

Date of Hearing: April 2, 2025

ASSEMBLY COMMITTEE ON INSURANCE

Lisa Calderon, Chair

AB 428 (Blanca Rubio) – As Amended March 28, 2025

**SUBJECT:** Joint powers agreements: water corporations

**SUMMARY:** Authorizes water corporations, as defined, to enter into joint powers agreements (JPAs) with public agencies and mutual water companies for purposes of insurance risk pooling. Specifically, **this bill**:

- 1) Authorizes a water corporation, a mutual water company, and one or more public agencies to enter into a JPA for the purpose of insurance risk pooling, and to be coinsured under a master policy with the total premium prorated among those entities, as specified.
- 2) Specifies that a water corporation shall not enter into a JPA for the purpose of risk pooling unless a mutual water company is already a party to the JPA.
- 3) Specifies that a water corporation shall not enter into a JPA for the purpose of risk pooling unless the JPA is 100% reinsured with no joint and several liability, no assessments, and no financial liability attributable to the participating members irrespective of whether they are public, nonprofit, or for-profit agencies.
- 4) Prohibits a JPA for risk pooling that includes a water corporation from joining any other JPA or public agency, and from exercising any powers thereof.
- 5) Before entering into a JPA for risk pooling, requires a water corporation to submit an information filing to the California Public Utilities Commission (CPUC) that includes three years of historical insurance costs and current-year estimated insurance costs.
- 6) Prohibits the CPUC from allowing a water corporation to join a JPA for insurance coverage if there are no greater benefits to the customers of the water corporation than are provided by the water corporation's current insurance policy.
- 7) Requires a water corporation that enters into a JPA for risk pooling to ensure that any cost savings or expansion of insurance coverage attributable to its membership in the JPA shall be used solely to reduce rates, improve service, or both, for California customers of the water corporation.
- 8) Requires a water corporation that enters into a JPA for risk pooling to submit an annual information filing to the CPUC and the JPA reporting: the estimated level of savings resulting from its membership in the JPA, including three years of historical insurance costs, estimated current-year insurance costs resulting from membership in the JPA, and estimated current-year costs for obtaining comparable coverage on the private insurance market, if available; and how these savings were used to benefit customers of the water corporation.

**EXISTING LAW:**

- 1) Allows, pursuant to the Joint Exercise of Powers Act (JPA Act), two or more public agencies by agreement to jointly exercise any power common to the contracting parties, as specified,

if authorized by their legislative or other governing bodies. (Government Code (GOV) Section 6500, et seq.)

- 2) Defines, for purposes of the JPA Act, “public agency” to mean "the federal government or any federal department or agency, this state, another state or any state department or agency, a county, county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission of this state or another state, a federally recognized Indian tribe, or any joint powers authority formed pursuant to the JPA Act by any of these agencies." (GOV Section 6500)
- 3) Allows a mutual water company to enter into a JPA with any public agency for the purpose of jointly exercising any power common to the contracting parties. (GOV Section 6525)
- 4) Allows two or more local public entities, by a JPA, to provide insurance coverage or self-insurance, or to obtain insurance coverage by means of a reciprocal or inter-insurance exchange. JPAs offer self-insurance coverage on a pooled basis for a variety of purposes, including liability (malpractice and officers and directors coverage), workers' compensation, health insurance, and property coverage. (GOV Section 6512.2)
- 5) Provides that the pooling of self-insured claims or losses among entities participating in a JPA are not subject to regulation under the Insurance Code, as provided. (GOV Section 990.8(c))
- 6) Defines “water corporation” as including every corporation or person owning, controlling, operating, or managing any water system for compensation within this state. (Public Utilities Code (PUC) Section 241)
- 7) Provides that any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any water system within the state, who sells, leases, rents, or delivers water to any person, firm, corporation, municipality, or any other political subdivision of the state, whether under contract or otherwise, is a public utility, and is subject to regulation by the CPUC. (PUC Section 2701)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) *Purpose:* According to the author, “Rising insurance costs are making it increasingly difficult for California’s water utilities to keep rates affordable. AB 428 addresses this challenge by allowing water corporations to join Joint Powers Authorities (JPAs) for risk pooling, giving them access to more affordable and stable insurance options.

Unlike private insurance, JPAs are not regulated under the Insurance Code and not subject to premium taxes, enabling them to offer lower premiums and broader coverage. By reducing insurance costs, this bill helps prevent unnecessary rate hikes, ensuring affordable and reliable water service for California consumers.”

- 2) *Public Water Systems, JPAs, and Risk Pooling:* Public water systems that deliver domestic water generally fall into three categories:

- Local agencies (cities and special districts): Local Agency Formation Commissions (LAFCOs) control the cities and special districts' boundaries, and local officials are responsible to their voters for their water rates.
- Mutual water companies: Private entities, formed under statutes governing corporations, respond to their shareholders, usually the landowners who receive water service. Neither LAFCOs nor the CPUC regulate mutual water companies.
- Water corporations (investor-owned public utilities): The CPUC controls the companies' service areas and their water rates through an extensive "rate case" process that takes into account various expenses and revenues, and accounts for a determined rate of return (i.e. profit) for the corporation.

Under existing law, public agencies may form JPAs to jointly exercise any power common to all members. JPAs offer self-insurance coverage on a pooled basis for a variety of purposes, including liability (malpractice and officers and directors coverage), workers' compensation, health insurance, and property coverage. Pooling of self-insured claims or losses among local public entities is not considered insurance and is not subject to regulation under the Insurance Code.

As previously mentioned, water rates for water corporations are set by the CPUC. However, any increases in operating costs, including the cost of insurance, are required to be recovered in rates. Therefore, as water corporations face higher insurance costs, these costs are passed on to consumers in the form of higher water bills.

In 2015, the Legislature passed AB 656 (C. Garcia, Ch. 250, Stats. 2015), which authorized mutual water companies to join JPAs for the provision of insurance, so long as the JPA has one or more public agencies as a member. This bill asks for the same allowance for water corporations. By allowing water corporations to join JPAs, the author and supporters argue the bill will allow them to avoid the high cost of commercial insurance coverage and help offer more rate stability, cheaper rates, and better services for consumers.

- 3) *Current Landscape of Water Utility JPAs*: In California, two JPAs exist to provide risk pooling for public water systems. These JPAs, the Association of California Water Agencies Joint Powers Insurance Authority (ACWA JPIA) and the California Association of Mutual Water Companies (CalMutuals) Joint Powers Risk Management Authority (JPRIMA), provide insurance to water utility members at a lower average cost and offer broader coverage than the commercial insurance market.

ACWA JPIA was formed in 1979 and is comprised solely of approximately 400 public water agencies. In an "oppose unless amended" letter to AB 2735 (see Comment 4, below), ACWA JPIA argued:

Should a new risk pool of largely non-public entities be allowed to form, or a current risk pool absorb a significant number of non-public entity members, and should it fail financially, it jeopardizes the ability to exist for every other risk pool in the state.

That said, ACWA JPIA ultimately reached a neutral position on AB 2735 and has taken a “neutral” position on this bill. They maintain concerns, as described, regarding unanticipated consequences, but believe those concerns can and will be resolved by amendments:

At the heart of our concern is making sure that AB 428 does not have any unanticipated consequences to the risk pooling industry in California by allowing investor-owned private water corporations to join or form a risk pool with public agencies. We have met with the author’s office and sponsors and reached an agreement in principle on amendments that address our concerns.

It is unclear whether the latest round of amendments to the bill, taken on March 28, 2025, address these concerns.

JPRIMA, on the other hand, was formed in 2016 following the passage of AB 656, and is comprised of a combination of public water agencies and mutual water companies. JPRIMA have expressed interest in accepting water corporations into the JPA. CalMutuals, who represent California’s mutual water companies and founded JPRIMA, support this bill, arguing:

AB 428 (Rubio) would expand reliable and affordable insurance options for water utilities by enabling investor-owned utilities to participate in a [JPA] for risk pooling. It also addresses concerns about purported cost-shifting to public agencies by mitigating financial risks for the JPA through a fully reinsured risk pool where there is no joint and several liability to the member insureds, no assessments, and no financial liability for the members.

- 4) *AB 2735 and Governor’s Veto*: This bill is substantially similar to AB 2735 (B. Rubio, 2024), which would have authorized water corporations to join JPAs that include a public entity and a mutual water company, should the water corporation meet specified criteria in doing so. AB 2735 passed out of this committee 15-0 and out of both houses before being vetoed by the Governor. The Governor’s veto message read:

This bill will allow private water corporations, also known as investor-owned public utilities, to enter into a joint powers agreement with a public agency for the purpose of insurance risk pooling.

Authorizing investor-owned, private water corporations to participate in public risk pools could transfer financial risks of decisions by for-profit entities to public entities, which has the potential to shift costs to public entities and their ratepayers. Absent a more robust analysis of the nature and extent of this potential cost-shifting, I am not convinced the benefit of this proposal outweighs the risk at this time.

- 5) *Attempts to Address the Governor’s Veto*: In reintroducing this bill, the author has made several changes in an attempt to address the risk of inappropriate cost-shifting raised by the Governor. Most notably, the author has made the following changes to AB 2735 as it passed out of the Legislature last year:

- Requiring that, for a water corporation to join a JPA, the JPA must be 100% reinsured with no joint and several liability, no assessments, and no financial liability attributable to the participating members irrespective of whether they are public,

nonprofit, or for-profit agencies. This ensures that a public agency that is a member of a JPA with a water corporation cannot face additional costs as a result of risks incurred through the behavior of the water corporation, except to the extent reinsurance costs, and thus JPA premiums, increase as a result of assessments to the JPA.

- Limiting the circumstances under which a water corporation can enter into a JPA to those in which joining the JPA for insurance coverage provides greater benefits to the customers of the water corporation than are provided by the water corporation's current insurance policy.
- Clarifying that, if a water corporation enters into a JPA, the water corporation must ensure that any cost savings or expansion of insurance coverage attributable to its membership in the JPA is used solely to reduce rates, improve service, or both, for California customers of the water corporation.
- Requiring that, in annual reporting to the CPUC for determining the estimated level of savings resulting from membership in the JPA, the water corporation include, in addition to three years of historical insurance costs and estimated current-year insurance costs resulting from membership in the JPA, an estimate of current-year insurance costs for obtaining comparable coverage on the private insurance market, if available.

It should be noted that the bill does not require any public agency to form a JPA with a water corporation, nor to accept a water corporation into an existing JPA. It simply authorizes the practice should an existing JPA, or a public agency and mutual water company who seek to form a JPA, deem it beneficial to accept a water corporation as a member.

6) *Double Referral*: This bill is double-referred to the Assembly Committee on Local Government.

7) *Prior Legislation*:

AB 2735 (B. Rubio, 2024) which would have authorized water corporations to join JPAs that include a public entity and a mutual water company, should the water corporation meet specified criteria in doing so. AB 2735 was substantially similar to this bill, and was vetoed by the Governor.

SB 1226 (Durazo, Ch. 423, Stats. 2022) allows a private, non-profit corporations that provides services for zero-emission transportation to enter into a JPA with a public agency to facilitate the development, construction, and operation of zero-emission transportation systems or facilities.

AB 656 (C. Garcia, Ch. 250, Stats. 2015) allows a mutual water company to enter into a JPA with a public agency for the provision of insurance and risk pooling.

AB 1403 (Maienschein, Ch. 188, Stats. 2015) allows a private, non-profit corporation that provides services to homeless persons for the prevention of homelessness to form a JPA or enter into a JPA with a public agency.

AB 101 (Steinberg, Ch. 14, Stats. 2000) allows a private (non-profit or for-profit) charter school to be considered a public agency for membership in a JPA for insurance risk pooling.

AB 1486 (Speier, Ch. 726, Stats. 1993), among other things, allows private childcare providers to enter into a JPA with a public agency for insurance risk pooling.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California American Water  
California Association of Mutual Water Companies  
California State Association of Electrical Workers  
California State Pipe Trades Council  
California Water Association  
California Water Service  
Coalition of California Utility Employees  
Golden State Water Company  
Great Oaks Water Company  
Liberty Utilities  
San Gabriel Valley Water Company  
San Jose Water Company  
Suburban Water Systems

**Neutral**

Association of California Water Agencies Joint Powers Insurance Authority (acwa Jpia)

**Opposition**

None on file.

**Analysis Prepared by:** Landon Klein / INS. / (916) 319-2086