

HOUSE BILL 1: AN OVERVIEW

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ORDER OF PRESENTATION

- What is a Special District?
- Why Special Districts?
- Pre-House Bill 1 Reporting Requirements
- Gathering Storm: Precedents to HB 1
- House Bill 1: Provisions
- House Bill 1: Implementation
- What's Next?

WHAT IS A SPECIAL DISTRICT?

KRS 65.005(1)(a):

“[A]ny agency, authority, or political subdivision of the state which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the state except a city, a county, or a school district.”

WHAT IS A SPECIAL DISTRICT?

- Air Pollution Control Districts
- Ambulance Service Districts
- Area Development Commissions
- Area Planning Commissions
- Community Improvement
- Cooperative Extension Service Districts
- Drainage, Reclamation & Levee Districts
- Drainage Taxing Districts
- Fire Protection Districts
- Flood Control Districts
- Hospital Districts

WHAT IS A SPECIAL DISTRICT?

- Levee Districts
- Library Districts
- Local Air Pollution Control Boards
- Local Tourist and Convention Commissions
- Local Rescue Squad Districts
- Management Districts
- Mass Transit Authorities
- Mental Health-Retardation Districts
- Metropolitan Sewer Districts
- Public Health Districts
- Sanitation Districts

WHAT IS A SPECIAL DISTRICT?

- Soil Conservation Districts
- Solid Waste Management Districts
- Water Districts
- Watershed Conservancy Districts

WHY SPECIAL DISTRICTS?

- To fill the gaps between services that cities and counties provide and the services that residents desire
- To circumvent constitutional debt and taxing limits on city/county governments -- special districts' taxes or bonded indebtedness do not count as a part of the city or county limits.
- Unwillingness of existing governments to assume a new function
- Desire for an independent district by those desiring a particular function or service
- Desire of residents of unincorporated areas for basic services which can be obtained through special districts

WHY SPECIAL DISTRICTS?

- Psychological appeal of applying a specific tax to a specific function or service
- Desire to take a function or service “out of politics” or out of politics associated with city halls and county courthouses
- Ease, from a legal and political point of view, of initiating a tax or service by creating a special district

Reporting Requirements Before HB1

- Annual Notification of Changes – 60 days of close of fiscal year – County Clerk of Each County **PRA**
 - Name of District
 - Service Area
 - Statutory Authority Under Which It Was Created
 - Names, Addresses & Expiration Date of Terms of Bd Members and CEO

Reporting Requirements Before HB1

- Annual Publication – 60 days of end of fiscal year^{PRA}
 - Names & Addresses of Bd Members and CEO
 - Summary Financial Statement (or location of financial records that may be examined by public)
 - Financial Statement must show:
 - Total amount collected & received from each individual source
 - Total amount disbursed during fiscal year to each individual payee

Reporting Requirements Before HB1

- Annual Budget – 30 days before start of fiscal year – each county fiscal court **No expenditures**
- Annual Audit – each County Fiscal Court – 30 days of receipt of Audit **PRA**
 - Exception: WD Receiving or Spending > \$750,000
 - Submit Audit every 4 years, financial statement annually
 - PSC Annual Report May Be Submitted ILO financial statement

HOUSE BILL 1: BACKGROUND

SPECIAL DISTRICTS IN KENTUCKY (1968)

- LRC conducted study in 1968
- Estimated that 448 Special Districts Existed (Likely More)
- Several Problems Noted:
 - Low visibility – “have the quality of phantom government”
 - Lack of Accountability to Elected Officials
 - Lack of external financial controls
 - “Many districts are not efficient simply because they are not accountable to any one”
 - Usually structured so that it will be controlled and directed by its clientele

SPECIAL DISTRICTS IN KENTUCKY (1968)

- Several Problems Noted:
 - Dissolution: “The Kentucky political landscape is cluttered with inactive special districts. It is relatively easy to create districts , but it is almost impossible to abolish some of them.”
 - Lacks procedure for consolidation of special districts

SPECIAL DISTRICTS IN KENTUCKY (1968)

- Suggested Solutions:
 - Provide County Governments with power to fund special improvements
 - Authorize County Government to provides special services (e.g., water, sewer, garbage)
 - Require County Government Approval of Creation of special districts
 - Create a general dissolution procedures to apply to all special districts
 - Enact law that any special district that fails to perform essential function in five years has ceased to exist
 - Permit a special district to collect taxes/rates only after it has submitted annual budget and annual audit
 - Require special districts to obtain county approval before acquisition of land
 - Establish a procedure for consolidation of special districts

SPECIAL DISTRICTS IN KENTUCKY (1968)

Conclusion:

One way to introduce an element of district external responsibility to the district is to permit special districts to levy taxes only with the approval of the county fiscal court. At present, although the voters may approve the initial creation of the district, once the district is organized, there is no way for the voters to enforce responsibility. The members of the fiscal court must face the electorate every four years. Fiscal court approval of special district taxes would mean local political supervision of special district taxes. There is no such supervision now.

TASK FORCE ON LOCAL TAXATION

- 2005 General Assembly - HB 272
- Created to review the current structure of local taxation
 - Constitutional requirements of local taxation
 - Current taxes imposed by local governments
 - Local tax burden
 - Revenues generated by local taxes
 - Existing economic development incentives & effectiveness

TASK FORCE ON LOCAL TAXATION

- Task Force to:
 - Report on constitutional impediments to a modern local tax system & proposed constitutional amendments
 - Analyze the existing tax structure
 - Identify & recommend alternative methods for generating a comparable amount of local revenue
 - Analyze existing economic development incentive programs available to local governments, & recommend alternative methods

TASK FORCE ON LOCAL TAXATION: FINDINGS

- Special Taxing Districts do not comply with certification requirements.
- No meaningful penalties to enforce compliance.
- Difficult to gather info about activities of special taxing districts.
- Compliance level of special taxing districts with UFIR requirement low.
- County officials concerned that they have little control over the finances of special districts after their creation.

TASK FORCE ON LOCAL TAXATION: FINDINGS

- County officials have difficulty getting tax rate and budget information from special districts in timely manner.
- TF members concerned that administrators of special districts are typically appointed rather than elected – therefore taxpayers do not have any direct recourse if they disagree with administrators

TASK FORCE ON LOCAL TAXATION: RECOMMENDATIONS

- Amend statutes to allow fiscal courts to eliminate special districts in a more streamlined & efficient manner
- All existing and newly created special districts should be required to register with GOLD within a specified time frame. Registration should be required as a condition to continuing to operate.
- Fiscal court approval of all rates and fees of special districts, except PSC-regulated, should be required

TASK FORCE ON LOCAL TAXATION: RECOMMENDATIONS

- Special districts should be required to submit budgets and tax rates to fiscal courts in a timely manner to comply with county budgeting process
- Create & maintain a local government financial database to provide relevant info about local government finances to decision makers

AUDITOR REPORTS

- *Examination of Certain Financial Transactions, Policies, and Procedures of Kentucky Association of Counties (Oct. 29, 2009)*
- *Examination of Certain Financial Transactions, Policies, and Procedures of Kentucky League of Cities (Dec. 2009)*
- *Examination of Certain Policies, Procedures, Controls, and Financial Activity of Mountain Water District (Jan. 27, 2011)*
- *Examination of Certain Policies, Procedures, Controls, and Financial Activity of Sanitation District 1 (Aug. 17, 2011)*
- *Examination of Certain Policies, Procedures, Controls, and Financial Activity of Metropolitan Sewer District (Dec. 16, 2011)*

AUDITOR REPORT FINDINGS

- Widespread Misuse of Funds By Management
 - Improper Use of Credit Cards
 - Purchases of Gifts, Food, Visits to Strip Joints
 - Use of public funds for parties/entertainment
 - Donations to Private Groups
 - Use of public funds for lobbying, public relations Expenses
- Excessive Compensation/Employee Benefits for Management
- Ineffective Oversight By Board of Commissioners/Directors
 - Failure to review Executive Staff's salaries on annual basis
 - Failure to review credit card usage
 - Failure to review travel expenses
- Lack of Written Policies/Procedures
 - Use of credit cards
 - Employment of Legal Counsel

AUDITOR REPORT FINDINGS

- Lack of/Failure to Enforce Ethics Policies
- Widespread Conflicts of Interests
- Poor/Non-existent Procurement Policies
- Insufficient policies for Investment/other Financial Activities
- Lack of Whistleblower policies
- Lack of Board member/commissioner training
- Failure to comply with Open Meetings Law
- Improper Billing Credits

Ghost Government:

Report on Special Districts

- On 6/12/2012, State Auditor announced special initiative to determine:
 - Number of Special Districts
 - Location of Special Districts
 - Amount of Money that Flows Through Special Districts
 - Special Districts' Level of Compliance with State Law

Ghost Government:

Report on Special Districts

- On 11/14/2012, State Auditor issues his report
- Answers to Initial Questions
 - 47 Types of Special Districts (27 Taxing; 20 Non-taxing)
 - 1,268 Special Districts
 - Located in Every County
 - \$2.7 Billion Flows Through Special Districts Annually
 - Most Special Districts Are Not Complying with Financial and Reporting Laws

Ghost Government: Report on Special Districts

- Findings:
 - Most Special Districts not complying with requirement to certify existence annually
 - SD are not timely filing annual budgets, financial statements, and audits
 - Requirements to make timely filings not being enforced
 - SD with tax powers not filing uniform financial information reports

Ghost Government:

Report on Special Districts

- Recommendations:
 - Establish an online registry & uniform reporting requirements for all SDs
 - Involve Auditor when filings not timely made
 - Reduce Threshold Amount for Requiring an Annual SD Audit to \$500K
 - Establish Special Audit Procedures for Smaller SDs that do not meet Threshold Amount
 - Require Annual Certification of Compliance Through Online Central Registry

Ghost Government:

Report on Special Districts

- Recommendations:
 - Include SD Board Members Under State Ethics Laws
 - Provide Educational Training Related to Ethical Responsibilities Online
 - Establish an Online Registry for SDs to Certify Continued Operations
 - Establish a Process for All Types of Special Districts to be Dissolved

Citizen Auditor Initiative: Special District Database

Citizen Auditor Initiative HOME **ADAM EDELEN**
AUDITOR OF PUBLIC ACCOUNTS  

The Kentucky Citizen Auditor Initiative: Special Districts

The Dynamic Report (PDF Static Report ↗)	Interactive Map	Interactive Data	MultiView by Type
			

If you believe any of the information on this website is inaccurate, please email us at apa.webmaster@auditor.ky.gov

Search Special Districts 

Search by special district name	Search by special district type
Search By Name... <input type="text"/>	Search By Type... <input type="text"/>

Other Special Districts Resources

- [FAQs - Frequently Asked Questions about this site, its use, and its content \[↗\]\(#\)](#)
- [Download the special districts data in CSV format \[↗\]\(#\)](#)
- [Types of Special Districts with Links to the Kentucky Revised Statutes \[↗\]\(#\)](#)

Related Resources

- [Kentucky Council of Area Development Districts \[↗\]\(#\)](#) 
- [County Audits at KACO \[↗\]\(#\)](#)
- [County Information \[↗\]\(#\)](#)
- [Department for Local Government - Special Districts Page \[↗\]\(#\)](#)
- [Department for Local Government's "Special Districts Manual" \[PDF\]\(#\) \[↗\]\(#\)](#)
- [The US Census Bureau \[↗\]\(#\)](#)

We cannot attest to the accuracy of information provided to us, which we have organized and presented here.

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HOW DO WATER DISTRICTS STACK UP?

- Significant Failure to Make Required Filings (Budget-UFIR)
- Filing of Annual Report With Public Service Commission (Available Online)
- Not Covered By Local Ethics Code – But Removal Process Available
- Educational/Ethics Training Required For New Commissioners
- Education Program In Place
- Informal Central Registry Exists
- Problems with Dissolution

HOUSE BILL 1

HB 1: SPECIAL PURPOSE **GOVERNMENTAL ENTITY**

- Creates a new category of entity – “Special Purpose Governmental Entity”
- SPGE is an entity that:
 - receives public funds, including fees and charges for providing utility services
 - is governed separately from the city or county government where it operates
 - has its own budget, audit, and financial information separate from the city or county where it operates

HB 1: SPECIAL PURPOSE GOVERNMENTAL ENTITY

- SPGE does not include:
 - Cities
 - Counties
 - School Districts
 - Private Entities **(Investor-Owned Utilities)**
 - An incorporated entity that provides utility services, is member owned, and has a governing body elected by its membership **(RECCs, H₂O Assn)**
 - Any entity whose budget & financial info are integrated with budget & financial reporting of the city/county in which it operates

HB 1: TIMELINE

- 03/21/2013 – HB 1 becomes effective
- Before 12/31/13 – SPGE shall register with DLG
- 01/01/14 – SPGEs begin reporting rate/fee/tax changes to elected officials
- 03/01/14 – DLG to furnish forms & establish reporting registry & portal

HB 1: TIMELINE

- 07/01/14 – SPGEs to report required info to DLG through the Web portal (for FYs being on or after 07/01/14)
- 10/01/14 – DLG to make info available on website to public

HOUSE BILL 1: CENTRAL REGISTRY

- DLG to create & manage
- All submitted info to be publically available through “central registry”
- Central registry to be web-accessible
- Registry to be updated at least monthly
- Registry must be in a searchable format
- Minimum search function:
 - County
 - SPGE Name
 - Type of Entity
- Central registry to be linked to Executive Branch’s Opensource website

HOUSE BILL 1:

REGISTRATION WITH CENTRAL REGISTRY

- All SPGEs must register with Central Registry NLT 12/31/2013
- DLG to develop form for registration
- ADDs, KACo, KLC, APA to notify all SPGEs
- Failure to register:
 - Subject to administrative dissolution
 - **Prohibited from levying or collecting any tax, fee, assessment or charge beginning 1/1/2014**
- Resident or Property Owner has private right of action to enforce **(SPGE liable for reasonable attorney fees & costs)**

HOUSE BILL 1:

GENERAL REPORTING REQUIREMENTS

- Name, Address, Term, and Appointing Authority for Each Bd Member
- SPGE's Fiscal Year
- KRS Chapter
- Yr Established
- Mailing Address
- Telephone Number
- Web Address

HOUSE BILL 1:

GENERAL REPORTING REQUIREMENTS

- Boundaries
- Fees, Rates, & Charges
- Primary POC for DLG
- Applicable Code of Ethics
- All Regulatory Oversight Authorities
- Other Relevant Info

HOUSE BILL 1:

FINANCIAL REPORTING REQUIREMENTS

- Most Recently Adopted Budget
- A Comparison of Budget to Actual Revenues & Expenditures
- Completed Audit
- Other Financial Oversight Reports

HOUSE BILL 1:

REPORTING REQUIREMENTS

- All information must be reported electronically
- DLG to consult with other State agencies in effort to avoid duplicative submissions
- DLG to develop regulations, forms, protocols, timeframes and due dates for submission

HOUSE BILL 1:

CODE OF ETHICS

- Effective 03/21/13 SPGE's "board, officers, and employees" subject to code of ethics of the establishing entity in which SPGE's principal office (PO) is located
- If PO is located in more than 1 establishing entity, Bd selects applicable code
- Bd may adopt more stringent code
- If adopting more stringent code, must report to DLG w/i 21 days of adoption (DLG must post on registry)

HOUSE BILL 1:

CODE OF ETHICS – UNANSWERED QUESTIONS

- What if Local Code does not apply to appointed officers or employees?
- What if WD adopts more stringent code? Who investigates? Who enforces? What penalties can be imposed?

HOUSE BILL 1: AUDITS

- SPGE with annual revenues of greater than \$500,000 must have annual independent audit **(Previously \$750,000)**
- SPGE with annual revenues \$100,000 - \$500,000 must have independent audit every 4 years **(Previously districts with <\$750,000 in revenues)**
- SPGE with annual revenues of less than \$100,000 must attestation engagement every 4 years

HOUSE BILL 1: AUDITS

- Audit/Attestation Engagement must be filed with DLG
- Audit/Attestation is public record
- Additional audits may be required
- Results of Audit/Attestation Engagement to be available through the DLG Web Portal

HOUSE BILL 1: FEES

- DLG authorized to assess fees to pay for the cost of registry, education services, & compliance activities
- **Annual** Fee Schedule (based on annual revenue)
 - Less than \$100,000 -- \$25
 - \$100,000 - \$500,000 -- \$250
 - Above \$500,000 -- \$500
- DLG may adjust fees once by Regulation

HOUSE BILL 1: BUDGET PROVISIONS

- SPGE's Governing Body must adopt budget annually
- Budget must be adopted prior to start of fiscal year
- No monies must may be expended from any source excepted as provided by adopted budget
- W/I 60 days of close of FY, SPGE shall publish location of adopted budget, financial stmts, & audit reports (IAW KRS Ch. 424)
- No longer required to list all sources of revenue & all vendors

HOUSE BILL 1: SANCTIONS

FAILURE TO TIMELY REPORT

- Administrative Dissolution
- Prohibited from collecting any fees, charges, taxes
- Finance Cabinet may withhold state funds
- DLG publishes notice of non-compliance

HOUSE BILL 1: SANCTIONS

FAILURE TO TIMELY FILE ANNUAL REPORT

- DLG will notify SPGE within 30 days after due date
- SPGE will have 30 days from notice to comply
- **(If no compliance)** Within 45 days of DLG notice, DLG will notify:
 - APA
 - Finance & Admin Cabinet to withhold funds – Advises all state agencies
 - Publish notice in SPGE's Area of Operation (At SPGE's expense)
- Within 75 days of initial DLG notice, APA will notify SPGE of possible audit or special exam **(Once started, audit must be completed)**
- Private Right of Action by resident or property owner **(SPGE liable for reasonable attorney fees & costs)**

HOUSE BILL 1:

REPORTING TO ELECTED OFFICIALS

- SPGE adopting new fee or increasing an existing fee after 12/31/13 must report the fee to governing body of the county in which largest number of citizens served
- Report is for informational purposes only
- Report must be in writing & 30 days in advance of fee's effective date
- Testimony must be presented to governing body at least 10 days before effective date

HOUSE BILL 1: **REPORTING TO ELECTED OFFICIALS**

Water District must report to county elected officials the following:

- Applications for General Rate Adjustment
- Purchased Water Adjustments
- Non-recurring charges
- Rule changes that have monetary effect

HOUSE BILL 1: FAILURE TO REPORT FEE CHANGE

- No sanctions set forth in House Bill 1
- Effect on Proposed Rate:
 - Prerequisite to Rate Application's Acceptance? **NO**
 - Proposed PSC Regs Require only Date of Notice (Actual or Planned)

HOUSE BILL 1: IMPLEMENTATION

- DLG met with stakeholders in May 2013
- DLG has drafted emergency regulations which are expected to take effect on 9/1/2013
- Within next 14 days DLG will be issuing guidance by letter to all SPGEs.
- By 10/15/2013 DLG will open a self-guided online tutorial for SPGE registration
- By 12/31/2013 SPGEs must complete SPGE Form 100 (Registration Form)
- Mar – June 2014 Training for completing SPGE Form 101 (Financial Disclosure Report) will be conducted in each of 15 ADD Districts
- Proposals that WDs be permitted to use PSC submissions to meet requirements

WHAT'S NEXT?

WHAT'S NEXT?

“My problem philosophically is that we’ve got appointed, not elected, individuals raising taxes and rates. It seems to me our country was formed on a fight over taxation without representation.”

Senator Damon Thayer
Senate Majority Leader
Cincinnati Enquirer (2/6/2013)

WHAT'S NEXT?

- Current Powers
 - County Judge/Executive Appoints Members
 - Fiscal Court Approves Appointment
 - County Judge/Executive May Remove for Cause
 - Fiscal Court Must Approve Removal
- Possible Changes – Fiscal Court Approval of:
 - Rates
 - Budget
 - Construction Plans

QUESTIONS?