

SENATE BILL REPORT

ESHB 2588

As Reported by Senate Committee On:
Local Government, February 27, 2020

Title: An act relating to improving openness, accountability, and transparency of special purpose districts.

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).

Brief History: Passed House: 2/19/20, 91-7.

Committee Activity: Local Government: 2/27/20, 2/27/20 [DPA, w/oRec].

Brief Summary of Amended Bill

- Prohibits the special purpose district and the county auditor from issuing any warrants against the funds of a special purpose district who has been determined to be unauditible by the state auditor.
- Prohibits the state treasurer from distributing any local sales and use taxes to a district that has been determined to be unauditible by the state auditor.
- Allows a county to dissolve a special purpose district if the district has been determined to be unauditible by the state auditor.
- Authorizes a county to impose a separate property tax levy or assessment if it assumes responsibility for services previously provided by a dissolved special purpose district.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended.

Signed by Senators Takko, Chair; Salomon, Vice Chair; Short, Ranking Member; Honeyford.

Minority Report: That it be referred without recommendation.

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.

Signed by Senator Lovelett.

Staff: Greg Vogel (786-7413)

Background: Local Government Financial Reporting. State laws require local governments to be audited by the State Auditor's Office (SAO) and for them to submit annual financial reports. Local governments include but are not limited to all counties, cities, and other political subdivisions, municipal corporations, and quasi-municipal corporations. The reports must be prepared, certified, and filed with the state 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 SAO.

The SAO produces a report called *A Guide to Unauditable Governments in Washington*. The report includes a list of all local governments that do not file annual financial reports as state law requires. According to the report, the SAO is unable to audit over \$1 million of public money because of the 40 unauditable governments included on the list.

Dissolution of Inactive Special Purpose Districts. State law provides for the dissolution of inactive special purpose 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 special purpose district is characterized by either of the following:

- 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 within the preceding seven years, or for districts with appointed members, no member has been appointed within the preceding seven years.

A public utility district is characterized as inactive if it meets both criteria.

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.

Open Public Meetings Act and Special Purpose Districts. Special purpose districts are subject to the provisions of the Open Public Meetings Act. Public agencies must generally post a regular meeting's agenda 24 hours ahead of the meeting. Agencies without a website, or with fewer than ten full-time employees are not required to post agendas in advance online.

Campaign and Personal Finance Disclosure. Candidates and elected officials for state and local office are subject to varying campaign and personal financial disclosure requirements depending on factors such as numbers of voters and amount of money raised. Elections of conservation district supervisors are not considered general or special elections for purposes of campaign disclosure and personal financial affairs reporting requirements. Elected conservation district supervisors are not considered elected officials for purposes of annual personal financial affairs reporting requirements.

Summary of Amended Bill: The SAO must notify counties and the state treasurer of districts that have been determined to be unauditible by December 31st of each year. If a special purpose district has been determined to be unauditible, the special purpose district and the county auditor may not issue any warrants against the funds of the special purpose district, and the state treasurer may not distribute any local sales and use taxes imposed by the district to the district.

In addition to the two existing criteria, a special purpose district may also be deemed inactive if the district has been determined to be unauditible by the state auditor. The requirement that a public utility district meet both criteria in order to be deemed inactive is removed.

A county may assume obligations or liabilities of a dissolved district in connection with the transfer of real property or improvements if it chooses to assume such obligations or liabilities by adopting a resolution.

If an inactive special purpose district is dissolved, a county may impose a separate property tax levy or special assessment beginning in the first calendar year following dissolution if the county assumes responsibility of the services previously provided by the special purpose district. The first property tax levy imposed is not subject to the one percent growth limitation. All other limitations that apply to the county general levy apply to the separate property tax.

If a county discontinues providing the services of the dissolved special purpose district, the county must cease imposing the separate property tax or special assessment in the first calendar year following discontinuation of services. "Special assessment" means any special assessment, benefit assessment, or rates and charges imposed by a special purpose district.

EFFECT OF LOCAL GOVERNMENT COMMITTEE AMENDMENT(S):

- Removes the intent section. Amends the definition of "unauditible" to remove the requirement that the district be incapable of being audited for three years.
- Requires the state auditor to only notify counties if a district has been determined to be unauditible.

- Removes the requirement that the state auditor transmit the results of all audits of special purpose districts to the districts and the county.
- Removes the authorization that a county may withhold funds if the district has failed to file a financial statement for the most recent completed fiscal year.
- Allows a county or special purpose district to issue warrants in cases of emergency, to prevent interruption of services, or to allow the district to carry out any district duties or responsibilities.
- Removes the public utility district exception from the district dissolution provisions.
- Allows a county to impose a separate regular property tax levy or a special assessment if the county assumes responsibility for services previously provided by the district.
- Removes the district publication and notice requirements for budgets and agendas.
- Removes provisions relating to removing the authority of an unauditable district to utilize its own treasurer.
- Removes the repeal of the conservation district exemptions related to public disclosure and campaign finance.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: We have all heard the news stories about special purpose districts, dozens of them that have had done no filings as required by law with the state auditor. The auditor will talk about how hard it has worked to track down these districts. If you live in these districts, you should be able to know when the district is meeting and that it is meeting accountability provisions in state law, and if not, the county, if it wants, should be able to withhold the funds of the district.

The bills have addressed a lot of the concerns treasurers had with the original language. The senate version is much direct and simpler worded. The auditor's office is agnostic on the publication and notice requirements. It would be nice to have these so we could track down districts when we can.

CON: There is one issue that is very significant, the 72 hour advance notice of agenda. It is very problematic, especially for smaller districts. The senate bill has provisions that allow basic services to continue. There is also the question of why lake management districts are included in this bill.

We have concerns with the county treasurer being defined by the greatest geographic portion. My PUD has extensive holdings in two counties and are concerned how a creative auditor could say we are not functional. We do not understand why we are being held to higher standard than cities and counties.

Fire districts prefer the senate bill. We have issues with the penalties after one year versus three years. The additional notice and publication requirements are concerning. Maybe a compromise is an exception for districts with under five paid employees.

The intent section unnecessarily vilifies special purpose districts across the state. Most districts are actively in compliance with the laws and do our best to comply with the statutes we're supposed to work with. This bill would impair the ability of conservation districts to attract board supervisors.

OTHER: We have concerns about the 72 hour notice because if a pipe breaks or a pump breaks, we would have to react quickly. We worry a great deal about these types of constraints and ask that you take a close look at this.

PUDs also have concerns with the notice and publication requirements. These requirements are placed in the wrong chapter and should be placed in the OPMA statutes. Some of the late OPMA changes do not work for the things that a special purpose district needs to do. We would prefer the senate version. If there is OPMA issues that need to be addressed, this is a good topic for a separate bill.

Persons Testifying: PRO: Representative Gerry Pollet, Prime Sponsor; Jeff Gadman, Thurston County Treasurer; Scott Nelson, State Auditor's Office.

CON: Joe Daniels, Washington Association of Sewer and Water Districts; Christopher Stearns, Thurston PUD, Washington PUD Association Water Committee Vice-Chair; Ryan Spiller, Washington Fire Commissioners; Mike Schwisow, Washington State Water Resources Association; Tom Salzer, Washington Association of Conservation Districts.

OTHER: Steve Lindstrom, Sno-King Water District Coalition; Bill Clarke, Washington PUD Association.

Persons Signed In To Testify But Not Testifying: No one.