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## Local Government Committee

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### HB 1575

**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 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.

**Hearing Date:** 2/7/23

**Staff:** Kellen Wright (786-7134).

#### **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 county may relinquish its right to create a cultural access program. If it does so, or if it did not attempt to create a cultural access program before June 30, 2017, then a city within the county may create a cultural access program. 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

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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 state arts commission for the management of the program. The county must designate either a non-profit 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.

A county can advance funding to a cultural access program for its administrative costs, including the cost of informing the public about the formation of the program and the public benefits of the program. However, information cannot be distributed to the public for the purpose of influencing an election where voters will determine whether to approve a tax funding the cultural access program. A county may require the repayment of the funds it advanced to the cultural access program if a tax for the program is approved. A county cannot diminish or replace the funding that it customarily provides to cultural organizations because of the creation and funding of a cultural access program.

#### 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 the distribution of 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. In 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 on 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 State, 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.

There are two tax options available for funding cultural access programs: a sales and use tax, and a property tax. A county can only utilize 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.

A sales tax is a tax applied to the sale, rental, repair, or installation of tangible person property purchased for the buyer's own use. It is a percentage tax based on the value of the items. A use tax is similar, except that it applies to the use of goods within the state when a sales tax for them has not been paid. For example, a sales tax would be imposed on the sale of a car inside Washington, while a use tax would be imposed on a car purchased outside of Washington when it is registered in Washington if no sales tax, or a lower sales tax rate than Washington's, was paid at the time of purchase.

With voter approval, a county can impose a sales and use tax of up to 0.1 percent of the selling price. The revenue from this case 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. There are two significant limitations on property tax in Washington. The first is a constitutional limitation. Article 7, Section 2 of the State Constitution limits the amount of annual tax, from all sources, that may be levied upon property to 1 percent of the total value of that property. This limitation means that, without specific authorization from voters, the maximum tax that can be imposed per \$1,000 of value is \$10. The other limit is statutory. Generally, 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. In other words, the maximum that can be levied is 101 percent of the prior amount. 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 can have it apply for up to seven years. The tax may be reimposed by the county legislative authority for subsequent periods of up to seven years.

If a county has not imposed the cultural access program sales and use tax by December 31, 2024, it may be imposed by a city within the county through the same mechanisms as it could be imposed by the county. 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:** Requested on January 27, 2023.

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