for notice given pursuant to Section 6503.5. Notwithstanding any other provision of this chapter, any joint powers agency that is required and fails to file notice pursuant to this section within 90 days after the effective date of this section shall not, thereafter, and until such filings are completed, issue any bonds, incur any debts, liabilities or obligations of any kind, or in any other way exercise any of its powers. For purposes of recovering the costs incurred in filing and processing the notices required to be filed pursuant to this section and Section 6503.5, the Secretary of State may establish a schedule of fees. Such fees shall be collected by the office of the Secretary of State at the time the notices are filed and shall not exceed the reasonably anticipated cost to the Secretary of State of performing the work to which the fees relate.

6503.8. 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 and formed for the purposes of providing municipal services prior to the effective date of this section, that includes, a local agency member that is a city, district, or county, cause a copy of the agreement to be filed with the local agency formation commission in each county within which all or any part a local agency member's territory is located.

Note: **black** existing statute / **red** proposed revisions as of 2-12-16



February 29, 2016

The Honorable Robert Hertzberg, Chair
Senate Governance and Finance Committee
State Capitol, Room 4038
Sacramento, California 95814

SUPPORT FOR SB 971, SB 972, and SB 973

Dear Senator Hertzberg:

The California Association of Local Agency Formation Commissions (CALAFCO) is pleased to support Senate Bill 971, Senate Bill 972 and Senate Bill 973, the annual Validating Acts of 2016.

We appreciate how important these measures are for the operation of local governments. Enactment of the Validating Acts helps all public agencies because they protect investors from minor errors that might otherwise threaten our bonds, boundary changes, and other official acts. For Local Agency Formation Commissions these acts validate the boundaries of local agencies which the commissions are responsible to administrate. As in past years, the passage of the Validating Acts of 2016 will ensure that our bonds receive the highest possible ratings, resulting in the lowest possible borrowing costs for our constituents.

We also appreciate the fact that all of the members of the Senate Governance and Finance Committee joined you in authoring these three important bills. Please let me know if I can provide any additional information or assistance in passage of these bills.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Pamela Miller".

Pamela Miller
Executive Director

cc: Members, Senate Governance and Finance Committee
Brian Weinberger, Senate Governance and Finance Committee Consultant
Ryan Eisberg, Consultant, Senate Republican Caucus