

# SENATE BILL REPORT

## SB 5792

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As of February 12, 2019

**Title:** An act relating to making statutory requirements and policies for cultural access programs the same in all counties of the state.

**Brief Description:** Making statutory requirements and policies for cultural access programs the same in all counties of the state.

**Sponsors:** Senators Salomon, Wellman, Walsh and Honeyford.

**Brief History:**

**Committee Activity:** Local Government: 2/12/19.

**Brief Summary of Bill**

- Removes provisions prescribing certain attributes of a public school cultural access program (CAP).
- Establishes identical provisions for CAP funding allocation for all counties.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Staff:** Bonnie Kim (786-7316)

**Background:** Cultural Access Programs. A county may establish a cultural access program (CAP) allocating 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. CAP funding must be used for a public benefit generally relating 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 including

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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 to increase student access to cultural programming and facilities. In a county with a population over 1.5 million, the public school CAP must include transportation for students to attend at least one program annually; a centralized service for cultural organizations to coordinate opportunities for students; consolidation of student opportunities to increase cost efficiency; the development of tools to correlate activities with school curricula; and partnerships between schools and cultural organizations. A portion of any remaining resources should be used to encourage districts and regional cultural organizations to enhance activities and programs.

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 with a population over 1.5 million, or a city in a county opting out, may levy a sales and use tax to fund a CAP. A county with a population below 1.5 million, or city in a county opting out, may levy either a sales and use tax or a property tax in order to fund a CAP. All levy authority is conditioned upon voter approval through a general or special election. Authorization through voter approval may last for no longer than seven years. The county may renew the tax levy after seven years for one or more additional seven-year periods upon voter approval at a general or special election. All tax revenue under this authority must be credited to a special fund in the county treasury and used solely for the CAP.

The sales and use tax may be levied up to 0.1 percent on the sale of goods and services within the county. The property tax may be levied up to an amount equal to the annual total taxable retail sales and uses multiplied by 0.1 percent, subject to the \$5.90 local tax limit.

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-up money provided by the county;
- program administrative costs;
- operation of a public school cultural access program, including music and arts education provided in addition to basic education funding; and
- remaining funds distributed to the entity designated by the county to allocate among eligible cultural organizations meeting 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 widely benefiting the public, as determined by CAP guidelines—70 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 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. A regional cultural organization in a county over 1.5 million people must reserve at least 20 percent of funds for, and report annually on, its participation in the public school cultural access program. The annual report on the public school cultural access program must include data on how many students were served at each event type, grade level, and school location, and the percentage of students who participate in free or reduced-price school meal programs. 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 of each organization's revenue and attendance. No organization may receive more than 15 percent of its annual revenue.

**Summary of Bill:** Provisions prescribing certain attributes for public school CAPs are removed. Examples include that the public school CAP provide benefits designed to increase public school student access to programming offered by cultural organizations funded by the program and to scale benefits according to the relative percentage of students in a school participating in a national free or reduced-price school meal program.

All counties must allocate CAP funding as previously required for counties with populations under 1.5 million.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: The cultural access program grew out of the Prosperity Partnership, which included four Puget Sound counties and many businesses. The bill as passed in 2015 appears to have been too prescriptive. This bill will give locals more flexibility to offer programs across the county.

**Persons Testifying:** PRO: Becky Bogard, Cultural Access Washington.

**Persons Signed In To Testify But Not Testifying:** No one.