

By: Senator(s) Horhn

To: Public Property;
Appropriations

SENATE BILL NO. 2951

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 ALLOCATED FOR ORIGINAL
4 CONSTRUCTION, REMODELING OR RENOVATION OF ANY STATE FACILITY, A
5 CERTAIN PERCENTAGE FOR THE PURPOSE OF INCLUDING WORKS OF ART BY
6 MISSISSIPPI ARTISTS IN SUCH FACILITY; TO ESTABLISH IN THE STATE
7 TREASURY THE "ART FOR PUBLIC FACILITIES FUND"; TO AUTHORIZE THE
8 MISSISSIPPI ARTS COMMISSION TO ADMINISTER THIS ACT; TO PROVIDE
9 THAT THE STATE OF MISSISSIPPI SHALL RECEIVE THE RIGHT TO SOLE
10 OWNERSHIP AND PUBLIC DISPLAY OF ALL ART ACQUIRED UNDER THE ACT,
11 SUBJECT TO CERTAIN RIGHTS RETAINED BY THE ARTIST; AND FOR RELATED
12 PURPOSES.

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

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

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

29 **SECTION 3.** For the purposes of this act:

30 (a) "Art," "artwork" or "works of art" include, but are
31 not limited to: frescoes, mosaics, sculpture, drawing, painting,
32 photograph, calligraphy, graphic art, stained glass, wall

33 hangings, tapestries, fountains, ornamental gateways, monuments,
34 displays, architectural embellishments, crafts, architectural
35 landscaping, landscape gardening, or any work of mixed media by a
36 professional artist, artisan or crafts person.

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

41 (c) "State building," "public building," "state
42 facility" and "public facility" include, but are not limited to,
43 any permanent structure, together with all grounds and appurtenant
44 structures which are intended to act as offices, laboratories,
45 workshops, courtrooms, hearing or meeting rooms, storage or other
46 space for carrying on the functions of a state agency;
47 auditoriums, meeting rooms, classrooms or other educational
48 facilities, eating, sleeping, medical, dental, library or museum
49 space for use by the general public. This definition does not
50 include public highways, bridges, sewers, fish ponds, fish
51 hatcheries, service facilities at state parks and highway rest
52 areas, or separate buildings not part of a larger construction
53 project, which are intended solely as storage, warehouse or
54 maintenance and repair facilities or any building for which the
55 cost of construction, remodeling or renovation is less than Five
56 Hundred Thousand Dollars (\$500,000.00).

57 (d) "Commission" means the Mississippi Arts Commission.

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

63 (f) "Architect" means any person or firm retained to
64 design, or prepare plans or specifications for any part of the
65 public construction project, including, but not limited to,

66 landscape, interior, electrical, plumbing, heating, utility,
67 engineering or fixture design.

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

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

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

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

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

84 **SECTION 4.** (1) A state building or state facility
85 constructed or remodeled or renovated after July 1, 2007, shall
86 include works of art for public display.

87 (2) All state agencies or departments shall expend, as a
88 nondeductible item, out of any public money allocated for original
89 construction, remodeling or renovation of any state building or
90 state facility an amount of at least one percent (1%) for the
91 purpose of including works of art in such facility.

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

95 **SECTION 5.** A separate account is established within the
96 State Treasury to be known and maintained as the Art for Public
97 Facilities Fund. Money in the fund at the end of a fiscal year
98 shall not lapse and interest and investment earnings on money in

99 the fund shall be deposited to the credit of the fund. The fund
100 shall be used for acquisition of art as provided in this act and
101 for expenses incurred in the administration of this program. The
102 fund may derive income from:

103 (a) Appropriations;

104 (b) Grants, from governmental or other sources;

105 (c) Gifts, if the terms of the gift are consistent with
106 the purposes of this act and other lawful requirements;

107 (d) Other appropriations made by the Legislature; and

108 (e) Bond proceeds.

109 **SECTION 6.** (1) The commission shall be responsible for
110 administration of this act. It shall have the power and authority
111 to contract with Mississippi artists in such manner as is in
112 conformity with this act, and it shall have authority to make
113 expenditures from the Art for Public Facilities Fund from the
114 funds available in such fund. It shall select and appoint each
115 panel provided by this act and shall have authority to make
116 expenditures for expenses of such panel as provided in this act.

117 (2) The Mississippi Arts Commission shall keep an inventory
118 of the works of art acquired under this act. It shall also
119 periodically review and examine such artwork, reporting to the
120 Legislature when restoring, repairing or replacing any work of art
121 is necessary and how that should be accomplished. Any costs in
122 this connection will be subject to additional appropriations by
123 the Legislature and shall not be charged against the Art for
124 Public Facilities Fund, except where specific appropriation is
125 made to such fund for any given restoration, repair or
126 replacement. Except as otherwise provided in this section, the
127 costs of administering the program shall be provided by the
128 Legislature in its annual appropriations to the commission.

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

131 **SECTION 7.** (1) Mississippi artists and their works of art
132 to be acquired under this act shall be selected by the commission,
133 with the advice of a panel specifically chosen for each project,
134 pursuant to procedures established by the commission. Each panel
135 shall contain at least a representative of the architect, a
136 representative of the user, a representative of the community and
137 a professional artist.

138 (2) The acquisition of art under this act shall be exempt
139 from any and all state bidding requirements. Panel members shall
140 not be paid except for reimbursement for necessary costs and
141 in-state travel expenses. Panel members and members of their
142 families shall not be considered in the selection of an artist.
143 All formal or informal meetings and deliberations by the panel
144 shall be open and public. Cooperation with other local and
145 national art agencies is required.

146 **SECTION 8.** (1) The State of Mississippi shall receive the
147 rights to sole ownership and public display of all art acquired
148 under this act, subject to the following intangible rights
149 retained by the artist:

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

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

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

161 (d) If agreed between the State of Mississippi and the
162 artist, the artist may extend to his heirs, assignees or personal

163 representatives any of the above rights until the end of the
164 twentieth year following the death of such artist.

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

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

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

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

175 **SECTION 9.** Nothing in this act shall be construed as
176 precluding the placement or purchase of other works of art. Nor
177 shall anything in this act be construed as precluding the use of
178 ornamental detailing, or other architectural, functional or
179 structural garnishing in constructing public buildings or
180 facilities. Works of art acquired pursuant to this act are to be
181 in addition to such embellishments.

182 **SECTION 10.** This act shall take effect and be in force from
183 and after July 1, 2007.