

JOINT POWERS ENTITY QUESTIONS & ANSWERS

Q: How is the Cape Light Compact (Compact) Currently Organized?

A: The Compact's member towns and counties are all parties to an Inter-Governmental Agreement (IGA) under the authority of G.L. c. 40, §4A (the IGA Statute). The IGA is one of the documents that governs the operations of the Compact. The IGA sets forth matters such as Compact goals and purposes, election of officers, appointment of directors, procedures for meetings and voting.

Q: What is a Joint Powers Entity?

A: The Legislature recently passed an Act Modernizing Municipal Finance and Government (Act). Part of the Act allows governmental entities to join together and exercise any of their common powers and duties within a designated region (a Joint Powers Entity or JPE). Governmental entities sign a Joint Powers Agreement (JPA) that governs the operations of the JPE. Only two municipal entities are needed to form a JPE.

Q: Who Can Form a JPE?

A: A city, town or a regional school district, a district defined in G.L. c. 40, §1A (e.g., fire, water, sewer, etc.), a regional planning commission, however constituted, the Hampshire council of governments, a regional transit authority under G.L. c. §161B, a water and sewer commission formed under G.L. c. 40N or by special law, a county, or a state agency defined in G.L. c. 6A, §1 is able to form a JPE.

Q: Why Would the Cape Light Compact Want to Form a Joint Powers Entity?

A: As part of its discussions on transitioning from Barnstable County, the Compact Governing Board has been exploring forming a JPE to ensure that member towns can be better protected from liability. Initially, the JPE would be responsible for the Compact's administrative affairs and, the intent is to have the Compact transition to operating fully through the JPE.

Transferring operations to a JPE would benefit the Compact's members because the Act clearly states the authority given to the JPE and expressly protects the liability of JPE members. This express authority and protection is not found in the IGA Statute.

Q: Is the Compact or its Power Supply or Energy Efficiency Programs Going Away?

A: No. The Compact will continue to offer energy efficiency programs and a power supply option for all customers on Cape Cod and Martha's Vineyard through the IGA until 2022 or until the JPE is completed, at which time only those member towns/counties will be able to participate in the Compact's programs. The Compact's Governing Board would like to see all towns that wish to become members of the JPE do so by June 30, 2017.

The Compact will work with the Massachusetts Department of Public Utilities, as needed throughout its transition to a JPE, to update its governing documents.

Q: Who Authorizes and Executes a JPA?

A: A JPA is authorized in a city, by the city council with the approval of the mayor; in a town, by the board of selectmen; and in a district, by the prudential committee. The chief executive officer of a city or town, or a board, committee or officer authorized by law to execute a contract in the name of the governmental unit will execute a JPA. The Act does not require a Town Meeting vote to join a JPE.

Q: How is a JPE Managed?

A: Each member of the JPE appoints a director to serve on the JPE's board of directors. The JPE is also a public employer, and the board of directors may hire staff to carry out the purposes of the JPE. Subject to certain limitations, the board of directors must also appoint a treasurer and business officer for the JPE.

Q: What Powers Does a JPE Have?

A: The Act provides that a JPE is a separate public entity with the authority to:

- Sue and be sued;
- Sign contracts and other instruments necessary to exercise its powers;
- Make, amend and repeal policies and procedures;
- Receive and expend funds;
- Apply for and receive grants from the Commonwealth, the federal government and other grantors;
- Apply for state, federal or corporate grants or contracts to obtain funds to carry out its purposes;
- Submit an annual report to each member governmental unit with a detailed audited financial statement;
- Employ staff;
- Borrow money;
- Subject to the Uniform Procurement Act (and its exemptions), contract for goods and services, purchase or lease land, buildings and equipment; and
- Any such other powers as are necessary to properly carry out its powers as a body politic and corporate.

Q: What Financial Controls Apply to a JPE?

A: The Act imposes requirements for audits, reporting and accounting. The JPE must establish and maintain a budget. Annual audits are to be distributed to its members and to the Department of Revenue. Annual reports to members are also required.