

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

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January 9, 2017

To: County Manager
City Managers
Special Districts Manager

From: Martha Poyatos, Executive Officer *M. Poyatos*

Subject: Enactment of Senate Bill 1266 (McGuire) - New Reporting Requirements for Certain Joint Power Authorities

The purpose of this memorandum is to notify the County of San Mateo, cities, and special districts of new filing requirements established under Senate Bill 1266 (McGuire) (see attached). This legislation became effective on January 1, 2017 and amends the Joint Exercise of Powers Act to establish new reporting procedures in which certain joint power agencies (JPAs) must now file their agreements and any subsequent amendments with LAFCos within certain prescribed time periods. The legislation is the result of recommendations contained in a Legislative Analyst's Office report and is intended to assist LAFCos in promoting and facilitating shared public service opportunities between counties, cities, and special districts. The legislation also assists LAFCos in serving as a community resource by developing more inclusive online directories on local government services. SB 1266 sets forth that failure to comply with the new reporting requirements will prohibit a subject JPA from issuing any bonds or incurring indebtedness of any kind.

SB 1266 is limited to those JPAs that include a county, city, or special district member in which the JPA provides a local municipal service including but not limited to police and fire protection, water, sewer, sewage treatment, flood control, street lighting, animal control, library, hospital, harbor, and vector control. To clarify the scope of reporting, joint powers agreements that should be filed with LAFCo include only those agreements that pertain to municipal services versus agreements for shared programs such as insurance pools, computer or internet maintenance, or programs that are ancillary to operation of a governmental agency. To facilitate the reporting process, San Mateo LAFCo requests all subject agencies to provide copies of their current agreements and any amendments in electronic format by July 1, 2017 to Commission Clerk Jean Brook at jbrook@smcgov.org. All submittals will be acknowledged by San Mateo LAFCo.

Attachments: (1) Senate Bill 1266 as chaptered
(2) Government Code Section 56047.7 (definition of "Joint Powers Agency" or "Joint Powers Authority")

COMMISSIONERS: DON HORSLEY, CHAIR, County ▪ MIKE O'NEILL, VICE CHAIR, City ▪ JOSHUA COSGROVE, Special City ▪ ANN DRAPER, Public
RICH GARBARINO, City ▪ JOE SHERIDAN, Special District ▪ WARREN SLOCUM, County

ALTERNATES: RIC LOHMAN, Special District ▪ RAY MUELLER, City ▪ SEPI RICHARDSON, Public ▪ (VACANT), County

STAFF: MARTHA POYATOS, EXECUTIVE OFFICER ▪ REBECCA ARCHER, LEGAL COUNSEL ▪ JEAN BROOK, COMMISSION CLERK

ATTACHMENT ONE

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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ATTACHMENT TWO



GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57550] (*Title 5 added by Stats. 1949, Ch. 81.*)

DIVISION 3. CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT

REORGANIZATION ACT OF 2000 [56000 - 57550] (*Heading of Division 3 amended by Stats. 2001, Ch. 388, Sec. 1.*)

PART 1. GENERAL [56000 - 56160] (*Part 1 added by Stats. 1985, Ch. 541, Sec. 3.*)

CHAPTER 2. Definitions [56010 - 56081] (*Chapter 2 added by Stats. 1985, Ch. 541, Sec. 3.*)

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.

(Added by Stats. 2014, Ch. 21, Sec. 1. Effective January 1, 2015.)