RE: Implementation of Senate Bill 1266 - Joint Powers Authorities

To Whom It May Concern:

This notice is provided by the Butte Local Agency Formation Commission as a service outreach to our member agencies including the County of Butte, our 5 cities and 41 special districts. The following legislation may either currently affect your agency or may at some time in the future.

New Requirement

Senate Bill 1266 (attached) requires joint powers agencies and joint powers authorities (JPAs) that provide municipal services to file copies of specific documents with local agency formation commissions (LAFCOs). Effective January 1, 2017, SB 1266 requires JPAs to file a copy of the full text of its joint powers agreement, and any amendments to the agreement, with the LAFCO in the county within which any part of a local agency member’s territory is located, whenever it is required to file its agreement (or amendment) with the State Controller. JPAs that fail to make the required filings will be precluded from issuing bond or incurring indebtedness of any kind.

These new requirements apply only to a JPA that:

1.) Meets the statutory definition of a JPA formed for the purpose of providing municipal services, as set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act; and

2.) Includes any agency member that is a city, county or district.

The Act defines a JPA as “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." (Gov. Code § 56047.7.)

SB 1266 only applies to JPAs formed to directly (service) or indirectly (funding) provide for municipal services such as water, wastewater, fire protection, police protection, drainage, healthcare, etc.—and therefore excludes administrative pooling functions, such as risk management, group financing, insurance and debt-financing.
How This Helps

As set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, LAFCOs are responsible for coordinating changes in governmental boundaries and overseeing the establishment, expansion and organization of cities and special districts, and their municipal services. (Gov. Code § 56000 et seq.) The Joint Exercise of Powers Act allows two or more public agencies to use their powers in common by entering into a joint powers agreement, thereby forming an entity that may be a joint powers agency or a joint powers authority. JPAs are often used to either directly or indirectly provide for municipal services. Given LAFCOs role in evaluating local agencies and their services, knowing the inter-governmental relationships represented by JPAs is essential to accurately assessing public municipal services. This bill creates a formal communication connection between municipal serving JPAs and LAFCOs.

Our Request

Although LAFCOs already possessed the authority to individually request joint powers agreements from JPAs that provide municipal services, there was no means of direct notice between the JPAs and LAFCOs. In some cases, LAFCOs were unaware of the existence of JPAs, and therefore were unable to comprehensively evaluate affected municipal services resulting in a less than full understanding of local service options.

To this end, in our effort to meet our responsibilities under the law, we request that your agency provide a comprehensive list of JPAs that your agency is a member of, and that provide for municipal services. If there is any question as to the applicability of this request to any particular JPA, please err on the side of caution and list the JPA. Please contact our office if you have any questions about SB1266 or this request for information.

Respectfully,

Steve Lucas
Stephen Lucas
Executive Officer

cc: LAFCO
    Scott Browne

Attachments: 1. SB 1266 (Chaptered)
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

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.