

M e m o r a n d u m

Date: April 17, 2008

To: The Commission
(Meeting of April 24, 2008)

From: Pamela Loomis, Deputy Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2674 (Emmerson) – Investor-owned water utilities: joint powers agreements.**
As Introduced: February 21, 2008

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT

SUMMARY OF BILL:

This bill would authorize a public agency (Federal, State, County, or Local) to enter into a Joint Powers Agreement with an investor-owned water utility.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

A joint powers agreement between a public agency and an investor-owned water utility would encourage coordination of efforts in numerous areas of current concern, including provision of low-income assistance programs, water conservation, energy conservation, and reduction in carbon emissions and greenhouse gases.

Instead of the public and private utilities employing their efforts separately, they could save both time and money by coordinating their efforts, and issue a joint message regarding these issues that are critical to the people of California.

SUMMARY OF SUGGESTED AMENDMENTS:

None.

DIVISION ANALYSIS (Water Division):

- Class A water utilities already coordinate some of their water conservation efforts with their local water supplier. Over the past several years, the Class A water utilities have coordinated water conservation efforts with numerous agencies,

including but not limited to the Metropolitan Water District, Santa Clara Valley Water District, Central Basin Municipal Water District, Inland Empire Utilities Agencies, and San Bernardino County. Therefore, some coordinated efforts are already in place. With the ability to develop a joint powers agreement, these relationships and more, could develop and expand to even more effective programs.

- Theoretically, costs for shared projects completed through joint powers agreements should be lower for investor-owned water utility ratepayers than if the utility financed the project on its own.
- If an investor-owned water utility enters into a joint powers agreement that requires expenditures beyond those currently authorized, the utility may request a rate increase from the California Public Utilities Commission (CPUC). The CPUC is vested with the power and responsibility to ensure that consumers have safe, reliable utility service at reasonable rates.
- All rate increase requests must go through a process governed by CPUC General Orders¹, Public Utilities Code², and Rules of Practice and Procedure³. A generic example of a water utility requesting a rate increase is as follows:
 1. Utility files application requesting increase;
 2. CPUC Division of Ratepayer Advocates (DRA) and interested parties perform analyses, make recommendations, and file testimony in response to utility request.
 3. Hearings are held in which utility, DRA, and interested parties present testimony and cross-examine witnesses of other parties in case.
 4. Briefs are filed by parties in case.
 5. Administrative Law Judge drafts decision, which is then commented on by parties (utility, DRA, and interested parties).
 6. Commissioners then vote on proposed decision or offer an alternate decision to be voted on as well.

A general rate increase is approved or denied (in part or in whole) only after this process is completed and the reasonableness of the request determined.

¹ For example, General Order 96-B, http://162.15.7.24/PUBLISHED/GENERAL_ORDER/64590.htm , and D.07-01-024 http://162.15.7.24/PUBLISHED/FINAL_DECISION/64140.htm .

² For example, Public Utilities Code 451 “All charges demanded or received by any public utility, or by any two or more public **utilities**, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful.

Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the **Civil Code**, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

All rules made by public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.”

³ Numerous articles of the Rules of Practice and Procedure cover the ratemaking process – for example, Article 3, Rule 3.2 – Authority to increase rates and Article 13 – Hearing, Evidence, Briefs, and Submissions. http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/70731.htm

- If the investor-owned water utility is authorized to increase rates to pay for its portion of a joint powers agreement project and the local government raises taxes to pay for its portion of a joint powers agreement project, the customer of the investor-owned water utility may pay twice for the same project.
- Since the CPUC ensures that reasonable rates are charged to investor-owned utility customers, evidence that the customers were already paying for the joint powers agreement project via local taxes would impact the CPUC's determination as to the reasonableness of the utility's rate request.
- The Commission supports public/private partnerships. For example, in D.07-12-050, the CPUC authorized the large regulated energy utilities to institute a one-year pilot program in which they would develop partnerships with public water agencies to undertake water conservation programs. In addition, this decision ordered that the relation between water savings resulting from these pilot programs and the reduction in energy use, be studied.

PROGRAM BACKGROUND:

Unknown.

LEGISLATIVE HISTORY:

Unknown.

FISCAL IMPACT:

None.

STATUS: AB 2385 is scheduled to be heard by the Assembly Utilities & Commerce on April 28, 2008.

SUPPORT/OPPOSITION:

None on file.

STAFF CONTACTS:

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BILL LANGUAGE:

BILL NUMBER: AB 2674 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Emmerson

FEBRUARY 22, 2008

An act to add Section 6525.1 to the Government Code, relating to joint powers agreements.

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, as introduced, Emmerson. Joint powers agreements: investor-owned water utilities.

Existing law, the Joint Exercise of Powers Act, authorizes a public agency, defined as a federal, state, or local governmental agency or a public corporation or district or a regional transportation commission, to enter into an agreement for the joint exercise of powers and to create an agency or entity that is separate from the parties to the agreement.

This bill would authorize an investor-owned water utility to enter into a joint powers agreement with a public agency.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6525.1 is added to the Government Code, to read:

6525.1. Notwithstanding any other provision of law, an investor-owned water utility that is regulated by the Public Utilities Commission may enter into a joint powers agreement with a public agency.