SENATE BILL NO. 2278

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

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

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

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

SECTION 3. (1) A state building or state facility constructed or remodeled or renovated after July 1, 2001, shall include works of art for public display.
(2) All state agencies or departments may expend, as a nondeductible item, out of any monies appropriated for original construction, remodeling or renovation of any state facility an amount of not to exceed one percent (1%) for the purpose of including works of art in such facility.

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

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

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

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

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

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

SECTION 5. For the purposes of this act, the following terms have the following meanings:
(a) "Art," "artwork" or "works of art" include, but are not limited to, frescoes, mosaics, sculpture, drawing, painting, photograph, calligraphy, graphic art, stained glass, wall hangings, tapestries, fountains, ornamental gateways, monuments, displays, architectural embellishments, crafts, architectural landscaping, landscape gardening, or any work of mixed media by a professional artist, artisan or crafts person.

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

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

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

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

(f) "Architect" means any person or firm retained to design, or prepare plans or specifications for any part of the
public construction project, including, but not limited to, landscape, interior, electrical, plumbing, heating, utility, engineering or fixture design.

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

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

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

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

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

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

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

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

(c) If provided by written contract, the right to receive a specified percentage of the proceeds if the work of art is subsequently sold by the State of Mississippi to a third party.
other than as part of the sale of the building in which the work
of art is located.

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

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

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

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

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

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

SECTION 8. In the event any section, subsection, sentence,
clause or phrase of this act shall be declared or adjudged invalid
or unconstitutional, such adjudication shall in no manner affect
the other sections, subsections, sentences, clauses or phrases of
this act, which shall remain in full force and effect, as if the
section, subsection, sentence, clause or phrase so declared or
adjudged invalid or unconstitutional were not originally a part
hereof. The Legislature hereby declares that it would have passed
the remaining parts of this act if it had known that such part or
parts hereof would be declared or adjudged invalid or
unconstitutional.
SECTION 9. This act shall take effect and be in force from and after July 1, 2003.