

SENATE BILL REPORT

SB 5786

As of February 22, 2009

Title: An act relating to authorizing the creation of cultural access authorities.

Brief Description: Authorizing the creation of cultural access authorities.

Sponsors: Senators Fraser, Kohl-Welles, Honeyford and Shin.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/23/09.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Mac Nicholson (786-7445)

Background: A variety of special purpose districts may be created by counties, cities, or towns to provide specific public facilities or services which are generally financed by through taxes or assessments. Examples of special purpose districts include school districts, fire protection districts, public utility districts, port districts, irrigation districts, mosquito control districts, and public facilities districts.

Summary of Bill: Cultural access authorities are created, the stated intent being to authorize funding for public school cultural access programs and the support of cultural organizations.

Creation and Governance. Any county with a population of more than 175,000 may create a cultural access authority (authority) by resolution of the county. A group of up to four contiguous counties, one of which having a population greater than 150,000 may create a cultural access authority by entering into an interlocal agreement that is approved by each county. A single county authority is governed by a five-member board, four appointed by the county and one appointed by the Governor. A multi-county authority is governed by a seven-member board, six appointed pursuant to interlocal agreement and one appointed by the Governor. A multi-county authority with an aggregate population over 2.5 million is governed by a seven to eleven member board.

An authority is a municipal corporation, political subdivision, independent taxing authority, and a taxing district and possesses all the usual powers of a corporation for public purposes.

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Authority board members may receive \$50 per day for attending meetings on behalf of the authority, up to \$3,000 per year. An authority board must adopt procedures for expense reimbursement, hire employees and establish wages and benefits, and adopt ethics policies consistent with applicable law and applicable best practices for board members, officers, and employees. An authority board may appoint an advisory council with representation from business, education, and cultural communities. Authority board members and employees are not personally liable for acts done, or omitted, in good faith while performing authority duties.

Funding. A county or counties creating an authority must advance to the authority up to \$1 million annually for up to three years for administrative costs, including the cost of informing the public about the formation of the authority, how it is proposed to be funded, and the public benefits to be realized if it is successful. Funds advanced to the authority must be repaid with interest from the proceeds of the sales and use tax if approved by the voters. An authority that has not secured voter approval of the sales and use tax within three years must be dissolved, and any advanced funds that were expended need not be repaid.

Authorities are funded by a voter approved sales and use tax not to exceed one-tenth of 1 percent. The tax collected is in addition to any other taxes authorized by law and must be re-authorized every seven years.

Distribution of Funds. For single county authorities with a service area population greater than 1.5 million and multi-county authorities with a service area population greater than 2.5 million, revenue generated from the sales and use tax is to be used as follows:

- repayment of start-up funding;
- administrative costs, up to 1.25 percent of funds available annually;
- funding for public school cultural access program, up to 10 percent of funds available annually;
- distribution to qualified regional organizations, 75 percent of the remaining funds annually; and
- distribution to public agencies, any remaining funds.

For all other authorities, revenue must be allocated as follows:

- up to 5 percent annually for administrative costs, including start-up funding and to support projects of regional benefit;
- not more than 2.5 percent for administrative costs;
- a percentage determined by the board for a public school cultural access program;
- a percentage determined by the board for distribution to regional organizations not to exceed 75 percent of funds available annually; and
- any remaining funds are distributed to an entity in each participating county as designated by the county legislative authority.

Public School Cultural Access Program.

A public school cultural access program must:

- provide benefits designed to increase public school student access to facilities receiving funding under the legislation;

- offer benefits to every public school in the area of the authority while scaling benefits based on the percentage of students who participate in the national free or reduced-price school meal program;
- establish and operate a centralized service to coordinate opportunities for public school student access to programs and activities offered by cultural organizations;
- provide funding for public school student transportation to attend programs and activities;
- prepare and maintain a readily accessible catalog of access opportunities;
- coordinate closely with cultural organizations to maximize utilization of available opportunities;
- support the development of tools, materials, and media by cultural organizations that correlate with school curricula;
- build meaningful partnerships with public schools and cultural organizations;
- prepare an annual access plan; and
- compile an annual report.

Regional Organizations. A regional organization is a cultural organization that owns, operates, or supports cultural facilities that widely benefit and are broadly attended by the public. In order to receive funding under the legislation, a regional organization must:

- be in good standing for the preceding three years as a nonprofit corporation;
- have its principal location and conduct the majority of its activities in the authority service area;
- have not declared bankruptcy or substantially curtailed operations in the preceding three years for a period longer than six months;
- provide annual financial statements for its two most recent fiscal years to the authority;
- have average annual revenues of at least \$1.25 million over the three preceding years; and
- meet any additional eligibility guidelines deemed necessary.

Funds available for regional organizations must be distributed based on an annual ranking using the combined size of their average annual revenues and attendance over the three preceding years. No organization may receive funds in excess of 15 percent of its average annual revenues. Funds distributed to regional organizations must be used to support cultural and educational activities, programs and initiatives, public benefits and communications, and basic operations.

Public Agencies.

A public agency can use up to 8 percent of the amount received for administrative costs, the remainder must be used to fund community-based organizations. Community-based organizations are those that focus their activities and are supported or patronized within a local community. Public agencies must adopt eligibility guidelines, award criteria, and procedures for conducting annual competitive award processes. Funds awarded to community-based organizations may be used to support cultural and educational activities, public benefits, basic operations, and capital expenditures and acquisitions including the acquisition of property and equipment.

Public Benefits. All cultural organizations receiving funding must provide discernible public benefits. Authorities must identify a range of public benefits that cultural organizations may provide, including access to facilities, programs and services on a reduced or free basis; providing educational programs and experiences in schools and other venues; broadening cultural programs for the enlightenment and entertainment of the public; and increasing organizational capacity.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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