



KERN COUNTY GRAND JURY FAX SHEET

DATE: JANUARY 21, 2016

TO: CITY OF MCFARLAND

ATTN: JOHN WOONER, CITY MANAGER

FAX # (661) 792-3093

FROM: GLORIA RANGEL, SR OFFICE SERVICES SPECIALIST
KERN COUNTY GRAND JURY

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18 PAGES INCLUDING COVER SHEET



Kern County GRAND JURY

January 21, 2016

City of McFarland
John Wooner, City Manager
401 West Kern Street
McFarland, CA 93250

Dear Mr. Wooner:

We are transmitting the attached Grand Jury Final Report regarding your agency concerning "Hidden Governments, Joint Powers Authorities in California" in accordance with the provisions of Penal Code §933.05, Subsection (f) of this section provides as follows:

"A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the Presiding Judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report."

The Grand Jury will be releasing this report to the public on February 2, 2016. Accordingly, you are instructed not to disclose the contents of the report until that time.

Thank you for your consideration and cooperation.

Respectfully,

Weslie Brown, Foreperson
2015-2016 Kern County Grand Jury

HIDDEN GOVERNMENTS

Joint Powers Authorities in California

"Governments are instituted among men, deriving their just powers from the consent of the governed." - Declaration of Independence, July 4, 1776, approved by the Second Continental Congress.

SUMMARY:

There is a form of government in California called a Joint Powers Authority, or JPA. A JPA is formed by the agreement of two or more agencies including cities, county, special districts and others to carry out services common to each. In Kern County, these agencies have created or joined more than 25 such governments, but most people are not aware of even a single Joint Powers Authority.

The 2015-2016 Kern County Grand Jury (Grand Jury) inquired into the operation of Joint Powers Authorities. The typical JPA has an appointed board that may hold infrequent meetings. The authority office where public records are kept may be difficult to locate. For these and other reasons, the Grand Jury found it difficult to compile a complete list of JPAs and determine if they are complying with state law and local agreements. By their nature, these are "hidden governments".

The Declaration of Independence includes a long list of "*repeated injuries*" to the population of the 13 American Colonies. Among the complaints are that the agents of the King denied people the right of representation in legislatures and they held meetings in places faraway and inaccessible to public records. For the Grand Jury, like the Continental Congress, if a government is not representative, freely accessed and transparent, the "*just powers from the consent of the governed*" cannot be obtained.

The Grand Jury would like to see that steps are taken to ensure that the existence and operations of Joint Powers Authorities in California are transparent, accessible, accountable and limited.

PURPOSE OF THE INQUIRY:

California Penal Code §925a states: "*The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county.*" The Grand Jury decided to assemble a list of joint powers authorities and to inquire into the operation of several such authorities.

PROCESS:

The 2010-2011 Kern County Grand Jury issued a report titled, "Joint Powers Agreements and Memorandums of Understanding" (MOU). The report stated, "*The fifteen government agencies contacted reported a total of 230 JPAs and MOUs in Kern County.*"

With that background, the Grand Jury sent a letter to the County, each of the 11 incorporated cities in the County, the Kern County Superintendent of Schools, and KernCOG. The letters requested information on their JPAs, purposes, expiration date, and date of the last audit. Respondents did not uniformly understand the scope of the request. Follow-up with several agencies was required in an attempt to fill in gaps. The Grand Jury also interviewed several JPA board members.

The California Secretary of State and the State Controller were asked to furnish information on JPAs. The County office of the Local Agency Formation Commission (LAFCo) was contacted as well as staff of the California Senate Local Government Committee. After review of these sources, it became clear that it was not possible to assemble a definitive list of JPAs formed or joined by agencies in Kern County.

When a joint powers authority is not readily identifiable, has no office and board members are difficult to identify, then a grand jury cannot examine the authority's books and records as authorized by the California Penal Code. An interested citizen would have an even more difficult time in making an inquiry into such an agency.

The Grand Jury concluded that these are "hidden governments" that can pose risks. The Ralph M. Brown Act states, "*The people insist on remaining informed to retain control over the legislative bodies they have created*". Given these insights, the Grand Jury's focus changed to an examination of the reasons that Joint Powers Authorities are hard to identify and investigate. The Grand Jury then assembled recommendations to improve transparency of these government agencies.

BACKGROUND:

The publication, *Governments Working Together, A Citizen's Guide to Joint Powers Agreements*, describes Joint Powers Agreements and Joint Powers Authorities.

The Joint Exercise of Powers Act in California Government Code §6500, et. seq. allows the public boards of two or more agencies to create another legal entity or establish a joint approach to work on a common problem, fund a project, or act as an agent for a specific activity.

Agencies that can exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, redevelopment successor agencies, and even other joint powers organizations. A California government agency can even share joint powers with an agency in another state.

The publication cited above states, *"A joint powers agreement is so flexible that it can apply to almost any situation that benefits from public agencies' cooperation."* The same publication also states, *"JPAs are different from other forms of government because they are the only type of government formed by mutual agreement. Unlike other governments, JPAs are not formed by signatures on petitions and they're not approved by a vote of the people. Public agencies create JPAs voluntarily."*

When a new authority is formed, there are several requirements:

- The agency, within 30 days after the effective date of the agreement, must file a notice with the office of the California Secretary of State. The notice contains the name of each agency that is a party to the agreement, the effective date and a statement of purpose or the power to be exercised
- An additional copy is forwarded to the office of the State Controller
- Audits are to be filed as public records with each of the contracting parties and filed with the county auditor of the county where the home office is located. Any public agency or person can request a copy of the audit
- Public agency laws apply to joint powers authorities, including the California Public Records Act, the Ralph M. Brown Act, and the Political Reform Act of 1974

Created in 1985, the Marks-Roos Local Bond Pooling Act (Marks-Roos) permits local government agencies to fund working capital, for projects that would provide significant benefits to the public. Marks-Roos allows local agencies, through joint powers authorities, to issue bonds to finance projects. A JPA that is involved in the issuance of debt may be referred to as a public financing authority. Elected officials from the local agencies often compose the appointed governing boards of the JPAs. A board member is generally responsible for administrative activities, such as authorizing payments and keeping accounting records.

Of particular note, Government Code §6587 states: *"The issuance of bonds, financing, or refinancing under this article need not comply with the requirements of any other state laws applicable to the issuance of bonds, including, but not limited to, other articles of this chapter."* The phrase, "need not comply", allows flexibility for a joint powers authority to undertake services and construction projects that would not otherwise be possible.

Examples of JPA services include:

- groundwater management
- road construction
- habitat conservation
- airport expansion
- insurance coverage
- regional transportation projects
- bond issuance for project funding
- establishing regulatory authority

The JPA acronym can mean different things. A brief explanation may help remove confusion.

- **Joint Powers Agreement** – The written document outlining the purpose, terms and other legal aspects of the venture (contract). If a new board is formed, registration with the Secretary of State is required
- **Joint Powers Agency** – An entity created by agreement that is completely separate from the member agencies
- **Joint Powers Authority** – An entity created by agreement; often used interchangeably with agency. Frequently used when the entity is used in the issuing of bonds under the Mark-Roos Act

The Grand Jury sent letters to the County, the incorporated cities in the County, the Kern County Superintendent of Schools, and KernCOG requesting information on their JPAs. Interesting perspectives revealed by the responses include:

- One well-known entity, KernCOG, is a joint powers authority but was not cited as a JPA. Several respondents, who are members of KernCOG, indicated they had no current JPAs
- Many cities form single purpose public authorities to issue bonds and carry out projects. These entities are formed by a single entity, the city. Since there is not “joint exercise of power”, these are not JPAs. However, a number of cities classified such authorities as JPAs
- Respondents also listed Memorandums of Understanding and other agreements as JPAs
- It is possible for JPAs to become a common part of the community and overlooked
- Confusion surrounds JPAs

The response to the 2010-2011 Kern County Grand Jury report recommendations was mixed, giving evidence that JPAs are misunderstood or not recognized.

An email was sent to the California Secretary of State, Special Filings Division (Division), requesting the filing status of JPAs created or joined by the County of Kern. While processing the request, Division staff stated:

- Because of variations in JPA titles, it is difficult to be precise in providing the requested information
- Newly formed JPAs submit form Sec/State 404A, “Notice of a Joint Powers Agreement”
- Upon approval, JPAs are assigned a file number which is placed on the form and returned to the filer (see exhibit)
- Amendments to a JPA must cite the file number
- The file number can be made public and used to access JPA information at the State

FILE NO. <u>2300</u>
FILED Secretary of State State of California MAR 20 2015
(Office Use Only)

LOCAL JOINT POWERS AUTHORITIES

The Grand Jury attempted to assemble a list of authorities created or joined by government agencies in Kern County. The focus was on Joint Powers Authorities that have a separate board. The Grand Jury examined agreements to make determinations about specific JPAs.

As noted above, the Secretary of State Special Filings Division was asked to determine if those local joint powers authorities had filed the required notice with that office. The Division responded with the following information:

- The Division identified eleven JPAs that had filed required paperwork and been assigned a file number
- Another eight were found under a slightly different name
- Thirteen agencies were determined to be "Not of Record"

The chart that follows gives the results of the Grand Jury examination of agreements augmented by data from the Special Filings Division. Those agencies listed without a JP number are "Not of Record" with the Division.

CITIES CITED THE FOLLOWING:
<p>Cities cited the following:</p> <ul style="list-style-type: none"> • City of McFarland - McFarland Tri-Agency Partners (JP 2300) • City of Ridgecrest - CSAC Insurance Authority (JP 493) • City of Shafter - Kern Groundwater Authority (JP 2278), and Shafter Joint Powers Financing Authority • City of Tehachapi – Associate Member of Western Riverside Council of Governments (JP 1884) and the California Statewide Communities Development (JP 2201) • Other cities cited no JPAs which they have formed or joined or they incorrectly characterized agreements as forming an authority
<p>Kern County Superintendent of Schools cited the following:</p> <ul style="list-style-type: none"> • Self-Insured Schools of California Health SISC I -Workers' Compensation (cited as Self-Insurance Program for Workers Compensation, JP 371) • Self-Insured Schools of California Health SISC II - Liability and Property (cited as Self-Insurance Schools of Kern Liability & Property System, JP 498) • Self-Insured Schools of California Health SISC III - Medical, Dental and Vision • Agreement for Legal Service (Schools Legal Service) • School District Facilities Services JPA • Kern County Child and Family Services Agency

The Grand Jury did not request information from Special Districts, but did identify one JPA formed by such a District, the Central California Tristeza Eradication Agency

The County reported that it had created or joined several joint powers authorities. The Grand Jury reviewed County agreements to assemble a more complete JPA list:

- KernCOG (cited as Kern Council of Governments, JP 616)
- Tobacco Settlement Joint Powers Authority (California County Tobacco Securitization Agency, JP 1734)
- QuadState Local Governments Authority (cited as Quadstate County Government Coalition, JP 1683)
- Kern Child and Family Services Agency
- Kern Public Services Financing Authority (JP 1748)
- CSAC Excess Insurance Authority (JP 493)
- Tejon Ranch Public Facilities Financing Authority (JP 1696)
- Greater Taft Economic Development Authority
- San Joaquin Valleywide Air Pollution Study Agency
- San Joaquin Valley Air Pollution Control District
- California Electronic Recording Transaction Network Authority
- Joint Exercise of Powers Agreement with Tejon-Castaic Water District
- Central Valley Immunization Information System
- Kern Groundwater Authority (JP 2278)
- California Mental Health Services Authority (JP 2105)
- Kern, Inyo, and Mono Counties Workforce Investment Board
- The Metropolitan Bakersfield Habitat Conservation Plan Implementation Trust Group (JP 1414)
- California Statewide Automated Welfare System Consortium IV (JP 1651)

The County joined these agencies as an Associate Member:

- Western Riverside Council of Governments (JP 1884)
- San Joaquin Valley Library System Joint Powers Agreement
- California Enterprise Development Authority
- California Rural Home Mortgage Finance Authority

REPRESENTATIVE LOCAL JPAs

The Grand Jury researched JPAs formed by various agencies within Kern County to understand how JPAs are utilized. The chart below shows four examples.

The agency was formed in 1963 by the Kern County Citrus Pest Control District and two similar districts in Fresno and Tulare Counties to cooperatively combat a specific citrus pest in the three counties
Agency facilities and records are maintained at an office in Tulare County
The agency is managed, controlled and directed by a Board of Commissioners appointed by the member districts
Board of Commissioners must meet as established by agency bylaws and comply with public agency laws
MTAP was formed in 2014 by the City of McFarland, the McFarland Unified School District and the McFarland Recreation and Parks District
The stated purpose of the agency is <i>"To promote projects to improve the general welfare of the community within the City of McFarland"</i>
MTAP, still in its infancy, has no funds, budget or office
By agreement, each member agency names two members of their legislative body as MTAP Directors and one member is selected from the community by the appointed Board
The Executive Director is elected by the MTAP Board and must be the Executive of one of the member agencies
The Board currently meets once a month
Eventually the agency may fund selected projects by issuing bonds
The agency must comply with public agency laws

<p>Formed by the Kern County Superintendent of Schools and various school districts in 1979 for employee's medical coverage. Has progressed to three separate agencies to include several types of risk management</p>
<p>Known as Self-Insured Schools of California and commonly referred to as SISC</p>
<p>Stated purpose is, "<i>...operating an agency to maintain a self-insured program...</i>"</p>
<p>Beginning with medical, dental and vision insurance for school employees, this same type of agreement has expanded into liability, property and workers compensation risk management systems</p>
<p>The three agencies are under the direction and control of separate governing boards each consisting of eleven members elected as prescribed in the bylaws</p>
<p>Boards are required to meet monthly and comply with public agency law</p>
<p>Formed in 1999 by the County of Kern and the Tejon-Castaic Water District</p>
<p>Stated purpose is, "<i>...establishing an entity which can assist in providing financing for public capital improvements in the Tejon Ranch area of the County...</i>"</p>
<p>The authority is governed by a five member Board of Directors, three appointed by the Kern County Board of Supervisors and two by the Board of Directors of the Tejon-Castaic Water District</p>
<p>The Board is required to have a minimum of one meeting a year and must comply with public agency laws</p>
<p>The original authorizing agreement established a bond debt ceiling of \$40,000,000. An amendment in 2008 raised the ceiling to \$160,000,000</p>
<p>The most recent Bond issue was for approximately \$40.5 million</p>

These JPAs reflect types that are used locally and throughout California. Although the true number of JPAs is unknown, according to information received by the Grand Jury, there were over eighteen hundred JPAs as filed with the Secretary of State. The JPAs ranged from simple agreements between two small entities to complex agreements involving multiple entities from all levels of government.

SPECIAL DISTRICTS vs. JOINT POWERS AUTHORITIES

People are familiar with cities and counties. In California, everyone lives in a county and most live in a city. Special Districts, a form of elected government, provide residents with services such as potable water or fire protection. Cities, counties and special districts are accessible and accountable through attendance at public meetings and visits to a local office.

Joint Powers Authorities can perform services for people, however, they are not elected or accessible to the public. The following chart compares the two forms of government:

Formed by vote of constituents	Formed by agreement between two or more agencies
Requires a LAFCo review and approval process	No third-party review process
Governed by board elected by constituents	Governed by board appointed by member agencies
Agency office or facilities located in community with contact information	Agency office, if any, is often hard to locate
Boards often meet monthly	Boards may meet infrequently
Board members have presence in the community	Board members unknown or not present in the community
Provides services granted by electorate and approved through the LAFCo review process	Services are those included in the common powers of the member agencies
	Bond funds can be used for additional services including construction projects which are not in the common powers of the member agencies

Fee or tax increases require voter approval	Increased operating costs approved by board action of member agencies
Must abide by applicable state codes	Must abide by forming agreement and applicable state codes
Regulations generally are clear and distinct	Regulations relating to issuing of bonds are not clearly stated, and therefore, subject to interpretation
Must abide by Ralph M Brown Act, Fair Political Practices Commission and Public Records Act	Must abide by Ralph M Brown Act, Fair Political Practices Commission and Public Records Act

OBSERVATIONS BY OTHERS

Grand Jury research indicates that there are statewide concerns about joint powers governments. The following examples show the range of issues:

- The 2011/2012 Marin County Civil Grand Jury published a report entitled "Pre-Schoolers Learn to Share - Can Local Governments?" On June 2, 2012, the Pacific Sun News published an article entitled "Sixty-four agencies and counting, reports 'bewildered' grand jury". The article stated, "...the Marin Civil Grand Jury launched an investigation into the number of local government agencies that exist in the county—and they were baffled by what they discovered: no one really knows."

The article goes on to say, "Due to the rise of special districts and joint-powers authorities over the years, the numbers are murky at best – and no one's keeping an exact tally. The phone book lists about 30; the County Tax Collector's office doesn't know—but they know of 153 "taxing entities" who add charges to our tax bills...The Local Agency Formation Commission knows of about 64 agencies but, according to LAFCo officials, that list is not definitive."

- On August 14, 2013, the Marin Independent Journal published an article entitled "Marin Voice: Silencing the voice of the people". In discussing a plan for the San Francisco Bay area, the article stated, "In the discussion over the problems and promises of Plan Bay Area, one aspect of the debate was overlooked. The vote to approve Plan Bay Area was taken by a JPA – the Association of Bay Area Governments (ABAG)".

The article goes on to say, "The back-room power that is accumulating in groups like ABAG undermines local control. With ABAG we get a group of city and county elected officials attending public-private meetings alongside agencies that have alliances with corporations, developers, non-governmental organizations and government agencies."

The article concluded, "*JPAs like ABAG and SCLA [Sustainable Communities Investment Authority] cloud – no, close the window of government transparency. The public is left uninformed, and awareness and commitment to the common good is eroded.*"

- 2014-2015 Orange County Grand Jury, Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency. The report stated, "*State statutes authorize legal entities, such as cities, counties, school districts, or special districts to set up JPAs. These statutes give significant authority and latitude to these entities. As a result, many of these legal entities appear to set up JPAs which comply with the spirit of the law to provide financial benefit to the taxpayers. However, other JPAs may provide a legal means to avoid voter approval of debt decisions and to potentially mask financial accountability. This latter case is of significant concern since it is not in the best interest of taxpayers and does not provide for full transparency*".
- AB 2156, was introduced by Assembly Member K. H. Achadjian, and signed into law on June 4, 2014. California Association of Local Agency Formation Commissions (CALAFCO), letter of May 27, 2014 to Governor Brown concerning "Request to Sign AB 2156, Local Agency Formation Commissions: Studies" states, "*Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, LAFCoS are charged with evaluating the provisions of municipal services and to conduct studies of existing governmental agencies including their service area and service capacities. As many local agencies across the state are providing municipal services through JPAs, having access to the information that outlines service areas and specific services being delivered by these entities is critical to conducting comprehensive studies that support LAFCoS' core mission of encouraging the efficient delivery of local services and evaluating local agency boundaries.*" The local LAFCo staff has knowledge of this legislation but stated that they have no money for studies and no power to take action based on the conclusions of such studies.

BENEFITS AND RISKS

The Grand Jury found that joint powers agreements create "hidden governments" that provide benefits, as well as high risks. Important aspects are:

Benefits of JPAs

- Easy to form
- Flexible
- Efficient
- Cooperate on regional solutions
- Help find grants

Risks of Hidden Governments

- No direct voter control
- Modification or dissolution requires cooperation
- Original purpose could become obscured
- Private interests could control government functions
- No local or regional oversight
- Incurring debt without public knowledge
- Malfeasance (a wrongful or illegal act while in office)
- Misfeasance (the performance of a lawful act in an unlawful manner)
- Nonfeasance (the failure to perform a duty imposed by the law)

FINDINGS:

Government Code §54950 of the Ralph M. Brown Act states: *“Public commissions, boards, councils and other legislative bodies of local government agencies exist to aid in the conduct of the people’s business. The people do not yield their sovereignty to the bodies that serve them. The people insist on remaining informed to retain control over the legislative bodies they have created.”*

In order to retain control over legislative bodies, the Grand Jury suggests that four standards be employed: **transparency, accessibility, accountability and limitations.**

Applying these standards, the following Findings apply to most local Joint Powers Authorities and are applicable to many such authorities across the state:

F1. Transparency

- Joint Powers Authorities are formed with little or no citizen input and without any formal review process
- Public agencies are not always able to identify joint powers authorities which they have created or joined
- Few JPA agencies have an up-to-date website with contact information, agendas, and other pertinent information
- JPA information is not easily accessed
 - Records can be kept in separate locations
 - There is no local registry of authorities created by agreements
 - Required registration records maintained by state agencies are difficult to research
 - File numbers assigned by State agencies to each registration are not used by JPAs or the public to access information
- Public agency law requirements are not readily accessible, including
 - California Fair Political Practices Commission “Statement of Economic Interests” (Form 700)
 - California Public Records Act

- The intent of the Ralph M. Brown Act regarding transparency and openness is not closely followed
- Audits are not always done or available on a website or an office
- Operating costs are reimbursed by member agencies, not by fees or taxes
 - Operating costs are not transparent because only a vote of member agencies is required

F2. Accessibility

- Typically, joint powers authorities do not have an office at a known location
- Board meetings are not held routinely, frequently and openly
- Agendas, minutes and other records may not be consolidated in one location

F3. Accountability

- Names and contact information for appointed board members are not easily found
- Board members and management staff do not always complete and file Form 700
- Audits are not always sent to member agencies or reviewed by accounting staff
- County officials are not notified of those JPAs required to send an audit
 - If notified, county officials may not review audits for compliance
- Not all joint powers authorities file required paperwork with state agencies
- There is not an established procedure to inform record-keeping agencies of a new JPA

F4. Limitations

- Under Marks-Roos, and Government Code §6587, a JPA can sell bonds that can be used for services and/or construction that go beyond the common member agency powers
- A joint powers authority can carry out projects that benefit a private entity with little or no public input or oversight
- Issuing bonds to refinance debt can become a concern
 - Bond debt can outstrip ability to repay
 - Pension shortfalls can be masked by issuing bonds
- In approving the establishment of a joint powers authority, forming agencies do not always understand the authority that is being granted to the new agency
 - Member agencies do not limit the scope of a JPA to their common services
 - Member agencies do not review and renew the scope of the original agreement at agreed intervals
 - The usual agreement has no mechanism for modifying its terms
 - A JPA with no further purpose is not necessarily dissolved

COMMENTS:

In addition to required responses, the Grand Jury will send this report to the offices of the California Secretary of State and the State Controller, the California Senate Local Government Committee, the County office of the Local Agency Formation Commission, CALAFCO, the California Grand Jury Association and other grand juries that might be interested in this subject. Observations by these agencies are not required, but are welcome.

RECOMMENDATIONS:

R1. To improve transparency, accessibility, accountability and limitations, the County, through the Board of Supervisors, and each city council, should request local State representatives to promote reform to the "Joint Exercise of Powers Act" (Government Code §6500 et. seq). (Findings 1, 2, 3, and 4)

These requested reforms should include the following:

- A. Local LAFCos should be authorized to evaluate formation of proposed Joint Powers Authorities in a manner similar to the evaluation of proposed Special Districts.**
- B. JPAs should be required to have an up-to-date website with contact information, agendas, location of public records, audits and other pertinent information.**
- C. Joint powers authorities should have an office at a known location.**
- D. Agendas, minutes and other records should be consolidated in one location that is readily accessible by the public.**
- E. Member agencies and JPA should post the names and contact information of appointed board members.**
- F. There should be a penalty if required audits are not sent to member agencies for review.**
- G. LAFCo should inform State record-keeping agencies and appropriate counties that a new JPA has been established.**
- H. The Marks-Roos Act, and California Government Code §6587 should be reviewed to determine if the Act provides appropriate public benefit and oversight and if tighter restrictions should be placed on the issuing of bonds.**
- I. If bonds are to be sold by a JPA, each member agency should be required to notify its constituents before considering approval of an authorizing ordinance or resolution.**
- J. After such action is taken, there should be a mechanism for the public to petition the member agency to reconsider the issuance of bonds.**

R2. Through review of relevant agreements and State Government Codes, the County and each incorporated city should identify all joint powers authorities to which each is a party. (Finding 1)

R3. All public agencies should monitor the joint powers authorities in their jurisdiction including:

- A. JPAs should have up-to-date website with contact information, agendas, names for appointed board members and other pertinent information.**
- B. Records should be easily accessed at a central location.**
- C. Review compliance with public agency law requirements.**
- D. Audits should be reviewed and presented to member boards in public meetings.**
- E. Member agencies should review at agreed intervals and, if appropriate, change, renew or dissolve the agreement that established the authority.**
- F. At the time of the adoption of its annual budget, all public agencies should list relevant information, including purpose on its agenda. (Findings 1, 2 and 3)**

- R4. Grand juries do not have the authority to make recommendations to the State legislature. With that understanding, the 2015-2016 Kern County Grand Jury suggests that the State legislature consider amendments to State law. In addition to reviewing the Findings and Recommendations listed above, the Grand Jury suggests consideration of the following:
- A. State Law should direct LAFCoS to evaluate the formation of proposed Joint Powers Authorities in a manner similar to the evaluation of proposed Special Districts.
 - B. JPAs should be required to have an up-to-date website with contact information, agendas, location of public records, audits and other pertinent information.
 - C. State Law should direct State agencies to organize their records so that information on joint powers authorities can be easily accessed by the public online.
 - D. There should be a penalty if required paperwork is not submitted to State agencies and audits are not sent to member agencies for review.
 - E. Marks-Roos, and California Government Code §6587 should be reviewed to determine if the law provides sufficient public benefit and oversight or if tighter restrictions should be placed on the issuing of bonds. (Findings 1, 2, 3 and 4)
- R5. Grand juries do not have the authority to make recommendations to State agencies. With that understanding, the 2015-2016 Kern County Grand Jury suggests that State agencies improve their operations as follows:
- A. The Secretary of State and State Controller should organize their records by jurisdiction, so that joint powers authorities can be easily identified and located by staff and interested parties. These records should be searchable online.
 - B. Records should give information on type of authority, services, and other factors. (Finding 1)

RESPONSES:

The following agencies will be given a copy of this report for their response to Recommendations 1, 2, and 3:

County of Kern Board of Supervisors
City of Arvin
City of Bakersfield
City of California City
City of Delano
City of Maricopa
City of McFarland
City of Ridgecrest
City of Shafter
City of Taft
City of Tehachapi
City of Wasco

The following agency will be given a copy of this report for its response to Recommendation 3:
Kern County Superintendent of Schools

- The respondents should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

**RESPONSE BY ELECTED OFFICIALS REQUIRED WITHIN 60 DAYS,
OTHERS WITHIN 90 DAYS TO:**

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 200
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

REFERENCES:

- 2014-2015 Orange County Grand Jury, *Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency*
- Cypher, T. & Grinnell, C., 2007, *Governments Working Together: A Citizen's Guide to Joint Powers Agreements*, California State Legislature, Senate Local Government Committee Report
- *Marks-Roos Bond Act Borrowings: Several Cities Misused the Program and Some Financed Risky Projects Which May Result in Investor Losses*, September 1998, California State Auditor Bureau of State Audits
- *LAFCOs and Joint Power Authorities: Defining a Relationship That Makes Sense*, A presentation at the October 2014 CALAFCO Conference, Ken Lee, Moderator.
- *A REVIEW OF THE MARKS-ROOS Local Bond Pooling Act of 1985*, September 1998, California Debt and Investment Advisory Commission
- *Growth Within Bounds: Planning California Governance for the 21st Century*, September 2000, Commission on Local Governance for the 21st Century