
SUBSTITUTE HOUSE BILL 2588

State of Washington

66th Legislature

2020 Regular Session

By House Local Government (originally sponsored by Representatives Pollet, Leavitt, Valdez, Senn, Duerr, Ryu, Frame, Boehnke, Hudgins, and Kraft)

READ FIRST TIME 01/28/20.

1 AN ACT Relating to improving openness, accountability, and
2 transparency of special purpose districts; amending RCW 36.96.010,
3 36.96.020, 36.96.030, 36.96.040, 36.96.050, 36.96.900, and 42.30.077;
4 adding new sections to chapter 36.96 RCW; creating a new section; and
5 repealing RCW 42.17A.010.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature intends that special
8 purpose districts should be open, transparent, and accountable to the
9 public as governmental bodies created by the legislature to exercise
10 governmental authority and provide governmental services.

11 The legislature finds that a minority but significant number of
12 special purpose districts have not been accountable or transparent to
13 the public, which has shaken public confidence in many special
14 purpose districts as governmental bodies. The legislature finds that
15 an unacceptably large number of special purpose districts
16 consistently failed to file financial statements and have become
17 unauditably with the office of the state auditor despite repeated
18 offers of assistance. The legislature further finds that the
19 potential for appearance of conflicts of interest increase when
20 elected commissioners or supervisors of a district do not disclose
21 financial and property holdings which may benefit from their actions;

1 when notices of meetings, minutes, or budgets are not readily
2 available to the public or news media; and when commissioners or
3 supervisors set the time, place, and conditions of their own
4 elections.

5 The legislature intends that this act should be liberally
6 interpreted to further the goals of increased openness, transparency,
7 and accountability.

8 **Sec. 2.** RCW 36.96.010 and 1999 c 153 s 50 are each amended to
9 read as follows:

10 As used in this chapter, unless the context requires otherwise:

11 (1) "Special purpose district" means every municipal and quasi-
12 municipal corporation other than counties, cities, and towns. Such
13 special purpose districts shall include, but are not limited to,
14 water-sewer districts, fire protection districts, port districts,
15 public utility districts, county park and recreation service areas,
16 flood control zone districts, diking districts, drainage improvement
17 districts, conservation districts, lake management districts, and
18 solid waste collection districts, but shall not include industrial
19 development districts created by port districts, and shall not
20 include local improvement districts, utility local improvement
21 districts, and road improvement districts;

22 (2) "Governing authority" means the commission, council, or other
23 body which directs the affairs of a special purpose district;

24 (3) "Inactive" means that a special purpose district, other than
25 a public utility district, is characterized by either of the
26 following criteria:

27 (a) Has not carried out any of the special purposes or functions
28 for which it was formed within the preceding consecutive five-year
29 period; or

30 (b) No election has been held for the purpose of electing a
31 member of the governing body within the preceding consecutive seven-
32 year period or, in those instances where members of the governing
33 body are appointed and not elected, where no member of the governing
34 body has been appointed within the preceding seven-year period.

35 A public utility district is inactive when it is characterized by
36 both criteria (a) and (b) of this subsection;

37 (4) "Unauditable" means a special purpose district, other than a
38 public utility district, that the state auditor has determined to be
39 incapable of being audited because the special purpose district has

1 improperly maintained, failed to maintain, or failed to submit
2 adequate accounts, records, files, or reports for an audit to be
3 completed for three years.

4 **Sec. 3.** RCW 36.96.020 and 2009 c 337 s 12 are each amended to
5 read as follows:

6 ~~((On or before June 1st of 1980, and on or before))~~ (1) Before
7 June 1st of every year ((thereafter)), each county auditor shall
8 search available records and notify the county legislative authority
9 if any special purpose districts located wholly or partially within
10 the county appear to be inactive. If the territory of any special
11 purpose district is located within more than one county, the
12 legislative authorities of all other counties within whose boundaries
13 such a special purpose district lies shall also be notified by the
14 county auditor. However, the authority to dissolve such a special
15 purpose district as provided by this chapter shall rest solely with
16 the legislative authority of the county which contains the greatest
17 geographic portion of such special purpose district.

18 (2) On or before December 31, 2020, and on or before December
19 31st of every year thereafter, the state auditor shall search
20 available records and notify the county legislative authority if any
21 special purpose districts located wholly or partially within the
22 county have been deemed to be unauditabile or have failed to file a
23 required annual financial statement for the most recent fiscal year
24 or any other fiscal years since the special purpose district's last
25 audit. If the territory of any special purpose district is located
26 within more than one county, the legislative authorities of all other
27 counties within whose boundaries such a special purpose district lies
28 shall also be notified by the state auditor.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.96
30 RCW to read as follows:

31 (1) The state auditor shall transmit the results of an audit
32 conducted on a special purpose district, including, when applicable,
33 a finding that the special purpose district is unauditabile, to the
34 special purpose district which is the subject of the audit and to
35 each county within which funds for operations of the special purpose
36 district are assessed or authorized to be spent.

37 (2) (a) If a county has been notified by the state auditor that a
38 special purpose district failed to file a financial statement with

1 the state auditor for the most recent completed fiscal year, the
2 county legislative authority may direct the county treasurer, clerk,
3 or assessor, as applicable, to withhold the transmission of funds to,
4 or not to expend funds on behalf of, the special purpose district
5 until the county receives notice from the state auditor that the
6 district has filed any such past due financial statements.

7 (b) If the county has been notified by the state auditor that a
8 special purpose district is unauditabile, the county treasurer, clerk,
9 or assessor shall not transmit funds to, expend funds on behalf of,
10 or issue warrants against the funds of any special purpose district
11 until the county treasurer, clerk, assessor, or legislative authority
12 has received notice from the state auditor that the district:

13 (i) Has filed the most recent financial statement which is due to
14 the state auditor;

15 (ii) Has filed any past due annual financial statements required
16 by the state auditor for the special purpose district to be certified
17 as being auditabile; and

18 (iii) Is auditabile.

19 (c) Neither a special purpose district nor a county auditor
20 acting on behalf of a special purpose district shall issue warrants
21 against the funds of an unauditabile special purpose district. Any
22 warrants issued by or for an unauditabile special purpose district
23 presented for payment to the county treasurer will be refused and
24 returned to the payee, until such time as the special purpose
25 district has been found auditabile.

26 (d) If a county is notified by the state auditor that a special
27 purpose district has not filed annual financial statements or is
28 unauditabile and funds assessed or collected on behalf of the special
29 purpose district are withheld pursuant to (a) or (b) of this
30 subsection (2), the legislative authority may authorize the use of
31 the funds collected by the county on behalf of the special purpose
32 district to carry out the purposes for which assessments were
33 collected within the boundaries of the special purpose district and
34 which lie within the boundary of the county holding the funds.

35 **Sec. 5.** RCW 36.96.030 and 1979 ex.s. c 5 s 3 are each amended to
36 read as follows:

37 (1) Upon receipt of notice from the county auditor or state
38 auditor as provided in RCW 36.96.020, the county legislative
39 authority within whose boundaries all or the greatest portion of such

1 special purpose district lies shall hold one or more public hearings
2 on or before September 1st of the same year to determine whether or
3 not such special purpose district or districts meet (~~either of~~) the
4 criteria for being "inactive" or "unauditable" as provided in RCW
5 36.96.010: PROVIDED, That if such a special purpose district is a
6 public utility district, the county legislative authority shall
7 determine whether or not the public utility district meets both
8 criteria of being "inactive" as provided in RCW 36.96.010. In
9 addition, at any time a county legislative authority may hold
10 hearings on the dissolution of any special purpose district that
11 appears to meet the criteria of being "inactive" or "unauditable" and
12 dissolve such a district pursuant to the proceedings provided for in
13 RCW 36.96.030 through 36.96.080.

14 (2) Notice of such public hearings shall be given by publication
15 at least once each week for not less than three successive weeks in a
16 newspaper that is in general circulation within the boundaries of the
17 special purpose district or districts. Notice of such hearings shall
18 also be mailed to each member of the governing authority of such
19 special purpose districts, if such members are known, and to all
20 persons known to have claims against any of the special purpose
21 districts. Notice of such public hearings shall be posted in at least
22 three conspicuous places within the boundaries of each special
23 purpose district that is a subject of such hearings. Whenever a
24 county legislative authority that is conducting such a public hearing
25 on the dissolution of one or more of a particular kind of special
26 purpose district is aware of the existence of an association of such
27 special purpose districts, it shall also mail notice of the hearing
28 to the association. In addition, whenever a special purpose district
29 that lies in more than one county is a subject of such a public
30 hearing, notice shall also be mailed to the legislative authorities
31 of all other counties within whose boundaries the special purpose
32 district lies. All notices shall state the purpose, time, and place
33 of such hearings, and that all interested persons may appear and be
34 heard.

35 **Sec. 6.** RCW 36.96.040 and 2001 c 299 s 12 are each amended to
36 read as follows:

37 After (~~such~~) holding hearings as provided in RCW 36.96.030, the
38 county legislative authority shall make written findings whether each
39 of the special purpose districts that was a subject of the hearings

1 meets each of the criteria of being "inactive" or "unauditable,"
2 utilizing criteria set by the state auditor to determine if a
3 district is unauditale.((")) Whenever a special purpose district
4 other than a public utility district has been found to meet a
5 criterion of being inactive or unauditale, or a public utility
6 district has been found to meet both criteria of being inactive, the
7 county legislative authority shall adopt an ordinance dissolving the
8 special purpose district if it also makes additional written findings
9 detailing why it is in the public interest that the special purpose
10 district be dissolved, and shall provide a copy of the ordinance to
11 the county treasurer. The county legislative authority may continue
12 to carry out the functions of an unauditale special purpose
13 district, including collection of rates, charges, assessments, and
14 fees, if it also makes additional written findings detailing why it
15 is in the public interest that the special purpose district continue
16 operations. Except for the purpose of winding up its affairs as
17 provided by this chapter, a special purpose district that is so
18 dissolved shall cease to exist and the authority and obligation to
19 carry out the purposes for which it was created shall cease thirty-
20 one days after adoption of the dissolution ordinance.

21 **Sec. 7.** RCW 36.96.050 and 1979 ex.s. c 5 s 5 are each amended to
22 read as follows:

23 The action of the county legislative authority dissolving a
24 special purpose district pursuant to RCW 36.96.040 shall be final and
25 conclusive unless within thirty days of the adoption of the ordinance
26 an interested party makes application to a court of competent
27 jurisdiction for a writ of prohibition or writ of mandamus. At the
28 hearing upon such a writ, the applicant shall have the full burden of
29 demonstrating that the particular special purpose district, other
30 than a public utility district, does not meet either of the criteria
31 of being inactive or unauditale or that it is not in the public
32 interest that the special purpose district be dissolved: PROVIDED,
33 That where the particular special purpose district subject to the
34 dissolution proceedings is a public utility district, the applicant
35 shall have the full burden of demonstrating that the public utility
36 district either does not meet both the criteria of being inactive or
37 that it is not in the public interest to dissolve the public utility
38 district.

1 **Sec. 8.** RCW 36.96.900 and 1979 ex.s. c 5 s 10 are each amended
2 to read as follows:

3 The provisions of this chapter to dissolve inactive and
4 unauditable special purpose districts shall not be exclusive, and
5 shall be in addition to any other method or methods provided by law
6 to dissolve a special purpose district.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.96
8 RCW to read as follows:

9 (1)(a) All special purpose districts must publish online the
10 annual budget approved by its governing body, minutes of meetings for
11 the prior two years, and annual auditable financial statements
12 submitted to the state auditor. All special purpose districts shall
13 comply with the provisions of the open public meetings act, chapter
14 42.30 RCW, and shall make the agenda of each regular meeting of the
15 governing body available online no later than seventy-two hours in
16 advance of the published start time of the meeting, notwithstanding
17 any provision of RCW 42.30.077. Subsequent modifications to the
18 agenda must be posted no later than forty-eight hours in advance of
19 the published start time of the meeting. The agenda must include a
20 direct link to the minutes of the governing body's meetings that
21 occurred within the immediately preceding twelve months.

22 (b) A special meeting of a special purpose district must comply
23 with the notice requirements in RCW 42.30.080, except that notice of
24 the meeting must be provided at least seventy-two hours in advance of
25 the special meeting, and subsequent modifications to the notice must
26 be posted no later than forty-eight hours in advance of the published
27 start time of the meeting.

28 (c) After October 1, 2020, any action taken at a meeting where
29 the agenda was not posted or notice was not provided in accordance
30 with this section is null and avoid.

31 (2) Beginning October 1, 2020, the state auditor shall review the
32 status of compliance with these publication provisions when
33 performing accountability audits of special purpose districts.

34 (3) Special purpose districts may utilize interlocal agreements
35 to have each county within which the special purpose district
36 collects rates, charges, assessments, or fees, or with another
37 special purpose district with which the district shares constituents
38 or adjoins, to maintain a web site for purposes of publishing annual
39 budgets, financial statements, meeting notices, and agendas,

1 complying with the open public meetings act, chapter 42.30 RCW, and
2 other communications with the public.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.96
4 RCW to read as follows:

5 (1) Except as otherwise provided by law, the county treasurer of
6 the county which contains the greatest geographic portion of such
7 special purpose district must act as the ex officio treasurer of the
8 special purpose district. A special purpose district for which the
9 county treasurer acts as ex officio treasurer must submit its
10 approved annual budget and a list of those with signature authority
11 to the ex officio treasurer by January 31st of each year.

12 (2) If a special purpose district for which the county treasurer
13 does not act as ex officio treasurer is found unauditible by the
14 state auditor's office, then the county treasurer must thereafter act
15 as ex officio treasurer for that special purpose district, and the
16 special purpose district must comply with the requirements of
17 subsection (1) of this section. The county treasurer must remain the
18 ex officio treasurer for such a special purpose district until such
19 time as:

20 (a) The county treasurer has acted as ex officio treasurer for
21 the special purpose district for not less than five years;

22 (b) The state auditor finds that the special purpose district has
23 complied with all conditions imposed by the state auditor; and

24 (c) The state auditor recommends that the special purpose
25 district may utilize a different treasurer as provided by law.

26 **Sec. 11.** RCW 42.30.077 and 2014 c 61 s 2 are each amended to
27 read as follows:

28 Public agencies with governing bodies must make the agenda of
29 each regular meeting of the governing body available online no later
30 than twenty-four hours in advance of the published start time of the
31 meeting. An agency subject to provisions of this section is not
32 required to post an agenda if it does not have a web site or if it
33 employs fewer than ten full-time equivalent employees. Nothing in
34 this section prohibits subsequent modifications to agendas nor
35 invalidates any otherwise legal action taken at a meeting where the
36 agenda was not posted in accordance with this section. Nothing in
37 this section modifies notice requirements or shall be construed as
38 establishing that a public body or agency's online posting of an

1 agenda as required by this section is sufficient notice to satisfy
2 public notice requirements established under other laws. Failure to
3 post an agenda in accordance with this section shall not provide a
4 basis for awarding attorney fees under RCW 42.30.120 or commencing an
5 action for mandamus or injunction under RCW 42.30.130. This section
6 shall not apply to special purpose districts covered by section 9 of
7 this act.

8 NEW SECTION. **Sec. 12.** RCW 42.17A.010 (Conservation district
9 exception) and 2002 c 43 s 4 are each repealed.

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