

1999 - 2000 Ventura County Grand Jury Report

Joint Powers Agreements

Joint Powers Agreements

Background

Joint powers agreements enable two or more government entities to enter into a contract to share responsibility in a joint enterprise, to jointly create a new agency or to provide a service or exercise a common power together. Government Code Section 6502 provides, “If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties...”

Parties to joint powers agreements may include the County of Ventura, any of its departments or dependent special districts, as well as cities and independent special districts.

When a new entity is created as a result of a joint powers agreement and the new entity is separate from the parties to the agreement, the new agency or entity must file a notice of the joint powers agreement with the California Secretary of State’s office within 30 days after the new entity comes into existence. Under Government Code Section 6503.5, failure to file such a notice prohibits the new entity from issuing bonds or incurring any indebtedness until the required notice has been filed.

The required notice must list:

1. The name of each public agency which is a party to the agreement;
2. The effective date of the agreement;
3. A statement of purpose of the agreement or the power to be exercised; and
4. A description of all amendments, if any, to the agreement.

The new entity must undergo an annual audit (except when already subject to federal or state audit), with the audit report filed with each contracting party and the County Auditor. In the case of a nonprofit corporation, no report need be filed with the Auditor. These reports are available to anyone requesting them in writing. (Government Code, Section 6505).

Findings

- F-1 The joint powers agreement files maintained by the Secretary of State list joint powers agreements by name of government entity, not by county.
- F-2 The Ventura County Clerk of the Board maintains a list of joint powers agreements ratified by the Board of Supervisors since 1988. Joint powers agreements which became effective prior to 1988 and to which the County of Ventura or one of its agencies is a party do not appear on any list presently available from the Clerk of the Board.
- F-3 The Clerk of the Board does not maintain a list of joint powers agreements which were ratified by such other Ventura County entities as cities and independent special districts and to which the County (or its departments, agencies or dependent districts) are not a party.
- F-4 The 1991-92 Grand Jury recommended that the Board of Supervisors designate a county department to create and maintain a central file system of all active joint powers agreements.
- F-5 The 1991-92 Grand Jury also recommended that the designated department provide an annual report of all active joint powers agreements to the Board of Supervisors.

Conclusions

- C-1 It is not practical to attempt to compile a list of Ventura County joint powers agreements from material on file in the Secretary of State's office. The only way to determine which joint powers agreements on file in the Secretary of State's office involve Ventura County government entities is to examine each index card record individually or to examine the microfiche record of all joint powers agreements statewide.
- C-2 There is no central repository within the County which contains a copy of all joint powers agreements currently in effect and which affect the County, any of its departments or dependent special districts, or any cities or independent special districts within the County.

- C-3 The County has not implemented the 1991-92 Grand Jury's recommendation to provide a central repository of joint powers agreements.

Recommendations

- R-1 The County Clerk should compile a computer-generated list of all existing Ventura County joint powers agreements ratified by the Board of Supervisors up to the present. The list should include all County joint powers agreements still in effect.
- R-2 The County Clerk should be designated to maintain a current list and archive of joint powers agreements involving all Ventura County government entities, including those of cities and independent special districts within Ventura County.
- R-3 The County Clerk should be charged with the responsibility of obtaining the cooperation of Ventura County cities and independent districts to provide a list and copy of each joint powers agreement currently in effect and to which any of them is a party.

Responses Required

County Clerk (Recommendations 1, 2 and 3)

