

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 1347

By: Williams, Snyder, Fair,  
Horner, Crutchfield, Kerr,  
Maddox, Myers, Rabon,  
Shurden, Wilkerson, Cain,  
Ford, Williamson, Morgan  
and Corn of the Senate

and

Wells, Sullivan, Braddock,  
Staggs and Nations of the  
House

COMMITTEE SUBSTITUTE

An Act relating to public buildings and public works; creating the Oklahoma Art in Public Places Act; providing short title; stating legislative declarations; stating purpose; declaring the Oklahoma Historical Society as the administrative agency; authorizing the adoption of certain rules; defining terms; providing for an Art in Public Places Division; stating purpose; creating the Art in Public Places Oversight Committee; designating membership; stating terms, officers, vacancies, meetings and quorum; stating powers and duties of the Committee; providing for a Division Director; exempting artwork from the Oklahoma Central Purchasing Act; authorizing the State Capitol Preservation Commission and governing boards of institutions of higher education to retain certain administrative control; exempting the Commission from certain oversight provisions; providing for travel reimbursement; providing for appointment of site committees; excepting certain art projections from site committee appointment; stating site committee for Capitol and Governor's Mansion; providing for appointments, powers, and duties of such committee; limiting duration of the site committee; stating certain art shall become property of the state under certain conditions; requiring specified allocations for the funding of the Oklahoma Art in Public Places Act for works of art; limiting amount and application of assessment; specifying percentages of assessment for certain purposes; providing cap on such assessment; allowing placement of art in certain locations; providing for placement of assessment in specified fund; authorizing higher education to be in complete administrative control of certain assessment; providing for certain subaccounts and stating purpose; creating the Commissioning of Art in Public Places Revolving Fund; providing for receipt of monies; authorizing certain subaccounts and stating purposes; providing for appropriation and expenses; stating procedures; providing for pooling

of certain monies for certain purposes; creating the Art in Public Places Administrative and Maintenance Revolving Fund; providing for certain subaccounts and stating purposes; providing for receipt and expenditures of such monies; providing procedures; placing cap on such fund with unencumbered balance transferred to the Commissioning of Art in Public Places Revolving Fund to the credit of appropriate subaccount; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9030 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Art in Public Places Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9030.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Legislature recognizes the responsibility of Oklahoma to foster culture and the arts and declares that a portion of expenditures for capital projects including, but not limited to, bond issues for state construction be set aside for the acquisition of works of art to be placed in public construction or on public lands.

B. The purpose of the Oklahoma Art in Public Places Act is to enhance public construction and encourage state cultural development.

C. The administering agency shall be the Oklahoma Historical Society which is authorized to promulgate rules to administer the Oklahoma Art in Public Places Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9030.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Art in Public Places Act:

1. "Art", "artwork", or "work of art" means all forms of original creations of visual art, except for blasphemous material as defined by Section 901 of Title 21 of the Oklahoma Statutes or indecent or obscene material as defined by Section 1024.1 of Title 21 of the Oklahoma Statutes, including, but not limited to:

- a. sculpture, in any material or combination of materials, whether in the round, bas-relief, high relief, mobile, fountain, kinetic, or electronic,
- b. painting, including murals and frescoes,
- c. mosaic,
- d. photography,
- e. fine crafts made from clay, fiber and textiles, wood, glass, metal, plastics or any other material, or any combination thereof,
- f. drawing,
- g. calligraphy,
- h. mixed media composed of any combination of forms or media,
- i. unique architectural stylings or embellishments, including architectural crafts,
- j. ornamental gateways, and
- k. restoration or renovation of existing works of art of historical significance;

2. "Artist" means a practitioner in the visual arts committed to producing high quality work, as recognized by the peers and critics of the artist, on a regular basis. The term "artist" shall not include the architect of a public building under construction or any member of the architectural firm of the architect;

3. "Society" means the Oklahoma Historical Society;

4. "Division" means the Art in Public Places Division;

5. "Maintenance" means the ongoing upkeep required for artworks to retain their structural and aesthetic integrity;

6. "Appointing authority" shall be the Director or designee of the Project Agency;

7. "Project" means any capital expenditure, including, but not limited to, bond issues, with the purpose of renovating or constructing public buildings costing Two Hundred Fifty Thousand Dollars (\$250,000.00) or more;

8. "Project agency" means institutions within The Oklahoma State System of Higher Education or the department, board, commission, institution, or agency of the state subject to the Oklahoma Art in Public Places Act. The legislative and judicial branches of the State of Oklahoma shall be subject to the procedures of the Oklahoma Art in Public Places Act or shall implement another process to include art in locations subject to the control of those branches. Provided, that the expenditure for commissioning art by the legislative and judicial branches shall be no less than that established by Section 6 of this act;

9. "Project architect" means the person or firm designing the public construction project;

10. "Public construction" or "public building" means any state building, facility, structure or park constructed, including any state-owned lands or space surrounding or integral to the building, facility, structure or park. The term "public construction" or "public building" shall not include:

- a. water, sewer, public utility projects, prisons, projects with the primary purpose of complying with the standards of the Americans with Disabilities Act, and data processing purchases which are not part of a public construction project and any capital projects undertaken by political subdivisions of the state as defined by paragraph 8 of Section 152 of Title 51 of the Oklahoma Statutes on buildings or land that they control, and

b. capital projects subject to federal public art laws. Participation in the Oklahoma Art in Public Places Act shall be permissive for road, highway, turnpike, and bridge construction projects of the Department of Transportation and the Oklahoma Transportation Authority;

11. "Public land" means a site owned by the State of Oklahoma with major public access and visibility that serves a business, social, or environmental need; and

12. "Repair" means those extraordinary activities required to repair or restore a malfunctioning or damaged work of art.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9030.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Historical Society may create an Art in Public Places Division to administer the Oklahoma Art in Public Places Act.

B. There is hereby created an Art in Public Places Oversight Committee comprised of:

1. The Director of the Department of Central Services, or designee;

2. The Director of the Oklahoma Arts Council, or designee;

3. The Director of the Oklahoma Historical Society, or designee;

4. The Director of the Department of Transportation, or designee;

5. The Chancellor of the Oklahoma State Regents for Higher Education or designee;

6. One artist appointed by the Director of the Oklahoma Arts Council;

7. One architect appointed by the Director of Central Services;

8. One engineer appointed by the Director of Central Services;

and

9. One museum director/curator appointed by the Director of the Oklahoma Historical Society.

C. 1. All appointed members shall serve a term of three (3) years and may be reappointed for one additional three-year term.

2. The Director of the Oklahoma Historical Society shall be the initial chair of the Committee. The officers of the Committee shall be a chair, a vice-chair, and a secretary elected at the last meeting of each fiscal year. Appointments to fill officer vacancies shall be made by the chair between elections.

3. Meetings shall be held at the call of the chair, and for the initial appointments, a majority of the members present shall constitute a quorum.

D. Except as provided for in subsections F and G of this section, the Oversight Committee is empowered with overseeing each of the following phases of the development and management of the Oklahoma Art in Public Places Act:

1. Develop job specifications for a Division Director of the Art in Public Places Division, who shall not be subject to the Merit System of Personnel Administration;

2. Make recommendations for the implementation of the Art in Public Places Program to the Director of the Oklahoma Historical Society; and

3. Develop methods of selection of artists, criteria for selection, final approval of site projects, maintenance and repair of works of art, and periodic evaluation of the Program.

E. Artwork or art restoration projects in the administrative control of the Oversight Committee pursuant to the Oklahoma Art in Public Places Act shall not be subject to the Oklahoma Central Purchasing Act, but the projects shall be subject to a call for entries process established by the Oversight Committee.

F. Members shall be reimbursed for necessary travel expenses in accordance with the State Travel Reimbursement Act.

G. The State Capitol Preservation Commission shall retain its administrative control over art projects for the Capitol and the Governor's Mansion as provided for in Section 4104 of Title 74 of the Oklahoma Statutes.

H. The governing boards for institutions of higher education or local boards of trustees shall perform the duties of the Oversight Committee for art projects on the campuses that they oversee.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9030.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. A site committee shall be appointed by the appointing authority of the project agency, except for art projects on higher education campuses, for each project and, if the project involves a facility with more than one agency, a representative from each agency shall be appointed.

2. The site committee for the Capitol and the Governor's Mansion shall be the State Capitol Preservation Commission. The Commission shall be exempt from oversight provisions of the Public Places Oversight Committee.

3. The site committee is charged with making recommendations to the Oversight Committee, selection of the location for the artwork, media for the artwork, artist selection, development of a project-specific educational program for tourism and public school curriculum, and coordination of the dedication ceremony. The site committee shall report back to the Oversight Committee which has final approval authority.

4. Each site committee shall include the Art in Public Places Division Director, the project agency appointing authority or designee, and the project architect. The site committee shall also be comprised of not less than one local arts professional, one local artist, two community representatives, and one art educator who will be appointed by the project agency director.

5. The committee is limited to the duration of the project.

B. Upon completion of installation and final acceptance, any work of art commissioned shall become property of the State of Oklahoma.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9030.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. All state agencies, including institutions within The Oklahoma State System of Higher Education, all state departments, boards, councils, and commissions shall allocate, as a nondeductible item out of any expenditures for capital projects including, but not limited to, bond issues for state construction excluding costs for bond issuance and related reserves, an amount of one and one-half percent (1 1/2%) of the expenditure to the Oklahoma Historical Society for the purpose of funding the Oklahoma Art in Public Places Act, except as otherwise provided by subsection B of this section.

2. The maximum assessment for any project shall not exceed Five Hundred Thousand Dollars (\$500,000.00). This assessment shall not apply to any private donations for a capital project. This allocation shall be applicable to all state agency capital projects approved by the appointing authority after July 1, 2004. The works of art commissioned pursuant to the Oklahoma Art in Public Places Act may be placed on public lands, integral to or attached to a public building or structure, or detached within or outside a public building or structure.

B. 1. Of the assessment provided for in subsection A of this section, four-fifths (4/5) shall be placed in the Commissioning of Art in Public Places Revolving Fund, created in Section 7 of this act, for the commission of any work of art for the Oklahoma Art in Public Places Act. Institutions within The Oklahoma State System of Higher Education shall remain in complete administrative control of this four-fifths (4/5) assessment pursuant to this subsection for

the acquisition of art. The remaining one-fifth (1/5) of the assessment shall be reserved for the Art in Public Places Administrative and Maintenance Revolving Fund created by Section 8 of this act.

2. Monies deposited in the Art in Public Places Administrative and Maintenance Revolving Fund shall be divided equally between the subaccounts in the fund for:

- a. the maintenance and repair of works of art commissioned pursuant to the Oklahoma Art in Public Places Act, and
- b. the administrative and educational costs incurred by the Division.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9030.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. There is hereby created in the State Treasury a revolving fund for the Oklahoma Historical Society to be designated the "Commissioning of Art in Public Places Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Society from the sources provided for in Section 6 of this act.

2. The Society shall establish a separate subaccount for each project. Monies in these subaccounts may be used to match monies from other private and public sources for commissioning art in accordance with the Oklahoma Art in Public Places Act.

3. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Historical Society for the commissioning of art and insurance for the art in accordance with the Oklahoma Art in Public Places Act.

4. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. If there are monies from a project for the commissioning of art not spent, those monies may be pooled in the fund for the commissioning of art in, on, or near other state buildings.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9030.7 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. There is hereby created in the State Treasury a revolving fund for the Oklahoma Historical Society to be designated the "Art in Public Places Administrative and Maintenance Revolving Fund". All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Society. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Society from the sources provided for in Section 6 of this act.

2. This fund shall consist of two subaccounts, one account for maintenance and repair purposes and one account for administrative and education purposes. Monies accruing to the credit of the subaccount for maintenance and repair shall be used for the purpose of restoring art in all state public buildings including, but not limited to, public buildings at institutions within The Oklahoma State System of Higher Education.

3. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. Whenever the unencumbered balance in this fund exceeds One Million Dollars (\$1,000,000.00), the assessment shall be placed in the Commissioning of Art in Public Places Revolving Fund to the credit of the subaccount established for the project upon which the assessment was made.

SECTION 9. This act shall become effective July 1, 2004.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-2-15511      JB      03/31/04