

HOUSE BILL REPORT

HB 1666

As Reported by House Committee On:
Community & Economic Development & Trade

Title: An act relating to authorizing the creation of cultural access authorities.

Brief Description: Authorizing the creation of cultural access authorities.

Sponsors: Representatives Kenney, Simpson, Haler, Walsh, Kessler, Dickerson, White, Pedersen, Santos and Pettigrew.

Brief History:

Committee Activity:

Community & Economic Development & Trade: 2/9/09, 2/18/09 [DPS]; 1/28/10, 2/1/10 [DP2S].

Brief Summary of Second Substitute Bill

- Allows a county or group of counties to create a cultural access authority.
- Authorizes a cultural access authority to impose a voter-approved sales and use tax, or a voter-approved regular property tax levy, of up to 0.1 percent to fund cultural access projects.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 5 members: Representatives Kenney, Chair; Maxwell, Vice Chair; Chase, Liias and Moeller.

Minority Report: Do not pass. Signed by 3 members: Representatives Smith, Ranking Minority Member; Orcutt and Probst.

Staff: Chris Cordes (786-7103).

Background:

A variety of special districts may be created by counties, cities, or towns to provide various public facilities and finance these facilities by imposing various taxes.

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.

For example, counties may create public facilities districts to construct and operate regional centers, sports and recreational facilities (other than ski areas), entertainment facilities, convention facilities, and related parking facilities. Public facilities districts are governed by an appointed board of directors with specified statutory authority. These districts are municipal corporations and taxing districts.

Public facilities districts may impose various taxes to finance their facilities, including a voter-approved 2 percent lodging tax on certain premises, a regional center admissions tax not exceeding 5 percent, a vehicle parking tax not exceeding 10 percent, a voter-approved sales and use tax not exceeding 0.2 percent, and an additional nonvoter-approved sales and use tax not exceeding 0.033 percent that is deducted from the state's sales and use taxes.

Summary of Second Substitute Bill:

A cultural access authority (CAA) may be created by a county or contiguous counties, with funding to include a voter-approved sales and use tax or a voter-approved property tax levy. A CAA would allocate funding to various projects, including public school cultural access programs and other cultural organization programs of regional benefit.

A cultural organization's primary purpose must be the advancement and preservation of science or technology, the visual or performing arts, zoology, botany, anthropology, or cultural or natural history, with direct programming or experiences for the general public.

Creation of a CAA.

A CAA may be created by any county or by a contiguous group of counties that enter into an interlocal agreement.

The CAA service area must be coextensive with the boundaries of the participating county or counties, including incorporated areas.

A CAA is a municipal corporation and a taxing district. It is subject to audits by the state auditor and to various other general laws applying to local governments, including the prohibition on using its facilities for campaign purposes and the municipal ethics code.

A CAA must be dissolved after three years if a tax proposition to fund the CAA has not been approved. Once dissolved, a new CAA may not be created by the same county or counties for three years following dissolution.

CAA Boards.

For a single county CAA with a population of 1.5 million or less, the CAA is governed by a five-member board, with four members appointed by the county legislative authority and one by the Governor. If a single county CAA has a population of more than 1.5 million, two of

the five members are appointed by the county legislative authority, two by the legislative authority of the two largest cities, and one by the Governor.

For a CAA with two or more participating counties, the CAA is governed by a board with up to nine or 11 members, depending on the interlocal agreement and the number of participating counties.

For a CAA with up to four participating counties with an aggregate population of more than 2.5 million:

- A two-county CAA is governed by a board with one member appointed by each county and by each of the two largest cities in the larger county, one member appointed by the largest city in the smaller county, and two members appointed by the Governor.
- A CAA with three or four participating counties is governed by a board with one member appointed by each county and by each of the two largest cities in the larger county, one member appointed by the largest city in each of the other participating counties, and two members appointed by the Governor.

After the initial terms of office, CAA board members serve staggered four-year terms. The CAA board members may serve up to two full consecutive terms.

CAA Funding.

Start-up Funding. The county or counties creating a CAA may advance up to \$1 million per year for up to three years for administrative costs, including the cost of informing the public about the formation of the CAA, how it is to be funded, and the public benefits. Any start-up funding must be provided pro rata by each participating county.

Start-up funding must be repaid, with interest, from the proceeds of voter-approved tax. However, the start-up funds are not required to be repaid if the CAA is dissolved for failing to secure the voter-approved tax.

Tax Authority. A CAA may submit either a sales and use tax proposition or a regular property tax levy proposition to authority voters for approval by a majority of those voting. A sales and use tax is in addition to other taxes and may not exceed 0.1 percent. A property tax that exceeds the property tax lid must be reduced or eliminated consistent with that lid. A tax imposed by the CAA expires seven years after it is first collected, but may be resubmitted to the voters for additional seven-year terms.

A county or city appointing board members must affirm that funding available under these provisions does not supplant the usual and customary funding provided to cultural organizations by these jurisdictions.

Other Funding. A CAA may accept grants, loans, and other contributions from any source, as long as it does not compete with cultural organization fund raising.

Allocation of the CAA Funds.

Large CAAs. A CAA in a single county with a service area population of more than 1.5 million or a CAA formed by a group of counties with a service area population of more than 2.5 million must allocate funds in the following priority:

- repayment of start-up funds;
- administrative costs (up to 1.25 percent of total funds) and projects of regional benefit within the service area (up to 2.75 percent of total funds);
- a public school cultural access program (10 percent of remaining funds);
- distributions, based on average annual revenues and attendance ranking, to nonprofit regional organizations with minimum annual revenues of at least \$1.25 million, to be annually adjusted for inflation (75 percent of remaining funds); and
- distributions to public agencies designated by the legislative authorities of the participating counties to fund grants to community-based organizations (any remaining funds).

Other CAAs. These CAAs allocate funds in the following priority:

- administrative costs, including start-up funding and projects of regional benefit (up to 5 percent of total funding, with half for administrative funding);
- a public school cultural access program (amount determined by the CAA);
- distributions to regional organizations (amount determined by the CAA, but not more than 75 percent of available funds); and
- an entity in each county that makes grants to community-based cultural organizations (remaining funds).

Programs Supported by a CAA.

Public school cultural access programs must be designed to increase public school student access to programs offered by regional and community-based organizations receiving the CAA grant funding and, among other things, must include a centralized service to coordinate opportunities, funding for transportation, and an annual school access plan and annual report.

Grants for projects of regional benefit are awarded on a competitive basis at least annually. Projects may include public information and promotional activities, support for new cultural organizations, and support for specific projects to expand access to underserved populations.

Distributions to regional organizations must be used to support cultural and educational activities and basic operations of the organization, but not capital expenditures. A regional organization may not receive more than 15 percent of its annual revenues. Funding to community-based organizations may be used for both operating costs and capital expenditures.

CAA Operations.

The CAA board members may receive \$50 per day for attending meetings on behalf of the CAA, up to \$3,000 per year. A CAA board must adopt procedures for expense reimbursement.

A CAA board may hire employees and establish wages and benefits. A CAA is eligible to participate in the state public employees' retirement system.

In certain smaller CAAs, the board may contract with the State Arts Commission for consulting and administrative services or to function as the designated public agency.

A CAA board may appoint an advisory council with representation from business, education, and cultural communities.

A CAA board must adopt ethics policies consistent with applicable law and applicable best practices for board members, officers, and employees.

The CAA board members and employees are not personally liable for acts done, or omitted, in good faith while performing authority duties.

Accountability Measures.

A CAA may provide funding only to cultural organizations that provide discernible public benefits. Public benefits include providing reasonable opportunities for access to programs or services on a reduced or no admission basis, providing services and educational programs in locations other than the organization's facilities, broadening cultural programs and exhibitions for the enlightenment and entertainment of the public, and supporting collaborative relationships and capacity-building projects for the benefit of the public.

Annually or at the conclusion of a project, any recipient of funding must report to the CAA or relevant public agency on the public benefits realized.

A CAA must adopt a baseline standard of performance for evaluating the continuing eligibility of organizations to receive funding.

Second Substitute Bill Compared to Original Bill:

The second substitute bill modifies the original bill as follows:

- CAA Creation and Operation. (1) allows any county or contiguous group of counties to form a CAA (and removes population requirements); (2) revises the various requirements relating to the appointment of CAA board members, and sets a two-term term limit; (3) adds provisions regarding removal of CAA board members and filling vacancies; (4) adds a provision allowing certain CAAs to contract with the State Arts Commission for consulting and administrative services or to function as the designated public agency; (5) adds provisions prohibiting CAAs from using promotional materials to influence the outcome of an election; and (6) makes various technical changes, including correcting a reference to the Public Records Act and clarifying provisions relating to a CAA's authority to hire staff.
- CAA Funding. (1) allows, but does not require, participating counties to provide start-up funding, and requires all CAAs to reserve sufficient funds for repaying any start-up costs; (2) allows the CAA to be funded with either a voter-approved sales and use tax or with a voter-approved regular property tax levy, and reduces or eliminates any

new property tax if the property tax lid is exceeded; (3) clarifies technical language in the voter-approved sales and use tax provision, and places the provision under the Department of Revenue for tax administration; and (4) in large CAAs, clarifies that projects of regional benefit are separately funded by up to 2.75 percent of revenues after making allocations for paying back start-up costs (rather than being funded from the 10 percent of funds allocated to public school student access programs).

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is an important Prosperity Partnership Initiative. Providing access to cultural activities and events is critical to our children and our communities. Cultural opportunities make a community lively, and this is what helps attract businesses and their employees' talent to our communities. Cultural organizations involved in this project promote the sciences as well as the arts.

Lack of public school transportation is a large obstacle to cultural access for children. Cultural access authorities, with voter-approved funds, would be able to provide the needed broad access. Without it, schools will be less likely to take children to cultural events. Children who have cultural access are less likely to drop out of school and more likely to do well. School may be the only access to these learning opportunities. Exhibits bring ideas to life, and these ideas can be shared with families and communities.

The new version of the bill adds accountability and funding flexibility. This proposal is not just for the bad economic times, but for the long term. The nonprofits that generally run cultural programs are very vulnerable to economic vagaries; they cannot build cash reserves for the bad economic years. Resources are needed to keep staff and have a stable program.

(Opposed) None.

Persons Testifying: Representative Kenney, prime sponsor; Deborah Jensen, Woodland Park Zoo; Bryce Seidl, Pacific Science Center; and Sandra Jackson-Dumont, Seattle Art Museum.

Persons Signed In To Testify But Not Testifying: None.