

# HOUSE BILL REPORT

## ESHB 2263

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**As Passed House:**  
June 28, 2015

**Title:** An act relating to providing local governments with options to strengthen their communities by providing services and facilities for people with mental illness, developmental disabilities, and other vulnerable populations, and by increasing access to educational experiences through cultural organizations.

**Brief Description:** Providing local governments with options to strengthen their communities by providing services and facilities for people with mental illness, developmental disabilities, and other vulnerable populations, and by increasing access to educational experiences through cultural organizations.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Springer, Walkinshaw, Robinson, Tharinger, Carlyle, McBride, Fitzgibbon and Reykdal).

**Brief History:**

**Committee Activity:**

Finance: 6/8/15, 6/25/15 [DPS].

**Second Special Session**

**Floor Activity:**

Passed House: 6/26/15, 89-8.

**Third Special Session**

**Floor Activity:**

Passed House: 6/28/15, 87-10.

**Brief Summary of Engrossed Substitute Bill**

- Permits a county or city to create a cultural access program (CAP).
- Authorizes counties with a population of 1.5 million or less, or a city, to impose either a sales and use tax or a property tax levy to fund a CAP.
- Authorizes a county with a population of 1.5 million or more to impose a sales and use tax to fund a CAP.
- Provides restrictions and requirements for how revenues may be allocated within a CAP, including a requirement to create and fund public school programs.

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*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.*

- Authorizes the governing body of a county or city to impose a 0.1 percent local sales tax for housing and related services for specific individuals if approved by a majority of voters.

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Fitzgibbon, Pollet, Reykdal, Robinson, Ryu, Springer, Stokesbary and Wylie.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Manweller and Vick.

**Staff:** Dominique Meyers (786-7150).

### **Background:**

#### Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

#### Property Tax.

Property taxes are imposed by state and local governments. The county assessor determines assessed value for each property. The county assessor also calculates the tax rate necessary to raise the correct amount of property taxes for each taxing district. The assessor calculates the rate so the individual district rate limit, the district revenue limit, and the aggregate rate limits are all satisfied. The property tax bill for an individual property is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located.

### **Summary of Engrossed Substitute Bill:**

#### Cultural Access Programs.

Counties are authorized to establish a cultural access program (CAP) that allocates funds to cultural organizations providing programming or experiences for the general public. The primary purpose of the organization receiving funding must be the advancement or preservation of science or technology, the visual or performing arts, zoology, botany, anthropology, heritage, or natural history. The CAP funding must be used for a public benefit that generally relates to increasing access, outreach, and opportunities to the public.

Any county may authorize a CAP or enter into an interlocal agreement with a group of contiguous counties to create a CAP. A county may designate an entity or agency to operate the functions of the CAP. A county with a population under 1.5 million may contract with the Washington State Arts Commission to provide consulting, management, or administrative services to the CAP. Any county may establish an advisory council with members that include leaders in the business, educational, and cultural communities who represent the interests of the program.

A city may create a CAP if the county where the city is located either expressly forfeits its own option, or does not propose a choice to voters for creating a CAP before June 30, 2017. A city that creates a CAP shares the same authority as if created by the county.

*Public School Cultural Access Program.* Each CAP must include a public school cultural access program component to increase student access to cultural programming and facilities. In a county with a population over 1.5 million, the public school CAP must include: transportation for students to attend at least one program annually; a centralized service for cultural organizations to coordinate opportunities for students; consolidation of student opportunities to increase cost efficiency; the development of tools to correlate activities with school curricula; and partnerships between schools and cultural organizations. A portion of any remaining resources should be used to encourage districts and regional cultural organizations to enhance activities and programs.

#### Revenue and Tax Authority.

A county may advance funding to the CAP for initial administrative costs, including public outreach about the program and proposed funding sources. The county may require repayment by the CAP from tax proceeds, if approved by voters.

A county with a population over 1.5 million, or a city in the county that has opted out, is authorized to levy a sales and use tax to fund a CAP. A county with a population below 1.5 million, or city in a county that has opted out, is authorized to levy either a sales and use tax or a property tax in order to fund a CAP, but it cannot levy both types of taxes. All levy authority is conditioned upon voter approval through a general or special election. Authorization through voter approval may last for no longer than seven years. The county may renew the tax levy after seven years for one or more additional seven-year periods upon voter approval at a general or special election. All tax revenue under this authority must be credited to a special fund in the county treasury and used solely for the CAP.

The sales and use tax may be levied up to 0.1 percent on the sale of goods and services within the county. The property tax may be levied up to an amount equal to the annual total taxable retail sales and uses multiplied by 0.1 percent, subject to the \$5.90 local tax limit.

#### Funding Allocation.

The usual and customary funding provided by a county to support cultural organizations may not be replaced or diminished by a CAP. Any CAP funds received by a state-related cultural organization may not replace or materially diminish any state funding usually received by the organization.

*A County Under 1.5 Million People.* A CAP must reserve program funds for allocation in the following priority:

- repayment of any start-up money provided by the county;
- program administrative costs;
- operation of a public school cultural access program, including music and arts education that is provided in addition to basic education funding; and
- remaining funds distributed to the entity designated by the county to allocate among eligible cultural organizations that meet the guidelines and criteria of the CAP.

*A County over 1.5 Million People.* A CAP must reserve program funds for allocation in the following priority:

- repayment of any start-up money provided by the county;
- program administrative costs (up to 1.25 percent of total funds);
- operation of a public school cultural access program (10 percent of remaining funds);
- distribution to regional cultural organizations that widely benefit the public, as determined by CAP guidelines (70 percent of remaining funds); and
- remaining funds distributed to the entity designated by the county to allocate funds to community-based cultural organizations or a community preservation and development authority (up to 8 percent of which may be used on the designated entity's administrative costs).

#### Management and Accountability.

Funds distributed to a cultural organization may be used for cultural and educational programs and activities, capital projects (except for regional cultural organizations), equipment and supplies related to a project, and start-up costs for any new community-based cultural organization.

Funding distributed to a cultural organization must be used for a discernable public benefit related to:

- increasing access to programs and facilities, including reduced or free admission, particularly for diverse or underserved communities;
- providing services or programs away from the organization's facilities;
- providing educational programs in schools and other places;
- broadening programs, performances, and exhibitions for the public;
- supporting collaborative relations among cultural organizations; and
- supporting capacity building for community-based cultural organizations.

A county must evaluate a funding request based on the public benefit that the cultural organization plans to provide. The CAP must adopt guidelines and standards of performance by the organization in providing the public benefit. The guidelines must include procedures to notify organizations at risk of losing eligibility and provide measures for retaining eligibility. At the conclusion of a CAP-funded project, the organization must report on the public benefit realized.

In a county over 1.5 million people, a regional cultural organization is eligible to receive funding if it: is a state nonprofit corporation in good standing; is located in the county and primarily benefits county residents; has not recently declared bankruptcy; has provided financial statements to the CAP; and has an adjusted average annual revenue of at least \$1.25

million. A regional cultural organization in a county over 1.5 million people must reserve at least 20 percent of funds for and report annually on its participation in the public school cultural access program. The annual report on the public school cultural access program must include data on how many students were served at each event type, grade level, school location, and percentage of students who participate in free or reduced-price school meal programs. Upon renewal of a tax levy authority for the CAP, as approved by the voters, the county must set a new minimum annual revenue amount for a regional cultural organization.

The funding allocation available to eligible regional cultural organizations is distributed proportionally based on an annual ranking based on each organization's revenue and attendance. No organization may receive more than 15 percent of its annual revenue.

#### Housing and Related Services.

County legislative authorities are authorized to implement a 0.1 percent sales and use tax in order to fund housing and related services. A city legislative authority may implement the whole or remainder of the tax if the county has not opted to implement the full tax within two years in a county with a population of less than 1.5 million, or three years in a county with a population of over 1.5 million.

A minimum of 60 percent of revenues collected must be used for constructing affordable housing, affordable housing units, facilities providing housing-related services, or mental and behavior health-related services, or to fund the operations and maintenance costs of newly constructed affordable housing, facilities providing housing-related services, or evaluation and treatment centers. The affordable housing and facilities providing housing-related programs must serve individuals with mental illness, or any of the following individuals with income below 60 percent of area median income: veterans, senior citizens, homeless families with children, unaccompanied homeless youth, persons with disabilities, or domestic violence victims.

A county may issue bonds against up to 50 percent of the revenues in order to construct affordable housing, housing units, and facilities providing housing-related services or mental and behavior health-related services. The remainder of the funding must be used for the operation, delivery, or evaluation of mental and behavioral health treatment programs or housing-related services.

Revenues may be used to offset reductions in state or federal funds for housing and related services; however, no more than 10 percent of the revenues collected may be used to supplant existing local funding for such services.

**Appropriation:** None.

**Fiscal Note:** Requested on June 4, 2015.

**Effective Date:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 405, relating to the constitutional and statutory limitations of property tax levies, which takes effect January 1, 2018.

**Staff Summary of Public Testimony:**

(In support) There is a reasonable direct line between cultural access and mental health and educating the whole person. The mental health portion of this bill expands the allowable uses compared to the chemical dependency and mental health tax option currently available. Cultural access is one of five pillars of the regional council; this bill can help facility the advancement of this pillar.

This bill gives local communities the option to create programs if they chose to fund them by taxing themselves. The state is not in a position to fund the kinds of programs that it had in previous years. Cultural programs often are cut in times for rescission. Local governments need options to create programs for their own districts. The idea has evolved to include communities throughout the whole state. This will help establish a robust arts economy in the state. This program will serve citizens through heritage arts science programs that will strengthen local communities. It provides access to many people who otherwise could not go to cultural activities and brings events to areas that do not have access to cultural events. Many residents cannot afford to pay for programs or transportation. This bill will help organizations continue to provide reduced or free public access to programs and events, and to bring events out into the community.

This provides a substantial new local tool to meet the growing need for affordable housing and mental health programs in every county in the state. It is very hard to find affordable housing while suffering homeless and other mental health issues. It took ten years to finally receive a housing voucher and no longer live on the streets. There is a crisis for affordable housing especially for people in Thurston County with mental health issues. Mental health programs can help end the cycle of homelessness and eliminate struggles for the next generation. The Office of the Superintendent of Public Instruction reports that there are more than 700 homeless students in the Wenatchee and East Wenatchee school districts; the affordable housing need is greater than the available units in the county. Mental health programs are currently underfunded and this bill is one-step in the right direction to allow communities to establish the funding they need to meet the needs of their communities. Despite the great recourses in the operating budget for mental health programs, there is still a great need, specifically a need for affordable housing.

(With concerns) The mental health crises needs to be addressed, but this should be a statewide effort and the local option might not actual achieve the results the states need to address this crises. This could increase inequities in the mental health treatment throughout the state.

(Opposed) Understanding the fiscal challenges of local governments and the need for services, this legislation is regressive and will negatively impact the people it is trying to serve. This will reduce consumer purchases and in turn hurt retail business in the state. Citizens purchasing vehicles already pay an additional sales tax on those vehicles, this could hurt vehicle sales throughout the entire state.

**Persons Testifying:** (In support) Representative Springer, prime sponsor; Jane Hague, King County Council; David Brown, Cultural Access Washington; Ellen Walker, Pacific Northwest Ballet; Antonio Gomez, Broadway Center for the Performing Arts; Pattie Belmonte, Hands on Children's Museum; Thomas Green; Susan Russell, Real Change; Cathy Harmon; Marty Kooistra, Housing Development Consortium; Phoebe Nelson; Terry Belkoe, Northwest

Credit Union; M.A. Leonard, Enterprise Community Partners; Bill Rumpf, Mercy Housing; Michael Ramos, Church Council of Greater Seattle; Joe Cunningham, ARC of King County; John Smiley; John Theirron; Inez Williams; Kelli Larsen, Plymouth Housing; Paul Tipps and Chris Heath, Downtown Emergency Service Center; Tim Meliah, Catholic Charities; Paul Purcell, Beacon Development Group; Seth Dawson, Washington State Community Action Partnership; Rachel Myers and Liz Trautman, Washington Low Income Housing Alliance; Shelia Anderson, Champion Advocacy Fund; Chris Pegg, Longview Housing Authority; Andy Silver, Council for the Homeless; Michael Seiwzrath, Capitol Hill Housing; Adam Roselli and Martin Flynn, Share; Dennis Saxman; Len McComb, Washington State Hospital Association; Michone Preston, Tammey Newton and Daryl Dawgs, Habitat for Humanity of Washington; Sue Bergman and David Nixon, Behavioral Health Resources; Bryce Yadan, Futurewise; Linda Olsen, Washington State Coalition Against Domestic Violence; Dave Asher, Kirkland City Council; Timothy McKinley and Kathy Lindquist, Home First; Connie Brown, Affordable Housing Consortium of Pierce County; Schelly Slaughter, Family Support Center of South Sound; Meg Martin, Interfaith Works Emergency Shelter; and Frank Palmer.

(With concerns) Helen Price Johnson, Island County District One.

(Opposed) Joanie Deutsch, Washington Retail Association; and Scott Hazlegrove, Washington State Auto Dealers Association.

**Persons Signed In To Testify But Not Testifying:** None.