

## SB 442 AND AB 853 SUMMARY CULTURAL ARTS DISTRICT

### OVERVIEW

SB 442 and AB 853 grant to cities, with populations greater than 150,000, the authority to create a local cultural arts district. The district would be created pursuant to specified actions taken by a city's mayor and its common council. A cultural arts district would be a local unit of government separate and distinct from both the sponsoring city and the state.

A cultural arts district would be governed by a 13-member board of directors. Its members would serve 4-year terms and be required to live within 25 miles of the city. The mayor of the sponsoring city, the county executive of the county within which the sponsoring city is located, and the governor would be ex-officio board members. In addition, the mayor would appoint six board members, the governor would appoint three members, and the county executive would appoint one.

### PURPOSE

This legislation is sought by the City of Madison and the Overture Foundation. The Overture Foundation is a private, non-profit organization which was created in 1996, with the primary purpose of supporting the arts and culture in Madison and Dane County. It allows the city to create a public entity that will own and operate a regional arts facility in downtown Madison, made possible by a private donation of approximately \$100 million. Passage of the proposed legislation in this session is necessary to keep the project on schedule.

This governance structure accomplishes a number of important goals. It enhances prospects for the project's operating stability and long term success. In recognition of the fact that the cultural arts facilities will produce regional benefits, it provides for regional representation on the governing board. It establishes that the cultural arts district, and not taxpayers, will be responsible for fiscal and operating liabilities associated with the facilities. It provides for and maintains a level of public accountability and input to the operation of these facilities that would not exist if they were privately managed. It provides the mechanism necessary to convey federal tax benefits associated with the gift which was made for the project.

### POWERS GRANTED TO A CULTURAL ARTS DISTRICT

A cultural arts district would have powers necessary to carry out the acquisition, construction, and operation of cultural arts facilities. These would include the power to acquire real property, including by condemnation; to sue and be sued; to construct, equip, maintain, improve, manage, and operate cultural arts facilities; to employ personnel; to enter into contracts; and to collect fees with respect to use of cultural arts facilities.

## CONDEMNATION AUTHORITY

The granting of condemnation authority is needed to satisfy federal tax code requirements. Its presence preserves the favorable tax treatment afforded the current donation and any future donations under federal tax law. In doing so, it establishes the framework for a governance structure that limits public exposure to liability associated with operating cultural arts facilities while providing a far higher level of public accountability.

A cultural arts district would have the authority to acquire property by condemnation. **This authority, however, is confined only to the specific geographic area prescribed by the sponsoring city in its authorizing resolution.** The city, if it chooses, could modify this geographic area in a subsequent resolution. Condemnation authority is not available in a first class city.

## TAX EXEMPTIONS

The cultural arts district will receive tax advantages associated with its status as a local government entity. Property of a cultural arts district would be exempt from property taxes. This exemption does not apply, however, to property used for a for-profit restaurant or retail business that is not part of the physical structure of the cultural arts district. The exemption also does not apply to parking facilities that are not used to support the operation of a cultural arts district. The sponsoring city is authorized to collect a payment in lieu of property taxes from the district.

The income of a cultural arts district is exempt from state income taxes and the income and interest from the district's obligations are exempt from state and federal income taxes. Goods and services purchased by a cultural arts district are exempt from the state sales tax.

## STATE ADMINISTRATIVE AND EMPLOYMENT PROVISIONS

Cultural arts districts would be subject to open meetings and public records requirements of state law.

Cultural arts districts would be subject to state fair employment laws, federal wage and hour labor relation laws, and municipal equal employment opportunity ordinances.

Cultural arts districts would be subject to audit by the Legislative Audit Bureau and by the sponsoring city.

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