
Local Government Committee

HB 2588

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

Sponsors: Representatives Pollet, Leavitt, Valdez, Senn, Duerr, Ryu, Frame, Boehnke, Hudgins and Kraft.

Brief Summary of Bill

- Allows counties to withhold funding from special purpose districts that fail to file required annual reports, and requires counties to withhold funding from unauditible special purpose districts.
- Allows a county legislative authority to dissolve an unauditible special purpose district after a public hearing and the passage of an ordinance.
- Allows counties to expend funds in the place of a special purpose district that has failed to file a required annual report or which has been found to be unauditible.
- Requires that a county treasurer act as an ex-officio treasurer for a special purpose district that has a majority of the special purpose district's area within the county.
- Requires special purpose districts to post agendas and other information online.
- Repeals campaign and finance disclosure exemptions for conservation district supervisors.

Hearing Date: 1/21/20

Staff: Kellen Wright (786-7134).

Background:

Formation of Special Purpose Districts

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.

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

State law provides different mechanisms dissolving certain districts. In general, however, dissolution occurs in two ways. First, the SPD may petition for dissolution to the respective county 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. If the SPD is insolvent, then an additional hearing is required to create a plan to retire the SPD's debt (including, if necessary, an additional levy against property within 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. At any time a county legislative authority may hold hearings on the dissolution of any SPD that appears to meet the criteria of being inactive. Additionally, the county auditor must notify the county legislative authority by June 1 of every year if a SPD within the county appears to be inactive.

Then, by September 1 of the same year, the county must hold one or more public hearings on whether the district should be dissolved. Notice of the 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.

After a hearing, the county legislative authority must make written findings about whether the SPD is inactive. 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. An interested party has 30 days to appeal such a dissolution on the grounds that the SPD was not inactive 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.

An additional method of dissolution applies to inactive SPDs in counties with a population of 210,000 or more. This process can be initiated in two ways: by the filing of a resolution by any local government calling for the disincorporation of the SPD with the legislative authority of each county in which a district is located; or by the filing of a petition calling for the disincorporation of the SPD signed by 20% of the voters within a SPD with the legislative authority of each county in which a district is located. In either case, the county legislative authority must hold public hearings in response to determine whether or not services have been provided by the SPD within the last five years. If the county legislative authority finds that no services have been provided for five consecutive years and that the best interested of all persons concerned would be served by the proposed dissolution of the SPD. If the county legislative

authority so finds, then it must order the disincorporation of the SPD, supervise the liquidation of the SPDs assets and the satisfaction of any outstanding debt. If there are more proceeds from the liquidation than there are debts, the surplus is required to be paid to the school districts, or districts, in which the SPD was located. If the SPDs debts were greater than its assets, then the county legislative authority is required to levy assessments sufficient to satisfy the debt.

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 auditor is required to audit the finances of a local government at least once every three years.

Open Public Meetings Act and Special Purpose Districts

SPDs are subject to the provisions of the open public meetings act. Public agencies must generally post a regular meeting's agenda twenty-four hours ahead of the meeting. However, agencies without a website, or with fewer than ten full-time employees are not required to post agendas in advance online.

Conservation District Exemption

Conservation district supervisors are exempted from certain public disclosure requirements of campaign finance reporting and personal financial reporting. Elected conservation district supervisors are not considered elected officials for purposes of annual personal financial affairs reporting requirements.

Summary of Bill:

Unauditable Special Purpose Districts

By June 1 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 failed to file a required annual financial statement for the most recent fiscal year or if the SPD has been found to be unauditable. A SPD is unauditable if the state auditor has determined it is incapable of being audited because 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 has been notified by the state auditor that a SPD has failed to file a required annual financial statement, then the county's legislative authority may withhold funds from, and not expend funds on behalf of, the SPD until the county receives notice that any past due financial statements have been filed.

If a county is notified by the state auditor that a SPD has been found to be unauditabile, then the county must withhold funds from, and not expend funds on behalf of, the SPD, until the county has received notice that the SPD has filed the most recent financial statement, has filed any past due financial statements necessary for the SPD to be found auditabile, and that the SPD is auditabile.

While a county withholds funds and expenditures from the SPD due either to a failure to file a required annual financial statement or a finding that the SPD is unauditabile, the county legislative authority may authorize the use of those funds for the purposes for which the assessment was collected within the boundaries of the SPD.

When a SPD has been found to be unauditabile 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 unauditabile. 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 unauditabile, 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 thirty days to appeal such a dissolution on the grounds that the SPD is not unauditabile 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 legislative authority may continue to carry out the functions of an unauditabile SPD, including the collection of assessments and fees, if it also makes written findings detailing why it is in the public interest that the SPD continue operations.

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 unauditabile. 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 unauditabile.

Special Purpose District Online Reporting Requirements

Every SPD must publish online the annual budget approved by its governing body, the minutes of its meetings for the prior two years, and the annual auditabile financial statements submitted to the state auditor. SPDs must also comply with the provisions of the open meetings acts, and must make the agenda for each regular meeting of its governing body available online at least twenty-four hours in advance of the published start time of the meeting. The state auditor must review compliance with these requirements when the state auditor conduct an accountability audit of the SPD. SPDs may enter into interlocal agreements with each county within which the SPD collects fees or assessments, or with another SPD with which it shares constituents or

adjoins, to maintain a website for the purposes of the required publications and other public communications.

County Treasurers and Special Purpose Districts

The county treasurer of the county that contains most of the SPD must act as the ex-officio treasurer of the SPD. The county treasurer must receive from the SPD an approved annual budget and a list of those with signature authority for the SPD by January 31 of each year.

Conservation District Exemption

The campaign and personal public disclosure requirement exemptions applying to conservation districts and conservation district supervisors are repealed.

Appropriation: None.

Fiscal Note: Requested January 15, 2020.

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