

**SB 5792** - H COMM AMD

By Committee on Housing, Community Development & Veterans

**NOT CONSIDERED 12/23/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 36.160.020 and 2015 3rd sp.s. c 24 s 201 are each  
4 amended to read as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

7 (1) "Administrative costs" means all operating, administrative,  
8 and maintenance expenses for a program(~~(, a designated public~~  
9 ~~agency,)~~) or a designated entity.

10 (2) "Attendance" means the total number of visits by persons in  
11 physical attendance during a year at cultural organization facilities  
12 located or cultural organization programs provided within the county  
13 creating a program, including attendance for which admission was  
14 paid, discounted, or free, consistent with and verifiable under  
15 guidelines adopted by the appropriate program.

16 (3) "Cultural organization" means a nonprofit corporation  
17 incorporated under the laws of the state of Washington and recognized  
18 by the internal revenue service as described in section 501(c)(3) of  
19 the internal revenue code of 1986, as amended, with its principal  
20 location or locations and conducting a majority of its activities  
21 within the state, not including: Any agency of the state or any of  
22 its political subdivisions; any municipal corporation; any  
23 organization that raises funds for redistribution to multiple  
24 cultural organizations; or any radio or television broadcasting  
25 network or station, cable communications system, internet-based  
26 communications venture or service, newspaper, or magazine. The  
27 primary purpose of the organization must be the advancement and  
28 preservation of science or technology, the visual or performing arts,  
29 zoology, botany, anthropology, heritage, or natural history and any  
30 organization must directly provide programming or experiences  
31 available to the general public. Any organization with the primary  
32 purpose of advancing and preserving zoology such as zoos and

1 aquariums must be or support a facility that is accredited by the  
2 association of zoos and aquariums or its functional successor. A  
3 state-related cultural organization may be a cultural organization.

4 (4) "Designated entity" means the entity designated by the  
5 legislative authority of a county creating the program, as required  
6 under RCW 36.160.110(~~((1)-(d))~~) (4). The entity may be a public  
7 agency, including the state arts commission established under chapter  
8 43.46 RCW, or a Washington nonprofit corporation that is not a  
9 cultural organization eligible for funding under this chapter.

10 (~~(5) ("Designated public agency" means the public agency~~  
11 ~~designated by the legislative authority of a county creating the~~  
12 ~~program, as required under RCW 36.160.110(2)(h).~~

13 ~~(6))~~ "Program" means a cultural access program established by a  
14 county by ordinance.

15 (~~((7))~~) (6) "Revenues" means revenues from all sources generated  
16 by a cultural organization, consistent with generally accepted  
17 accounting practices and any program guidelines, excluding: (a)  
18 Revenues associated with capital projects other than major  
19 maintenance projects including, but not limited to, capital campaign  
20 expenses; (b) funds provided under this chapter; (c) revenue that  
21 would be considered unrelated business taxable income under the  
22 internal revenue code of 1986, as amended; and (d) with respect to a  
23 state-related cultural organization, state funding received by it or  
24 for the institution it supports. Revenues include transfers from an  
25 organization's endowment or reserves and may include the value of in-  
26 kind goods and services to the extent permitted under any program  
27 guidelines.

28 (~~((8))~~) (7) "State-related cultural organization" means an  
29 organization incorporated as a nonprofit corporation under the laws  
30 of the state of Washington and recognized by the internal revenue  
31 service as described in section 501(c)(3) of the internal revenue  
32 code of 1986, as amended, with a primary purpose and directly  
33 providing programming or experiences available to the general public  
34 consistent with the requirements for recognition as a cultural  
35 organization under this chapter operating in a facility owned and  
36 supported by the state, a state agency, or state educational  
37 institution.

38 **Sec. 2.** RCW 36.160.100 and 2015 3rd sp.s. c 24 s 502 are each  
39 amended to read as follows:

1       ~~((1))~~ A program created under this chapter must develop and  
2 provide a public school cultural access program, as provided in RCW  
3 36.160.110.

4       ~~((2) To the extent practicable consistent with available~~  
5 ~~resources, the public school cultural access element of a program of~~  
6 ~~a county described in RCW 36.160.110(2) must include the following~~  
7 ~~attributes:~~

8       ~~(a) Provide benefits designed to increase public school student~~  
9 ~~access to the programming offered and facilities operated by regional~~  
10 ~~and community-based cultural organizations receiving funding under~~  
11 ~~this chapter, giving priority to the activities in the order~~  
12 ~~described in (c) of this subsection;~~

13       ~~(b) Offer benefits to every public school in the county while~~  
14 ~~scaling the range of benefits available to and the frequency of~~  
15 ~~opportunities to participate by any particular school to coincide~~  
16 ~~with the relative percentage of students attending the school who~~  
17 ~~participate in the national free or reduced-price school meals~~  
18 ~~program;~~

19       ~~(c) Benefits provided under the public school cultural access~~  
20 ~~program must include, without limitation:~~

21       ~~(i) Providing directly or otherwise funding and arranging for~~  
22 ~~transportation for all public school students at participating~~  
23 ~~schools to attend and participate annually in the age-appropriate~~  
24 ~~programs and activities offered by such organizations;~~

25       ~~(ii) Should funding available under this program for student~~  
26 ~~transportation be inadequate in any one year due to more demand for~~  
27 ~~student transportation than can be funded, increasing the subsequent~~  
28 ~~annual percentage allocation to the public school cultural access~~  
29 ~~program up to two percent so as to provide sufficient funds to ensure~~  
30 ~~adequate funding of student transportation;~~

31       ~~(iii) Establishing and operating, within funding provided to~~  
32 ~~support the public school cultural access program under this~~  
33 ~~subsection, of a centralized service available to regional and~~  
34 ~~community-based cultural organizations receiving funding under this~~  
35 ~~chapter and public schools in the county to coordinate opportunities~~  
36 ~~for public school student access to the programs and activities~~  
37 ~~offered by the organizations both at the facilities and venues~~  
38 ~~operated by the organizations and through programs and experiences~~  
39 ~~provided by the organizations at schools and elsewhere;~~

1       ~~(iv) In consultation with cultural organizations located within~~  
2 ~~the county, preparing and maintaining a readily accessible and~~  
3 ~~current guide cataloging access opportunities and facilitating~~  
4 ~~scheduling;~~

5       ~~(v) Coordinating closely with cultural organizations to maximize~~  
6 ~~student utilization of available opportunities in a cost-efficient~~  
7 ~~manner including possible scheduling on a single day opportunities~~  
8 ~~for different grade levels at any one school and participation in~~  
9 ~~multiple programs or activities in the same general area for which~~  
10 ~~program-funded transportation is provided;~~

11       ~~(vi) Supporting the development of tools, materials, and media by~~  
12 ~~cultural organizations to ensure that school access programs and~~  
13 ~~activities correlate with school curricula and extend the reach of~~  
14 ~~access programs and activities for classroom use with or without~~  
15 ~~direct on-site participation, to the extent practicable;~~

16       ~~(vii) Building meaningful partnerships with public schools and~~  
17 ~~cultural organizations in order to maximize participation in school~~  
18 ~~access programs and activities and ensure their relevance and~~  
19 ~~effectiveness;~~

20       ~~(d) When a program determines that its program element required~~  
21 ~~under (c) (i) through (vii) of this subsection has achieved sufficient~~  
22 ~~scale and participation among public schools located within its~~  
23 ~~boundaries and that it has resources remaining to devote to~~  
24 ~~additional public school cultural access programs without diminishing~~  
25 ~~such participation, the county may develop and financially support~~  
26 ~~other public school cultural access activities in conjunction with~~  
27 ~~cultural organizations receiving funds under this chapter; public~~  
28 ~~school districts; and other public or nonprofit organizations that~~  
29 ~~support cultural access. Any funding for development and support of~~  
30 ~~such activities provided to cultural organizations receiving funds~~  
31 ~~under this subsection must only be used to supplement the public~~  
32 ~~benefits provided by such organizations as required under this~~  
33 ~~chapter and may not be used by such organizations to replace or~~  
34 ~~diminish funding for such required public benefits;~~

35       ~~(e) Preparation of an annual public school cultural access plan~~  
36 ~~for review and adoption prior to implementation; and~~

37       ~~(f) Compilation of an annual report documenting the reach and~~  
38 ~~evaluating the effectiveness of program-funded public school cultural~~  
39 ~~access efforts, including information about the numbers and types of~~

1 ~~students who participated in the program and recommendations to the~~  
2 ~~county for improvements.))~~

3 **Sec. 3.** RCW 36.160.110 and 2015 3rd sp.s. c 24 s 601 are each  
4 amended to read as follows:

5 ~~((1))~~ A program in a county ~~((with a population of less than~~  
6 ~~one million five hundred thousand))~~ must allocate the proceeds of  
7 taxes authorized under RCW 82.14.525 and 84.52.821 as follows:

8 ~~((a))~~ (1) If any start-up funding has been provided to the  
9 program under RCW 36.160.040 with the expectation that the funding  
10 will be repaid, the program must annually reserve from total funds  
11 available funding sufficient to provide for repayment of such start-  
12 up funding until any such start-up funding has been fully repaid;

13 ~~((b))~~ (2) The funding determined by the county forming such a  
14 program to be reserved for program costs, including direct  
15 administrative costs, and repaying any start-up funding provided  
16 under RCW 36.160.040. Information disclosing the amount of funding to  
17 be reserved for program administrative costs must be included in any  
18 proposition submitted to voters under RCW 82.14.525 or 84.52.821;

19 ~~((c))~~ (3) The county must determine the percentage of total  
20 funds available annually to be reserved for a public school cultural  
21 access program, including transportation needs to implement the  
22 public school cultural access program, established and managed by the  
23 county to increase access to cultural activities and programming for  
24 public school students resident in the county. The activities and  
25 programming need not be located or provided within the county. In  
26 developing its program, the county may consider ~~((the attributes~~  
27 ~~prescribed for a public school cultural access program required to be~~  
28 ~~undertaken under RCW 36.160.100(2) and may also consider))~~ providing  
29 funding for music and arts education in public schools that is in  
30 addition to that provided for in the program of basic education  
31 funding;

32 ~~((d))~~ (4) Remaining funds available annually, including all  
33 funds not initially reserved under ~~((a), (b), and (c) of this~~  
34 ~~subsection))~~ subsections (1), (2), and (3) of this section as well as  
35 funds not distributed by the county from the reserved funds, must be  
36 distributed by the county to the entity designated by the legislative  
37 authority of the county creating the program. The county must  
38 determine:

1       ~~((i))~~ (a) Guidelines, consistent with the requirements of this  
2 chapter, it deems necessary or appropriate for determining the  
3 eligibility of cultural organizations to receive funding under this  
4 chapter;

5       ~~((ii))~~ (b) Criteria for the award of funds to eligible cultural  
6 organizations, including the public benefits to be derived from  
7 projects submitted for funding;

8       ~~((iii))~~ (c) The amount of funding to be allocated to support  
9 designated entity administrative costs;

10       ~~((iv))~~ (d) Criteria for the identification by the county or, if  
11 so directed by the county, by the designated entity of any cultural  
12 organization or organizations that would receive annual distributions  
13 of funds in such amounts determined by the county or, if so directed  
14 by the county, the designated entity; and

15       ~~((v))~~ (e) Procedures to be used by the designated entity in  
16 awarding funding to other cultural organizations that may, but are  
17 not required to include a periodic competitive process for awarding  
18 funds for particular purposes or projects proposed by eligible  
19 cultural organizations;

20       ~~((e))~~ (5) In evaluating requests for funding authorized under  
21 this chapter, the designated entity responsible for the distribution  
22 of the funds must consider the public benefits that any cultural  
23 organizations represented will be derived from proposed projects. At  
24 the conclusion of a project approved for funding, such organization  
25 is required to report to the designated entity on the public benefits  
26 realized;

27       ~~((f))~~ (6) Funds distributed to cultural organizations may be  
28 used to support cultural and educational activities, programs, and  
29 initiatives; public benefits and communications; and basic  
30 operations. Funds may also be used for: ~~((i))~~ (a) Capital  
31 expenditures or acquisitions including, but not limited to, the  
32 acquisition of or construction of improvements to real property; and  
33 ~~((ii))~~ (b) technology, equipment, and supplies reasonably related  
34 to or necessary for a project otherwise eligible for funding under  
35 this chapter. Program guidelines may also determine the circumstances  
36 under which funds may be used to fund start-up expenses of new  
37 community-based cultural organizations;

38       ~~((g))~~ (7) If the county or designated entity determine the  
39 eligibility of a cultural organization to receive funding or the  
40 relative magnitude of the funding it receives on the basis of its

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

5 ~~((2) A county with a population of more than one million five  
6 hundred thousand must allocate the proceeds of the taxes authorized  
7 under RCW 82.14.525 as follows:~~

8 ~~(a) If any start-up funding has been provided to the program  
9 under RCW 36.160.040 with the expectation that the funding will be  
10 repaid, the program must annually reserve from total funds available  
11 annually funding sufficient to provide for repayment of such start-up  
12 funding until any such start-up funding has been fully repaid;~~

13 ~~(b) After allocating any funds as required in (a) of this  
14 subsection, up to one and one-fourth percent of total funds available  
15 annually may be used for program administrative costs;~~

16 ~~(c) After allocating funds as required in (a) and (b) of this  
17 subsection, ten percent of remaining funds available annually must be  
18 used to fund a public school cultural access program to be  
19 administered by the program, subject to RCW 36.160.100(2);~~

20 ~~(d) Seventy percent of total remaining funds available annually  
21 excluding funds initially reserved under (a), (b), and (c) of this  
22 subsection must be reserved for distribution by the program to  
23 regional cultural organizations that are cultural organizations that  
24 own, operate, or support cultural facilities or provide performances,  
25 exhibits, educational programs, experiences, or entertainment that  
26 widely benefit and are broadly attended by the public, subject to  
27 further definition under guidelines adopted by the program. A  
28 regional cultural organization may also generally be characterized  
29 under program guidelines as a financially stable, substantial  
30 organization with full-time support and program staff, maintaining a  
31 broad-based membership, having year-round or enduring seasonal  
32 operations, being a substantial financial contributor to the  
33 development, operation, and maintenance of the organization's  
34 principal venue or venues, and providing substantial public benefits.  
35 The funding must be provided only to those regional cultural  
36 organizations that the program determines, on an annual basis, to  
37 have met the following guidelines:~~

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

1       ~~(ii) The organization has its principal location or locations and~~  
2 ~~conducts the majority of its activities within the county area~~  
3 ~~primarily for the benefit of county residents;~~

4       ~~(iii) The organization has not declared bankruptcy or suspended~~  
5 ~~or substantially curtailed operations for a period longer than six~~  
6 ~~months during the preceding two years;~~

7       ~~(iv) The organization provided to the program audited annual~~  
8 ~~financial statements for at least its two most recent fiscal years;~~

9       ~~(v) Over the three preceding years, the organization has minimum~~  
10 ~~average annual revenues of at least one million two hundred fifty~~  
11 ~~thousand dollars. The program must annually and cumulatively adjust~~  
12 ~~the minimum revenues by the annual percentage change in the consumer~~  
13 ~~price index for the prior year for the Seattle-Tacoma-Bellevue,~~  
14 ~~Washington metropolitan statistical area for all urban consumer, all~~  
15 ~~goods, as published by the United States department of labor, bureau~~  
16 ~~of labor statistics. The minimum revenues requirement, adjusted for~~  
17 ~~inflation as provided in this section, remains effective through the~~  
18 ~~date on which the initial tax authorized by the voters under RCW~~  
19 ~~82.14.525 or 84.52.821 expires. Thereafter, the program must, 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~~  
23 ~~year of the immediately preceding period of funding;~~

24       ~~(vi) For purposes of determining the eligibility of a regional~~  
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 RCW 36.160.020~~  
31 ~~and this section, as the program deems necessary or appropriate for~~  
32 ~~determining the eligibility of prospective regional cultural~~  
33 ~~organizations to receive funding under this section and for~~  
34 ~~establishing the amount of funding any organization may receive;~~

35       ~~(e) Funds available under (d) of this subsection must be~~  
36 ~~distributed among eligible regional cultural organizations based on~~  
37 ~~an annual ranking of eligible organizations by the combined size of~~  
38 ~~their average annual revenues and their average annual attendance,~~  
39 ~~both over the three preceding years. However, an organization's~~  
40 ~~attendance must have twice the weight of the organization's revenues~~



1 in determining its relative ranking. Available funds must be  
2 distributed proportionally among eligible organizations, consistent  
3 with the ranking, such that the organization with the largest  
4 combined revenues and weighted attendance would receive the most  
5 funding and the organization with the smallest combined revenues and  
6 weighted attendance would receive the least funding. However, no  
7 organization may receive funds in excess of fifteen percent of its  
8 average annual revenues over the three preceding years;

9 (f) Funds distributed to regional cultural organizations under  
10 (d) of this subsection must be used to support cultural and  
11 educational activities, programs and initiatives, public benefits and  
12 communications, and basic operations.

13 (i) At least twenty percent of funds distributed to any regional  
14 cultural organizations under (d) of this subsection must be used to  
15 participate in the program's public school cultural access program  
16 required under RCW 36.160.100. The regional cultural organizations  
17 must provide or continue to provide public benefits under this  
18 section in addition to participating in the public school cultural  
19 access program.

20 (ii) No funds distributed to regional cultural organizations  
21 under (d) of this subsection may be used for capital expenditures or  
22 acquisitions including, but not limited to, the acquisition of or the  
23 construction of improvements to real property;

24 (g) Prior to December 31st of each year, each regional cultural  
25 organization receiving funds authorized under this chapter pursuant  
26 to a program allocation formula must provide a report to the program,  
27 including:

28 (i) A preview of the public benefits the organization plans to  
29 provide or continue to provide in the following year;

30 (ii) A preview of the organization's public school cultural  
31 access program participation in the following year; and

32 (iii) A report on public benefits it provided, and its  
33 participation in the public school cultural access program, during  
34 the current year;

35 (h) Remaining funds available annually, including funds not  
36 initially reserved under (a) through (d) of this subsection as well  
37 as funds not distributed by the program from the reserved funds must  
38 be distributed by the program to the public agency designated by the  
39 legislative authority of the county creating such a program;

1 ~~(i) Funds distributed by the designated public agencies under (h)~~  
2 ~~of this subsection must be applied as follows:~~

3 ~~(i) Not more than eight percent of such funds must be used for~~  
4 ~~administrative costs of the public agency designated by a county~~  
5 ~~creating the program; and~~

6 ~~(ii) The balance must be used to fund community-based cultural~~  
7 ~~organizations that are cultural organizations or a community~~  
8 ~~preservation and development authority formed under chapter 43.167~~  
9 ~~RCW prior to January 1, 2011, that primarily function, focus their~~  
10 ~~activities, and are supported or patronized within a local community~~  
11 ~~and are not a regional cultural organization, subject to further~~  
12 ~~definition under guidelines adopted by the designated public agency.~~  
13 ~~Designated public agencies must adopt:~~

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

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

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

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

35 Correct the title.

EFFECT: Modifies the requirement that a county determine the percentage of funds to be reserved for the public school cultural access program by also requiring the county to determine what it will

allocate to transportation needs to implement the public school cultural access program.

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