
SUBSTITUTE SENATE BILL 5463

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, Lias, and McAuliffe)

READ FIRST TIME 02/10/15.

1 AN ACT Relating to access to and creation of cultural and
2 heritage programs and facilities; amending RCW 84.52.010 and
3 84.52.010; adding a new section to chapter 82.14 RCW; adding a new
4 section to chapter 84.52 RCW; adding a new chapter to Title 36 RCW;
5 creating new sections; providing an effective date; and providing an
6 expiration date.

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

8 **PART I**

9 **INTENT**

10 NEW SECTION. **Sec. 101.** INTENT. (1) The legislature finds that:
11 (a) The cultural organizations of the state provide numerous
12 public benefits. Providing support for the state's cultural
13 organizations is in the public interest and will serve multiple
14 public purposes including, among others, enhancing and extending the
15 educational reach and offerings of cultural organizations; ensuring
16 continued and expanded access to the facilities and programs of
17 cultural organizations by economically and geographically underserved
18 populations; and providing financial stability to the organizations
19 to enable them to focus on core missions as well as to continue and
20 extend the numerous public benefits they provide.

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

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

8 **PART II**
9 **DEFINITIONS**

10 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
11 section apply throughout this chapter unless the context clearly
12 requires otherwise.

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

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

22 (3) "Cultural organization" means a nonprofit corporation
23 incorporated under the laws of the state of Washington and recognized
24 by the internal revenue service as described in section 501(c)(3) of
25 the internal revenue code of 1986, as amended, with its principal
26 location or locations and conducting a majority of its activities
27 within the state, not including: Any agency of the state or any of
28 its political subdivisions; any municipal corporation; any
29 organization that raises funds for redistribution to multiple
30 cultural organizations; or any radio or television broadcasting
31 network or station, cable communications system, internet-based
32 communications venture or service, newspaper, or magazine. The
33 primary purpose of the organization must be the advancement and
34 preservation of science or technology, the visual or performing arts,
35 zoology, botany, anthropology, heritage, or natural history and any
36 organization must directly provide programming or experiences
37 available to the general public. Any organization with the primary
38 purpose of advancing and preserving zoology such as zoos and

1 aquariums must be or support a facility that is accredited by the
2 association of zoos and aquariums or its functional successor. A
3 state-related cultural organization may be a cultural organization.

4 (4) "Designated entity" means the entity designated by the
5 legislative authority of a county creating the program, as required
6 under section 601(1)(d) of this act. The entity may be a public
7 agency, including the state arts commission established under chapter
8 43.46 RCW, or a Washington nonprofit corporation that is not a
9 cultural organization eligible for funding under this chapter.

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

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

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

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

37 **PART III**

38 **CULTURAL ACCESS PROGRAM**

1 NEW SECTION. **Sec. 301.** CREATION. (1) Any county legislative
2 authority may create a cultural access program by ordinance.

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

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

14 NEW SECTION. **Sec. 302.** START-UP FUNDING AND CONDITIONAL
15 FORMATION. (1) The county creating a program may advance to the
16 program funding for its administrative costs, including the cost of
17 informing the public about the formation of the program, how it is
18 proposed to be funded, and the public benefits to be realized if it
19 is successful. However, this subsection does not authorize the
20 preparation and distribution of information to the general public for
21 the purpose of influencing the outcome of any election called for
22 voter authorization of a proposed tax to support a program.

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

29 NEW SECTION. **Sec. 303.** NONSUPPLANTATION. In creating a program
30 under this chapter, any county creating the program must affirm that
31 any funding such county usually and customarily provides to cultural
32 organizations similar to funding that would be available to those
33 organizations under this chapter may not be replaced or materially
34 diminished as a result of funding becoming available under this
35 chapter. If an organization designated to receive funds under this
36 chapter is a state-related cultural organization, the funds received
37 under this chapter may not replace or materially diminish any funding
38 usually or customarily provided by the state.

1 NEW SECTION. **Sec. 402.** A new section is added to chapter 82.14
2 RCW to read as follows:

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

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

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

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

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

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

37 NEW SECTION. **Sec. 403.** A new section is added to chapter 84.52
38 RCW to read as follows:

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

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

30 (3) In the event a county or city is levying property taxes under
31 this section that, in combination with property taxes levied by other
32 taxing districts, exceed the limitation in RCW 84.52.050 or
33 84.52.043(2), the county's or city's property tax levy under this
34 section must be reduced or eliminated consistent with RCW 84.52.010.

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

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

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

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

5 **Sec. 404.** RCW 84.52.010 and 2011 1st sp.s. c 28 s 2 are each
6 amended to read as follows:

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

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

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

25 (a) The full certified rates of tax levy for state, county,
26 county road district, and city or town purposes must be extended on
27 the tax rolls in amounts not exceeding the limitations established by
28 law; however any state levy takes precedence over all other levies
29 and may not be reduced for any purpose other than that required by
30 RCW 84.55.010. If, as a result of the levies imposed under RCW
31 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy
32 by a metropolitan park district that was protected under RCW
33 84.52.120, 84.52.125, 84.52.135, 84.52.140, and the protected portion
34 of the levy under RCW 86.15.160 by flood control zone districts in a
35 county with a population of seven hundred seventy-five thousand or
36 more that are coextensive with a county, the combined rate of regular
37 property tax levies that are subject to the one percent limitation
38 exceeds one percent of the true and fair value of any property, then
39 these levies must be reduced as follows:

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

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

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

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

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

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

39 (vii) If the combined rate of regular property tax levies that
40 are subject to the one percent limitation still exceeds one percent

1 of the true and fair value of any property, the portion of the levy
2 by a metropolitan park district with a population of one hundred
3 fifty thousand or more that is protected under RCW 84.52.120 must be
4 reduced until the combined rate no longer exceeds one percent of the
5 true and fair value of any property or must be eliminated;

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

14 (ix) If the combined rate of regular property tax levies that are
15 subject to the one percent limitation still exceeds one percent of
16 the true and fair value of any property, then the thirty cents per
17 thousand dollars of assessed value of tax levy imposed under RCW
18 84.52.069 must be reduced until the combined rate no longer exceeds
19 one percent of the true and fair value of any property or must be
20 eliminated.

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

25 (i) First, the certified property tax levy rates of those junior
26 taxing districts authorized under RCW 36.68.525, 36.69.145,
27 35.95A.100, section 403 of this act, and 67.38.130 must be reduced on
28 a pro rata basis or eliminated;

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

34 (iii) Third, if the consolidated tax levy rate still exceeds
35 these limitations, the certified property tax levy rates of all other
36 junior taxing districts, other than fire protection districts,
37 regional fire protection service authorities, library districts, the
38 first fifty cent per thousand dollars of assessed valuation levies
39 for metropolitan park districts, and the first fifty cent per

1 thousand dollars of assessed valuation levies for public hospital
2 districts, must be reduced on a pro rata basis or eliminated;

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

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

13 (vi) Sixth, if the consolidated tax levy rate still exceeds these
14 limitations, the certified property tax levy rates authorized for
15 fire protection districts under RCW 52.16.130, regional fire
16 protection service authorities under RCW 52.26.140(1)(a), library
17 districts, metropolitan park districts created before January 1,
18 2002, under their first fifty cent per thousand dollars of assessed
19 valuation levy, and public hospital districts under their first fifty
20 cent per thousand dollars of assessed valuation levy, must be reduced
21 on a pro rata basis or eliminated.

22 **Sec. 405.** RCW 84.52.010 and 2009 c 551 s 7 are each amended to
23 read as follows:

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

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

37 When a county assessor finds that the aggregate rate of tax levy
38 on any property, that is subject to the limitations set forth in RCW
39 84.52.043 or 84.52.050, exceeds the limitations provided in either of

1 these sections, the assessor (~~shall~~) must recompute and establish a
2 consolidated levy in the following manner:

3 (1) The full certified rates of tax levy for state, county,
4 county road district, and city or town purposes (~~shall~~) must be
5 extended on the tax rolls in amounts not exceeding the limitations
6 established by law; however any state levy (~~shall~~) takes precedence
7 over all other levies and (~~shall~~) may not be reduced for any
8 purpose other than that required by RCW 84.55.010. If, as a result of
9 the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069,
10 84.52.105, the portion of the levy by a metropolitan park district
11 that was protected under RCW 84.52.120, 84.52.125, 84.52.135, and
12 84.52.140, the combined rate of regular property tax levies that are
13 subject to the one percent limitation exceeds one percent of the true
14 and fair value of any property, then these levies (~~shall~~) must be
15 reduced as follows:

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

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

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

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

39 (e) If the combined rate of regular property tax levies that are
40 subject to the one percent limitation still exceeds one percent of

1 the true and fair value of any property, the portion of the levy by a
2 metropolitan park district that is protected under RCW 84.52.120
3 (~~shall~~) must be reduced until the combined rate no longer exceeds
4 one percent of the true and fair value of any property or (~~shall~~)
5 must be eliminated;

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

15 (g) If the combined rate of regular property tax levies that are
16 subject to the one percent limitation still exceeds one percent of
17 the true and fair value of any property, then the thirty cents per
18 thousand dollars of assessed value of tax levy imposed under RCW
19 84.52.069 (~~shall~~) must be reduced until the combined rate no longer
20 exceeds one percent of the true and fair value of any property or
21 eliminated.

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

27 (a) First, the certified property tax levy rates of those junior
28 taxing districts authorized under RCW 36.68.525, 36.69.145,
29 35.95A.100, (~~and~~) 67.38.130, and section 403 of this act (~~shall~~)
30 must be reduced on a pro rata basis or eliminated;

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

35 (c) Third, if the consolidated tax levy rate still exceeds these
36 limitations, the certified property tax levy rates of all other
37 junior taxing districts, other than fire protection districts,
38 regional fire protection service authorities, library districts, the
39 first fifty cent per thousand dollars of assessed valuation levies
40 for metropolitan park districts, and the first fifty cent per

1 thousand dollars of assessed valuation levies for public hospital
2 districts, (~~shall~~) must be reduced on a pro rata basis or
3 eliminated;

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

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

14 (f) Sixth, if the consolidated tax levy rate still exceeds these
15 limitations, the certified property tax levy rates authorized for
16 fire protection districts under RCW 52.16.130, regional fire
17 protection service authorities under RCW 52.26.140(1)(a), library
18 districts, metropolitan park districts created before January 1,
19 2002, under their first fifty cent per thousand dollars of assessed
20 valuation levy, and public hospital districts under their first fifty
21 cent per thousand dollars of assessed valuation levy, (~~shall~~) must
22 be reduced on a pro rata basis or eliminated.

23 PART V

24 PUBLIC BENEFITS AND PUBLIC SCHOOL CULTURAL ACCESS PROGRAM

25 NEW SECTION. **Sec. 501.** PUBLIC BENEFITS. (1) A program created
26 under this chapter must provide or continue to provide funding
27 authorized under this chapter only to cultural organizations that
28 provide discernible public benefits. Each program created under this
29 chapter must identify a range of public benefits that cultural
30 organizations may provide or continue to provide in satisfaction of
31 this requirement for eligibility to receive funding authorized under
32 this chapter. The public benefits include, without limitation:
33 Reasonable opportunities for access to facilities, programs, and
34 services on a reduced or no admission fee basis, particularly for
35 diverse and underserved populations and communities; providing,
36 through technological and other means, services or programs in
37 locations other than an organization's own facilities; providing
38 educational programs and experiences both at an organization's own

1 facilities and in schools and other venues; broadening cultural
2 programs, performances, and exhibitions for the enlightenment and
3 entertainment of the public; supporting collaborative relationships
4 with other cultural organizations in order to extend the reach and
5 impact of the collaborating organizations for the benefit of the
6 public; and, in the case of community-based cultural organizations,
7 organizational capacity-building projects or activities that an
8 organization can demonstrate, to the reasonable satisfaction of the
9 designated entity, will enhance the ability of the organization to
10 provide or continue to provide meaningful public benefits not
11 otherwise achievable.

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

25 NEW SECTION. **Sec. 502.** PUBLIC SCHOOL CULTURAL ACCESS PROGRAM.

26 (1) A program created under this chapter must develop and provide a
27 public school cultural access program, as provided in section 601 of
28 this act.

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

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

37 (b) Offer benefits to every public school in the county while
38 scaling the range of benefits available to and the frequency of
39 opportunities to participate by any particular school to coincide

1 with the relative percentage of students attending the school who
2 participate in the national free or reduced-price school meals
3 program;

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

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

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

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

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

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

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

37 (d) When a program determines that its program element required
38 under (c)(i) through (vi) of this subsection has achieved sufficient
39 scale and participation among public schools located within its
40 boundaries and that it has resources remaining to devote to

1 additional public school cultural access programs without diminishing
2 such participation, the county may develop and financially support
3 other public school cultural access activities in conjunction with
4 cultural organizations receiving funds under this chapter; public
5 school districts; and other public or nonprofit organizations that
6 support cultural access. Any funding for development and support of
7 such activities provided to cultural organizations receiving funds
8 under this subsection must only be used to supplement the public
9 benefits provided by such organizations as required under this
10 chapter and may not be used by such organizations to replace or
11 diminish funding for such required public benefits;

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

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

18

PART VI

19

USE OF FUNDS

20 NEW SECTION. **Sec. 601.** ALLOCATION. (1) A program in a county
21 with a population of less than one million five hundred thousand must
22 allocate the proceeds of taxes authorized under sections 402 and 403
23 of this act as follows:

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

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

35 (c) The county must determine the percentage of total funds
36 available annually to be reserved for a public school cultural access
37 program established and managed by the county to increase access to
38 cultural activities and programming for public school students

1 resident in the county. The activities and programming need not be
2 located or provided within the county. In developing its program, the
3 county may consider the attributes prescribed for a public school
4 cultural access program required to be undertaken under section
5 502(2) of this act and may also consider providing funding for music
6 and arts education in public schools that is in addition to that
7 provided for in the program of basic education funding;

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

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

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

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

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

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

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

39 (f) Funds distributed to cultural organizations may be used to
40 support cultural and educational activities, programs, and

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

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

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

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

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

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

32 (d) Seventy-five percent of total remaining funds available
33 annually excluding funds initially reserved under (a), (b), and (c)
34 of this subsection must be reserved for distribution by the program
35 to regional cultural organizations that are cultural organizations
36 that own, operate, or support cultural facilities or provide
37 performances, exhibits, educational programs, experiences, or
38 entertainment that widely benefit and are broadly attended by the
39 public, subject to further definition under guidelines adopted by the
40 program. A regional cultural organization may also generally be

1 characterized under program guidelines as a financially stable,
2 substantial organization with full-time support and program staff,
3 maintaining a broad-based membership, having year-round or enduring
4 seasonal operations, being a substantial financial contributor to the
5 development, operation, and maintenance of the organization's
6 principal venue or venues, and providing substantial public benefits.
7 The funding must be provided only to those regional cultural
8 organizations that the program determines, on an annual basis, to
9 have met the following guidelines:

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

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

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

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

21 (v) Over the three preceding years, the organization has minimum
22 average annual revenues of at least one million two hundred fifty
23 thousand dollars. The program must annually and cumulatively adjust
24 the minimum revenues by the annual percentage change in the consumer
25 price index for the prior year for the Seattle-Tacoma-Bellevue,
26 Washington metropolitan statistical area for all urban consumer, all
27 goods, as published by the United States department of labor, bureau
28 of labor statistics. The minimum revenues requirement, adjusted for
29 inflation as provided in this section, remains effective through the
30 date on which the initial tax authorized by the voters under section
31 402 or 403 of this act expires. Thereafter, the program must, at the
32 beginning of each subsequent period of funding as approved by the
33 voters, establish initial minimum average annual revenues of not less
34 than the amount of the minimum revenues required during the final
35 year of the immediately preceding period of funding;

36 (vi) For purposes of determining the eligibility of a regional
37 organization to receive funding or the relative magnitude of the
38 funding it receives on the basis of its revenues, any determination
39 with respect to a qualifying state-related cultural organization must

1 exclude any state funding received by the organization or for the
2 institution it supports; and

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

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

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

34 (g) In addition to providing or continuing to provide public
35 benefits identified by the program under this section, regional
36 cultural organizations receiving funding under this subsection (2)
37 must participate in good faith in the program's public school
38 cultural access program required under section 502 of this act. The
39 regional cultural organizations must provide or continue to provide
40 public benefits under this section in addition to participating in

1 the public school cultural access program. Each regional cultural
2 organization receiving funds authorized under this chapter pursuant
3 to a program allocation formula must annually, prior to year end,
4 preview for the program public benefits the organization's plans to
5 provide or continue to provide in the following year and report on
6 public benefits it provided or continued to provide during the
7 current year;

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

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

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

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

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

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

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

36 (j) Funds distributed to community-based cultural organizations
37 may be used to support cultural and educational activities, programs,
38 and initiatives; public benefits and communications; and basic
39 operations. Funds may also be used for: (i) Capital expenditures or
40 acquisitions including, but not limited to, the acquisition of or

1 construction of improvements to real property; and (ii) technology,
2 equipment, and supplies reasonably related to or necessary for a
3 project otherwise eligible for funding under this chapter. Program
4 guidelines may also determine the circumstances under which funds may
5 be used to fund start-up expenses of new community-based cultural
6 organizations.

7 **PART VII**
8 **MISCELLANEOUS**

9 NEW SECTION. **Sec. 701.** No direct or collateral attack on any
10 program purported to be authorized or created in conformance with
11 this chapter may be commenced more than thirty days after creation.

12 NEW SECTION. **Sec. 702.** Sections 101 through 305, 401, 501, 502,
13 and 601 of this act constitute a new chapter in Title 36 RCW.

14 NEW SECTION. **Sec. 703.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 704.** The provisions of this act must be
19 liberally construed to effectuate the policies and purposes of this
20 act.

21 NEW SECTION. **Sec. 705.** Section 404 of this act expires January
22 1, 2018.

23 NEW SECTION. **Sec. 706.** Section 405 of this act takes effect
24 January 1, 2018.

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