## STAFF REPORT

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| **Agenda Item:** | 5 | **Name:** | Leah Krekel-Zoppi  Andrew Kim |
| **Proposed No**.: | 2017-0178 | **Date:** | April 19, 2017 |

**SUBJECT**

An ordinance creating a King County Access For All program and sending a proposition to King County voters for a 0.1 percent sales tax to finance the program.

**SUMMARY**

Proposed Ordinance 2017-0178 is a revised version of Proposed Ordinance 2017-0104 that would create a cultural access program entitled “Access for All” to improve public access to arts, science, and heritage programs and experiences in King County.

The Access for All program created by this ordinance would be funded by a 0.1 percent sales tax for seven years, proposed for voter consideration at a special election on August 1, 2017. The Council would need to act on the measure no later than May 1st for regular action, and May 12th[[1]](#footnote-1) for emergency action, to place it on the August 1st ballot.

The Access for All program is projected to raise $67.4 million in 2018. The program would be administered by 4Culture. As provided by state law, funds are proposed to be allocated:

* 21 percent to a Public School Cultural Access Program to provide public school students in-classroom and field cultural learning opportunities,
* 39 percent to a Regional Cultural Organization Program to increase the public benefits large cultural organizations provide, and
* 38 percent[[2]](#footnote-2) to communities and a Community-based Cultural Organization Program to increase the programs offered by smaller cultural organizations.

The proposal includes measures to address social, ethnic, and geographic inequities in access to and funding for cultural programs. These measures include prioritizing cultural access to public schools serving lower income students, requiring organizations to fund cultural programs in underserved communities, and making additional funding available to organizations serving disadvantaged populations.

**BACKGROUND**

***4Culture and King County’s Cultural Programs***

The King County Council created 4Culture, King County’s Cultural Public Development Authority, in 2002[[3]](#footnote-3) in order “to support, advocate for and preserve the cultural resources of the region in a manner that fosters excellence, vitality and diversity.” It is governed by a fifteen member Board of Directors, who are nominated by the King County Executive and confirmed by the King County Council.

4Culture is funded through a portion of lodging tax revenues collected in King County. According to 4Culture’s 2015 annual report[[4]](#footnote-4), the organization currently distributes approximately $6.5 million annually in grants to arts and heritage organizations. The grants are awarded to arts, heritage, and preservation organizations for projects, buildings and equipment, and operating support[[5]](#footnote-5).

***Cultural Access Program State Law***

The authority to create a cultural access program in King County came about in 2015 when the Washington State Legislature passed ESHB 2263. The law allows Washington counties to create cultural access programs that provide funding for public school access to arts, science, and heritage organizations; regional cultural organizations to provide increased public benefits; and community-based cultural organizations to expand their programs. According to 4Culture, Washington’s cultural access law was modeled after the Denver Scientific and Cultural Facilities District (DSCF), which was created in 1989 and is funded through a 0.1 percent sales tax collected in the seven-county Denver, Colorado metropolitan area.[[6]](#footnote-6)

According to the state law, cultural access programs are intended for “enhancing and extending the education reach and offerings of cultural organizations; ensuring continued and expanded access to the facilities and programs of cultural organizations by economically and geographically underserved populations; and providing financial stability to the organizations.”

In King County, the program can be funded by up to 0.1 percent of sales tax for seven years, conditioned on a vote of the people. The funds must be used for public benefits and may not supplant county and state funds customarily provided to cultural organizations. If the county does not act to create a cultural access program by June 30, 2017, then any city within the county can do so.

After passage of the state cultural access law, 4Culture began community outreach to gather input about program development. The outreach included presentations at a series of Local Arts Agency coalition[[7]](#footnote-7), SoCoCulture[[8]](#footnote-8), and Association of King County Historical Organizations meetings[[9]](#footnote-9), and recruiting arts, heritage, and education professionals to serve on five study groups that met on a recurring basis and provided recommendations about aspects of the program.

***Access for All Proposal***

Proposed Ordinance 2017-0178 would create a cultural access program for King County called “Access for All.” As provided by state law, the program would be funded by a 0.1 percent sales tax for seven years, for voter consideration at a special election on August 1, 2017.

**Section one** of the proposed ordinance includes a finding that awarding program funds to arts, science, and heritage organizations would provide a public purpose.

**Section two** includes definitions of the key terms used in the proposal.

**Section three** would create the Access for All program, including the following program elements:

* A public school access program to increase cultural education opportunities for public school students.
* A regional cultural organization access program to provide operating funds to regional organizations that provide public benefits.
* A community-based cultural organization access program to provide operating, capital, and projects for organizations that serve local communities.

Also under section three, the Executive proposes to consolidate administration of the Access for All program under 4Culture, as allowed under state law. 4Culture would be required to develop guidelines and eligibility and reporting requirements for the programs. 4Culture would also be required to provide administrative assistance to community-based organizations and report annually to the Executive on the status of the program. 4Culture’s Board of Directors would serve as the Access for All program advisory board.

**Section four** of the proposed ordinance identifies the public benefits cultural organizations would be required to provide in order to receive Access for All funding. Eligible public benefits are divided into categories of “general public benefits,” “equity and inclusion benefits,” and “geographic distribution benefit.” General public benefits would include activities such as providing cultural opportunities for reduced or no admission fee, providing performances and programs throughout the county, building and expanding cultural facilities in suburban and rural communities, and providing free festivals and events. Equity and inclusion and geographic distribution benefits would be intended to overcome economic and geographic inequities that limit access to cultural experiences, such as providing free and low-cost attendance to residents with economic and geographic barriers to access, increasing the diversity of staff and governing boards of cultural organizations, and planning and implementing cultural programs and activities in underserved communities.

**Section five** would impose an additional 0.1 percent sales and use tax in King County, conditioned on voter approval.

**Section six** would require that the tax proceeds be deposited in a separate fund solely for the purposes of the Access for All program.

**Section seven** provides for how the Access for All funds must be allocated. Consistent with state law, the funds would be used as follows:

* To repay any startup funds provided by the County
* Up to 1.25 percent for program administration costs
* Ten percent of the remaining funds for a public school cultural access program, including transportation costs. The amount could be increased to 12 percent if the amount to fund student transportation was inadequate in any one year.
  + These funds must offer access to all public schools, with prioritization to schools with higher percentages of participants in the national free or reduced-price lunch program.
* 70 percent of the remaining funds for regional cultural organizations, with funds distributed in proportion to an organization’s combined revenues and attendance, and no organization receiving more than 15 percent of its annual revenues.
  + At least 20 percent of each organization’s funds must be used for the organization’s participation in the public school cultural access program.
  + At least 30 percent of each organization’s funds would be required to be used for equity and inclusion public benefits, with at least 10 percent for cultural programs in underserved areas.
  + The funds cannot be used for capital.
* The remaining funds go to 4Culture to be distributed to community-based cultural organizations and may be used for programs, capital, technology, supplies, and start-up expenses of new community-based cultural organizations.
  + Up to eight percent would go towards 4Culture’s administration costs.
  + Funds may be granted to a fiscal sponsor to contract for cultural projects with non-tax exempt or social service entities that otherwise wouldn’t qualify for funding.
  + 4Culture would be required to distribute the funds such that community-based cultural organizations in each county council district received a total of at least $1 million each year.

**Section eight** would call for a special election on August 1, 2017 and provides proposition language.

**Section nine** would require that if Access for All funding is approved by voters, within 90 days of passage the Executive would be required to transmit an implementation plan, which would take effect upon Council approval by ordinance. The implementation plan would be required to include detailed program descriptions of the elements of Access for All and annual reporting framework. It also calls for establishing a 4Culture advisory committee to monitor and oversee achievement of equity and inclusion outcomes from the program.

**ANALYSIS**

***Funding Allocations***

The proposed ordinance would distribute the funds for Access for All according to the provisions of state law, as shown in Table 1.

**Table 1. Access for All Proposed Funding Allocation**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Category | 2017-0178 | | Executive Proposal[[10]](#footnote-10) | | State Law Requirement[[11]](#footnote-11) |
| Startup costs | **$0[[12]](#footnote-12)** | - | **$490,000** | - | May repay startup funds provided by the County |
| Program Administration | **$843,000** | **1.25%** | **$843,000** | **1.25%** | Up to 1.25% |
| Public School Access Program | *$6.7 million*  *+$7.6 million  (from regional orgs)*  **$14.3 million** | **21%** | *$6.6 million*  *+$7.5 million  (from regional orgs)*  **$14.1 million** | **21%** | 10% of the remaining funds |
| Regional Cultural Organizations | *$38 million*  *-$7.6 million  (to school access)*  *-3.8 million*  *(to communities)*  **$26.6 million**  *($19 million unrestricted)* | **39%** | *$37.6 million*  *-$7.5 million  (to school access)*  **$30.1 million** | **45%** | 70% of the remaining funds go to regional organizations[[13]](#footnote-13)  *(At least 20% of these funds must be used for participation in the school access program)* |
| Community-based Cultural Organizations | **$1.8 million *(admin)***  *$20.1 million*  *+3.8 million (to communities)*  **$23.8 million** | **38%** | **$1.7 million *(admin)***  **$20.1 million *(community orgs)*** | **32%** | All remaining funds, with up to 8% going to 4Culture’s admin costs |

***Comparison of Proposed Ordinance 2017-0178 to 2017-0104***

Proposed Ordinance 2017-0178 includes the following additions and changes compared to the Executive transmitted proposal:

* **Regional cultural organizations requirements**: Includes mandatory requirements for regional cultural organizations to provide equity and inclusion public benefits and a geographic distribution public benefit. Such benefits would be aimed at providing cultural programs for people with economic and geographic barriers to access. Regional cultural organizations would be required to expend at least 30% of their award annually on equity and inclusion benefits, with at least 10% of those programs occurring in cities without regional cultural organizations. Regional cultural organizations would also have the option of meeting the geographic distribution requirement by contributing 10% of their award to 4Culture for distribution to community-based cultural organizations.
* **$1 million to community-based cultural organizations in each county council district**: Requires 4Culture to distribute a total of at least $1 million each year to community-based cultural organizations in each county council district.
* **Annual reporting**: Requires 4Culture’s annual report on the program to the Executive and Council to include specific provisions, including a report on the distribution of funds and number of people served, broken down by council district. The first report to be transmitted March 31, 2019, after the first full year of tax collections, rather than March 31, 2018.
* **Council approval of the implementation plan**: Requires Council approval by ordinance of the implementation plan, and allows for amendments to the implementation plan, which could be initiated by the Executive or Council, with Council approval by ordinance. Restricts proceeds of the tax, except start-up funding, from being spent until the implementation plan is approved by the Council.
* **Subarea, equity, and start-up plans**: Requires 4Culture to develop three plans with input from the community and in consultation with County Councilmembers:
  + Cultural opportunity and access expansion plans for the east, west, and south subareas of the county
  + A countywide cultural access equity plan for achieving equity and inclusion outcomes
  + A cultural organization start-up plan for fostering the development of new cultural organizations.
* **Council appointment and confirmation of equity advisory committee members**: Requires that at least 9 of the members of the equity advisory committee 4Culture would establish would be recommended one each by each Councilmember and confirmed by the King County Council.
* Makes a number of technical changes to clarify the ordinance and comply with the state law, including amending 4Culture’s charter to include the authority to administer the Access for All program.

***Fiscal Impact***

The Executive’s proposal for a 0.1 percent sales tax for Access for All represents the maximum funding amount allowed under state law, which provides for the program to be funded by a sales tax increase of up to 0.1 percent. According to the Washington State Department of Revenue staff, state law would allow for imposing a tax increment of less than 0.1 percent to fund the program.

The 0.1 percent sales tax increase is projected to raise $67.4 million for Access for All in 2018, and $142.8 million in the 2019/2020 biennium, and $531 million over the life of the seven year program[[14]](#footnote-14).

For reference, Table 1 below shows the breakdown of the total combined sales tax rate for three different types of areas that represent rates in most King County jurisdictions effective April 1, 2017.

**Table 1. Breakdown of Total Combined Sales Tax Rate in King County**

**(*Effective April 1, 2017*)**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Rural areas  (Non-RTA[[15]](#footnote-15)) | Suburban  (RTA, non-Seattle) | Seattle |
| State | 6.50% | 6.50% | 6.50% |
| County General Fund | 0.15% | 0.15% | 0.15% |
| City General Fund | 0.85% | 0.85% | 0.85% |
| County Metro Transit | 0.90% | 0.90% | 0.90% |
| County MIDD | 0.10% | 0.10% | 0.10% |
| County/City Criminal Justice | 0.10% | 0.10% | 0.10% |
| Sound Transit | n/a | 1.40% | 1.40% |
| Seattle Transportation Benefit District (TBD) | n/a | n/a | 0.10% |
| TOTAL | **8.60%** | **10.00%** | **10.10%** |

In addition, Table 2 below shows the impact of the Access for All sales tax for households at varying levels of median household income.

**Table 2. Annual Impact of Access for All Sales Tax to Households at Various Income Levels[[16]](#footnote-16)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | % of Median Household Income | | | | |
|  | **30%** | **60%** | **100%** | **120%** | **150%** |
| Annual Household Income | $24,106 | $48,213 | $80,354 | $96,425 | $120,531 |
| Current Combined Sales Tax Paid Annually (10.00%) | $1,306 | $2,219 | $3,045 | $3,590 | $4,276 |
| Access for All Sales Tax Paid Annually (0.10%) | **$13** | **$22** | **$30** | **$36** | **$43** |
| TOTAL Sales Tax (10.10%) | $1,319 | $2,241 | $3,075 | $3,626 | $4,319 |
| % of Household Income | 5.47% | 4.65% | 3.83% | 3.76% | 3.58% |

It should be noted that RCW 82.14.410, enacted in 2001, stipulates that a local sales tax rate increase implemented after December 1, 2000, must exempt sales of lodging from such local sales tax, if this tax would cause the combined tax rate on lodging to exceed 12 percent or the actual rate that existed on December 1, 2000 if greater than 12 percent. Currently, the combined tax rate for lodging, with 60 or more rooms, exceeds 12 percent for most jurisdictions in King County[[17]](#footnote-17). Therefore, if passed, the Access for All sales tax will not be applied to the lodging tax for most jurisdictions in King County.

Annual Fund Balance

At year end, a fund balance may remain due to various reasons. The proposed ordinance does not provide guidelines on how the remaining funds available each year should be allocated in subsequent years. According to 4Culture, these funds will be added to the tax proceeds of the subsequent year and distributed according to the allocation provisions of the proposed ordinance.

***Timing***

The Council would need to act on the Access for All proposal by May 1 for regular action with minimal processing time.[[18]](#footnote-18) Beginning May 8 and no later May 12th[[19]](#footnote-19) the Council could take emergency action to place it on the August 1 ballot. If BFM does not act by April 12, the next planned regular meeting would be **May 10**[[20]](#footnote-20).

***Legal Review***

A number of questions that have been raised by Councilmembers are related to what is legally permissible under the state statute. Council legal counsel has completed a review of the proposed ordinance and is available to discuss these questions.

***Additional Access for All program analysis can be found in the staff report for Proposed Ordinance 2017-0104.***

**ATTACHMENTS**

1. Proposed Ordinance 2017-0178
2. Track changes comparison of Proposed Ordinance 2017-0178 to Proposed Ordinance 2017-0104

**INVITED**

1. Sung Yang, Deputy Executive for Policy, Planning, and Public Affairs, King County Executive
2. Jim Kelly, Executive Director, 4Culture
3. Aaron Rubardt, Financial Planning Manager, King County Executive

1. The Council’s last regularly scheduled meeting prior to this date is May 8, 2017. [↑](#footnote-ref-1)
2. Including funding that would be used to administer to program. [↑](#footnote-ref-2)
3. Ordinance 14482 [↑](#footnote-ref-3)
4. http://www.4culture.org/about/financials/index.htm [↑](#footnote-ref-4)
5. http://www.4culture.org/calendar/index.htm [↑](#footnote-ref-5)
6. http://scfd.org/ [↑](#footnote-ref-6)
7. A coalition of the King County suburban city arts commissions. [↑](#footnote-ref-7)
8. A collaboration of approximately 75 south county arts and heritage organizations and individuals. [↑](#footnote-ref-8)
9. A membership organization of approximately 80 heritage groups. [↑](#footnote-ref-9)
10. According to the Fiscal Note accompanying Proposed Ordinance 2017-0104 [↑](#footnote-ref-10)
11. RCW 36.160 [↑](#footnote-ref-11)
12. Start-up costs would only include costs incurred after creation of the Access for All program and would be determined in the budget process. [↑](#footnote-ref-12)
13. Regional organizations are defined as having annual budgets of 1) at least $3 million or 2) an annual budget of at least $1.25 million and annual attendance of over 50,000. [↑](#footnote-ref-13)
14. Based on King County Office of Economic and Financial Analysis (OEFA) August 2016 King County Sales and Use Taxbase Forecast. [↑](#footnote-ref-14)
15. Regional Transit Authority district [↑](#footnote-ref-15)
16. Analysis based on Washington State DOR alternative tax model provided by PSB using 2015 Median Household Income levels for King County determined by inflated CPI levels. [↑](#footnote-ref-16)
17. King County Regional Transit Authority (RTA) Tax Reporting Change for Lodging – *Effective April 1, 2017*. http://dor.wa.gov/Docs/Pubs/SpecialNotices/2017/sn\_Apr\_17\_KingCoRTA.pdf. [↑](#footnote-ref-17)
18. Minimal processing time compresses the amount of time for the Council Chair and Executive to sign the ordinance in order to have it take effect in time to meet the deadline for the measure to appear on the ballot. [↑](#footnote-ref-18)
19. The Council’s last regularly scheduled meeting prior to this date is May 8, 2017. [↑](#footnote-ref-19)
20. The April 26 BFM meeting will be cancelled due to an expected lack of quorum. [↑](#footnote-ref-20)