

By: Senator(s) Farris

To: Finance

SENATE BILL NO. 2278

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, 2003.

