
Local Government Committee

HB 2084

Brief Description: Imposing fines, withholding taxes, and other measures to encourage local jurisdictions to timely file state-required reports.

Sponsors: Representative Hunter.

Brief Summary of Bill

- Requires the state auditor to notify the state and county treasurers of special purpose districts (districts) that do not timely file local government annual financial reports (annual reports).
- Prohibits state treasurers and county treasurers from distributing local sales and use taxes, regular property taxes, and other district charges to districts that are not compliant with filing requirements for annual reports.
- Provides for dissolution or disincorporation of districts that have not timely filed annual reports in two or more years.

Hearing Date: 2/17/15

Staff: Michaela Murdock (786-7289).

Background:

Special Purpose Districts.

Special purpose districts (districts) are limited purpose local governments separate from a city, town, or county government, created to provide a limited number of public facilities or services. Statute provides for the creation of numerous different types of districts including: cemetery, diking, drainage improvement, fire protection, flood control zone, metropolitan park, mosquito, park and recreation, port, public utility, solid waste collection, and water-sewer districts; county park and recreation service areas, and transportation benefit areas.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

County treasurers are the custodian of county money and the administrator of the county's financial transactions. They may also serve as the *ex officio* treasurer for a district and may provide financial services to districts and other units of local government.

Dissolution of Inactive Districts.

Statute provides for the dissolution of inactive districts. The dissolution provisions apply to every municipal and quasi-municipal corporation other than counties, cities, towns, industrial development districts created by port districts, local improvement districts, utility local improvement districts, and road improvement districts.

An inactive district is characterized by either of the following:

1. the district has not carried out any special purpose or function for which it was formed within the preceding five years; or no election has been held for the purpose of electing a member of the governing body; or
2. for districts with appointed members, no member has been appointed to the governing body within the preceding seven years.

A public utility district is characterized as inactive if it meets the criteria listed under both 1 and 2 above.

When a district is deemed "inactive" and dissolution is found to be in the public interest, the county legislative authority must adopt an ordinance dissolving the district. Except for the purpose of winding up its affairs, a dissolved district will cease to exist, and the authority and obligation to carry out the purposes for which it was created ceases, after 31 days.

Separate statutory provisions authorize disincorporation proceedings for certain inactive districts located wholly, or in part, in a county with a population of 210,000 or more. If the district has not actively carried out any of the special purposes or functions for which it was formed in the preceding five years and disincorporation is in the best interest of all concerned persons, the district may be disincorporated.

Annual Financial Report.

The State Auditor (Auditor) must require every local government to submit annual financial reports (annual reports) for each fiscal year. Reports must be prepared, certified, and filed with the Auditor within 150 days after the close of each fiscal year.

Annual reports must contain statements of:

- all collections made or receipts received by local government officers;
- all uncollected accounts due the public treasury;
- all expenditures and the authority for making the expenditures;
- costs and income for each public service industry owned and operated by a local government;
- the entire public debt of the local government, including each purpose for which an item of debt was created and any provisions made for payment;
- all receipts and expenditures by any public institution;
- all labor relations consultant expenditures; and
- any other information required by the Auditor.

Statute requires every officer and employee of a local government to make all reports required by the Auditor. Any public officer or employee who refuses or willfully neglects to perform such duties is subject to removal from office.

Sales and Use Taxes.

A state sales tax of 6.5 percent of the selling price is imposed on retail sales made in state. If retail sales taxes were not collected when a person acquired property, products, or services, a state use tax of 6.5 percent of the value of the property, product, or service applies.

In addition to the state sales and use taxes, the governing body of a county or city may by resolution or ordinance impose a local sales and use tax. Local sales and use tax rates vary from 0.5 percent to 3.0 percent, depending on the jurisdiction. Transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts are authorized by statute to impose sales and use taxes as well.

Funds collected by the Department of Revenue from local sales and use taxes are deposited into the Local Sales and Use Tax Account in the State Treasury. Moneys in the account may be withdrawn only for specified purposes, such as distribution to counties, cities, and other local governments imposing a sales and use tax.

Regular Property Taxes.

Real and personal property is subject to regular property taxes each year. "Regular property tax" means a property tax levied by or for a taxing district subject to certain constitutional and statutory limitations. Junior taxing districts, such as cemetery districts, rural library districts, and park and recreation districts, may impose a regular property tax. Property taxes for all property listed, assessed, and placed on county tax rolls is received and collected by the county treasurer.

Summary of Bill:

For certain types of districts, the Auditor must notify the state treasurer and applicable county treasurers when a district has not timely filed its annual report for the current year. Notification must be sent by October 1 of each year, beginning in 2015.

If, after the State Auditor has sent notice of noncompliance, the district submits its annual report and pays a fee of \$500, the Auditor must notify the state and county treasurer within 30 days that the district is compliant.

Districts to which the new requirements relate are: cemetery, diking, drainage improvement, fire protection, flood control zone, metropolitan park, mosquito, park and recreation, port, public utility, solid waste collection, and water-sewer districts; county park and recreation service areas, and transportation benefit areas.

Withholding of Tax Funds.

If the Auditor notifies the state and county treasurers that a district has not timely filed its annual financial report:

- the State Treasurer may not distribute any local sales and use taxes imposed by the district until the State Treasurer is notified that the district is compliant; and

- the county treasurer may not distribute any regular property taxes imposed by the district, or any other charges that the county collects on the district's behalf, until the county treasurer is notified that the district is compliant.

Upon notification of a district's compliance, the state and county treasurers must remit withheld funds, excluding any interest.

Dissolution of Inactive Districts.

The definition of "inactive" for purposes of determining whether a district may be subject to dissolution is modified. The term is expanded to include districts that have not timely filed an annual report with the Auditor in two or more years, beginning with reports required to be filed in 2015. Accordingly, districts that have not timely filed their annual reports in two or more years may be subject to dissolution.

Similarly, in counties with a population of 210,000 or more, applicable districts that have not timely filed an annual report with the Auditor in two or more years, beginning with reports required to be filed in 2015, may be subject to disincorporation.

In the event that a cemetery district, rural county library district, rural library district, or park and recreation district is dissolved for failure to timely file annual reports in two or more years, the county is authorized to continue to levy regular property taxes for the purpose of conducting activities of the dissolved districts.

Appropriation: None.

Fiscal Note: Requested on February 13, 2015.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.