
SUBSTITUTE HOUSE BILL 1666

State of Washington 61st Legislature 2009 Regular Session

By House Community & Economic Development & Trade (originally sponsored by Representatives Kenney, Simpson, Haler, Walsh, Kessler, Dickerson, White, Pedersen, Santos, and Pettigrew)

READ FIRST TIME 02/20/09.

1 AN ACT Relating to authorizing the creation of cultural access
 2 authorities; amending RCW 36.96.010; adding a new section to chapter
 3 82.14 RCW; adding a new chapter to Title 36 RCW; and creating new
 4 sections.

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

6 **PART I**
 7 **INTENT**

8 NEW SECTION. **Sec. 101.** INTENT. (1) The legislature finds that:

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

1 (b) Cultural organizations represent an essential component of the
2 state's overall quality of life, contributing substantially to the
3 state's attractiveness and competitiveness in the global economy.

4 (c) Cultural organizations are themselves a significant component
5 of the state's economy. Through their numerous missions and offerings,
6 they afford the state's citizens meaningful and life enriching
7 educational and other experiences.

8 (d) Cultural institutions are an essential source of knowledge and
9 inspiration for the citizens of the state.

10 (2) The purpose of this chapter is to authorize formation of
11 cultural access authorities and to authorize funding for public school
12 cultural access programs and the support of cultural organizations,
13 subject to voter approval.

14 **PART II**
15 **DEFINITIONS**

16 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
17 section apply throughout this chapter unless the context clearly
18 requires otherwise.

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

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

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

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

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

35 (6) "Cultural organization" means a nonprofit corporation
36 incorporated under the laws of the state of Washington and recognized

1 by the internal revenue service as described in section 501(c)(3) of
2 the internal revenue code of 1986, as amended, with its principal
3 location or locations and conducting a majority of its activities
4 within the state, not including: Any agency of the state or any of its
5 political subdivisions; any municipal corporation; any educational
6 institution; any organization that raises funds for redistribution to
7 cultural organizations; or any radio or television broadcasting network
8 or station, cable communications system, internet-based communications
9 venture or service, newspaper, or magazine. The primary purpose of the
10 organization must be the advancement and preservation of science or
11 technology, the visual or performing arts, zoology, botany,
12 anthropology, or cultural or natural history and any organization shall
13 directly provide programming or experiences available to the general
14 public. Any organization with the primary purpose of advancing and
15 preserving zoology such as zoos and aquariums must be or support a
16 facility that is accredited by the association of zoos and aquariums or
17 its functional successor. A state-related cultural organization may be
18 a cultural organization.

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

23 (8) "Designated public agency" means the agency designated by the
24 legislative authority of a participating county within an authority
25 service area.

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

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

1 to the development, operation, and maintenance of the organization's
2 principal venue or venues, and providing substantial public benefits
3 within the authority service area.

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

16 (12) "Service area" means the area in which an authority functions
17 that is coterminous with the boundaries of one county or two or more
18 contiguous participating counties.

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

28 PART III

29 CULTURAL ACCESS AUTHORITIES

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

33 (b) Any contiguous group of up to four counties, including at least
34 one county with a population of more than one hundred fifty thousand,
35 may create an authority by entering into an interlocal agreement under

1 chapter 39.34 RCW, approved by resolution of the county legislative
2 authorities.

3 (2) An authority service area must be coextensive with the
4 boundaries of the participating county or counties that created the
5 authority, including incorporated areas.

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

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

37 (c) An authority created by up to four participating counties under
38 subsection (1)(b) of this section with an aggregate population of more

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

1 for a three-year term; and two members must be appointed for a
2 four-year term as set forth in the interlocal agreement creating the
3 authority.

4 (d)(i) A vacancy on an authority board must be filled in the same
5 manner as the original appointment was made, and the person appointed
6 to fill a vacancy shall serve for the remainder of the unexpired term
7 of the office for the position to which he or she was appointed.

8 (ii) A board member appointed by the governor may be removed from
9 office by the governor. Any other board member may be removed from
10 office by action of at least two-thirds of the members of the
11 legislative authority which made the appointment.

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

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

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

22 NEW SECTION. **Sec. 302.** START-UP FUNDING AND CONDITIONAL
23 FORMATION. (1)(a) The county or counties creating an authority shall
24 provide for the participating county or counties to advance to the
25 authority up to one million dollars per year for up to three years for
26 its administrative costs, including the cost of informing the public
27 about the formation of the authority, how it is proposed to be funded,
28 and the public benefits to be realized if it is successful. However,
29 this subsection does not authorize the preparation and distribution of
30 information to the general public for the purpose of influencing the
31 outcome of an authority election.

32 (b) In the case of a multicounty authority, funds advanced must be
33 provided pro rata by each participating county based on the relative
34 size of the population of each county.

35 (2) Funds advanced to an authority must be repaid to each
36 participating county, with interest at the internal rate of return on

1 the invested funds of each county, from the proceeds of the sales and
2 use tax approved by voters within two years after such tax is first
3 collected.

4 (3)(a) An authority must be dissolved three years after its
5 formation unless it has secured voter approval of the sales and use tax
6 authorized herein. Upon dissolution of an authority after three years
7 without securing voter approval of the proposed tax, an authority may
8 not again be formed under this chapter by the same county or
9 combination of counties for three years following the dissolution of a
10 predecessor.

11 (b) One or more of the counties participating in the formation of
12 a dissolved authority may form another authority under this chapter
13 without delay if the participant or combination of participants in the
14 formation of another authority differs from the participant or
15 combination of participants in the formation of the dissolved
16 authority.

17 (c) Any expended funds of the participating county or counties
18 advanced to an authority that is dissolved as provided under this
19 section need not be repaid to the participating county or counties.
20 Any remaining funds on hand upon dissolution must be returned to the
21 participating counties.

22 NEW SECTION. **Sec. 303.** NONSUPPLANTATION. In creating an
23 authority under this chapter or appointing members of the board of the
24 authority, any participating county or city appointing board members
25 shall affirm that any funding such county or city usually and
26 customarily provides to cultural organizations similar to funding that
27 would be available to those organizations under this chapter may not be
28 replaced or materially diminished as a result of funding becoming
29 available under this chapter.

30 NEW SECTION. **Sec. 304.** ADVISORY COUNCILS. Each authority
31 established under this chapter may establish an advisory council, the
32 membership of which must include citizen representatives of
33 constituencies and organizations with interests relevant to the work of
34 the authority including, but not limited to, leaders in the business,
35 educational, and cultural communities. Advisory council members should

1 be residents of the service area of the authority. Policies concerning
2 the size and operation of any advisory council must be established by
3 the authority that forms the council.

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

7 (1) Maintain an office or offices;

8 (2) Sue and be sued in its own name, and plead and be impleaded;

9 (3) Engage consultants, agents, attorneys, and advisers, contract
10 with state and local governmental entities for services, and hire as
11 provided in section 309 of this act such employees, agents, and other
12 personnel as the authority deems necessary, useful, or convenient to
13 accomplish its purposes;

14 (4) Establish procurement policies by resolution, including
15 procedures for competitive procurement of services when required under
16 its established policies;

17 (5) Make and execute all manner of contracts, agreements, and
18 documents with public and private parties as the authority deems
19 necessary, useful, or convenient to accomplish its purposes;

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

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

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

31 (9) Procure insurance in amounts and from insurers as the authority
32 deems desirable including, but not limited to, insurance against any
33 loss or damage to its property or other assets, public liability
34 insurance for injuries to persons or property, and liability insurance
35 with limits an authority board deems reasonable for the purpose of
36 protecting and holding personally harmless board members, officers, and

1 employees of the authority against liability arising from their acts or
2 omissions while performing or in good faith purporting to perform their
3 official duties;

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

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

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

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

20 (14) Conduct meetings at which members participating through the
21 use of any means of communication by which all members participating
22 can hear each other during the meeting are deemed to be present in
23 person at the meeting for all purposes;

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

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

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

31 NEW SECTION. **Sec. 306.** EXPENSE REIMBURSEMENT PROCEDURES. The
32 authority board shall adopt a resolution that may be amended from time
33 to time governing methods and amounts of reimbursement payable to board
34 members, officers, and employees for travel and other business expenses
35 incurred on behalf of the authority. The resolution must, among other
36 things, establish procedures for approving expenses, the form of travel
37 and expense vouchers, and requirements governing the use of credit

1 cards issued in the name of the authority. Board members, officers,
2 and employees may be advanced sufficient sums to cover their
3 anticipated expenses in accordance with rules adopted by the state
4 auditor.

5 NEW SECTION. **Sec. 307.** PER DIEM COMPENSATION. Each member of the
6 authority board may receive compensation of fifty dollars per day for
7 attending meetings or conferences on behalf of the authority, not to
8 exceed three thousand dollars per year. A board member may waive all
9 or a portion of his or her compensation under this section during his
10 or her term of office, by a written waiver filed with the authority.
11 The compensation provided in this section is in addition to
12 reimbursement for expenses paid to board members by the authority.

13 NEW SECTION. **Sec. 308.** DEFENSE AND INDEMNITY. Whenever an
14 action, claim, or proceeding is instituted against a person who is or
15 was a board member, officer, or employee of an authority arising out of
16 the performance of duties for or employment with the authority, the
17 authority may grant a request by the person that the attorney of the
18 authority's choosing be authorized to defend the claim, suit, or
19 proceeding, and the costs of defense, attorneys' fees, and obligation
20 for payments arising from the action may be paid from the authority's
21 funds. Costs of defense, judgment, or settlement against the person
22 may not be paid in a case where the court has found that the person was
23 not acting in good faith within the scope of employment with or duties
24 for the authority. No board member or officer of the authority may be
25 personally liable for acts done or omitted in good faith while
26 performing duties as a board member or officer on behalf of the
27 authority.

28 NEW SECTION. **Sec. 309.** EMPLOYEES, SALARIES, AND BENEFITS. An
29 authority may create and fill positions; fix reasonable wages and
30 salaries; pay costs involved in hiring employees; and establish
31 reasonable benefits for employees, including holiday pay, vacations or
32 vacation pay, retirement benefits, and medical, life, accident, or
33 health disability insurance, as approved by the board. Authority board
34 members, at their own expense, may be included under any authority
35 policy for medical, life, accident, or health disability insurance.

1 Insurance for employees and board members may not be considered
2 compensation. Coverage for the board under any authority policy is not
3 to exceed that provided authority employees. An authority is a
4 political subdivision for purposes of participation in the state public
5 employees' retirement system under RCW 41.40.062 and for other
6 purposes.

7 NEW SECTION. **Sec. 310.** TREASURER. At the request of the
8 authority, the treasurer of any participating county may serve as the
9 ex officio treasurer of the authority.

10 **PART IV**
11 **FUNDING**

12 NEW SECTION. **Sec. 401.** A new section is added to chapter 82.14
13 RCW to read as follows:

14 VOTED SALES TAX. (1) The board of a cultural access authority may
15 submit an authorizing proposition to the voters of the authority and,
16 if the proposition is approved by a majority of persons voting, fix and
17 impose a sales and use tax in accordance with the terms of this
18 chapter.

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

23 (3) The rate of tax may not exceed one-tenth of one percent of the
24 selling price in the case of a sales tax, or value of the article used,
25 in the case of a use tax.

26 (4) The tax imposed in this section expires seven years after the
27 effective date of the tax, but may be reauthorized for one or more
28 additional seven-year terms, in each case if the authority board
29 submits an authorizing proposition to the voters of the authority and
30 the proposition is approved by a majority of persons voting.

31 (5) Moneys collected under this section may only be used for the
32 purposes set forth in sections 501 and 502 of this act.

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

PART V
USE OF FUNDS

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3 NEW SECTION. **Sec. 501.** ALLOCATION. (1) An authority with a
4 service area population of more than one million five hundred thousand
5 established as provided in section 301(1)(a) of this act or an
6 authority with an aggregate service area population of more than two
7 million five hundred thousand established as provided in section
8 301(1)(b) of this act shall allocate funds available under section 401
9 of this act as follows:

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

16 (b) After allocating any funds as required in (a) of this
17 subsection, up to one and one-fourth percent of total funds available
18 annually may be used for authority administrative costs and up to two
19 and three-fourths percent of total funds available annually may be used
20 for other projects of regional benefit to be undertaken within the
21 authority's service area;

22 (c)(i) After allocating funds as required in (a) and (b) of this
23 subsection, ten percent of remaining funds available annually must be
24 used to fund a public school cultural access program to be administered
25 by the authority. As determined by the authority board and to the
26 extent practicable consistent with available resources, the public
27 school cultural access program must include the following attributes:

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

31 (B) Offer benefits to every public school in the authority's
32 service area while scaling the range of benefits available to and the
33 frequency of opportunities to participate by any particular school to
34 coincide with the relative percentage of students attending the school
35 who participate in the national free or reduced-price school meals
36 program; and

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

1 (I) Establishment and operation, within funding provided to support
2 the public school cultural access program under this subsection, of a
3 centralized service available to regional and community-based
4 organizations receiving funding under this chapter and public schools
5 in the authority's service area to coordinate opportunities for public
6 school student access to the programs and activities offered by the
7 organizations both at the facilities and venues operated by the
8 organizations and through programs and experiences provided by the
9 organizations at schools and elsewhere;

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

13 (III) In consultation with regional and community-based
14 organizations, preparing and maintaining a readily accessible and
15 current guide cataloging access opportunities and facilitating
16 scheduling;

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

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

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

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

34 (VIII) Compiling an annual report documenting the reach and
35 evaluating the effectiveness of authority-funded public school access
36 efforts, including recommendations to the authority board for
37 improvements.

1 (ii) The authority board shall establish eligibility guidelines,
2 criteria for the award of funding to support projects of regional
3 benefit, including identification and evaluation of the public benefits
4 to be derived from the projects, and a competitive allocation process
5 to be undertaken at least annually. The projects may include, without
6 limitation, regional cultural public information and promotional
7 activities; support for new cultural organizations; and support for
8 specific projects or organizations working to expand access to cultural
9 activities by underserved populations. Regional organizations
10 receiving funding under this chapter are not eligible applicants for
11 funding under this section. However, regional organizations may
12 participate in broad-based, collaborative projects funded under this
13 section and may partner with a community-based organization in a
14 project for which the community-based organization is the applicant for
15 funding and plays the lead role in the project;

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

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

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

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

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

32 (v) Over the three preceding years, has minimum average annual
33 revenues of at least one million two hundred fifty thousand dollars.
34 The authority board shall annually and cumulatively adjust the minimum
35 revenues by the annual percentage change in the consumer price index
36 for the prior year for the Seattle-Tacoma-Bellevue, Washington
37 metropolitan statistical area for all urban consumer, all goods, as
38 published by the United States department of labor, bureau of labor

1 statistics. The minimum revenues requirement, adjusted for inflation
2 as provided in this section, remains effective through the date on
3 which the initial tax authorized by the voters under section 401 of
4 this act expires. Thereafter, the authority board shall, at the
5 beginning of each subsequent period of funding as approved by the
6 voters, establish initial minimum average annual revenues of not less
7 than the amount of the minimum revenues required during the final year
8 of the immediately preceding period of funding;

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

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

20 (e) Funds available under (d) of this subsection must be
21 distributed among eligible regional organizations based on an annual
22 ranking of eligible organizations by the combined size of their average
23 annual revenues and their average annual attendance, both over the
24 three preceding years. However, an organization's attendance must have
25 twice the weight of the organization's revenues in determining its
26 relative ranking. Available funds must be distributed proportionally
27 among eligible organizations, consistent with the ranking, such that
28 the organization with the largest combined revenues and weighted
29 attendance would receive the most funding and the organization with the
30 smallest combined revenues and weighted attendance would receive the
31 least funding. However, no organization may receive funds in excess of
32 fifteen percent of its average annual revenues over the three preceding
33 years. Any funds available under (d) of this subsection not
34 distributed to regional organizations as a result of application of the
35 formula provided under this subsection (1)(e) must be allocated by the
36 authority board for distribution under (g) of this subsection;

37 (f) Funds distributed to regional organizations under (d) of this
38 subsection must be used to support cultural and educational activities,

1 programs and initiatives, public benefits and communications, and basic
2 operations. No funds distributed to regional organizations under (d)
3 of this subsection may be used for capital expenditures or acquisitions
4 including, but not limited to, the acquisition of or the construction
5 of improvements to real property;

6 (g) Remaining funds available annually, including funds not
7 initially reserved under (a) through (d) of this subsection as well as
8 funds not distributed by the authority from the reserved funds must be
9 distributed by the authority board to public agencies designated by the
10 legislative authorities of the participating counties, subject to the
11 following guidelines:

12 (i) With respect to an authority created by four contiguous
13 counties with an aggregate service area population of more than three
14 million, the agency designated by the legislative authority of the
15 largest of the participating counties by size of population shall
16 receive fifty percent of funds available under this subsection (1)(g);
17 the agencies designated by the legislative authorities of the next two
18 largest of the participating counties by size of population must each
19 receive twenty percent of funds available under this subsection (1)(g);
20 and the agency designated by the legislative authority of the smallest
21 of the participating counties by size of population must receive the
22 remaining ten percent of funds available;

23 (ii) With respect to an authority created by fewer than four
24 contiguous counties with an aggregate service area population of more
25 than two million five hundred thousand, funds must be distributed by
26 the authority board to public agencies designated by the legislative
27 authorities of the participating counties under a formula to be
28 determined by the authority board. In determining its formula for the
29 distribution of remaining funds among the designated public agencies,
30 the authority board shall consider factors such as the relative size of
31 the populations and the economies of the participating counties; the
32 number of regional organizations receiving funds under (d) of this
33 subsection in each participating county; and the extent to which
34 citizens or groups of citizens within each county may be underserved by
35 cultural organizations;

36 (iii) The distribution formula for an authority comprised of three
37 contiguous counties including one county with a population in excess of
38 one million five hundred thousand, another county with a population in

1 excess of six hundred thousand, and one with a population of less than
2 three hundred thousand shall provide that the agency designated by the
3 legislative authority of the largest county by population receives not
4 less than sixty percent of funds available; the next largest county by
5 population receives not less than twenty-five percent of funds
6 available; and the smallest county by population receives not less than
7 twelve percent of funds available;

8 (iv) The distribution formula for an authority comprised of three
9 continuous counties including one county with a population in excess of
10 one million five hundred thousand and two other counties each with a
11 population in excess of six hundred thousand shall provide that the
12 agency designated by the legislative authority of the largest county by
13 population receives not less than fifty-five percent of funds available
14 and each of the other two counties receive not less than twenty percent
15 of funds available;

16 (v) The distribution formula for an authority comprised of two
17 contiguous counties including one county with a population in excess of
18 one million five hundred thousand and one county with a population in
19 excess of six hundred thousand shall provide that the agency designated
20 by the legislative authority of the larger county by population
21 receives not less than seventy-five percent of the funds available; and

22 (vi) The distribution formula for an authority comprised of two
23 contiguous counties including one county with a population in excess of
24 one million five hundred thousand and one county with a population of
25 less than three hundred thousand shall provide that the agency
26 designated by the legislative authority of the larger county by
27 population receives not less than eighty-five percent of funds
28 available;

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

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

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

36 (A) Guidelines, consistent with the requirements of this chapter,
37 it deems necessary or appropriate for determining the eligibility of

1 community-based organizations to receive funding under this chapter and
2 for establishing the amount of funding any organization may receive;

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

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

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

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

20 (a) Not more than five percent of total funds available annually
21 may be reserved for authority administrative costs, including its
22 start-up funding provided under section 302 of this act and to support
23 projects of regional benefit to be undertaken within the authority's
24 service area, as determined by the authority board. Not more than two
25 and one half percent of total funds available annually may be used for
26 authority administrative costs. The authority board shall establish
27 eligibility guidelines, criteria for the award of funding to support
28 projects of regional benefit, including identification and evaluation
29 of the public benefits to be derived from the projects, and a
30 competitive allocation process to be undertaken at least annually. The
31 projects may include, without limitation, regional cultural public
32 information and promotional activities, support for new cultural
33 organizations, and support for specific projects or organizations
34 working to expand access to cultural activities by underserved
35 populations. Regional organizations receiving funding under this
36 chapter are not eligible applicants for funding under this section.
37 However, regional organizations may participate in broad-based,
38 collaborative projects funded under this section and may partner with

1 a community-based organization in a project for which the community-
2 based organization is the applicant for funding and plays the lead role
3 in the project;

4 (b) The authority board shall determine the percentage of total
5 funds available annually to be reserved for a public school cultural
6 access program established and managed by the authority to increase
7 access to cultural activities and programming for public school
8 students resident in the authority's service area. The activities and
9 programming need not be located or provided within the authority's
10 service area. In developing its program, the authority may consider
11 the attributes prescribed for a public school cultural access program
12 required to be undertaken under subsection (1)(c) of this section.

13 (c) The authority board shall determine the percentage of total
14 funds available annually to be reserved for distribution by the
15 authority board to regional organizations under a formula to be
16 determined by the authority board. The authority board may adopt
17 guidelines, consistent with the requirements of this chapter, it deems
18 necessary or appropriate for determining the eligibility of regional
19 organizations to receive funding under this chapter. Total funds
20 reserved for distribution to regional organizations may not exceed
21 seventy-five percent of total funds available annually excluding funds
22 initially reserved under (a) and (b) of this subsection;

23 (d) Remaining funds available annually, including all funds not
24 initially reserved under (a), (b), or (c) of this subsection as well as
25 funds not distributed by the authority from the reserved funds must be
26 distributed by the authority board to an entity in each participating
27 county designated by the legislative authorities of the participating
28 counties under a formula to be determined by the authority board. In
29 determining its formula for the distribution of remaining funds among
30 the designated entities, the authority board shall consider factors
31 such as the relative size of the economies of the participating
32 counties, the number of regional organizations receiving funds under
33 (c) of this subsection in each participating county, and the extent to
34 which citizens or groups of citizens within each county may be
35 underserved by cultural organizations. The authority shall determine
36 the amount of funding to be allocated to support designated agency
37 administrative costs. Funds distributed to the designated entity under

1 this section must be awarded to community-based cultural organizations.
2 Subject to the approval of the authority, designated entities shall
3 adopt:

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

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

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

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

22 (f) If the authority board or designated agency determine the
23 eligibility of a cultural organization to receive funding or the
24 relative magnitude of the funding it receives on the basis of its
25 budget, revenues, or expenses, any determination with respect to a
26 qualifying state-related cultural organization must exclude any state
27 funding received by the organization or for the institution it
28 supports.

29 NEW SECTION. **Sec. 502.** PUBLIC BENEFITS. (1) An authority
30 established under this chapter shall provide or continue to provide
31 funding authorized under this chapter only to cultural organizations
32 that provide discernible public benefits. Each authority established
33 under this chapter shall identify a range of public benefits that
34 cultural organizations within its service area may provide or continue
35 to provide in satisfaction of this requirement for eligibility to
36 receive funding authorized under this chapter. The public benefits
37 include, without limitation: Reasonable opportunities for access to

1 facilities, programs, and services on a reduced or no admission fee
2 basis, particularly for diverse and underserved populations and
3 communities; providing, through technological and other means, services
4 or programs in locations other than an organization's own facilities;
5 providing educational programs and experiences both at an
6 organization's own facilities and in schools and other venues;
7 broadening cultural programs, performances, and exhibitions for the
8 enlightenment and entertainment of the public; supporting collaborative
9 relationships with other cultural organizations in order to extend the
10 reach and impact of the collaborating organizations for the benefit of
11 the public; and, in the case of community-based organizations,
12 organizational capacity-building projects or activities that an
13 organization can demonstrate, to the reasonable satisfaction of the
14 county-designated public agency, will enhance the ability of the
15 organization to provide or continue to provide meaningful public
16 benefits not otherwise achievable. In addition to providing or
17 continuing to provide public benefits identified by the appropriate
18 authorities under this section, regional organizations receiving
19 funding under section 501(1) of this act shall participate in good
20 faith in the authority's public school cultural access program required
21 under section 501(1) of this act. The regional organizations shall
22 provide or continue to provide public benefits under this section in
23 addition to participating in the public school cultural access program.

24 (2) In evaluating requests for funding authorized under this
25 chapter for projects of regional benefit under section 501(1) of this
26 act or this subsection, the authority board shall consider the public
27 benefits to be derived from proposed projects. At the conclusion of a
28 project of regional benefit, the recipient of funding authorized under
29 this chapter is required to report to the authority on the public
30 benefits realized. Each regional organization receiving funds
31 authorized under this chapter pursuant to an authority allocation
32 formula shall annually, prior to year end, preview for the authority
33 public benefits the organization's plans to provide or continue to
34 provide in the following year and report on public benefits it provided
35 or continued to provide during the current year. In evaluating
36 requests for funding authorized under this chapter, a county-designated
37 public agency responsible for the distribution of the funds shall
38 consider the public benefits applicant community-based organizations

1 represent will be derived from proposed projects. At the conclusion of
2 a project approved for funding, the sponsoring community-based
3 organization is required to report to the county-designated public
4 agency on the public benefits realized.

5 (3) Each authority established under this chapter shall adopt
6 guidelines establishing a baseline standard of continuous performance
7 with respect to the provision of public benefits required under this
8 chapter and for evaluating the continuing eligibility of any regional
9 or community-based organization to receive funds under this chapter
10 based on the continuous performance of the organization in the
11 provision of the public benefits. The guidelines must include (a)
12 procedures for notifying any organization at risk of losing its
13 continuing eligibility to receive funds under this chapter for failure
14 to achieve the authority's baseline standard of performance with
15 respect to the continuous provision of public benefits and (b) measures
16 or procedures available to such an organization for either retaining or
17 recovering eligibility, as appropriate.

18 **PART VI**
19 **MISCELLANEOUS**

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

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

23 (1) "Special purpose district" means every municipal and quasi-
24 municipal corporation other than counties, cities, and towns. Such
25 special purpose districts shall include, but are not limited to, water-
26 sewer districts, fire protection districts, port districts, public
27 utility districts, county park and recreation service areas, flood
28 control zone districts, diking districts, drainage improvement
29 districts, cultural access authorities, and solid waste collection
30 districts, but shall not include industrial development districts
31 created by port districts, and shall not include local improvement
32 districts, utility local improvement districts, and road improvement
33 districts;

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

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

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

7 (b) No election has been held for the purpose of electing a member
8 of the governing body within the preceding consecutive seven-year
9 period or, in those instances where members of the governing body are
10 appointed and not elected, where no member of the governing body has
11 been appointed within the preceding seven-year period.

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

14 NEW SECTION. **Sec. 602.** APPLICABILITY OF PUBLIC LAWS. The
15 authority, its officers, and the board of directors, created under this
16 chapter, are subject to the general laws regulating local governments
17 and local governmental officials including, but not limited to, the
18 requirement to be audited by the state auditor and various accounting
19 requirements under chapter 43.09 RCW, the public records act
20 requirements under chapter 42.56 RCW, the prohibition against using its
21 facilities for campaign purposes under RCW 42.17.130, the open public
22 meetings law under chapter 42.30 RCW, the code of ethics for municipal
23 officers under chapter 42.23 RCW, and the local government
24 whistleblower law under chapter 42.41 RCW.

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

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

30 NEW SECTION. **Sec. 605.** Sections 101 through 310, 501, 502, 602,
31 and 603 of this act constitute a new chapter in Title 36 RCW.

32 NEW SECTION. **Sec. 606.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the
2 remainder of the act or the application of the provision to other
3 persons or circumstances is not affected.

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

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