

By: Senator(s) Farris

To: Finance

SENATE BILL NO. 2616

1 AN ACT TO CREATE THE ALLOCATION FOR ART FOR PUBLIC FACILITIES
 2 ACT; TO DECLARE LEGISLATIVE INTENT AND PURPOSE; TO REQUIRE STATE
 3 AGENCIES TO EXPEND, OUT OF MONIES APPROPRIATED FOR ORIGINAL
 4 CONSTRUCTION, REMODELING OR RENOVATION OF ANY STATE FACILITY, A
 5 CERTAIN PERCENTAGE FOR THE PURPOSE OF INCLUDING WORKS OF ART IN
 6 SUCH FACILITY; TO REQUIRE THE STATE ARTS COMMISSION TO KEEP AN
 7 INVENTORY OF THE WORKS OF ART ACQUIRED UNDER THIS ACT; ADMINISTER
 8 THIS ACT; TO PROVIDE THAT THE STATE OF MISSISSIPPI SHALL RECEIVE
 9 THE RIGHT TO SOLE OWNERSHIP AND PUBLIC DISPLAY OF ALL ART ACQUIRED
 10 UNDER THIS ACT, SUBJECT TO CERTAIN RIGHTS RETAINED BY THE ARTIST;
 11 AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** This act shall be known and may be cited as the
 14 "Allocation for Art for Public Facilities Act."

15 **SECTION 2.** The Legislature declares that the State of
 16 Mississippi has a responsibility for expanding public experience
 17 of art, and it recognizes the necessity of fostering culture and
 18 the arts and in developing artists and craftsmen. Art creates a
 19 more humane environment: one of distinction, enjoyment and pride
 20 for all citizens. The Legislature recognizes that public art also
 21 is a resource which stimulates the vitality and the economy of the
 22 state's communities and which provides opportunities for artists
 23 and other skilled workers to practice their crafts. The
 24 Legislature declares it to be a matter of public policy that a
 25 portion of each capital construction appropriation be allocated
 26 for the acquisition of works of art to be placed in public places
 27 constructed.

28 **SECTION 3.** (1) A state building or state facility
 29 constructed or remodeled or renovated after July 1, 2001, shall
 30 include works of art for public display.



31 (2) All state agencies or departments may expend, as a
32 nondeductible item, out of any monies appropriated for original
33 construction, remodeling or renovation of any state facility an
34 amount of not to exceed one percent (1%) for the purpose of
35 including works of art in such facility.

36 (3) Nothing in this act shall prohibit additional
37 expenditures for art beyond the amounts provided by specific
38 appropriation.

39 (4) For the purpose of this section, "state building" or
40 "state facility" shall not include highway construction or
41 construction related to highway sheds, warehouses and other
42 buildings of a temporary nature.

43 **SECTION 4.** (1) The Mississippi Arts Commission shall keep
44 an inventory of the works of art acquired under this act. It
45 shall also periodically review and examine such artwork, reporting
46 to the Legislature when restoring, repairing or replacing any work
47 of art is necessary and how that should be accomplished. The
48 costs of administering the program, other than immediately
49 aforementioned, shall be provided by the Legislature in its annual
50 appropriations to the commission.

51 (2) Annually, the Mississippi Arts Commission shall report
52 to the Legislature all activity under this act.

53 (3) Artists and their works of art to be acquired under this
54 act shall be approved by the Mississippi Arts Commission.
55 Pursuant to procedures established by the commission, the
56 architect, the user, the representative(s) of the community shall
57 be consulted as to acquisitions under this act. Priority will be
58 granted to artists who are residents of the State of Mississippi.

59 (4) The acquisition of art under this act shall be exempt
60 from any and all state bidding requirements.

61 **SECTION 5.** For the purposes of this act, the following terms
62 have the following meanings:



63 (a) "Art," "artwork" or "works of art" include, but are
64 not limited to, frescoes, mosaics, sculpture, drawing, painting,
65 photograph, calligraphy, graphic art, stained glass, wall
66 hangings, tapestries, fountains, ornamental gateways, monuments,
67 displays, architectural embellishments, crafts, architectural
68 landscaping, landscape gardening, or any work of mixed media by a
69 professional artist, artisan or crafts person.

70 (b) "Capital construction" and "construction cost" mean
71 cost expended for the actual construction of a given state
72 building or facility, exclusive of the costs of land acquisition,
73 and include costs for remodeling, reconstruction or renovation.

74 (c) "State building," "public building," "state
75 facility" and "public facility" include, but are not limited to,
76 any permanent structure, together with all grounds and appurtenant
77 structures which are intended to act as offices, laboratories,
78 workshops, courtrooms, hearing or meeting rooms, storage or other
79 space for carrying on the functions of a state agency;
80 auditoriums, meeting rooms, classrooms or other educational
81 facilities, eating, sleeping, medical, dental, library or museum
82 space for use by the general public. This definition does not
83 include public highways, bridges, sewers, fish ponds, fish
84 hatcheries, service facilities at state parks and highway rest
85 areas, or separate buildings not part of a larger construction
86 project, which are intended solely as storage, warehouse or
87 maintenance and repair facilities.

88 (d) "Commission" means the State Arts Commission.

89 (e) "Artist" includes, but is not limited to, any
90 practitioner generally recognized by his peers or by critics as a
91 professional who produces works of art. This definition does not
92 include the architect of the subject public building under
93 construction or any member of that architect's firm.

94 (f) "Architect" means any person or firm retained to
95 design, or prepare plans or specifications for any part of the



96 public construction project, including, but not limited to,
97 landscape, interior, electrical, plumbing, heating, utility,
98 engineering or fixture design.

99 (g) "State agency" or "department" means the agency of
100 state government to which funds have been appropriated or
101 allocated by the Legislature for the construction, remodeling,
102 reconstruction or renovation of any public building or other
103 public facility.

104 (h) "Construction" is defined to include, but is not
105 limited to, original construction, remodeling or renovation.

106 (i) "Acquisition" includes acquisition by purchase,
107 lease or commission.

108 (j) "User" means the designated person, agency,
109 department or entity having principal administrative
110 responsibility for the actual utilization of a proposed state
111 facility.

112 (k) "Representative(s) of the community" means a person
113 or representative of a group or groups which would be reasonably
114 expected to utilize the building or facility.

115 **SECTION 6.** (1) The State of Mississippi shall receive the
116 rights to sole ownership and public display of all art acquired
117 under this act, subject to the following intangible rights
118 retained by the artist:

119 (a) The right to claim authorship of the work of art;

120 (b) The right to reproduce such work of art, including
121 all rights to which the work of art may be subject under copyright
122 laws, including, but not limited to, derivative and publishing
123 rights but excluding right to public display. Such rights may be
124 limited by written contract.

125 (c) If provided by written contract, the right to
126 receive a specified percentage of the proceeds if the work of art
127 is subsequently sold by the State of Mississippi to a third party



128 other than as part of the sale of the building in which the work
129 of art is located.

130 (d) If agreed between the State of Mississippi and the
131 artist, the artist may extend to his heirs, assignees or personal
132 representatives any of the above rights until the end of the
133 twentieth year following the death of such artist.

134 (2) The artist shall retain as absolute the following
135 rights:

136 (a) The right to have the artist's name associated with
137 the work;

138 (b) The right to prevent degradation, mutilation or
139 aesthetic ruining of the work.

140 (3) Prior to the execution of a contract for artwork to be
141 acquired pursuant to this act, the artist shall be informed in
142 writing of the rights specified in subsections (1) and (2).

143 **SECTION 7.** Nothing in this act shall be construed as
144 precluding the placement or purchase of other works of art. Nor
145 shall anything in this act be construed as precluding the use of
146 ornamental detailing, or other architectural, functional or
147 structural garnishing in constructing public buildings or
148 facilities. Works of art acquired pursuant to this act are to be
149 in addition to such embellishments.

150 **SECTION 8.** In the event any section, subsection, sentence,
151 clause or phrase of this act shall be declared or adjudged invalid
152 or unconstitutional, such adjudication shall in no manner affect
153 the other sections, subsections, sentences, clauses or phrases of
154 this act, which shall remain in full force and effect, as if the
155 section, subsection, sentence, clause or phrase so declared or
156 adjudged invalid or unconstitutional were not originally a part
157 hereof. The Legislature hereby declares that it would have passed
158 the remaining parts of this act if it had known that such part or
159 parts hereof would be declared or adjudged invalid or
160 unconstitutional.



161 **SECTION 9.** This act shall take effect and be in force from
162 and after July 1, 2002.

