
SENATE BILL 5786

State of Washington

61st Legislature

2009 Regular Session

By Senators Fraser, Kohl-Welles, Honeyford, and Shin

Read first time 02/02/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to authorizing the creation of cultural access
2 authorities; amending RCW 36.96.010; adding a new chapter to Title 36
3 RCW; and creating new sections.

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

5 **PART I**

6 **INTENT**

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

1 substantially to the state's attractiveness and competitiveness in the
2 global economy. Cultural organizations are themselves a significant
3 component of the state's economy. Through their numerous missions and
4 offerings, they afford the state's citizens meaningful and life
5 enriching educational and other experiences. Cultural institutions are
6 an essential source of knowledge and inspiration for the citizens of
7 the state. The purpose of this chapter is to authorize formation of
8 cultural access authorities and to authorize funding for public school
9 cultural access programs and the support of cultural organizations,
10 subject to voter approval.

11 **PART II**
12 **DEFINITIONS**

13 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

16 (1) "Administrative costs" means all operating, administrative, and
17 maintenance expenses of an authority, a designated public agency, or a
18 designated entity.

19 (2) "Attendance" means the total number of visits by persons in
20 physical attendance during a year at cultural organization facilities
21 located or cultural organization programs provided within an authority
22 service area, including attendance for which admission was paid,
23 discounted, or free, consistent with and verifiable under guidelines
24 adopted by the appropriate authority.

25 (3) "Authority" means a cultural access authority.

26 (4) "Authority board" means the board of directors of an authority.

27 (5) "Community-based organization" means a cultural organization
28 that primarily functions, focuses its activities, and is supported or
29 patronized within a local community and is not a regional organization,
30 subject to further definition under guidelines adopted by the
31 appropriate designated public agency.

32 (6) "Cultural organization" means a nonprofit corporation
33 incorporated under the laws of the state of Washington and recognized
34 by the internal revenue service as described in section 501(c)(3) of
35 the internal revenue code of 1986, as amended, with its principal
36 location or locations and conducting a majority of its activities

1 within the state, not including any agency of the state or any of its
2 political subdivisions; any municipal corporation; any educational
3 institution; any organization that raises funds for redistribution to
4 cultural organizations; or any radio or television broadcasting network
5 or station, cable communications system, internet-based communications
6 venture or service, newspaper, or magazine. The primary purpose of the
7 organization must be the advancement and preservation of science or
8 technology, the visual or performing arts, zoology, botany,
9 anthropology, or cultural or natural history and any organization shall
10 directly provide programming or experiences available to the general
11 public. Any organization with the primary purpose of advancing and
12 preserving zoology such as zoos and aquariums must be or support a
13 facility that is accredited by the association of zoos and aquariums or
14 its functional successor. A state-related cultural organization may be
15 a cultural organization.

16 (7) "Designated entity" means the entity designated by the
17 legislative authority of a participating county. The entity may be a
18 public agency or a Washington nonprofit corporation that is not a
19 cultural organization eligible for funding under this chapter.

20 (8) "Designated public agency" means the agency designated by the
21 legislative authority of a participating county within an authority
22 service area.

23 (9) "Participating county" means a county that participated in the
24 formation of an authority under this chapter.

25 (10) "Regional organization" means a cultural organization that
26 owns, operates, or supports cultural facilities or provides
27 performances, exhibits, educational programs, experiences, or
28 entertainment that widely benefit and are broadly attended by the
29 public within the authority service area, subject to further definition
30 under guidelines adopted by the appropriate authority. A regional
31 organization may also generally be characterized under authority
32 guidelines as a financially stable, substantial organization with
33 full-time support and program staff, maintaining a broad-based
34 membership within the authority service area, having year-round or
35 enduring seasonal operations, being a substantial financial contributor
36 to the development, operation, and maintenance of the organization's
37 principal venue or venues, and providing substantial public benefits
38 within the authority service area.

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

13 (12) "Service area" means the area in which an authority functions
14 that is coterminous with the boundaries of one or two or more
15 contiguous participating counties.

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

25 **PART III**
26 **CULTURAL ACCESS AUTHORITIES**

27 NEW SECTION. **Sec. 301.** CREATION. (1)(a) Any county with a
28 population of more than one hundred seventy-five thousand may create an
29 authority by resolution of the county legislative authority.

30 (b) Any contiguous group of up to four counties, including at least
31 one county with a population of more than one hundred fifty thousand,
32 may create an authority by entering into an interlocal agreement under
33 chapter 39.34 RCW, approved by resolution of the county legislative
34 authorities.

35 (2) An authority service area must be coextensive with the

1 boundaries of the participating county or counties that created the
2 authority, including incorporated areas.

3 (3)(a) An authority created by a single participating county must
4 be governed by a five-member authority board consisting of four members
5 appointed by the county legislative authority and one member appointed
6 by the governor. In a participating county with an elected county
7 executive, authority board members appointed by the county legislative
8 authority must be nominated by the county executive subject to
9 confirmation by the county legislative authority. The members
10 appointed under this subsection may not be members of the legislative
11 authority of the participating county or of any city or town located in
12 a participating county. The members of the authority board shall serve
13 four-year terms. Of the initial members, one must be appointed for a
14 one-year term, one must be appointed for a two-year term, one must be
15 appointed for a three-year term, and the remainder must be appointed
16 for four-year terms.

17 (b) An authority created by two or three participating counties
18 under subsection (1)(b) of this section must be governed by a
19 seven-member authority board consisting of six members appointed as
20 specified in the interlocal agreement creating the authority and one
21 member appointed by the governor. In a participating county with an
22 elected county executive, authority board members appointed by the
23 county legislative authority must be nominated by the county executive
24 subject to confirmation by the county legislative authority. The
25 members appointed under this subsection may not be members of the
26 legislative authorities of the participating counties or of any city or
27 town located in a participating county. The members of the authority
28 board shall serve four-year terms. Of the initial members, two must be
29 appointed for a one-year term, two must be appointed for a two-year
30 term, two must be appointed for a three-year term, and one must be
31 appointed for a four-year term, as set forth in the interlocal
32 agreement creating the authority.

33 (c) An authority created by up to four participating counties under
34 subsection (1)(b) of this section with an aggregate population of more
35 than two million five hundred thousand must be governed by a seven to
36 eleven-member authority board as follows: (i) With respect to a two-
37 county authority formed under this subsection, one member appointed by
38 the legislative authority of each participating county; one member

1 appointed by the legislative authority of each of the two largest
2 cities by population as of formation of the authority in the larger
3 participating county by population as of formation of the authority;
4 one member appointed by the legislative authority of the largest city
5 by population as of formation of the authority in the smaller
6 participating county by population as of formation of the authority;
7 and two members appointed by the governor; and (ii) with respect to a
8 three or four-county authority formed under this subsection, one member
9 appointed by the legislative authority of each participating county;
10 one member appointed by the legislative authority of each of the two
11 largest cities by population as of formation of the authority in the
12 largest participating county by population as of formation of the
13 authority; one member appointed by the legislative authority of the
14 largest city by population as of formation of the authority in each of
15 the other participating counties; and two members appointed by the
16 governor. A county legislative authority appointing members under this
17 subsection shall solicit recommendations from the county cultural
18 commission, if any, and the county's designated public agency prior to
19 final approval of any appointment or appointments. The members
20 appointed under this subsection may not be members of the legislative
21 authorities of the participating counties or of any city or town
22 located in a participating county. In a participating county with an
23 elected county executive, authority board members appointed by the
24 county legislative authority must be nominated by the county executive
25 subject to confirmation by the county legislative authority. The
26 members of the authority board shall serve four-year terms. Of the
27 initial members of the board of a two-county authority formed under
28 this subsection, two must be appointed for a one-year term; two must be
29 appointed for a two-year term; two must be appointed for a three-year
30 term; and one member must be appointed for a four-year term as set
31 forth in the interlocal agreement creating the authority. Of the
32 initial members of the board of a three or four-county authority formed
33 under this subsection, three must be appointed for a one-year term;
34 three must be appointed for a two-year term; three must be appointed
35 for a three-year term; and two members must be appointed for a
36 four-year term as set forth in the interlocal agreement creating the
37 authority.

1 (4) An authority is a municipal corporation, a political
2 subdivision, an independent taxing authority, and a taxing district.

3 (5) An authority constitutes a body corporate and possesses all the
4 usual powers of a corporation for public purposes as well as all other
5 powers that may now or hereafter be specifically conferred by statute.

6 (6) An authority board shall adopt ethics policies consistent with
7 applicable law and generally recognized best practices for comparable
8 entities addressing disclosure and management of potential conflicts of
9 interest, among other matters. The policies must apply to authority
10 board members, officers, and employees.

11 NEW SECTION. **Sec. 302.** START-UP FUNDING AND CONDITIONAL
12 FORMATION. The county or counties creating an authority shall provide
13 for the participating county or counties to advance to the authority up
14 to one million dollars per year for up to three years for its
15 administrative costs, including the cost of informing the public about
16 the formation of the authority, how it is proposed to be funded, and
17 the public benefits to be realized if it is successful. In the case of
18 a multicounty authority, funds advanced must be provided pro rata by
19 each participating county based on the relative size of the population
20 of each county. Funds advanced to an authority must be repaid to each
21 participating county, with interest at the internal rate of return on
22 the invested funds of each county, from the proceeds of the sales and
23 use tax approved by voters within two years after such tax is first
24 collected. An authority must be dissolved three years after its
25 formation unless it has secured voter approval of the sales and use tax
26 authorized herein. Upon dissolution of an authority after three years
27 without securing voter approval of the proposed tax, an authority may
28 not again be formed under this chapter by the same county or
29 combination of counties for three years following the dissolution of a
30 predecessor. One or more of the counties participating in the
31 formation of a dissolved authority may form another authority under
32 this chapter without delay if the participant or combination of
33 participants in the formation of another authority differs from the
34 participant or combination of participants in the formation of the
35 dissolved authority. Any expended funds of the participating county or
36 counties advanced to an authority that is dissolved as provided under

1 this section need not be repaid to the participating county or
2 counties. Any remaining funds on hand upon dissolution must be
3 returned to the participating counties.

4 NEW SECTION. **Sec. 303.** NONSUPPLANTATION. In creating an
5 authority under this chapter or appointing members of the board of the
6 authority, any participating county or city appointing board members
7 shall affirm that any funding such county or city usually and
8 customarily provides to cultural organizations similar to funding that
9 would be available to those organizations under this chapter may not be
10 replaced or materially diminished as a result of funding becoming
11 available under this chapter.

12 NEW SECTION. **Sec. 304.** ADVISORY COUNCILS. Each authority
13 established under this chapter may establish an advisory council, the
14 membership of which must include citizen representatives of
15 constituencies and organizations with interests relevant to the work of
16 the authority including, but not limited to, leaders in the business,
17 educational, and cultural communities. Advisory council members should
18 be residents of the service area of the authority. Policies concerning
19 the size and operation of any advisory council must be established by
20 the authority that forms the council.

21 NEW SECTION. **Sec. 305.** POWERS AND PURPOSES. In addition to
22 accomplishing the cultural organization support activities specifically
23 authorized under this chapter, an authority may:

- 24 (1) Maintain an office or offices;
- 25 (2) Sue and be sued in its own name, and plead and be impleaded;
- 26 (3) Engage consultants, agents, attorneys, and advisers, contract
27 with state and local governmental entities for services, and hire such
28 employees, agents, and other personnel as the authority deems
29 necessary, useful, or convenient to accomplish its purposes;
- 30 (4) Establish procurement policies by resolution, including
31 procedures for competitive procurement of services when required under
32 its established policies;
- 33 (5) Make and execute all manner of contracts, agreements, and
34 documents with public and private parties as the authority deems
35 necessary, useful, or convenient to accomplish its purposes;

1 (6) Acquire and hold real or personal property, or any interest
2 therein, in the name of the authority, and sell, assign, lease,
3 encumber, mortgage, or otherwise dispose of the same in the manner as
4 the authority deems necessary, useful, or convenient to accomplish its
5 purposes. Any county legislative authority may transfer property, with
6 or without consideration, to an authority created under this chapter;

7 (7) Open and maintain accounts in qualified public depositories and
8 otherwise provide for the investment of any funds not required for
9 immediate disbursement, and provide for the selection of investments;

10 (8) Appear in its own behalf before boards, commissions,
11 departments, or agencies of federal, state, or local government;

12 (9) Procure insurance in amounts and from insurers as the authority
13 deems desirable including, but not limited to, insurance against any
14 loss or damage to its property or other assets, public liability
15 insurance for injuries to persons or property, and liability insurance
16 with limits an authority board deems reasonable for the purpose of
17 protecting and holding personally harmless board members, officers, and
18 employees of the authority against liability arising from their acts or
19 omissions while performing or in good faith purporting to perform their
20 official duties;

21 (10) Apply for and accept grants, loans, advances, and
22 contributions from any source of money, property, labor, or other
23 things of value, to be held, used, and applied as the authority deems
24 necessary, useful, or convenient to accomplish its purposes, without
25 competing with cultural organizations as defined under this chapter or
26 private organizations that raise funds for distribution to cultural
27 organizations;

28 (11) Make expenditures as are appropriate for paying the
29 administrative costs and expenses of the authority in carrying out the
30 provisions of this chapter;

31 (12) Establish reserves and special funds, and controls on deposits
32 to and disbursements from them, as the authority deems necessary,
33 useful, or convenient to accomplish its purposes;

34 (13) Prepare, publish, and distribute, with or without charge,
35 studies, reports, bulletins, and other material as the authority deems
36 necessary, useful, or convenient to accomplish its purposes;

37 (14) Conduct meetings at which members participating through the

1 use of any means of communication by which all members participating
2 can hear each other during the meeting are deemed to be present in
3 person at the meeting for all purposes;

4 (15) Delegate any of its powers and duties if consistent with the
5 purposes of this chapter;

6 (16) Adopt rules and guidelines as may be necessary to implement
7 this chapter; and

8 (17) Exercise any other power the authority deems necessary,
9 useful, or convenient to accomplish its purposes and exercise the
10 powers expressly granted in this chapter.

11 NEW SECTION. **Sec. 306.** EXPENSE REIMBURSEMENT PROCEDURES. The
12 authority board shall adopt a resolution that may be amended from time
13 to time governing methods and amounts of reimbursement payable to board
14 members, officers, and employees for travel and other business expenses
15 incurred on behalf of the authority. The resolution must, among other
16 things, establish procedures for approving expenses, the form of travel
17 and expense vouchers, and requirements governing the use of credit
18 cards issued in the name of the authority. Board members, officers,
19 and employees may be advanced sufficient sums to cover their
20 anticipated expenses in accordance with rules adopted by the state
21 auditor.

22 NEW SECTION. **Sec. 307.** PER DIEM COMPENSATION. Each member of the
23 authority board may receive compensation of fifty dollars per day for
24 attending meetings or conferences on behalf of the authority, not to
25 exceed three thousand dollars per year. A board member may waive all
26 or a portion of his or her compensation under this section during his
27 or her term of office, by a written waiver filed with the authority.
28 The compensation provided in this section is in addition to
29 reimbursement for expenses paid to board members by the authority.

30 NEW SECTION. **Sec. 308.** DEFENSE AND INDEMNITY. Whenever an
31 action, claim, or proceeding is instituted against a person who is or
32 was a board member, officer, or employee of an authority arising out of
33 the performance of duties for or employment with the authority, the
34 authority may grant a request by the person that the attorney of the
35 authority's choosing be authorized to defend the claim, suit, or

1 proceeding, and the costs of defense, attorneys' fees, and obligation
2 for payments arising from the action may be paid from the authority's
3 funds. Costs of defense, judgment, or settlement against the person
4 may not be paid in a case where the court has found that the person was
5 not acting in good faith within the scope of employment with or duties
6 for the authority. No board member or officer of the authority may be
7 personally liable for acts done or omitted in good faith while
8 performing duties as a board member or officer on behalf of the
9 authority.

10 NEW SECTION. **Sec. 309.** EMPLOYEES, SALARIES, AND BENEFITS. An
11 authority may create and fill positions; fix reasonable wages and
12 salaries; pay costs involved in hiring employees; and establish
13 reasonable benefits for employees, including holiday pay, vacations or
14 vacation pay, retirement benefits, and medical, life, accident, or
15 health disability insurance, as approved by the board. Authority board
16 members, at their own expense, may be included under any authority
17 policy for medical, life, accident, or health disability insurance.
18 Insurance for employees and board members may not be considered
19 compensation. Coverage for the board under any authority policy is not
20 to exceed that provided authority employees. An authority is a
21 political subdivision for purposes of participation in the state public
22 employees' retirement system under RCW 41.40.062 and for other
23 purposes.

24 NEW SECTION. **Sec. 310.** TREASURER. At the request of the
25 authority, the treasurer of any participating county may serve as the
26 ex officio treasurer of the authority.

27 **PART IV**
28 **FUNDING**

29 NEW SECTION. **Sec. 401.** VOTED SALES TAX. The authority board may
30 submit an authorizing proposition to the voters of the authority and,
31 if the proposition is approved by a majority of persons voting, fix and
32 impose a sales and use tax in accordance with the terms of this
33 section. The tax authorized in this section is in addition to any
34 other taxes authorized by law and must be collected from those persons

1 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
2 the occurrence of any taxable event within the service area. The rate
3 of tax shall not exceed one-tenth of one percent of the selling price
4 in the case of a sales tax, or value of the article used, in the case
5 of a use tax. The tax imposed in this section expires seven years
6 after the date the tax is first collected, but may be reauthorized for
7 one or more additional seven-year terms, in each case if the authority
8 board submits an authorizing proposition to the voters of the authority
9 and the proposition is approved by a majority of persons voting.
10 Moneys collected under this section shall only be used for the purposes
11 set forth in sections 501 and 502 of this act.

12 **PART V**
13 **USE OF FUNDS**

14 NEW SECTION. **Sec. 501.** ALLOCATION. (1) An authority with a
15 service area population of more than one million five hundred thousand
16 established as provided in section 301(1)(a) of this act or an
17 authority with an aggregate service area population of more than two
18 million five hundred thousand established as provided in section
19 301(1)(b) of this act shall allocate funds available under section 401
20 of this act as follows:

21 (a) Until any start-up funding provided to the authority under
22 section 302 of this act has been fully repaid within two years after
23 the sales and use tax authorized under section 401 of this act is first
24 collected, the authority shall reserve from total funds available
25 annually funding sufficient to provide for repayment of such start-up
26 funding;

27 (b) After allocating any funds necessary for repayment of start-up
28 funding as provided in (a) of this subsection, up to one and one-fourth
29 percent of total funds available annually may be used for authority
30 administrative costs;

31 (c)(i) After allocating funds for repayment of start-up funding as
32 provided under (a) of this subsection and for authority administrative
33 expenses as provided in (b) of this subsection, ten percent of
34 remaining funds available annually must be used to fund a public school
35 cultural access program to be administered by the authority and, to the
36 extent funds are available after funding the public school cultural

1 access program, such other projects of regional benefit to be
2 undertaken within the authority's service area. As determined by the
3 authority board and to the extent practicable consistent with available
4 resources, the public school cultural access program must include the
5 following attributes:

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

9 (B) Offer benefits to every public school in the authority's
10 service area while scaling the range of benefits available to and the
11 frequency of opportunities to participate by any particular school to
12 coincide with the relative percentage of students attending the school
13 who participate in the national free or reduced-price school meals
14 program; and

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

17 (I) Establishment and operation, within funding provided to support
18 the public school cultural access program under this subsection, of a
19 centralized service available to regional and community-based
20 organizations receiving funding under this chapter and public schools
21 in the authority's service area to coordinate opportunities for public
22 school student access to the programs and activities offered by the
23 organizations both at the facilities and venues operated by the
24 organizations and through programs and experiences provided by the
25 organizations at schools and elsewhere;

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

29 (III) In consultation with regional and community-based
30 organizations, preparing and maintaining a readily accessible and
31 current guide cataloging access opportunities and facilitating
32 scheduling;

33 (IV) Coordinating closely with regional and community-based
34 organizations to maximize student utilization of available
35 opportunities in a cost-efficient manner including possible scheduling
36 on a single day opportunities for different grade levels at any one
37 school and participation in multiple programs or activities in the same
38 general area for which authority-funded transportation is provided;

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

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

10 (VII) Preparing an annual public school access plan for authority
11 board review and adoption prior to implementation; and

12 (VIII) Compiling an annual report documenting the reach and
13 evaluating the effectiveness of authority-funded public school access
14 efforts, including recommendations to the authority board for
15 improvements.

16 (ii) The authority board shall establish eligibility guidelines,
17 criteria for the award of funding to support projects of regional
18 benefit, including identification and evaluation of the public benefits
19 to be derived from the projects, and a competitive allocation process
20 to be undertaken at least annually. The projects may include, without
21 limitation, regional cultural public information and promotional
22 activities; support for new cultural organizations; and support for
23 specific projects or organizations working to expand access to cultural
24 activities by underserved populations. Regional organizations
25 receiving funding under this chapter are not eligible applicants for
26 funding under this section. However, regional organizations may
27 participate in broad-based, collaborative projects funded under this
28 section and may partner with a community-based organization in a
29 project for which the community-based organization is the applicant for
30 funding and plays the lead role in the project;

31 (d) Seventy-five percent of total remaining funds available
32 annually excluding funds initially reserved under (a), (b), and (c) of
33 this subsection must be reserved for distribution by the authority
34 board to each regional organization that the authority board
35 determines, on an annual basis, to have met the following guidelines:

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

1 (ii) Has its principal location or locations and conducts the
2 majority of its activities within the authority service area primarily
3 for the benefit of authority residents;

4 (iii) Has not declared bankruptcy or suspended or substantially
5 curtailed operations for a period longer than six months during the
6 preceding three years;

7 (iv) Has provided to the authority audited annual financial
8 statements for at least its two most recent fiscal years;

9 (v) Over the three preceding years, has minimum average annual
10 revenues of at least one million two hundred fifty thousand dollars.
11 The authority board shall annually and cumulatively adjust the minimum
12 revenues by the annual percentage change in the consumer price index
13 for the prior year for the Seattle-Tacoma-Bellevue, Washington
14 metropolitan statistical area for all urban consumer, all goods, as
15 published by the United States department of labor, bureau of labor
16 statistics. The minimum revenues requirement, adjusted for inflation
17 as provided in this section, remains effective through the date on
18 which the initial tax authorized by the voters under section 401 of
19 this act expires. Thereafter, the authority board shall, at the
20 beginning of each subsequent period of funding as approved by the
21 voters, establish initial minimum average annual revenues of not less
22 than the amount of the minimum revenues required during the final year
23 of the immediately preceding period of funding;

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

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

35 (e) Funds available under (d) of this subsection must be
36 distributed among eligible regional organizations based on an annual
37 ranking of eligible organizations by the combined size of their average
38 annual revenues and their average annual attendance, both over the

1 three preceding years. However, an organization's attendance must have
2 twice the weight of the organization's revenues in determining its
3 relative ranking. Available funds must be distributed proportionally
4 among eligible organizations, consistent with the ranking, such that
5 the organization with the largest combined revenues and weighted
6 attendance would receive the most funding and the organization with the
7 smallest combined revenues and weighted attendance would receive the
8 least funding. However, no organization may receive funds in excess of
9 fifteen percent of its average annual revenues over the three preceding
10 years. Any funds available under (d) of this subsection not
11 distributed to regional organizations as a result of application of the
12 formula provided under this subsection (1)(e) must be allocated by the
13 authority board for distribution under (g) of this subsection;

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

21 (g) Remaining funds available annually, including funds not
22 initially reserved under (a) through (d) of this subsection as well as
23 funds not distributed by the authority from the reserved funds must be
24 distributed by the authority board to public agencies designated by the
25 legislative authorities of the participating counties, subject to the
26 following guidelines:

27 (i) With respect to an authority created by four contiguous
28 counties with an aggregate service area population of more than three
29 million, the agency designated by the legislative authority of the
30 largest of the participating counties by size of population shall
31 receive fifty percent of funds available under this subsection (1)(g);
32 the agencies designated by the legislative authorities of the next two
33 largest of the participating counties by size of population must each
34 receive twenty percent of funds available under this subsection (1)(g);
35 and the agency designated by the legislative authority of the smallest
36 of the participating counties by size of population must receive the
37 remaining ten percent of funds available;

1 (ii) With respect to an authority created by fewer than four
2 contiguous counties with an aggregate service area population of more
3 than two million five hundred thousand, funds must be distributed by
4 the authority board to public agencies designated by the legislative
5 authorities of the participating counties under a formula to be
6 determined by the authority board. In determining its formula for the
7 distribution of remaining funds among the designated public agencies,
8 the authority board shall consider factors such as the relative size of
9 the populations and the economies of the participating counties; the
10 number of regional organizations receiving funds under (d) of this
11 subsection in each participating county; and the extent to which
12 citizens or groups of citizens within each county may be underserved by
13 cultural organizations;

14 (iii) The distribution formula for an authority comprised of three
15 contiguous counties including one county with a population in excess of
16 one million five hundred thousand, another county with a population in
17 excess of six hundred thousand, and one with a population of less than
18 three hundred thousand shall provide that the agency designated by the
19 legislative authority of the largest county by population receives not
20 less than sixty percent of funds available; the next largest county by
21 population receives not less than twenty-five percent of funds
22 available; and the smallest county by population receives not less than
23 twelve percent of funds available;

24 (iv) The distribution formula for an authority comprised of three
25 continuous counties including one county with a population in excess of
26 one million five hundred thousand and two other counties each with a
27 population in excess of six hundred thousand shall provide that the
28 agency designated by the legislative authority of the largest county by
29 population receives not less than fifty-five percent of funds available
30 and each of the other two counties receive not less than twenty percent
31 of funds available;

32 (v) The distribution formula for an authority comprised of two
33 contiguous counties including one county with a population in excess of
34 one million five hundred thousand and one county with a population in
35 excess of six hundred thousand shall provide that the agency designated
36 by the legislative authority of the larger county by population
37 receives not less than seventy-five percent of the funds available; and

1 (vi) The distribution formula for an authority comprised of two
2 contiguous counties including one county with a population in excess of
3 one million five hundred thousand and one county with a population of
4 less than three hundred thousand shall provide that the agency
5 designated by the legislative authority of the larger county by
6 population receives not less than eighty-five percent of funds
7 available;

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

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

13 (ii) The balance must be used to fund community-based
14 organizations. Designated public agencies shall adopt:

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

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

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

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

34 (2) An authority, other than an authority described in subsection
35 (1) of this section, shall allocate available funding as follows:

36 (a) Not more than five percent of total funds available annually
37 may be reserved for authority administrative costs, including its
38 start-up funding provided under section 302 of this act and to support

1 projects of regional benefit to be undertaken within the authority's
2 service area, as determined by the authority board. Not more than two
3 and one half percent of total funds available annually may be used for
4 authority administrative costs. The authority board shall establish
5 eligibility guidelines, criteria for the award of funding to support
6 projects of regional benefit, including identification and evaluation
7 of the public benefits to be derived from the projects, and a
8 competitive allocation process to be undertaken at least annually. The
9 projects may include, without limitation, regional cultural public
10 information and promotional activities, support for new cultural
11 organizations, and support for specific projects or organizations
12 working to expand access to cultural activities by underserved
13 populations. Regional organizations receiving funding under this
14 chapter are not eligible applicants for funding under this section.
15 However, regional organizations may participate in broad-based,
16 collaborative projects funded under this section and may partner with
17 a community-based organization in a project for which the community-
18 based organization is the applicant for funding and plays the lead role
19 in the project;

20 (b) The authority board shall determine the percentage of total
21 funds available annually to be reserved for a public school cultural
22 access program established and managed by the authority to increase
23 access to cultural activities and programming for public school
24 students resident in the authority's service area. The activities and
25 programming need not be located or provided within the authority's
26 service area. In developing its program, the authority may consider
27 the attributes prescribed for a public school cultural access program
28 required to be undertaken under subsection (1)(c) of this section.

29 (c) The authority board shall determine the percentage of total
30 funds available annually to be reserved for distribution by the
31 authority board to regional organizations under a formula to be
32 determined by the authority board. The authority board may adopt
33 guidelines, consistent with the requirements of this chapter, it deems
34 necessary or appropriate for determining the eligibility of regional
35 organizations to receive funding under this chapter. Total funds
36 reserved for distribution to regional organizations may not exceed
37 seventy-five percent of total funds available annually excluding funds
38 initially reserved under (a) and (b) of this subsection;

1 (d) Remaining funds available annually, including all funds not
2 initially reserved under (a), (b), or (c) of this subsection as well as
3 funds not distributed by the authority from the reserved funds must be
4 distributed by the authority board to an entity in each participating
5 county designated by the legislative authorities of the participating
6 counties under a formula to be determined by the authority board. In
7 determining its formula for the distribution of remaining funds among
8 the designated entities, the authority board shall consider factors
9 such as the relative size of the economies of the participating
10 counties, the number of regional organizations receiving funds under
11 (c) of this subsection in each participating county, and the extent to
12 which citizens or groups of citizens within each county may be
13 underserved by cultural organizations. The authority shall determine
14 the amount of funding to be allocated to support designated agency
15 administrative costs. Funds distributed to the designated entity under
16 this section must be awarded to community-based cultural organizations.
17 Subject to the approval of the authority, designated entities shall
18 adopt:

19 (i) Guidelines, consistent with the requirements of this chapter,
20 it deems necessary or appropriate for determining the eligibility of
21 community-based organizations to receive funding under this chapter;

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

25 (iii) Procedures for conducting, at least annually, a competitive
26 process for the award of available funding.

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

37 (f) If the authority board or designated agency determine the
38 eligibility of a cultural organization to receive funding or the

1 relative magnitude of the funding it receives on the basis of its
2 budget, revenues, or expenses, any determination with respect to a
3 qualifying state-related cultural organization must exclude any state
4 funding received by the organization or for the institution it
5 supports.

6 NEW SECTION. **Sec. 502.** PUBLIC BENEFITS. (1) An authority
7 established under this chapter shall provide or continue to provide
8 funding authorized under this chapter only to cultural organizations
9 that provide discernible public benefits. Each authority established
10 under this chapter shall identify a range of public benefits that
11 cultural organizations within its service area may provide or continue
12 to provide in satisfaction of this requirement for eligibility to
13 receive funding authorized under this chapter. The public benefits
14 include, without limitation, reasonable opportunities for access to
15 facilities, programs, and services on a reduced or no admission fee
16 basis, particularly for diverse and underserved populations and
17 communities; providing, through technological and other means, services
18 or programs in locations other than an organization's own facilities;
19 providing educational programs and experiences both at an
20 organization's own facilities and in schools and other venues;
21 broadening cultural programs, performances, and exhibitions for the
22 enlightenment and entertainment of the public; supporting collaborative
23 relationships with other cultural organizations in order to extend the
24 reach and impact of the collaborating organizations for the benefit of
25 the public; and, in the case of community-based organizations,
26 organizational capacity-building projects or activities that an
27 organization can demonstrate, to the reasonable satisfaction of the
28 county-designated public agency, will enhance the ability of the
29 organization to provide or continue to provide meaningful public
30 benefits not otherwise achievable. In addition to providing or
31 continuing to provide public benefits identified by the appropriate
32 authorities under this section, regional organizations receiving
33 funding under section 501(1) of this act shall participate in good
34 faith in the authority's public school cultural access program required
35 under section 501(1) of this act. The regional organizations shall
36 provide or continue to provide public benefits under this section in
37 addition to participating in the public school cultural access program.

1 (2) In evaluating requests for funding authorized under this
2 chapter for projects of regional benefit under section 501(1) of this
3 act or this subsection, the authority board shall consider the public
4 benefits to be derived from proposed projects. At the conclusion of a
5 project of regional benefit, the recipient of funding authorized under
6 this chapter is required to report to the authority on the public
7 benefits realized. Each regional organization receiving funds
8 authorized under this chapter pursuant to an authority allocation
9 formula shall annually, prior to year end, preview for the authority
10 public benefits the organization's plans to provide or continue to
11 provide in the following year and report on public benefits it provided
12 or continued to provide during the current year. In evaluating
13 requests for funding authorized under this chapter, a county-designated
14 public agency responsible for the distribution of the funds shall
15 consider the public benefits applicant community-based organizations
16 represent will be derived from proposed projects. At the conclusion of
17 a project approved for funding, the sponsoring community-based
18 organization is required to report to the county-designated public
19 agency on the public benefits realized.

20 (3) Each authority established under this chapter shall adopt
21 guidelines establishing a baseline standard of continuous performance
22 with respect to the provision of public benefits required under this
23 chapter and for evaluating the continuing eligibility of any regional
24 or community-based organization to receive funds under this chapter
25 based on the continuous performance of the organization in the
26 provision of the public benefits. The guidelines must include (a)
27 procedures for notifying any organization at risk of losing its
28 continuing eligibility to receive funds under this chapter for failure
29 to achieve the authority's baseline standard of performance with
30 respect to the continuous provision of public benefits and (b) measures
31 or procedures available to such an organization for either retaining or
32 recovering eligibility, as appropriate.

33 **PART VI**
34 **MISCELLANEOUS**

35 **Sec. 601.** RCW 36.96.010 and 1999 c 153 s 50 are each amended to
36 read as follows:

1 As used in this chapter, unless the context requires otherwise:

2 (1) "Special purpose district" means every municipal and quasi-
3 municipal corporation other than counties, cities, and towns. Such
4 special purpose districts shall include, but are not limited to, water-
5 sewer districts, fire protection districts, port districts, public
6 utility districts, county park and recreation service areas, flood
7 control zone districts, diking districts, drainage improvement
8 districts, cultural access authorities, and solid waste collection
9 districts, but shall not include industrial development districts
10 created by port districts, and shall not include local improvement
11 districts, utility local improvement districts, and road improvement
12 districts;

13 (2) "Governing authority" means the commission, council, or other
14 body which directs the affairs of a special purpose district;

15 (3) "Inactive" means that a special purpose district, other than a
16 public utility district, is characterized by either of the following
17 criteria:

18 (a) Has not carried out any of the special purposes or functions
19 for which it was formed within the preceding consecutive five-year
20 period; or

21 (b) No election has been held for the purpose of electing a member
22 of the governing body within the preceding consecutive seven-year
23 period or, in those instances where members of the governing body are
24 appointed and not elected, where no member of the governing body has
25 been appointed within the preceding seven-year period.

26 A public utility district is inactive when it is characterized by
27 both criteria (a) and (b) of this subsection.

28 NEW SECTION. **Sec. 602.** APPLICABILITY OF PUBLIC LAWS. The
29 authority, its officers, and the board of directors, created under this
30 chapter, are subject to the general laws regulating local governments
31 and local governmental officials including, but not limited to, the
32 requirement to be audited by the state auditor and various accounting
33 requirements under chapter 43.09 RCW, the open public record
34 requirements under chapter 42.17 RCW, the prohibition on using its
35 facilities for campaign purposes under RCW 42.17.130, the open public
36 meetings law under chapter 42.30 RCW, the code of ethics for municipal

1 officers under chapter 42.23 RCW, and the local government
2 whistleblower law under chapter 42.41 RCW.

3 NEW SECTION. **Sec. 603.** No direct or collateral attack on any
4 authority purported to be authorized or created in conformance with
5 this chapter may be commenced more than thirty days after creation.

6 NEW SECTION. **Sec. 604.** Part headings and captions used in this
7 act are not any part of the law.

8 NEW SECTION. **Sec. 605.** Sections 101 through 502, 602, and 603 of
9 this act constitute a new chapter in Title 36 RCW.

10 NEW SECTION. **Sec. 606.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 607.** The provisions of this act shall be
15 liberally construed to effect the policies and purposes of this act.

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