HOUSE BILL REPORT
HB 1837

As Reported by House Committee On:
Community Development & Housing

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

Brief Description: Concerning cultural access authorities.

Sponsors: Representatives Kenney and Santos.

Brief History:
Committee Activity:
Community Development & Housing: 2/14/11, 2/16/11 [DPS].

Brief Summary of Substitute Bill

- Creates the Education and Arts Access Program, under which a county or group of contiguous counties may create an education and arts cultural access authority (authority).
- Allows an authority to impose a voter-approved sales and use tax or voter-approved regular property tax levy of up to 0.1 percent to fund education and arts cultural access projects.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kenney, Chair; Finn, Vice Chair; Maxwell, Ryu, Santos and Walsh.

Minority Report: Do not pass. Signed by 3 members: Representatives Smith, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern.

Staff: Chris Cordes (786-7103).

Background:

A variety of special districts may be created by counties, cities, or towns to provide various public facilities and finance these facilities by imposing various taxes.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

For example, counties may create public facilities districts to construct and operate regional centers, sports and recreational facilities (other than ski areas), entertainment facilities, convention facilities, and related parking facilities. Public facilities districts are governed by an appointed board of directors with specified statutory authority. These districts are municipal corporations and taxing districts.

Public facilities districts may impose various taxes to finance their facilities, including a voter-approved 2 percent lodging tax on certain premises, a regional center admissions tax not exceeding 5 percent, a vehicle parking tax not exceeding 10 percent, a voter-approved sales and use tax not exceeding 0.2 percent, and an additional nonvoter-approved sales and use tax not exceeding 0.033 percent that is deducted from the state's sales and use taxes.

Summary of Substitute Bill:

The Education and Arts Access Program is authorized. Under the program, an education and arts cultural access authority (authority) may be created by a county or group of contiguous counties, with funding to include a voter-approved sales and use tax or a voter-approved property tax levy. An authority would allocate funding to various projects, including public school education and arts access programs and other programs of regional benefit sponsored by cultural or community-based organizations, including a Community Preservation and Development Authority formed before January 1, 2011.

A cultural organization's primary purpose must be the advancement and preservation of science or technology, the visual or performing arts, zoology, botany, anthropology, or cultural or natural history, with direct programming or experiences for the general public.

Creation of an Authority.

An authority may be created by any county or by a group of contiguous counties that enter into an interlocal agreement. The authority service area must be coextensive with the boundaries of the participating county or counties, including incorporated areas. There is a process for revising an authority's service area, and any related interlocal agreements between counties, so that the service area includes only the participating county or counties in which a majority of voters approve a tax proposition and excludes any county in which the voters disapprove the tax proposition.

An authority is a municipal corporation and a taxing district. It is subject to audits by the State Auditor and to various other general laws applying to local governments, including the prohibition on using its facilities for campaign purposes and the municipal ethics code.

An authority must be dissolved after three years if a tax proposition to fund the authority has not been approved. Once dissolved, a new authority may not be created by the same county or counties for three years following dissolution.

Authority Boards.

For a single county authority with a population of less than 1.5 million, the authority is governed by a five-member board appointed by the county legislative authority. If a single county authority has a population of more than 1.5 million, three of the five members are appointed by the county legislative authority and two by the legislative authority of the two largest cities.

For an authority with two or more participating counties, the authority is governed by a board with up to nine or 11 members, depending on the interlocal agreement and the number of participating counties.

For an authority with up to four participating counties with an aggregate population of more than 2.5 million:

- A two-county authority is governed by a board with two members appointed by each county and one by each of the two largest cities in the larger county, and one member appointed by the largest city in the smaller county.
- An authority with three or four participating counties is governed by a board with one member appointed by each county and by each of the two largest cities in the larger county, and one member appointed by the largest city in each of the other participating counties.

After the initial terms of office, authority board members serve staggered four-year terms. The authority board members may serve up to two full consecutive terms.

<u>Authority Funding</u>.

<u>Start-up Funding</u>. The county or counties creating an authority may advance up to $1 million per year for up to three years for administrative costs, including the cost of informing the public about the formation of the authority, how it is to be funded, and the public benefits. Any start-up funding must be provided pro rata by each participating county.

Start-up funding must be repaid, with interest, from the proceeds of a voter-approved tax. However, the start-up funds are not required to be repaid if the authority is dissolved for failing to secure the voter-approved tax.

<u>Tax Authority</u>. After June 30, 2013, an authority may submit either a sales and use tax proposition or a regular property tax levy proposition, but not both, to voters for approval by a majority of those voting. A sales and use tax is in addition to other taxes and may not exceed 0.1 percent. A property tax that exceeds the property tax lid must be reduced or eliminated consistent with that lid. A tax imposed by the authority expires seven years after it is first collected, but may be resubmitted to the voters for additional seven-year terms. The Department of Revenue must collect the sales and use tax on behalf of the authority at no cost to the authority.

A county or city appointing board members must affirm that funding available under these provisions does not supplant the usual and customary funding provided to cultural organizations by these jurisdictions.

Other Funding. An authority may accept grants, loans, and other contributions from any source, as long as it does not compete with cultural organization fund raising.

Allocation of the Authority Funds.

Large Authorities. An authority in a single county with a service area population of more than 1.5 million or an authority formed by a group of counties with a service area population of more than 2.5 million must allocate funds in the following priority:

- repayment of start-up funds;
- administrative costs (up to 1.25 percent of total funds) and projects of regional benefit within the service area (up to 2.75 percent of total funds);
- a public school education and arts access program (10 percent of remaining funds);
- distributions, based on average annual revenues and attendance ranking, to nonprofit regional organizations with minimum annual revenues of at least $1.25 million, to be annually adjusted for inflation (75 percent of remaining funds); and
- distributions to public agencies designated by the legislative authorities of the participating counties to fund grants to community-based organizations (any remaining funds).

Other Authorities. These authorities allocate funds in the following priority:

- administrative costs, including start-up funding and projects of regional benefit (up to 5 percent of total funding, with half for administrative funding);
- a public school education and arts access program (amount determined by the authority);
- distributions to regional organizations (amount determined by the authority, but not more than 75 percent of available funds); and
- an entity in each county that makes grants to community-based cultural organizations (remaining funds).

Programs Supported by an Authority.

Public school education and arts access programs must be designed to increase public school student access to programs offered by regional and community-based organizations receiving the Education and Arts Access grant funding and, among other things, must include a centralized service to coordinate opportunities, funding for transportation, and an annual school access plan and annual report.

Grants for projects of regional benefit are awarded on a competitive basis at least annually. Projects may include public information and promotional activities, support for new cultural organizations, and support for specific projects to expand access to underserved populations.

Distributions to regional organizations must be used to support cultural and educational activities and basic operations of the organization, but not capital expenditures. A regional organization may not receive more than 15 percent of its average annual revenues over the three preceding years. Funding to community-based organizations may be used for both operating costs and capital expenditures.

Authority Operations.

The 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.

An authority board may hire employees and establish wages and benefits. An authority is eligible to participate in the state public employees' retirement system.

In certain smaller authorities, the board may contract with the State Arts Commission for consulting and administrative services or to function as the designated public agency.

An authority board may appoint an advisory council with representation from business, education, and cultural communities.

An authority board must adopt ethics policies consistent with applicable law and applicable best practices for board members, officers, and employees.

The authority board members and employees are not personally liable for acts done, or omitted, in good faith while performing authority duties.

<u>Accountability Measures</u>.

An authority may provide funding only to cultural organizations that provide discernible public benefits. Public benefits include providing reasonable opportunities for access to programs or services on a reduced or no admission basis, providing services and educational programs in locations other than the organization's facilities, broadening cultural programs and exhibitions for the enlightenment and entertainment of the public, and supporting collaborative relationships and capacity-building projects for the benefit of the public.

Annually or at the conclusion of a project, any recipient of funding must report to the authority or relevant public agency on the public benefits realized.

An authority must adopt a baseline standard of performance for evaluating the continuing eligibility of organizations to receive funding.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) renames the program the Education and Arts Access Program (Program) and refers to the special district created under the Program as an education and arts cultural access authority (authority); (2) includes, as a community-based organization eligible for funding under the Program, a Community Preservation and Development Authority formed before January 1, 2011; (3) delays any vote on an authority tax proposition until after June 30, 2013; (4) provides a process for revising an authority's service area to include only the participating county or counties in which a majority of voters approve a tax proposition and to exclude any county in which the voters disapprove the tax proposition; and (5) clarifies that the Department of Revenue's responsibility to collect any approved tax only applies to sales and use tax, not property tax.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Support of the arts and culture is directly linked to job growth. The idea for this bill grew out of the work of the Prosperity Partnership. To be competitive in attracting businesses and their employees, this state needs to maintain its cultural heritage. An economic impact study also shows the economic benefit of cultural organizations. Ticket sales are only a part of the stimulus, which ripples across the economy to meals, lodging, etc. Cultural events play a large part in community revitalization. Most patrons report a first exposure to cultural events while in school. Many use the events to build communities.

The recession has made affordability a problem in several ways, including cuts in school budgets that reduce funds for transportation. A key feature of the bill is a program that will bring kids to events, especially targeted to schools with large reduced/free school lunch programs. Cultural events for children can fire up their imaginations and result in profound differences in their futures. Hands-on experiences give people a different perspective on the world.

There are several examples of programs like this across the county. Denver's, for example, has been reauthorized by the voters every five years. Local jurisdictions should be given this option. It is not just for Puget Sound, but could be a helpful tool in eastern Washington, too. Jurisdictions are unlikely to use this authority until after the economic woes recede.

(Opposed) None.

Persons Testifying: Representative Kenney, prime sponsor; Maggie Walker, Seattle Art Museum; Dwight Gee, Arts Fund; Bryce Seidl, Pacific Science Center; Tim Close, Museum of Glass; and Karen Mobley, Spokane Arts Commission.

Persons Signed In To Testify But Not Testifying: None.