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**ENGROSSED SUBSTITUTE HOUSE BILL 2588**

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**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)

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

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

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

The legislature finds that a minority but significant number of special purpose districts have not been accountable or transparent to the public, which has shaken public confidence in many special purpose districts as governmental bodies. The legislature finds that an unacceptably large number of special purpose districts consistently failed to file financial statements and have become unauditable with the office of the state auditor despite repeated offers of assistance. The legislature further finds that the potential for appearance of conflicts of interest increase when elected commissioners or supervisors of a district do not disclose financial and property holdings which may benefit from their actions; when notices of meetings, minutes, or budgets are not readily available to the public or news media; and when commissioners or supervisors set the time, place, and conditions of their own elections.

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

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

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

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

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

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

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

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

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

(4) "Unauditable" means a special purpose district, other than a public utility district, that the state auditor has determined to be incapable of being audited because the special purpose district has improperly maintained, failed to maintain, or failed to submit adequate accounts, records, files, or reports for an audit to be completed for three years.

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

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

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

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

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

(2)(a) If a county has been notified by the state auditor that a special purpose district failed to file a financial statement with the state auditor for the most recent completed fiscal year, the county legislative authority may direct the county treasurer, clerk, or assessor, as applicable, to withhold the transmission of funds to, or not to expend funds on behalf of, the special purpose district until the county receives notice from the state auditor that the district has filed any such past due financial statements.

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

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

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

(iii) Is auditable.

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

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

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

(1) Upon receipt of notice from the county auditor or state auditor as provided in RCW 36.96.020, the county legislative authority within whose boundaries all or the greatest portion of such special purpose district lies shall hold one or more public hearings on or before September 1st of the same year to determine whether or not such special purpose district or districts meet ((~~either of~~)) the criteria for being "inactive" or "unauditable" as provided in RCW 36.96.010: PROVIDED, That if such a special purpose district is a public utility district, the county legislative authority shall determine whether or not the public utility district meets both criteria of being "inactive" as provided in RCW 36.96.010. In addition, at any time a county legislative authority may hold hearings on the dissolution of any special purpose district that appears to meet the criteria of being "inactive" or "unauditable" and dissolve such a district pursuant to the proceedings provided for in RCW 36.96.030 through 36.96.080.

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

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

After ((~~such~~)) holding hearings as provided in RCW 36.96.030, the county legislative authority shall make written findings whether each of the special purpose districts that was a subject of the hearings meets each of the criteria of being "inactive" or "unauditable," utilizing criteria set by the state auditor to determine if a district is unauditable.((~~"~~)) Whenever a special purpose district other than a public utility district has been found to meet a criterion of being inactive or unauditable, or a public utility district has been found to meet both criteria of being inactive, the county legislative authority shall adopt an ordinance dissolving the special purpose district if it also makes additional written findings detailing why it is in the public interest that the special purpose district be dissolved, and shall provide a copy of the ordinance to the county treasurer. The county legislative authority may continue to carry out the functions of an unauditable special purpose district, including collection of rates, charges, assessments, and fees, if it also makes additional written findings detailing why it is in the public interest that the special purpose district continue operations. Except for the purpose of winding up its affairs as provided by this chapter, a special purpose district that is so dissolved shall cease to exist and the authority and obligation to carry out the purposes for which it was created shall cease thirty-one days after adoption of the dissolution ordinance.

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

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

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

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

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

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

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

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

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

(3) Special purpose districts may utilize interlocal agreements to have each county within which the special purpose district collects rates, charges, assessments, or fees, or with another special purpose district with which the district shares constituents or adjoins, to maintain a web site for purposes of publishing annual budgets, financial statements, meeting notices, and agendas, complying with the open public meetings act, chapter 42.30 RCW, and other communications with the public.

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

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

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

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

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

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

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

Public agencies with governing bodies must make the agenda of each regular meeting of the governing body available online no later than twenty-four hours in advance of the published start time of the meeting. An agency subject to provisions of this section is not required to post an agenda if it does not have a web site or if it employs fewer than ten full-time equivalent employees. Nothing in this section prohibits subsequent modifications to agendas nor invalidates any otherwise legal action taken at a meeting where the agenda was not posted in accordance with this section. Nothing in this section modifies notice requirements or shall be construed as establishing that a public body or agency's online posting of an agenda as required by this section is sufficient notice to satisfy public notice requirements established under other laws. Failure to post an agenda in accordance with this section shall not provide a basis for awarding attorney fees under RCW 42.30.120 or commencing an action for mandamus or injunction under RCW 42.30.130. This section shall not apply to special purpose districts covered by section 9 of this act.

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

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