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**SUBSTITUTE SENATE BILL 5463**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Hill, Kohl-Welles, Fain, Fraser, Litzow, King, Angel, Nelson, Chase, Pedersen, Roach, Liias, and McAuliffe)

AN ACT Relating to access to and creation of cultural and heritage programs and facilities; amending RCW 84.52.010 and 84.52.010; adding a new section to chapter 82.14 RCW; adding a new section to chapter 84.52 RCW; adding a new chapter to Title 36 RCW; creating new sections; providing an effective date; and providing an expiration date.

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

**PART I**

**INTENT**

NEW SECTION. **Sec.**  INTENT. (1) The legislature finds that:

(a) The cultural organizations of the state provide numerous public benefits. Providing support for the state's cultural organizations is in the public interest and will serve multiple public purposes including, among others, enhancing and extending the educational reach and offerings of cultural organizations; ensuring continued and expanded access to the facilities and programs of cultural organizations by economically and geographically underserved populations; and providing financial stability to the organizations to enable them to focus on core missions as well as to continue and extend the numerous public benefits they provide.

(b) Economic impact studies consistently confirm that cultural institutions represent a multibillion dollar segment of the state's overall economy and are directly responsible for tens of thousands of jobs.

(2) The purpose of this chapter is to authorize the cultural access program, under which counties authorize funding for public school cultural access programs and support cultural organizations.

**PART II**

**DEFINITIONS**

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrative costs" means all operating, administrative, and maintenance expenses for a program, a designated public agency, or a designated entity.

(2) "Attendance" means the total number of visits by persons in physical attendance during a year at cultural organization facilities located or cultural organization programs provided within the county creating a program, including attendance for which admission was paid, discounted, or free, consistent with and verifiable under guidelines adopted by the appropriate program.

(3) "Cultural organization" means a nonprofit corporation incorporated under the laws of the state of Washington and recognized by the internal revenue service as described in section 501(c)(3) of the internal revenue code of 1986, as amended, with its principal location or locations and conducting a majority of its activities within the state, not including: Any agency of the state or any of its political subdivisions; any municipal corporation; any organization that raises funds for redistribution to multiple cultural organizations; or any radio or television broadcasting network or station, cable communications system, internet-based communications venture or service, newspaper, or magazine. The primary purpose of the organization must be the advancement and preservation of science or technology, the visual or performing arts, zoology, botany, anthropology, heritage, or natural history and any organization must directly provide programming or experiences available to the general public. Any organization with the primary purpose of advancing and preserving zoology such as zoos and aquariums must be or support a facility that is accredited by the association of zoos and aquariums or its functional successor. A state-related cultural organization may be a cultural organization.

(4) "Designated entity" means the entity designated by the legislative authority of a county creating the program, as required under section 601(1)(d) of this act. The entity may be a public agency, including the state arts commission established under chapter 43.46 RCW, or a Washington nonprofit corporation that is not a cultural organization eligible for funding under this chapter.

(5) "Designated public agency" means the public agency designated by the legislative authority of a county creating the program, as required under section 601(2)(h) of this act.

(6) "Program" means a cultural access program established by a county by ordinance.

(7) "Revenues" means revenues from all sources generated by a cultural organization, consistent with generally accepted accounting practices and any program guidelines, excluding: (a) Revenues associated with capital projects other than major maintenance projects including, but not limited to, capital campaign expenses; (b) funds provided under this chapter; (c) revenue that would be considered unrelated business taxable income under the internal revenue code of 1986, as amended; and (d) with respect to a state-related cultural organization, state funding received by it or for the institution it supports. Revenues include transfers from an organization's endowment or reserves and may include the value of in-kind goods and services to the extent permitted under any program guidelines.

(8) "State-related cultural organization" means an organization incorporated as a nonprofit corporation under the laws of the state of Washington and recognized by the internal revenue service as described in section 501(c)(3) of the internal revenue code of 1986, as amended, with a primary purpose and directly providing programming or experiences available to the general public consistent with the requirements for recognition as a cultural organization under this chapter operating in a facility owned and supported by the state, a state agency, or state educational institution.

**PART III**

**CULTURAL ACCESS PROGRAM**

NEW SECTION. **Sec.**  CREATION. (1) Any county legislative authority may create a cultural access program by ordinance.

(2) Any contiguous group of counties may create a program by entering into an interlocal agreement under chapter 39.34 RCW, approved by resolution of the county legislative authorities.

(3) A city may create a cultural access program if the county legislative authority in which the city is located adopts a resolution stating that the county forfeits its option to create a program or does not place a proposition before the people to create such a program by June 30, 2017. In the event the exception in this subsection occurs, all references in this chapter to a county must include a city that has exercised its authority under this subsection.

NEW SECTION. **Sec.**  START-UP FUNDING AND CONDITIONAL FORMATION. (1) The county creating a program may advance to the program funding for its administrative costs, including the cost of informing the public about the formation of the program, how it is proposed to be funded, and the public benefits to be realized if it is successful. However, this subsection does not authorize the preparation and distribution of information to the general public for the purpose of influencing the outcome of any election called for voter authorization of a proposed tax to support a program.

(2) The county creating a program may provide for repayment of any start-up funding advanced to a program from the proceeds of taxes authorized under sections 401 through 403 of this act and approved by voters after the taxes are first collected. The funds may be repaid to such county with interest at the internal rate of return on the invested funds of such county.

NEW SECTION. **Sec.**  NONSUPPLANTATION. In creating a program under this chapter, any county creating the program must affirm that any funding such county usually and customarily provides to cultural organizations similar to funding that would be available to those organizations under this chapter may not be replaced or materially diminished as a result of funding becoming available under this chapter. If an organization designated to receive funds under this chapter is a state-related cultural organization, the funds received under this chapter may not replace or materially diminish any funding usually or customarily provided by the state.

NEW SECTION. **Sec.**  ADVISORY COUNCILS. Each county creating a program under this chapter may establish an advisory council, the membership of which must include citizen representatives of constituencies and organizations with interests relevant to the work of the program including, but not limited to, leaders in the business, educational, and cultural communities. Advisory council members should be residents of the county creating the program. Policies concerning the size and operation of any advisory council must be established by the county that creates the program.

NEW SECTION. **Sec.**  ALTERNATIVE ADMINISTRATIVE ARRANGEMENTS. A county with a population of less than one million five hundred thousand may contract with the state arts commission formed under chapter 43.46 RCW for the provision of consulting, management, or other administrative services to be provided to its program created under this chapter. Any county creating a program may elect to consolidate administration of such a program with that of the entity or public agency designated by the county creating such a program to perform the functions required under section 601 of this act.

**PART IV**

**FUNDING**

NEW SECTION. **Sec.**  PROGRAM TO IMPOSE TAX. (1) A county creating a program under this chapter may impose sales and use taxes under section 402 of this act or additional regular property tax levies under section 403 of this act for the purposes authorized under this chapter.

(2) If a county imposes sales and use taxes under section 402 of this act, the county may not impose an additional regular property tax levy under section 403 of this act so long as such sales and use taxes are in effect.

(3) If a county imposes an additional regular property tax levy under section 403 of this act, the county may not impose sales and use taxes under section 402 of this act so long as such property tax levy is in effect.

(4) All revenue from taxes imposed under this chapter must be credited to a special fund in the treasury of the county imposing such tax and used solely for the purpose of paying all or any part of the cost of cultural access programs as provided in this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 82.14 RCW to read as follows:

SALES AND USE TAXES. (1) The legislative authority of a county or a city may impose a sales and use tax of up to one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax, for the purposes authorized under chapter 36.--- RCW (the new chapter created in section 702 of this act). The legislative authority of the county or city may impose the sales and use tax by ordinance and must condition its imposition on the specific authorization of a majority of the voters voting on a proposition submitted at a special election held after June 30, 2016. The ordinance and ballot proposition, if any, may provide for the tax to apply for a period of up to seven consecutive years.

(2) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event.

(3) The legislative authority of a county or city may reimpose a tax imposed under this section for one or more additional periods of up to seven consecutive years. The legislative authority of the county or city may reimpose the sales and use tax by ordinance and must condition its reimposition on the prior specific authorization of a majority of the voters voting on a proposition submitted at any general or special election.

(4) Moneys collected under this section may only be used for the purposes set forth in section 601 of this act.

(5) The department must perform the collection of taxes under this section on behalf of a county or city at no cost to the county or city, and the state treasurer must distribute those taxes as available on a monthly basis to the county or city or, upon the direction of the county or city, to its treasurer or a fiscal agent, paying agent, or trustee for obligations issued or incurred by the program.

(6) The definitions in section 201 of this act apply to this section.

NEW SECTION. **Sec.**  A new section is added to chapter 84.52 RCW to read as follows:

PROPERTY TAX. (1) The legislative authority of a county or city may impose an additional regular property tax levy for the purposes authorized under chapter 36.--- RCW (the new chapter created in section 702 of this act). The legislative authority of the county or city may impose the additional levy by ordinance and must condition its imposition of the levy upon prior specific authorization of a majority of the voters voting on a proposition submitted at a general or special election held after June 30, 2016. The ordinance and the ballot proposition must set forth the total dollar amount to be collected in the first year of the levy and may provide for a levy for a period of up to seven consecutive years. The total dollar amount to be set forth in the ordinance and the ballot proposition, if any, may not exceed an amount equal to: (a) The total taxable retail sales and taxable uses for the most recent calendar year as reported by the department; multiplied by (b) one-tenth of one percent.

(2) The legislative authority of a county or city may reimpose an additional regular property tax levy imposed under subsection (1) of this section for one or more additional periods of up to seven consecutive years. The legislative authority of the county or city may reimpose the levy by ordinance and must condition the reimposition of the levy upon the specific authorization of a majority of the voters voting on a proposition submitted at any general or special election. The ordinance and the ballot proposition must set forth the total dollar amount to be collected in the first year of the reimposed levy, which dollar amount may not exceed an amount equal to: (a) The total number of taxable retail sales and taxable uses for the most recent calendar year as reported by the department; multiplied by (b) one-tenth of one percent.

(3) In the event a county or city is levying property taxes under this section that, in combination with property taxes levied by other taxing districts, exceed the limitation in RCW 84.52.050 or 84.52.043(2), the county's or city's property tax levy under this section must be reduced or eliminated consistent with RCW 84.52.010.

(4) The limitation in RCW 84.55.010 does not apply to the first levy imposed under subsection (1) of this section or to the first levy reimposed under subsection (2) of this section.

(5) The limitations in RCW 84.52.043(1) do not apply to the tax levy authorized in this section.

(6) Moneys collected under this section may only be used for the purposes set forth in section 601 of this act.

(7) The definitions in section 201 of this act apply to this section.

**Sec.**  RCW 84.52.010 and 2011 1st sp.s. c 28 s 2 are each amended to read as follows:

(1) Except as is permitted under RCW 84.55.050, all taxes must be levied or voted in specific amounts.

(2) The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

(3) When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor must recompute and establish a consolidated levy in the following manner:

(a) The full certified rates of tax levy for state, county, county road district, and city or town purposes must be extended on the tax rolls in amounts not exceeding the limitations established by law; however any state levy takes precedence over all other levies and may not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, 84.52.135, 84.52.140, and the protected portion of the levy under RCW 86.15.160 by flood control zone districts in a county with a population of seven hundred seventy-five thousand or more that are coextensive with a county, the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies must be reduced as follows:

(i) The portion of the levy by a metropolitan park district that has a population of less than one hundred fifty thousand and is located in a county with a population of one million five hundred thousand or more that is protected under RCW 84.52.120 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(ii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the protected portion of the levy imposed under RCW 86.15.160 by a flood control zone district in a county with a population of seven hundred seventy-five thousand or more that is coextensive with a county must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(iii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.140 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(iv) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district that is protected under RCW 84.52.125 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(v) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(vi) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(vii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district with a population of one hundred fifty thousand or more that is protected under RCW 84.52.120 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(viii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of thirty cents per thousand dollars of assessed value, must be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated; and

(ix) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the thirty cents per thousand dollars of assessed value of tax levy imposed under RCW 84.52.069 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated.

(b) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property must be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(i) First, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100, section 403 of this act, and 67.38.130 must be reduced on a pro rata basis or eliminated;

(ii) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts other than the portion of a levy protected under RCW 84.52.815 must be reduced on a pro rata basis or eliminated;

(iii) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts, and the first fifty cent per thousand dollars of assessed valuation levies for public hospital districts, must be reduced on a pro rata basis or eliminated;

(iv) Fourth, if the consolidated tax levy rate still exceeds these limitations, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, must be reduced on a pro rata basis or eliminated;

(v) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) must be reduced on a pro rata basis or eliminated; and

(vi) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first fifty cent per thousand dollars of assessed valuation levy, and public hospital districts under their first fifty cent per thousand dollars of assessed valuation levy, must be reduced on a pro rata basis or eliminated.

**Sec.**  RCW 84.52.010 and 2009 c 551 s 7 are each amended to read as follows:

Except as is permitted under RCW 84.55.050, all taxes ((~~shall~~)) must be levied or voted in specific amounts.

The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, ((~~shall~~)) must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county ((~~shall~~)) must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor ((~~shall~~)) must recompute and establish a consolidated levy in the following manner:

(1) The full certified rates of tax levy for state, county, county road district, and city or town purposes ((~~shall~~)) must be extended on the tax rolls in amounts not exceeding the limitations established by law; however any state levy ((~~shall~~)) takes precedence over all other levies and ((~~shall~~)) may not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, 84.52.135, and 84.52.140, the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies ((~~shall~~)) must be reduced as follows:

(a) The levy imposed by a county under RCW 84.52.140 ((~~shall~~)) must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or ((~~shall~~)) must be eliminated;

(b) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district that is protected under RCW 84.52.125 ((~~shall~~)) must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or ((~~shall~~)) must be eliminated;

(c) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(d) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(e) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district that is protected under RCW 84.52.120 ((~~shall~~)) must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or ((~~shall~~)) must be eliminated;

(f) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of thirty cents per thousand dollars of assessed value, ((~~shall~~)) must be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or ((~~shall~~)) must be eliminated; and

(g) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the thirty cents per thousand dollars of assessed value of tax levy imposed under RCW 84.52.069 ((~~shall~~)) must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or eliminated.

(2) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property ((~~shall~~)) must be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(a) First, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100, ((~~and~~)) 67.38.130, and section 403 of this act ((~~shall~~)) must be reduced on a pro rata basis or eliminated;

(b) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts ((~~shall~~)) must be reduced on a pro rata basis or eliminated;

(c) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts, and the first fifty cent per thousand dollars of assessed valuation levies for public hospital districts, ((~~shall~~)) must be reduced on a pro rata basis or eliminated;

(d) Fourth, if the consolidated tax levy rate still exceeds these limitations, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, ((~~shall~~)) must be reduced on a pro rata basis or eliminated;

(e) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) ((~~shall~~)) must be reduced on a pro rata basis or eliminated; and

(f) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first fifty cent per thousand dollars of assessed valuation levy, and public hospital districts under their first fifty cent per thousand dollars of assessed valuation levy, ((~~shall~~)) must be reduced on a pro rata basis or eliminated.

**PART V**

**PUBLIC BENEFITS AND PUBLIC SCHOOL CULTURAL ACCESS PROGRAM**

NEW SECTION. **Sec.**  PUBLIC BENEFITS. (1) A program created under this chapter must provide or continue to provide funding authorized under this chapter only to cultural organizations that provide discernible public benefits. Each program created under this chapter must identify a range of public benefits that cultural organizations may provide or continue to provide in satisfaction of this requirement for eligibility to receive funding authorized under this chapter. The public benefits include, without limitation: Reasonable opportunities for access to facilities, programs, and services on a reduced or no admission fee basis, particularly for diverse and underserved populations and communities; providing, through technological and other means, services or programs in locations other than an organization's own facilities; providing educational programs and experiences both at an organization's own facilities and in schools and other venues; broadening cultural programs, performances, and exhibitions for the enlightenment and entertainment of the public; supporting collaborative relationships with other cultural organizations in order to extend the reach and impact of the collaborating organizations for the benefit of the public; and, in the case of community-based cultural organizations, organizational capacity-building projects or activities that an organization can demonstrate, to the reasonable satisfaction of the designated entity, will enhance the ability of the organization to provide or continue to provide meaningful public benefits not otherwise achievable.

(2) Each program created under this chapter must adopt guidelines establishing a baseline standard of continuous performance with respect to the provision of public benefits required under this chapter and for evaluating the eligibility of any cultural organization to receive funds under this chapter based on the continuous performance of the organization in the provision of the public benefits. The guidelines must include: (a) Procedures for notifying any organization at risk of losing its eligibility to receive funds under this chapter for failure to achieve the program's baseline standard of performance with respect to the continuous provision of public benefits; and (b) measures or procedures available to the organization for either retaining or recovering eligibility, as appropriate.

NEW SECTION. **Sec.**  PUBLIC SCHOOL CULTURAL ACCESS PROGRAM. (1) A program created under this chapter must develop and provide a public school cultural access program, as provided in section 601 of this act.

(2) To the extent practicable consistent with available resources, the public school cultural access element of a program of a county described in section 601(2) of this act must include the following attributes:

(a) Provide benefits designed to increase public school student access to the programming offered and facilities operated by regional and community-based cultural organizations receiving funding under this chapter;

(b) Offer benefits to every public school in the county while scaling the range of benefits available to and the frequency of opportunities to participate by any particular school to coincide with the relative percentage of students attending the school who participate in the national free or reduced-price school meals program;

(c) Benefits provided under the public school cultural access program must include, without limitation:

(i) Establishing and operating, within funding provided to support the public school cultural access program under this subsection, of a centralized service available to regional and community-based cultural organizations receiving funding under this chapter and public schools in the county to coordinate opportunities for public school student access to the programs and activities offered by the organizations both at the facilities and venues operated by the organizations and through programs and experiences provided by the organizations at schools and elsewhere;

(ii) Providing directly or otherwise funding and arranging for transportation for public school students to attend and participate in the programs and activities offered by such organizations;

(iii) In consultation with cultural organizations located within the county, preparing and maintaining a readily accessible and current guide cataloging access opportunities and facilitating scheduling;

(iv) Coordinating closely with cultural organizations to maximize student utilization of available opportunities in a cost-efficient manner including possible scheduling on a single day opportunities for different grade levels at any one school and participation in multiple programs or activities in the same general area for which program-funded transportation is provided;

(v) Supporting the development of tools, materials, and media by cultural organizations to ensure that school access programs and activities correlate with school curricula and extend the reach of access programs and activities for classroom use with or without direct on-site participation, to the extent practicable;

(vi) Building meaningful partnerships with public schools and cultural organizations in order to maximize participation in school access programs and activities and ensure their relevance and effectiveness;

(d) When a program determines that its program element required under (c)(i) through (vi) of this subsection has achieved sufficient scale and participation among public schools located within its boundaries and that it has resources remaining to devote to additional public school cultural access programs without diminishing such participation, the county may develop and financially support other public school cultural access activities in conjunction with cultural organizations receiving funds under this chapter; public school districts; and other public or nonprofit organizations that support cultural access. Any funding for development and support of such activities provided to cultural organizations receiving funds under this subsection must only be used to supplement the public benefits provided by such organizations as required under this chapter and may not be used by such organizations to replace or diminish funding for such required public benefits;

(e) Preparation of an annual public school cultural access plan for review and adoption prior to implementation; and

(f) Compilation of an annual report documenting the reach and evaluating the effectiveness of program-funded public school cultural access efforts, including recommendations to the county for improvements.

**PART VI**

**USE OF FUNDS**

NEW SECTION. **Sec.**  ALLOCATION. (1) A program in a county with a population of less than one million five hundred thousand must allocate the proceeds of taxes authorized under sections 402 and 403 of this act as follows:

(a) If any start-up funding has been provided to the program under section 302 of this act with the expectation that the funding will be repaid, the program must annually reserve from total funds available funding sufficient to provide for repayment of such start-up funding until any such start-up funding has been fully repaid;

(b) The funding determined by the county forming such a program to be reserved for program costs, including direct administrative costs, and repaying any start-up funding provided under section 303 of this act. Information disclosing the amount of funding to be reserved for program administrative costs must be included in any proposition submitted to voters under section 402 or 403 of this act;

(c) The county must determine the percentage of total funds available annually to be reserved for a public school cultural access program established and managed by the county to increase access to cultural activities and programming for public school students resident in the county. The activities and programming need not be located or provided within the county. In developing its program, the county may consider the attributes prescribed for a public school cultural access program required to be undertaken under section 502(2) of this act and may also consider providing funding for music and arts education in public schools that is in addition to that provided for in the program of basic education funding;

(d) Remaining funds available annually, including all funds not initially reserved under (a), (b), and (c) of this subsection as well as funds not distributed by the county from the reserved funds must be distributed by the county to the entity designated by the legislative authority of the county creating the program. The county must determine:

(i) Guidelines, consistent with the requirements of this chapter, it deems necessary or appropriate for determining the eligibility of cultural organizations to receive funding under this chapter;

(ii) Criteria for the award of funds to eligible cultural organizations, including the public benefits to be derived from projects submitted for funding;

(iii) The amount of funding to be allocated to support designated entity administrative costs;

(iv) Criteria for the identification by the county or, if so directed by the county, by the designated entity of any cultural organization or organizations that would receive annual distributions of funds in such amounts determined by the county or, if so directed by the county, the designated entity; and

(v) Procedures to be used by the designated entity in awarding funding to other cultural organizations that may, but are not required to include a periodic competitive process for awarding funds for particular purposes or projects proposed by eligible cultural organizations;

(e) In evaluating requests for funding authorized under this chapter, the designated entity responsible for the distribution of the funds must consider the public benefits that any cultural organizations represented will be derived from proposed projects. At the conclusion of a project approved for funding, such organization is required to report to the designated entity on the public benefits realized;

(f) Funds distributed to cultural organizations may be used to support cultural and educational activities, programs, and initiatives; public benefits and communications; and basic operations. Funds may also be used for: (i) Capital expenditures or acquisitions including, but not limited to, the acquisition of or construction of improvements to real property; and (ii) technology, equipment, and supplies reasonably related to or necessary for a project otherwise eligible for funding under this chapter. Program guidelines may also determine the circumstances under which funds may be used to fund start-up expenses of new community-based cultural organizations;

(g) If the county or designated entity determine the eligibility of a cultural organization to receive funding or the relative magnitude of the funding it receives on the basis of its budget, revenues, or expenses, any determination with respect to a qualifying state-related cultural organization must exclude any state funding received by the organization or for the institution it supports.

(2) A county with a population of more than one million five hundred thousand must allocate the proceeds of the taxes authorized under sections 402 and 403 of this act as follows:

(a) If any start-up funding has been provided to the program under section 302 of this act with the expectation that the funding will be repaid, the program must annually reserve from total funds available annually funding sufficient to provide for repayment of such start-up funding until any such start-up funding has been fully repaid;

(b) After allocating any funds as required in (a) of this subsection, up to one and one-fourth percent of total funds available annually may be used for program administrative costs;

(c) After allocating funds as required in (a) and (b) of this subsection, ten percent of remaining funds available annually must be used to fund a public school cultural access program to be administered by the program;

(d) Seventy-five percent of total remaining funds available annually excluding funds initially reserved under (a), (b), and (c) of this subsection must be reserved for distribution by the program to regional cultural organizations that are cultural organizations that own, operate, or support cultural facilities or provide performances, exhibits, educational programs, experiences, or entertainment that widely benefit and are broadly attended by the public, subject to further definition under guidelines adopted by the program. A regional cultural organization may also generally be characterized under program guidelines as a financially stable, substantial organization with full-time support and program staff, maintaining a broad-based membership, having year-round or enduring seasonal operations, being a substantial financial contributor to the development, operation, and maintenance of the organization's principal venue or venues, and providing substantial public benefits. The funding must be provided only to those regional cultural organizations that the program determines, on an annual basis, to have met the following guidelines:

(i) For at least the preceding three years, the organization has been continuously in good standing as a nonprofit corporation under the laws of the state of Washington;

(ii) The organization has its principal location or locations and conducts the majority of its activities within the county area primarily for the benefit of county residents;

(iii) The organization has not declared bankruptcy or suspended or substantially curtailed operations for a period longer than six months during the preceding two years;

(iv) The organization provided to the program audited annual financial statements for at least its two most recent fiscal years;

(v) Over the three preceding years, the organization has minimum average annual revenues of at least one million two hundred fifty thousand dollars. The program must annually and cumulatively adjust the minimum revenues by the annual percentage change in the consumer price index for the prior year for the Seattle-Tacoma-Bellevue, Washington metropolitan statistical area for all urban consumer, all goods, as published by the United States department of labor, bureau of labor statistics. The minimum revenues requirement, adjusted for inflation as provided in this section, remains effective through the date on which the initial tax authorized by the voters under section 402 or 403 of this act expires. Thereafter, the program must, at the beginning of each subsequent period of funding as approved by the voters, establish initial minimum average annual revenues of not less than the amount of the minimum revenues required during the final year of the immediately preceding period of funding;

(vi) For purposes of determining the eligibility of a regional organization to receive funding or the relative magnitude of the funding it receives on the basis of its revenues, any determination with respect to a qualifying state-related cultural organization must exclude any state funding received by the organization or for the institution it supports; and

(vii) Any additional guidelines, consistent with section 201 of this act and this section, as the program deems necessary or appropriate for determining the eligibility of prospective regional cultural organizations to receive funding under this section and for establishing the amount of funding any organization may receive;

(e) Funds available under (d) of this subsection must be distributed among eligible regional cultural organizations based on an annual ranking of eligible organizations by the combined size of their average annual revenues and their average annual attendance, both over the three preceding years. However, an organization's attendance must have twice the weight of the organization's revenues in determining its relative ranking. Available funds must be distributed proportionally among eligible organizations, consistent with the ranking, such that the organization with the largest combined revenues and weighted attendance would receive the most funding and the organization with the smallest combined revenues and weighted attendance would receive the least funding. However, no organization may receive funds in excess of fifteen percent of its average annual revenues over the three preceding years. Any funds available under (d) of this subsection not distributed to regional cultural organizations as a result of application of the formula provided under this subsection (2)(e) must be allocated by the program for distribution under (g) of this subsection;

(f) Funds distributed to regional cultural organizations under (d) of this subsection must be used to support cultural and educational activities, programs and initiatives, public benefits and communications, and basic operations. No funds distributed to regional cultural organizations under (d) of this subsection may be used for capital expenditures or acquisitions including, but not limited to, the acquisition of or the construction of improvements to real property;

(g) In addition to providing or continuing to provide public benefits identified by the program under this section, regional cultural organizations receiving funding under this subsection (2) must participate in good faith in the program's public school cultural access program required under section 502 of this act. The regional cultural organizations must provide or continue to provide public benefits under this section in addition to participating in the public school cultural access program. Each regional cultural organization receiving funds authorized under this chapter pursuant to a program allocation formula must annually, prior to year end, preview for the program public benefits the organization's plans to provide or continue to provide in the following year and report on public benefits it provided or continued to provide during the current year;

(h) Remaining funds available annually, including funds not initially reserved under (a) through (d) of this subsection as well as funds not distributed by the program from the reserved funds must be distributed by the program to the public agency designated by the legislative authority of the county creating such a program;

(i) Funds distributed by the designated public agencies under (h) of this subsection must be applied as follows:

(i) Not more than eight percent of such funds must be used for administrative costs of the public agency designated by a county creating the program; and

(ii) The balance must be used to fund community-based cultural organizations that are cultural organizations or a community preservation and development authority formed under chapter 43.167 RCW prior to January 1, 2011, that primarily function, focus their activities, and are supported or patronized within a local community and are not a regional cultural organization, subject to further definition under guidelines adopted by the designated public agency. Designated public agencies must adopt:

(A) Guidelines, consistent with the requirements of this chapter, it deems necessary or appropriate for determining the eligibility of community-based cultural organizations to receive funding under this chapter and for establishing the amount of funding any organization may receive;

(B) Criteria for the award of funds to eligible community-based cultural organizations, including the public benefits to be derived from projects submitted for funding; and

(C) Procedures for conducting, at least annually, a competitive process for the award of available funding;

(j) Funds distributed to community-based cultural organizations may be used to support cultural and educational activities, programs, and initiatives; public benefits and communications; and basic operations. Funds may also be used for: (i) Capital expenditures or acquisitions including, but not limited to, the acquisition of or construction of improvements to real property; and (ii) technology, equipment, and supplies reasonably related to or necessary for a project otherwise eligible for funding under this chapter. Program guidelines may also determine the circumstances under which funds may be used to fund start-up expenses of new community-based cultural organizations.

**PART VII**

**MISCELLANEOUS**

NEW SECTION. **Sec.**  No direct or collateral attack on any program purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation.

NEW SECTION. **Sec.**  Sections 101 through 305, 401, 501, 502, and 601 of this act constitute a new chapter in Title 36 RCW.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  The provisions of this act must be liberally construed to effectuate the policies and purposes of this act.

NEW SECTION. **Sec.**  Section 404 of this act expires January 1, 2018.

NEW SECTION. **Sec.**  Section 405 of this act takes effect January 1, 2018.

**--- END ---**