

SENATE BILL REPORT

ESSB 6324

As Passed Senate, February 14, 2020

Title: An act relating to special purpose district financial reporting.

Brief Description: Concerning special purpose district financial reporting.

Sponsors: Senate Committee on Local Government (originally sponsored by Senators Takko and Carlyle).

Brief History:

Committee Activity: Local Government: 1/16/20, 1/30/20 [DPS, w/oRec].

Floor Activity:

Passed Senate: 2/14/20, 45-2.

Brief Summary of Engrossed First Substitute 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 increase its general expense levy if it assumes responsibility for services previously provided by a dissolved special purpose district.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: That Substitute Senate Bill No. 6324 be substituted therefor, and the substitute bill do pass.

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

Minority Report: That it be referred without recommendation.

Signed by Senators Honeyford and Lovelett.

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.

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 unauditible 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.

Summary of Engrossed First Substitute 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 increase its general expense levy beginning in the first calendar year following dissolution if the county assumes responsibility of the services previously provided by the special purpose district.

If a county discontinues providing the services of the dissolved district, the county's levy must be reduced beginning in the first calendar year subsequent to the discontinuation of the provision of services by the county in an amount equal to the estimated expenditures by the county for the provision of services in the most recent calendar year.

If a special purpose district is located within two or more counties, a county must apportion the revenue increase based on the area of the district within the county as a percentage of the total area of the district.

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 Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There have been high profile reports about small districts not reporting or being audited. There have been discussions with locals and the auditor's office about how to solve this issue. If these districts do not report, then they do not get their money. If they do not report for a couple years, they are dissolved. If dissolved, the county can take over the functions and receive the revenue stream. Counties do not like unfunded mandates and this is not an unfunded mandate because a revenue stream goes with it.

There are questions regarding the bill. For instance, a lot of districts have the option of providing their own treasurer. Regarding withheld funds, is there a requirement to pay interest? If a district writes a warrant, and can not pay, there might need to be some clarification on what would happen.

There are 106 active irrigation districts. These districts have been filing financial reports for a long time and take the responsibility very seriously. This legislation is a good tune-up and provides a procedure for districts that are inoperable. There are no effective penalties currently in law for noncompliance. If a district is getting money, receipts need to go back to the state.

OTHER: It is important to note that we are talking about a very small fraction of special purpose districts. There are over 2,000, and this issue really only applies to about 40. If the office does not have information, then it can not audit. The office sends emails, makes phone calls, visits, and sends letters. If we can not audit in three years, then the district becomes unauditible under the list. What we try to do is not turn this into a 'gotcha' and give them every opportunity to file. As an improvement for the bill, the office would suggest that they be required to only report the bad actors, which would be less paperwork for counties.

There are concerns in certain situations, such as when some sole fire district is a tanker in a guy's garage. The bottom line is we want to make sure that they do not wake up one morning and there are revenues not going to a fire district that needs protection. We would like to sit down with the auditor about providing all communications to the district and making sure they know about this, or maybe work through the association. There should be a specific grace period or specific warning that they have been told.

Persons Testifying: PRO: Senator Dean Takko, Prime Sponsor; Jeff Gadman, citizen; Mike Schwisow, Washington State Water Resources Association; Arthur West, citizen.

OTHER: Scott Nelson, State Auditor's Office; Ryan Spiller, Washington Fire Commissioners.

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