

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

550 Main Street Suite E • Placerville, CA 95667
(530) 295-2707 • lafco@edlafco.us • www.edlafco.us

M E M O

DATE: February 2, 2017

TO: Local Agencies

FROM: José C. Henríquez, Executive Officer 

SUBJECT: Implementing Senate Bill 1266 (McGuire)
New Reporting Requirements for Certain Joint Power Authorities

This memo provides notice by the El Dorado Local Agency Formation Commission (LAFCO) of the new filing requirements established under Senate Bill 1266 (McGuire). Among other things, this legislation requires joint powers authorities (JPAs) or joint powers agencies that provide municipal services to file joint powers agreements and amendments with LAFCO, effective on January 1, 2017. Specifically, this bill:

- (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.

S:\Legislation\SB 1266 JPA Notification Memo.docx

COMMISSIONERS

Public Member: Dyana Anderly • Alternate Public Member: Michael Powell
City Members: Mark Acuna, Brooke Laine • Alternate City Member: John Clerici
County Members: Shiva Frentzen, Brian Veerkamp • Alternate County Member: Michael Ranalli
Special District Members: Dale Coco, MD, Ken Humphreys • Alternate Special District Member: Holly Morrison

STAFF

José C. Henríquez, Executive Officer • Erica Sanchez, Policy Analyst
Denise Tebaldi, Interim Commission Clerk • Kara K. Ueda, Commission Counsel

It is important to note that El Dorado LAFCO does **not** have JPA regulatory and review authority under the provisions of SB 1266. Our role is to serve as a depository for associated filings. Also, as referenced, not all JPAs are subject to SB 1266. The legislation is purposefully limited to those JPAs with a county, city, town, or special district member in which the entity provides a local municipal service consistent with Government Code Section 56047.7.

Towards this end, and for purposes of limiting the scope of potential reporting entities, El Dorado LAFCO internally defines the provision of “municipal services” to include any municipal service or related function, such as water, wastewater, fire protection, police protection, ambulance, healthcare, road maintenance, etc. (in other words, services the agencies provide jointly). SB 1266 excludes JPAs created for the sole purpose of administrative pooling functions, such as risk management, group financing, insurance and debt-financing (services the agencies receive jointly). Additionally, and to expedite the reporting process, El Dorado LAFCO encourages all respondents to provide copies of their agreements and amendments in electronic format to lafco@edlafco.us. All submittals will be followed by formal acknowledgments by El Dorado LAFCO for agency records. A copy of SB 1266 is attached for your 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.