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].

Brief Summary of Substitute Bill

- Authorizes counties above a specified population threshold to create cultural access authorities (CAAs).
- Authorizes a CAA to impose a voter-approved sales and use tax of up to 0.1 percent to fund cultural access projects.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kenney, Chair; Maxwell, Vice Chair; Chase, Liias, Probst and Sullivan.

Minority Report: Do not pass. Signed by 2 members: Representatives Smith, Ranking Minority Member; Parker.

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 (PFD) 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.

The PFDs 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 Substitute Bill:

A cultural access authority (CAA) may be created by certain counties, with funding to include a voter-approved sales and use tax. 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.

<u>Creation of a CAA</u>.

A CAA may be created by:

- a county with a population of more than 175,000; or
- a contiguous group of up to four counties, including at least one county with a population of more than 150,000.

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.

<u>CAA Boards</u>.

For a single county CAA, the CAA is governed by a five-member board, with four members appointed by the county legislative authority and one by the Governor.

For a CAA with two or three participating counties, the CAA is governed by a seven-member board, with six members appointed as specified in the counties' inter-local agreement and one member appointed by the Governor.

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.

CAA Funding.

Start-up Funding. The county or counties creating a CAA must 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. 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 sales and use 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 a sales and use tax proposition to authority voters for approval by a majority of those voting. This tax is in addition to other taxes and may not exceed 0.1 percent. 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 Board);
- distributions to regional organizations (amount determined by the CAA Board, 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.

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.

Substitute Bill Compared to Original Bill:

The substitute bill adds provisions:
- regarding removal of CAA board members and filling vacancies; and
- prohibiting CAAs from using promotional materials to influence the outcome of an election.

The substitute bill clarifies:
- technical language in the voter-approved tax provision, including placing the provision under the Department of Revenue for tax administration; and
- funding for projects of regional benefit, making them 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).

The substitute bill makes additional technical changes, including correcting a reference to the Public Records Act and clarifying provisions relating to a CAA's authority to hire staff.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 18, 2009.

Effective Date of 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 issue was developed by the Prosperity Partnership, who convened a large group to see how to promote a public policy that brings cultural access to everyone. Everyone agrees that cultural access is key to a growing and vibrant economy. Regions with cultural infrastructure attract tourism dollars and also attract businesses and employees. Washington needs to compete with other regions that are investing in their cultural programs. The bill is a tool local government can use, if the voters approve. It would help provide revenue stability to cultural programs, and predictable funding would cut down on fundraising activities.

A billion dollars in private investment has provided world famous cultural venues and a great infrastructure, but public dollars are needed to provide more access for children and the underserved. This bill is all about access. The program will reach out to schools and help with free days and bus service. It benefits children by encouraging inquisitiveness and interest in science and history. It is part of a strategy to address youth at risk. Governments have limited tools for encouraging worthwhile interests and reducing activities that are bad for children. Cultural opportunities can become education and job skill opportunities for youth.

Cities will benefit because they will be able to implement their plans to achieve identified goals to grow access to cultural programs. These projects have synergy with other goals in education, housing, and jobs. Other states have used these programs to good effect for children and families.

(Opposed) None.

Persons Testifying: Representative Kenney, prime sponsor; Maggie Walker, Seattle Art Museum; Connie Ladenburg, Tacoma City Council; Bill McSherry, Puget Sound Regional Council; Dwight Gee, Arts Fund; Bryce Seidel, Pacific Science Center; Anne Averill, Future of Flight Aviation Center; Richard Anderson, Northwest Railway Museum; Susan Trapnell, Arts Consulting Group; and Stuart Grover, The Collins Group.

Persons Signed In To Testify But Not Testifying: None.