Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Community Development, Housing & Tribal Affairs Committee

SSB 5463

Brief Description: Concerning access to and creation of cultural and heritage programs and facilities.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hill, Kohl-Welles, Fain, Fraser, Litzow, King, Angel, Nelson, Chase, Pedersen, Roach, Liias and McAuliffe).

Brief Summary of Substitute Bill

- Permits a county or city to create a cultural access program (CAP).
- Authorizes a county or a city to impose either a sales and use tax or a property tax levy to fund a CAP.
- Provides restrictions and requirements for how revenues may be allocated within a CAP.

Hearing Date: 3/17/15

Staff: Sean Flynn (786-7124).

Background:

State Sales and Use Tax.
The state levies a tax on the retail sale of tangible personal property, digital goods, and certain services within the state. A taxable retail sale also includes the installation, repair, alteration, or improvement made to a consumer's personal property. If a retail sales tax is not collected on the property or services at the time of sale to the consumer, then a separate tax is imposed on the value of the property or services used within the state. The state sales and use tax rate is 6.5 percent. Counties and cities are authorized to impose an additional sales and use tax at a lesser rate than the state rate.

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.

State Property Tax.
All real and personal property in the state is subject to the state property tax, unless specifically exempted under law. Property taxes are based on the assessed value of the property. The state Constitution limits regular property tax levies to a maximum of 1 percent of a property's assessed value. This applies to the total taxes levied by the state, counties, and other districts.

To keep the total tax rate within the 1 percent limit, the Legislature has established individual and aggregate limits for the various tax districts. The tax levy maximum assessed by the state is set at $3.60 per $1,000 of assessed value. The state levy takes precedence over all other levies.

Most of the remaining local tax districts must share an overall maximum rate of $5.90 per $1,000 of assessed value. These districts are further stratified into senior and junior taxing districts, each with their own specific rate limits. If the total tax levy exceeds the $5.90 maximum rate, then senior taxing districts take preference over junior taxing districts in fulfilling their individual rates. The junior taxing rates are prorated or eliminated in a preferential order set by statutory schedule.

Summary of Bill:

Cultural Access Programs.
Counties are authorized to establish a cultural access program (CAP) that allocates funds to cultural organizations providing programming or experiences for the general public. The primary purpose of the organization receiving funding must be the advancement or preservation of science or technology, the visual or performing arts, zoology, botany, anthropology, heritage, or natural history. The CAP funding must be used for a public benefit that generally relates to increasing access, outreach, and opportunities to the public.

Any county may authorize a CAP or enter into an interlocal agreement with a group of contiguous counties to create a CAP. A county may designate an entity or agency to operate the functions of the CAP. A county with a population under 1.5 million may contract with the Washington State Arts Commission to provide consulting, management, or administrative services to the CAP. Any county may establish an advisory council with members that include leaders in the business, educational, and cultural communities who represent the interests of the program.

A city may create a CAP if the county where the city is located either expressly forfeits its own option, or does not propose a choice to voters for creating a CAP before June 30, 2017. A city that creates a CAP shares the same authority as if created by the county.

Public School Cultural Access Program.
Each CAP must include a public school cultural access program component. The public school CAP component must provide benefits to increase student access to cultural organizations' programming and facilities, with an emphasis on schools with a higher percentage of students that participate in the reduced lunch program. The benefits provided may include: a centralized service for cultural organizations to coordinate opportunities for students; arranging transportation for students to attend cultural programs and activities; consolidating student opportunities to increase cost- efficiency; developing tools to correlate activities with school curricula; and building partnerships between schools and cultural organizations.

Revenue and Tax Authority.
A county may advance funding to the CAP for initial administrative costs, including public outreach about the program and proposed funding sources. The county may require repayment by the CAP from tax proceeds, if approved by voters.

A county, or city in a county that has opted out, is authorized to levy either a sales and use tax or a property tax in order to fund a CAP, but it cannot levy both types of taxes. The sales and use tax authority is conditioned upon voter approval through a special election. The property tax levy must be approved at either a general or special election. Authorization of either tax through voter approval may last for no longer than seven years. The county may renew either tax after seven years for one or more additional seven-year periods upon voter approval at a general or special election.

A sales and use tax may be levied up to 0.1 percent on the sale of goods and services within the county. Alternatively, a property tax may be levied by the county up to an amount equal to the annual total taxable retail sales and uses multiplied by 0.1 percent. The annual total must be from the most recent calendar year as reported by the Department of Revenue. A property tax levied is subject to the $5.90 local tax limit and must be prorated or eliminated, along with other junior taxing districts, if the county exceeds the tax limit.

All tax revenue under this authority must be credited to a special fund in the county treasury and used solely for the CAP.

Funding Allocation.
The usual and customary funding provided by a county to support cultural organizations may not be replaced or diminished by a CAP. Any CAP funds received by a state-related cultural organization may not replace or materially diminish any state funding usually received by the organization.

A County Under 1.5 Million People.
A CAP must reserve program funds for allocation in the following priority:
- repayment of any start-u p money provided by the county;
- administrative costs;
- operation of a public school cultural access program, including music and arts education that is provided in addition to basic education funding; and
- remaining funds distributed to the entity designated by the county to allocate among eligible cultural organizations that meet the guidelines and criteria of the CAP.

A County over 1.5 Million People. A CAP must reserve program funds for allocation in the following priority:
- repayment of any start-up money provided by the county;
- program administrative costs (up to 1.25 percent of total funds);
- operation of a public school cultural access program (10 percent of remaining funds);
- distribution to regional cultural organizations that widely benefit the public, as determined by CAP guidelines (75 percent of remaining funds); and
- remaining funds distributed to the entity designated by the county to allocate funds to community-based cultural organizations or a community preservation and development

authority (up to 8 percent of which may be used on the designated entity's administrative costs).

Management and Accountability.
Funds distributed to a cultural organization may be used for cultural and educational programs and activities, capital projects (except for regional cultural organizations), equipment and supplies related to a project, and start-up costs for any new community-based cultural organization.

Funding distributed to a cultural organization must be used for a discernable public benefit related to:

- increasing access to programs and facilities, including reduced or free admission, particularly for diverse or underserved communities;
- providing services or programs away from the organization's facilities;
- providing educational programs in schools and other places;
- broadening programs, performances, and exhibitions for the public;
- supporting collaborative relations among cultural organizations; and
- supporting capacity building for community-based cultural organizations.

A county must evaluate a funding request based on the public benefit that the cultural organization plans to provide. The CAP must adopt guidelines and standards of performance by the organization in providing the public benefit. The guidelines must include procedures to notify organizations at risk of losing eligibility and provide measures for retaining eligibility. At the conclusion of a CAP-funded project, the organization must report on the public benefit realized.

In a county over 1.5 million people, a regional cultural organization is eligible to receive funding if: it is a state nonprofit corporation in good standing; is located in the county and primarily benefits county residents; has not recently declared bankruptcy; has provided financial statements to the CAP; and has an adjusted average annual revenue of at least $1.25 million. Upon renewal of a tax levy authority for the CAP, as approved by the voters, the county must set a new minimum annual revenue amount for a regional cultural organization.

The funding allocation available to eligible regional cultural organizations is distributed proportionally based on an annual ranking based on each organization's revenue and attendance. No organization may receive more than 15 percent of its annual revenue.

Appropriation: None.

Fiscal Note: Not requested.

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