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THIRD READING

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Bill No: AB 428  
Author: Blanca Rubio (D)  
Amended: 3/28/25 in Assembly  
Vote: 21

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SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 6/18/25  
AYES: Durazo, Choi, Arreguín, Cabaldon, Laird, Seyarto, Wiener

SENATE ENERGY, U. & C. COMMITTEE: 16-0, 7/7/25  
AYES: Becker, Ochoa Bogh, Allen, Archuleta, Arreguín, Ashby, Caballero,  
Gonzalez, Grove, Hurtado, Limón, McNeerney, Rubio, Stern, Strickland, Wahab  
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/5/25 - See last page for vote

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**SUBJECT:** Joint powers agreements: water corporations

**SOURCE:** California Water Association

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**DIGEST:** This bill grants private water corporations the same authority as mutual water companies to enter into a risk-pooling joint powers authority or agreement.

**ANALYSIS:**

Existing law:

- 1) Allows two or more public agencies to use their powers in common if they sign a joint powers agreement under the Joint Exercise of Powers Act. Each public agency must independently possess the authority to perform the activity that is to be performed jointly pursuant to a joint powers agreement. Sometimes an agreement creates a new, separate government called a joint powers authority (JPA).

- 2) Allows public agencies to use the JPA law and the related Marks-Roos Local Bond Pooling Act to form bond pools to finance public works, working capital, insurance needs, and other public benefit projects.
- 3) Generally limits membership in JPAs to public agencies: federal, state, and local governments. However, legislation has authorized some types of private entities to enter into joint powers agreements with public agencies for specified purposes, including:
- 4) Allows mutual water companies to join a JPA for risk-pooling and providing technical support, continuing education, safety engineering, and operational and managerial advisory assistance to JPA members to reduce risk liabilities.

This bill:

- 1) Allows private water corporations to enter into a JPA with a mutual water company and one or more public agencies for risk insurance pooling. Such a JPA must be 100% reinsured with no joint and several liability, assessments, or financial liability attributable to the participating members irrespective of whether they are public, nonprofit, or for-profit entities. A risk-pooling JPA with a private water corporation member cannot join another JPA or have any additional powers beyond those provided in the measure.
- 2) Prohibits a private water corporation cannot join a risk-pooling JPA if the JPA does not include a mutual water company. Before a private water corporation can join, it must submit an information filing to the California Public Utilities Commission (PUC) that includes three years of historical insurance costs and estimated insurance costs for the current year. The PUC cannot allow a private water corporation to join a risk-pooling JPA if it determines there are no greater benefits to the corporation's customers than the corporation's current insurance policy.
- 3) Requires, upon joining a risk-pooling JPA, the private water corporation to ensure any cost savings or insurance coverage expansion attributable to its membership in the JPA goes to reduce rates and/or improve service. It must submit an annual information filing to the PUC and the JPA that reports on:
  - a) The estimated level of savings resulting from its membership in the joint powers agency, including three years of historical insurance costs, estimated current-year insurance costs resulting from membership in the joint powers agency, and estimated current-year costs for obtaining comparable coverage on the private insurance market, if available; and

b) How that savings went to benefit its customers.

4) Defines its terms.

## **Background**

*Water providers.* Public water systems that deliver domestic water generally fall into three categories:

- *Local agencies.* State laws grant various local agencies the authority to provide retail water service, and local officials are responsible to their voters for their water rates. Local Agency Formation Commissions (LAFCOs) in each county periodically review the efficacy of the services local agencies provide;
- *Private water companies.* These private entities, formed under statutes governing corporations, respond to investors. The California Public Utilities Commission (PUC) controls the companies' service areas and their water rates; and
- *Mutual water companies.* These private entities, formed under statutes governing corporations, respond to their shareholders, usually the landowners who receive water service. Mutual water companies can be either for-profit or not-for-profit.

State law allows a mutual water company to enter into a joint powers agreement with any public agency to jointly exercise any power common to the contracting parties provided the agreement ensures no participating public agency becomes responsible for the underlying debts or liabilities of the joint powers agency (AB 2014 (Cortese, Chapter 250, Statutes of 1994)). However, mutual water companies do not have the independent power to offer insurance, so they could not join a JPA for insurance purposes. AB 656 (Cristina Garcia, Chapter 250, Statutes of 2015) addressed this issue by allowing mutual water companies to join a JPA for risk-pooling and providing technical support, continuing education, safety engineering, and operational and managerial advisory assistance to JPA members to reduce risk liabilities.

Prior to AB 656, mutual water companies had to purchase insurance in the open market. Because the pooling of self-insurance among entities participating in a JPA is not subject to insurance premium taxes, a risk-pooling JPA can generally set lower premiums and offer broader coverage than would be available through the private marketplace. By allowing mutual water companies to realize some of

these savings through membership in a mutual water company insurance JPA, AB 656 made residual funding available to help mutual water companies.

The California Water Association wants to allow private water companies to join a risk-pooling JPA.

## **Comments**

*Purpose of this bill.* According to the author, “All water utilities in California are struggling to keep rates affordable with the ever-increasing cost of insurance. AB 428 will allow a water corporation to join a joint powers authority (JPA) for risk pooling, which provides more affordable insurance so long as there is at least one local agency member in the JPA. Because the pooling of self-insured claims or losses among entities participating in a JPA is not subject to regulation under the Insurance Code and is not subject to premium taxes, the JPA can set lower premiums and offer broader coverage than would be available through the private marketplace. As such, this bill will help to keep water utility costs down for consumers.”

*Public agency in name only.* The beauty of the Joint Exercise of Powers Act is its flexibility: local agencies can come together to form an agreement of their own design to carry out any power common to each of its members. As such, local agencies do not need legislative authority to form a JPA unless it requires powers not common to all its members, or when statutory certainty and specificity is preferable to the agreement’s details. The Legislature has seldom offered private entities the opportunity to join JPAs because they are not public agencies: unlike public agencies, private companies are not subject to laws regarding public meetings, their records are not always public, and they are accountable to their investors, not to the public. Private companies may accept higher levels of risk because they want to achieve returns for investors, while public agencies may not accept the same level of risk because of their duty to protect taxpayer dollars.

After witnessing mutual water companies’ ability to join risk-pooling JPAs, private water corporations want the same authority. Supporters of the measure, including many private water companies, highlight the challenges they face finding affordable insurance options, particularly in rural areas. Without many private insurance options on the open market, these companies feel pressure to increase their customers’ rates. On the other hand, expanding opportunities for private companies to pool their insurance risk with local agencies may shift costs to the public if it drives up the overall cost of insurance for members of the JPA. AB 428 tries to mitigate these concerns by requiring certain financial protections, requiring PUC to determine that joining benefits customers, and ensuring that benefits

accrue to customers, not shareholders. Should the Legislature expand opportunities for private, for profit companies to join JPAs?

### **Related/Prior legislation**

AB 2735 (Rubio, 2024) contained similar to provisions to AB 428. While the Legislature passed the measure, Governor Newsom vetoed the bill.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:** (Verified 8/19/25)

California Water Association (source)  
 California American Water  
 California Association of Mutual Water Companies  
 California Rural Water Association  
 California State Association of Electrical Workers  
 California State Pipe Trades Council  
 California Water Service  
 Coalition of California Utility Employees  
 Community Water Systems Alliance  
 Golden State Water Company  
 Great Oaks Water Company  
 Liberty Utilities  
 San Gabriel Valley Water Association  
 San Gabriel Valley Water Company  
 San Jose Water Company  
 Suburban Water Systems  
 Upper San Gabriel Valley Municipal Water District

**OPPOSITION:** (Verified 8/18/25)

None received

**ASSEMBLY FLOOR:** 76-0, 5/5/25

**AYES:** Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Flora, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste

Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo,  
Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis,  
Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Bains, Ellis, Garcia

Prepared by: Jonathan Peterson / L. GOV. / (916) 651-4119  
8/20/25 23:11:13

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