

## **GLENN COUNTY GOVERNANCE WORKGROUP SUSTAINABLE GROUNDWATER MANAGEMENT ACT IMPLEMENTATION**

### **Groundwater Sustainability Agency Options**

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GSA Deadline. By June 30, 2017:

- A local agency has decided to become a GSA that intends to develop a groundwater sustainability plan for the entire subbasin; or
- A collection of local agencies has formed a GSA or prepared agreement(s) to develop one or more groundwater sustainability plans that will collectively serve as a groundwater sustainability plan for the entire subbasin. (Water Code § 10735.2(a).)

Basic GSA Options

- Single existing local agency
- Single new local agency created through special legislation or LAFCO proceeding
- Combination of local agencies acting together under joint powers agreement or “memorandum of agreement or other legal agreement”
  
- For the GSP, either a single plan for the entire subbasin or multiple, coordinated plans covering the entire subbasin

Joint Powers Agreement

- Authorized by Joint Exercise of Powers Act (Govt. Code 6500 et seq.)
- Two types
  - Creates joint powers authority as new local agency with separate governing board.
  - Does not create new joint powers authority. Agreement as framework for parties to manage a program or project. Sometimes lead agency designated. Sometimes advisory or oversight board created.
- JPA establishment process is simple and flexible
  - Prepare, negotiate and approve agreement
  - If it creates new authority: file with county and Secretary of State; and, new public agency start-up actions.
  - LAFCO not involved.
- JPA parties: local agency, county, city, federal government, tribe, mutual water company; no other private party.

Memorandum of agreement or other legal agreement

- Intent seems to be a simpler contract or non-JPA contract.
- MOA sometimes synonymous with MOU.
- Could be a range from a nonbinding statement of intent to a more comprehensive binding contract.

**PROS & CONS OF GSA OPTIONS:**

<i>Option</i>	<i>Pros</i>	<i>Cons</i>
Single existing local agency	<ul style="list-style-type: none"> <li>&gt; Simple and quick</li> <li>&gt; Existing administration and overhead</li> </ul>	<ul style="list-style-type: none"> <li>&gt; Would not allow for participation by other affected agencies</li> <li>&gt; May be opposed by other agencies</li> <li>&gt; Other than the County (assuming subbasin boundaries adjusted), no one local agency that covers the entire subbasin</li> </ul>
Single new local agency	<ul style="list-style-type: none"> <li>&gt; Able to tailor type, territory (could be regional), structure, governing board, etc. to fit unique subbasin circumstances</li> <li>&gt; More permanent than contract-based GSA</li> </ul>	<ul style="list-style-type: none"> <li>&gt; Would require special legislation or LAFCO proceeding</li> <li>&gt; Time-consuming and uncertain process</li> <li>&gt; Would require local collaboration and political support</li> <li>&gt; Would be new government agency, additional layer of government, and administrative costs</li> <li>&gt; Difficult to dissolve</li> </ul>
Memorandum of agreement or joint powers agreement not creating new authority	<ul style="list-style-type: none"> <li>&gt; Easy, flexible means for affected agencies to coordinate on management to fit local circumstances</li> <li>&gt; Member parties can retain some control through advisory board and budget</li> <li>&gt; Easy to dissolve if not satisfactory</li> <li>&gt; Could be used as a tool to coordinate among multiple GSAs</li> <li>&gt; Private utilities, mutual water companies and other non-local agency parties could participate in a MOA</li> </ul>	<ul style="list-style-type: none"> <li>&gt; Requires mutual trust and agreement to form</li> <li>&gt; If single GSA, may be difficult to agree upon lead agency to assume primary management role</li> <li>&gt; Concerns about another agency controlling local groundwater</li> <li>&gt; If multiple GSAs, then need to ensure plan coordination and use of same data and methodologies</li> <li>&gt; Local agency parties would cede some control to the lead agency</li> </ul>
Joint powers agreement creating new authority	<ul style="list-style-type: none"> <li>&gt; Easy, flexible means for affected agencies to tailor a new regional agency and governing board to fit local circumstances</li> <li>&gt; Member parties can retain control over JPA through the governing board and budget</li> <li>&gt; Easy to dissolve if not satisfactory</li> <li>&gt; May delegate voting power to non-local agency</li> <li>&gt; May allow for associate member participation without conferring voting power</li> <li>&gt; Mutual water company may be a party</li> </ul>	<ul style="list-style-type: none"> <li>&gt; Requires mutual trust and agreement to form</li> <li>&gt; Local agency parties would cede some control to the authority</li> <li>&gt; With many parties, a party may be concerned about limited voting rights on board</li> <li>&gt; Concerns about new authority controlling local groundwater</li> <li>&gt; Can be difficult and time consuming to agree upon contract terms</li> <li>&gt; Can be hard to keep together if JPA is easy to dissolve</li> <li>&gt; Would be new government agency, additional layer of government, and administration costs</li> </ul>

### JPA with limited GSA powers?

- Consider a joint powers agreement with a carefully-constrained delegation of legal authority and power to the new joint powers authority or lead agency. Under the Joint Exercise of Powers Act, “two or more public agencies by agreement may jointly exercise any power common to the contracting parties” only to the extent as authorized by their governing boards. (Govt. Code § 6502.) SGMA defines a GSA to include “each local agency comprising the groundwater sustainability agency if the plan authorizes separate agency action” (Water Code § 10721(j)), which seems to contemplate that a GSA and GSP could be structured such that the GSA is responsible for the subbasin-wide SGMA responsibilities (e.g., planning, monitoring, reporting) and that the constituent local agencies are responsible for other localized actions.

### Key JPA or contract terms to consider

- Board structure, governance and voting
- Allocation of costs and funding
- Delegation of authority and powers
- GSP preparation and adoption
- GSP implementation and enforcement
- Dispute resolution
- Term, termination and withdrawal