

# FINAL BILL REPORT

## ESHB 2588

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Synopsis as Enacted

**Brief Description:** Improving openness, accountability, and transparency of special purpose districts.

**Sponsors:** House Committee on Local Government (originally sponsored by Representatives Pollet, Leavitt, Valdez, Senn, Duerr, Ryu, Frame, Boehnke, Hudgins and Kraft).

**House Committee on Local Government**  
**Senate Committee on Local Government**

### **Background:**

#### Formation of Special Purpose Districts.

A special purpose district (SPD or district) is a limited purpose local government separate from a city, town, or county government. Districts provide a limited number of public facilities or services, and the types of services provided depend on the particular purpose for which the district was created. The formation of a SPD generally requires two elements: a resolution by a county legislative authority or a petition to the county legislative authority signed by a sufficient number of voters, and voter approval of a ballot proposition.

#### Dissolution of Special Purpose Districts.

There are different mechanisms for dissolving different types of districts. In general, however, dissolution occurs in two ways. First, the SPD itself may petition for dissolution in superior court. If, after a hearing, the court finds that dissolution is in the best interests of all concerned, then the court can dissolve the SPD.

Second, a SPD may be dissolved if it is found to be inactive. A SPD may be found to be inactive if it has failed to carry out any of the special purposes or functions for which it was formed for the past five years, or if no election or appointment has been made to the SPD's governing board for seven years (in order to be found inactive, a public utility district must meet both criteria). At any time, a county legislative authority may hold hearings on the dissolution of any SPD that appears to be inactive. Additionally, the county auditor must notify the county legislative authority by June 1 of every year if a SPD within the county

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appears inactive. After such notification, the county must hold public hearings on whether the district should be dissolved by September 1 of the same year.

After a hearing, the county legislative authority may dissolve the SPD by ordinance if the SPD is inactive and there are additional written findings detailing why dissolution is in the public interest.

#### Auditing Special Purpose Districts.

All local governments, including SPDs, are required to file annual reports with the State Auditor. These reports must include, among other things, information on all collections made, or receipts received, from all sources; all accounts due to the public treasury but not collected; and all expenditures. The reports are required to be certified and filed with the State Auditor within 150 days of the end of each fiscal year. The State Auditor is required to certify the correctness and completeness of such reports.

The State Auditor has the ability to audit any local government. The State Auditor is required to audit the finances of a local government at least once every three years.

#### Special Purpose District Funding.

Most special purpose districts are funded, at least in part, by property taxes. Depending on the district, these taxes may be imposed as part of a regular tax levy (subject to the regular tax levy limit), an excess levy (sometimes in conjunction with a regular levy), or as an assessment based on the benefit that the property receives from the district.

#### **Summary:**

##### Unauditable Special Purpose Districts.

By December 31 of every year, the State Auditor is required to search available records and to notify a county legislative authority if a special purpose district (SPD) partially or wholly within that county has been found to be unauditable. The State Auditor must also notify the State Treasurer if a SPD has been found unauditable. A SPD is unauditable if the State Auditor determines that the SPD has improperly maintained, or failed to maintain or submit, adequate records, files, or reports for an audit to be completed.

If a county is notified by the state auditor that a SPD has been found to be unauditable, then the SPD and the county auditor are generally prohibited from issuing warrants against the funds of the SPD, until the SPD has had its financial report certified by the State Auditor. The State Treasurer may not distribute any local sales and use tax imposed by an unauditable SPD until this financial report is certified. A county may, however, authorize the unauditable SPD and the county auditor to issue warrants against the funds of the SPD to prevent the discontinuation or interruption of services, for emergency or public health purposes, or to allow the district to carry out districts duties and responsibilities.

When a SPD has been found to be unauditable by the State Auditor, the county legislative authority in which the greatest portion of the SPD resides must hold public hearings to

determine whether the SPD is unauditible. Notice of such a hearing must be provided for at least three consecutive weeks in the newspaper, posted in at least three places within the SPD, and sent to the governing members of the SPD, any relevant SPD association, and to anyone who has a claim against the SPD. Notice must also be sent to any other counties that contain a portion of the SPD.

If the SPD is determined to be unauditible, then the county legislative authority may dissolve the district by ordinance if it makes additional written findings detailing why such dissolution is in the public interest. An interested party has 30 days to appeal such a dissolution on the grounds that the SPD is not unauditible or that dissolution is not in the public interest. After a SPD is ordered to be dissolved, the county legislative authority may then act to wind up a dissolved SPD's affairs.

A county that dissolves a special purpose district may impose a separate regular property tax levy or a special assessment if it assumes responsibility for providing the services previously provided by the dissolved special purpose district. Such a levy or assessment may not exceed the levy or assessment that the dissolved special purpose district was authorized to impose, and is subject to the same provisions as the county's general property tax levy. If a county ceases to provide services in place of a dissolved special purpose district, then the county must also cease imposing any such separate property tax levy or special assessment beginning in the first calendar year after the discontinuation of the provision of services by the county.

At any time, even without notification from the county auditor, a county legislative authority may also hold hearings on the dissolution of any SPD that appears to meet the criteria of being unauditible. If the county does hold such hearings, the procedure followed is the same as if the county legislative authority had received notice from the State Auditor that the SPD was unauditible.

A public utility district may be found inactive—and subject to potential dissolution—if it has not carried out the functions for which it was formed for five years or if it has not held an election or had an appointment to its board in seven years.

**Votes on Final Passage:**

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|--------|----|---|-------------------|
| House  | 91 | 7 |                   |
| Senate | 46 | 2 | (Senate amended)  |
| House  | 90 | 7 | (House concurred) |

**Effective:** June 11, 2020