

# SENATE BILL REPORT

## SSB 5463

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As Passed Senate, June 24, 2015

**Title:** An act relating to access to and creation of cultural and heritage programs and facilities.

**Brief Description:** Concerning access to and creation of cultural and heritage programs and facilities.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hill, Kohl-Welles, Fain, Fraser, Litzow, King, Angel, Nelson, Chase, Pedersen, Roach, Lias and McAuliffe).

**Brief History:**

**Committee Activity:** Ways & Means: 2/02/15, 2/09/15 [DPS, w/oRec].

Passed Senate: 3/04/15, 44-4.

**Second Special Session:** Passed Senate: 6/24/15, 41-3.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5463 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hill, Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Keiser, Assistant Ranking Member on the Capital Budget; Bailey, Becker, Billig, Brown, Conway, Fraser, Hatfield, Hewitt, Kohl-Welles, O'Ban, Parlette, Rolfes, Schoesler and Warnick.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Hargrove, Ranking Member; Hasegawa and Padden.

**Staff:** Dean Carlson (786-7305)

**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 3.0 percent, depending on the location.

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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.*

State Property Tax. All real and personal property in the state is subject to the state property tax, unless specifically exempt under law. Property taxes are based on the assessed value of the property. The state Constitution limits regular property tax levies to a maximum of 1 percent of a property's assessed value. This applies to the total taxes levied by the state, counties, and other districts. To keep the total tax rate within the 1 percent limit, the Legislature has established individual and aggregate limits for the various tax districts. The tax levy maximum assessed by the state is set at \$3.60 per \$1,000 of assessed value. The state levy takes precedence over all other levies. Most of the remaining local tax districts must share an overall maximum rate of \$5.90 per \$1,000 of assessed value.

**Summary of 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.

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.

Each CAP must include a public school cultural access program component. The public school CAP component must provide benefits to increase student access to cultural organizations' programming and facilities, with an emphasis on schools with a higher percentage of students that participate in the reduced lunch program.

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, 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. The 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. Voter approval is required for authority to renew the tax.

A sales and use tax may be levied up to 0.1 percent on the sale of goods and services within the county. Alternatively, a property tax may be levied by the county up to an amount equal to the annual total taxable retail sales and uses multiplied by 0.1 percent. A property tax levied is subject to the \$5.90 local tax limit and must be prorated or eliminated, along with other junior tax districts, if the county exceeds the tax limit. All tax revenue under this authority must be credited to a special fund in the county treasury and used solely for the CAP.

Funding Allocation. Funding from a CAP may not supplant a county's usual and customary support for cultural organizations. Any CAP funds received by a state-related cultural organization may not supplant 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 the 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 the 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 – 75 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 – with 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.

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 from a CAP.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: This will serve the citizens through access to cultural, heritage, and science programs. This must be approved by the voters and reauthorized after seven years. It will increase cultural activities in rural and urban areas. This focus on schools and addresses transportation which is often a barrier to access. The King County Council has endorsed this bill. This includes science centers, zoos, performing arts, and heritage programs. This is modeled after the Denver program. This program is entirely local. A broad range of scientific and cultural access is a recruitment and retention tool for businesses. Students often can't attend these programs as there are financial barriers including transportation. The arts is education and is very important to local businesses. The bill gives local control and lets the local voters decided. Children can't afford to visit The Reach without some subsidies. Our board voted to support this bill, because businesses want this available to employees.

**Persons Testifying:** PRO: Monique Trudnowski, restaurateur; Benjamin Johnson, The Seasons Performance Hall; Lisa Toomey, The Reach; Louise Miller, Seattle Opera; David Fischer, Tacoma Broadway Center, Executive Director; D. David Brown, Cultural Access WA; Putter Bert, KidsQuest Children's Museum, President, CEO; Tower Bert, Stadium High School; Kenneth Workman, Duwamish Tribe; Jane Hague, Bonnie Hilory, citizens.

**Persons Signed in to Testify But Not Testifying:** No one.