
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

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Author: Durazo
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Consultant: Peterson

JOINT POWERS AGREEMENTS: NONPROFIT HOUSING DEVELOPERS

Allows nonprofit housing developers to join risk pooling joint powers authorities.

Background

Joint Exercise of Powers Act. The Joint Exercise of Powers Act allows two or more public agencies to use their powers in common if they sign a joint powers agreement. 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).

Public agencies can also 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. JPAs can issue one large Marks-Roos Act bond and then loan the capital to local agencies, thus creating a “bond pool.” Bond pooling saves money on interest rates and finance charges. It also lets smaller local agencies enter the bond market. Because JPAs are entities separate from its members, and are not bound by the same limitations on debt issuance, voters need not approve bonds JPAs issue.

State law 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.

Similarly, state law allows nonprofit hospitals to enter into JPAs to provide health care services in Fresno County (AB 1785, Reyes, 2002); Contra Costa County (AB 3097, Campbell, 1996); Tulare, Kings, and San Diego Counties (SB 850, Kelley, 1997); and Tuolumne County (AB 2717, House, 2000). These JPAs specify a nonprofit hospital that participates in one of these JPAs cannot levy any tax or assessment.

More recently, the Legislature enacted AB 1403 (Maienschein, 2015), which, until January 1, 2024, allowed one or more private, nonprofit 501(c)(3) corporations that provide services to homeless persons to form a JPA, or enter into a joint powers agreement with one or more public agencies. The JPA exists as a public entity, but cannot have the power to incur debt. JPAs formed under this provision are to encourage and ease information sharing between public agencies and nonprofit corporations to identify the most costly and frequent users of publicly funded emergency services, provide frequent user coordinated care housing services, and prevent homelessness. The participating public agencies must determine the composition of the board of directors, but the representation of nonprofit 501(c)(3) corporations cannot exceed 50% of the board membership.

Using the model of AB 1403, SB 1226 (Durazo, 2022), allows, until January 1, 2032, a private, non-profit corporation that provides services for zero-emission transportation to enter into a joint powers agreement with a public agency to facilitate the development, construction, and operation of zero-emission transportation systems or facilities. Like AB 1403, these JPAs cannot incur debt, and nonprofit representation on the board must not exceed 50%.

Risk pooling JPAs. Among the common powers public agencies can exercise jointly through a JPA is the power to insure against specified liabilities. State law allows two or more local public entities to form a JPA to provide insurance authorized by specified statutes. Insurance these JPAs provide is different from traditional insurance. For example, public entities can be co-insured under a master policy and prorate their premiums among the different entities. This pooling of self-insured claims or losses is not subject to state regulation like private insurance. Local agencies can also reinsure liabilities. These JPAs are subject to additional requirements, including that the agreement ensures no participating public agency becomes responsible for the underlying debts or liabilities of the JPA, and indemnifies any participating public agency against those debts and liabilities.

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, 1994). However, mutual water companies are not public agencies with the power to offer insurance, so they could not join a JPA for insurance purposes. AB 656 (Cristina Garcia, 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 meet their customers' needs. AB 428 (Blanca Rubio, 2025) granted private water corporations the same authority as mutual water companies to enter into a risk-pooling JPA or agreement.

Affordable housing insurance. Just like other types of development, affordable housing developers need insurance policies to cover losses from property damage or injury claims. Recently, affordable housing developers have reported significant insurance premium increases, or trouble purchasing insurance policies altogether. According to the Little Tokyo Service Center, an affordable housing provider:

“Rising insurance costs and lack of coverage is a common headline in California and across the country these days, but the acute challenges for affordable housing—and the state’s most vulnerable residents who live there—have received far less attention. Between 2020 and 2022, insurance costs for California’s affordable housing providers increased by an average of 56%, with some facing hikes as high as 500% between 2022 and 2024. At the same time, coverage

options have narrowed, further jeopardizing the long-term viability of these essential homes.”¹

To help address the challenges that affordable housing developers have faced when it comes to increasing insurance premiums, and lack of available insurance, the author wants to allow affordable housing developers to join risk-pooling JPAs.

Proposed Law

Senate Bill 1170 allows nonprofit housing developers to join risk pooling JPAs.

Comments

1. Purpose of the bill. According to the author, “I am proud to author Senate Bill 1170, which allows affordable housing developers and public agencies to partner on self-insuring affordable housing developments through a risk-pooling Joint Powers Authority (JPA). This measure aims to address the significant increases in insurance costs for 100% affordable housing developers, as well as a lack of available insurance altogether.

“California is struggling with an affordable housing crisis, with over half of Californians considered rent-burdened. At the same time, the affordable housing supply in California cannot meet current demand, exacerbating the affordable housing crisis in the most populous and second most expensive state in country. As affordable housing developers are working on addressing the urgent need for housing, they are seeing insurance premiums rise, if they can get insurance at all. Many affordable housing developers are reporting over 100 percent insurance premiums increases.

“By allowing non-profit developers to join a risk-pooling JPA that pools self-insurance claims and losses, SB 1170 will help reduce affordable housing insurance costs and lower affordable housing production costs. This will help preserve existing affordable housing developments and encourage the production of more affordable housing.”

2. 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. SB 1170 opens up the Joint Exercise of Powers Act to more private entities, but it does so in an effort to protect and produce affordable housing.

3. Something different? The problems affordable housing developers face getting insurance is not a new problem, nor is the proposed risk-pooling strategy a new potential solution. Public housing authorities have had a risk pool since 1987, but that did not cover nonpublic entities. AB 2327 (Harkey, 2010) authorized an affordable housing entity to join with others in an arrangement providing for the pooling of self-insured claims or losses. Despite these existing risk pools, insurance for affordable housing remains an issue. SB 1170 creates another option

¹ <https://www.ltsc.org/the-insurance-crisis-ab-1339/>

for affordable housing developers to pursue lower insurance premiums, but it remains to be seen whether a JPA model can help in ways these previous efforts have not. SB 1170 does not mandate its formation, or limit exactly who governs it, or specify how it provides insurance. Figuring out how to model a JPA to fill in gaps in the affordable housing insurance market will come down to each JPA.

4. Related legislation. AB 1339 (Mark González, 2025) requires, upon appropriation, the California Department of Insurance (CDI) to conduct a study on the availability of property, liability, and builders' risk insurance coverage for certain affordable housing entities within one-year of such an appropriation. CDI has not released this report yet.

Support and Opposition (4/17/2026)

Support: None Submitted

Opposition: None Submitted

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