

MEMORANDUM
February 14, 2022

TO: LAFCo Commission

FROM: John Benoit, Executive Officer

SUBJECT: Discussion of Joint Power's Agreements, Agencies and Authorities for Fire and EMS Services in Lassen County

There are several small fire and EMS agencies in Lassen County. These districts suffer from declining number of volunteers, challenges with compliance with California statutes and the lack of funding. Several Districts have low property tax allocations due to having low budgets before the passage of Proposition 13 in 1978. The State's response to Prop 13 was the passage of AB-8 in 1979 thereby allocating property taxes among taxing agencies. The bottom line for taxing agencies is if your agency had a low property tax rate prior to 1978, you will have a low property tax allocation into the future. Since proposition 13, many annexations or changes of organization have resulted in the allocation and exchange of no additional taxes.

Proposition 218 was passed to ensure voters or landowners had the right to vote on taxes and charges. For fire districts, a 2/3rds vote became needed to impose a special tax (also includes property related fees and charges) Meanwhile over the past four decades for example several new mandates have been passed requiring agencies to comply. There are several other laws that affect revenues local government agencies may rely upon but are not discussed here.

Therefore Fire and EMS agencies are constrained in raising revenue without voter approval.

Local Fire Service providers in Lassen County are the Big Valley Fire Protection District, Clear Creek Community Services District, Doyle Fire Protection District, Herlong Public Utility District, Janesville Fire Protection District, Lake Forest Estates Fire Protection District, Little Valley Community Services District, Madeline Fire Protection District, Milford Fire Protection District, Spalding Community Services District, Standish-Litchfield Fire Protection District, Stones-Bengard Community Services District, Susan River Fire Protection District, City of Susanville Fire Department, Westwood Community Services District and the Hallelujah Junction Fire Protection District.

Forming a Joint Powers Agency (JPA) A JPA may take several forms it is a tool for two or more government agencies to join in providing a specific service. For fire and EMS, a JPA's may include a city and a Fire and EMS service provider (a fire district or Community Services District or Public Utility District, County, City or other public agency) who has a common interest in working together to provide the service. Examples may be training, EMS or an agency whose purpose is to seek grant funding, for example. Some JPA's operate to provide all the functions of its member agencies. (note: the member agencies are still required to do an audit and have a Board of Directors and function as a governmental agency).

FORMING A Joint Powers Authority

A Joint Power's Agreement is needed before forming the Joint Power's Authority or Agency. The purpose of the creation of a JPA is to cut costs, be more efficient, reduce overlapping services and (or) to share services.

Joint Powers Authorities are legally created entities that allow two or more public agencies to jointly exercise common powers. Forming such entities may not only provide a creative approach to the provision of public services, but also permit public agencies with the means to provide services more efficiently and in a cost-effective manner. Public agencies may enter into (JPA) agreements to jointly exercise common powers. A joint powers agreement may establish a joint powers agency or take the form of an operating agreement. A public agency may not acquire new functions or powers through a joint powers agreement.

The Joint Exercise of Powers Act, as codified in California Government Code section 6500, governs JPAs. Under the Act, JPAs are restricted to use by public agencies only. The Act authorizes two kinds of JPA arrangements.

The first allows two or more public agencies to contract to jointly exercise common powers.

The second allows two or more public agencies to form a separate legal entity. This new entity has independent legal rights, including the ability to enter into contracts, hold property and sue or be sued. Forming a separate entity can be beneficial because the debts, liabilities and obligations of the JPA belong to that entity, not the contracting parties.

To enter into a JPA (either to jointly exercise common powers or to form a separate legal entity), the public agencies must enter into an agreement. This agreement must state both the powers of the JPA and the manner in which it will be exercised. The governing bodies of all the contracting public agencies must approve the agreement.¹

Steps needed to develop a Joint Powers Agreement and form a Joint Powers Authority. **It is highly advisable to retain independent counsel.** LAFCo's do not regulate JPA's and are not in a position to give Legal advice to those forming a JPA

A JPA committee needs to be formed initially and determine the role and function of the Authority

Among other things, the JPA Agreement needs to include:

*Who are the participating agencies?
What are the authority's boundaries?
What will be the powers of the Authority?
An effective date?
The Governing Body?
Office of the authority?
Meetings of the authority?
Composition of the Board of Directors?
Board officers?
Quorum and Votes?
Who is responsible for administration of the authority?
Financials? Budget, contributions and Audit?
Termination provisions?
Other?*

The LAFCo Webpage www.lassenlafco.org contains the following reference materials:

¹ Paula de Souza, BB&K Law

JPA Government Code 6500 et. seq.
California Citizen's Guide to JPA's 2007
Calaveras Consolidated Fire JPA
JPA Master Agreement Calaveras County Fire
Lakeshore JPA
Wheatland Fire Authority JPA
Williams Fire Authority JPA
Sample JPA bylaws