

# SENATE BILL REPORT

## HB 1575

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As Passed Senate, April 11, 2023

**Title:** An act relating to modifying the sales and use tax for cultural access programs by allowing the tax to be imposed by a councilmanic or commission authority and defining timelines and priorities for action.

**Brief Description:** Modifying the sales and use tax for cultural access programs by allowing the tax to be imposed by a councilmanic or commission authority and defining timelines and priorities for action.

**Sponsors:** Representatives Reed, Berry, Berg, Taylor, Farivar, Stonier, Peterson, Senn, Doglio, Cortes, Ryu, Fosse, Springer, Bateman, Goodman, Ramel, Bergquist and Pollet.

**Brief History:** Passed House: 3/3/23, 51-47.

**Committee Activity:** Local Government, Land Use & Tribal Affairs: 3/14/23, 3/23/23 [DP-WM, DNP].

Ways & Means: 3/31/23, 4/04/23 [DP, DNP].

**Floor Activity:** Passed Senate: 4/11/23, 27-22.

### Brief Summary of Bill

- Allows counties and cities the option of imposing a 0.1 percent cultural access program sales and use tax without voter approval.
- Allows a city to impose the tax after December 31, 2024, if it has not been imposed by the county.
- Prohibits a county and a city within the county from imposing the tax concurrently.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

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

Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Kauffman.

**Minority Report:** Do not pass.

Signed by Senators Torres, Ranking Member; Short.

**Staff:** Karen Epps (786-7424)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Nguyen, Pedersen, Saldaña, Van De Wege and Wellman.

**Minority Report:** Do not pass.

Signed by Senators Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Boehnke, Braun, Muzzall, Torres and Wagoner.

**Staff:** Alia Kennedy (786-7405)

**Background:** Cultural Access Program Formation and Governance. The legislative authority of a county may, by ordinance, create a cultural access program. Contiguous groups of counties can create a multicounty program by entering into an interlocal agreement. A city may create a cultural access program if the county legislative authority in which the city is located adopts a resolution stating that the county forfeits its option to create a program or does not place a proposition before the people to create such a program by June 30, 2017. A city that establishes a program has the same authority, and is subject to all of the same conditions, as a county that establishes a program.

A county may establish an advisory council for the cultural access program that includes citizen representatives of constituencies and organizations with interests relevant to the program. A county with fewer than 1.5 million people may contract with the Washington State Arts Commission to manage the program. The county must designate either a nonprofit organization that does not qualify as a cultural organization or a state agency to evaluate cultural organizations and to distribute funding to select cultural organizations. Any county may consolidate the administration of a cultural access program with the administration of the state agency or nonprofit entity that the county designates to distribute funding.

Cultural Access Programs and Cultural Organizations. Cultural access programs must provide funding to schools for increased access to cultural activities and programming for students, and can provide funding to cultural organizations.

Cultural organizations may be selected to receive annual funds if they meet eligibility criteria produced by the county. The nonprofit organization or state agency designated by the county handles the distribution of funding, and funds may be allocated to support the selected organization's or agency's administrative costs. The county may identify cultural organizations to receive funding, or it can delegate the selection to the nonprofit or state agency.

The county must provide guidelines for distributing funding, including the criteria for awarding any funding to cultural organizations not designated by the county. A competitive process may be used for awarding the funds. When considering a request for funding, the nonprofit or state agency must consider the public benefits that will be realized from a proposed project, and, if a project is approved for funding, a cultural organization must report to the designated entity any public benefits that were realized.

Cultural organizations may use the funds provided to support cultural and educational programs and activities; public benefits and communications; basic operations; capital expenditures or acquisitions; and technology, equipment, and supplies related to a project that is eligible for funding. Funding for start-up expenses can also be provided if allowed under a county's cultural access program.

A cultural organization is a nonprofit organization, primarily based in Washington, that has a primary purpose of advancing or preserving science or technology, the visual or performing arts, zoology, botany, anthropology, heritage, or natural history. The organization must provide programming or experiences to the general public as well as discernable public benefits. Each cultural access program must identify a range of public benefits that cultural organizations can provide to satisfy these requirements.

Each cultural access program must adopt guidelines to establish a standard of continuous performance for the provision of public benefits to ensure that a cultural organization continues to maintain its eligibility for funding, with procedures for notifying the cultural organization if it is at risk of losing its funding. Agencies of the state or its political subdivisions; any organization that raises funds for multiple cultural organizations; a radio station, television station, newspaper, or magazine; or an Internet communication venture cannot qualify as a cultural organization. A cultural organization that operates in a facility owned by the state, a state agency, or an educational institution can qualify as a cultural organization.

Cultural Access Program Funding. A county creating a cultural access program may impose a sales and use tax or a property tax levy. A county can only use one of the options at a time, and a county with more than 1.5 million people cannot impose the property tax. The imposition of either tax requires voter approval.

Sales taxes are imposed on retail sales of most articles of tangible personal property, digital

products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state.

With voter approval, a county can impose a sales and use tax up to 0.1 percent of the selling price. The revenue from this tax must be used to fund cultural access programs. Voters may approve the imposition of the tax for up to seven years before voter approval for the tax is again required. The sales and use tax is in addition to any other tax imposed.

A property tax is a tax levied on all real and personal property based on the value of the property, unless the property is subject to an exemption. The Washington Constitution limits regular property tax levies to a maximum of 1 percent of the property's value. Excess levies are not subject to this constitutional limit and require voter approval. There are statutory rate maximums for individual taxing districts and aggregate rate maximums to keep the total tax rate of regular property taxes within the constitutional limit. The statute sets a statutory growth limit such that the amount of property tax levied by a taxing district cannot be increased by more than 1 percent of the amount that was levied the prior year. There are additional limits on the aggregate amount of property tax that taxing districts can impose.

With voter approval, a county can impose a property tax levy with the amount of the levy equivalent to 0.1 percent of the sales and use tax collected by the county in the most recent calendar year. This amount must be recalculated annually. The revenue from the tax must be used to fund cultural access programs. Voters can authorize the imposition of this tax for up to seven years before voter approval of the tax is again required. If the constitutional property tax limitation is exceeded, then the tax levy for cultural access programs may be reduced or eliminated. The statutory limitation on property tax increases does not apply to the first levy imposed, or to the first levy reimposed, and the levy is not subject to the aggregate levy limitations.

**Summary of Bill:** As an alternative to having the imposition of the 0.1 percent cultural access program sales and use tax approved by voters, a county may legislatively impose the tax. The ordinance imposing the tax may provide for the tax to apply for up to seven years. The tax may be reimposed by the county legislative authority for subsequent periods up to seven years.

If a county has not imposed the cultural access program sales and use tax by December 31, 2024, a city within the county may impose a sales and use tax through ordinance, or ordinance and ballot proposition. A county and a city within the county cannot concurrently impose the cultural access program sales and use tax.

Cultural access program sales and use taxes imposed prior to July 23, 2023, are unaffected by the provisions of the bill.

**Appropriation:** None.

**Fiscal Note:** Available.

**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 (Local Government, Land Use & Tribal Affairs):**

PRO: Arts provide young people with a chance to work as a team, to build confidence, to overcome challenges, to accomplish something big, and to bring a spirit of pride and celebration and unity to their communities. This bill ensures that access to stages, museums, choirs, and festivals are preserved so dreams can stay alive for young performers. The bill maintains the jobs that these venues support and the restaurants, hotels, transportation networks that rely on these events. When the cultural access programs were initiated, organizations were in a better position to fund voter campaigns. The biggest barrier is finding constituents that can fund and manage a campaign and that is time and money that could be better spent. Councilmanic authority will allow more communities to benefit from this important funding source. Cultural programs lift up communities and build strong local economies. Local leaders need every tool to help invigorate their communities and local realities will keep councilmanic authority in check. This bill will allow communities that are ready to implement cultural programs to build on existing political and community momentum. This bill recognizes the importance of arts, culture, education, history, and science to enable cities to create their own cultural access programs and provide them with the ability to make that option councilmanic. Early learning programs use music to build kindergarten readiness, but without a cultural access program in place, there is concern about the ongoing expense. This bill allows for councilmanic approval of this small increase that will have powerful impacts and really significant returns for the community. This bill is important to growing healthy communities so young people and families without resources have access to cultural experiences. Cultural access is an equity issue and this bill provides a way to fund it. These cultural access programs provide art in schools and students find this work to be more fun than practically anything else in school.

**Persons Testifying (Local Government, Land Use & Tribal Affairs):** PRO: Representative Julia Reed, Prime Sponsor; Matthew Melendez, Great Bend Center for Music; Manuel R. Cawaling, Inspire Washington; Kate Becker, King County; Naho Shioya, Arts Corps; Cheryl Selby, City of Olympia.

**Persons Signed In To Testify But Not Testifying (Local Government, Land Use & Tribal Affairs):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: Communities rely on local businesses for quality of life. Cultural work lifts communities, builds strong and resilient economies, and creates access to programs for underserved areas. Few communities have

the time and resources to run a voter approved initiative. This bill recognizes the profound economic impact that arts and cultural programs have on the community. Investing in arts and cultural programs is vital to a healthy community and counteracts the determinantal effects of isolation and social media. This creates another tool in the toolbox to address the specific needs of communities across the state. The bill does not raise taxes but does give local municipalities the option to impose a sales and use tax for cultural programs in a way that works for them. The funding mechanism in this bill gives communities a way to help the arts and cultural sector recover from the pandemic.

CON: The issue is not whether arts and cultural programs are important, it is about who gets to decide how to fund them. The bill takes away voter approval for tax increases. There seems to be an obsession with cutting out the voter and only letting elected leaders make tax decisions. This is one of a handful of taxes in which voters have asked be voter approved.

**Persons Testifying (Ways & Means):** PRO: Manuel R. Cawaling, Inspire Washington; Sarah Perry, King County; Melissa Huggins; Tonieh Thompson; Naho Shioya, Arts Corps.

CON: Tim Eyman, Concerned citizen.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.