

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2682

By: Blackwell

AS INTRODUCED

An Act relating to state government; amending Section 3, Chapter 254, O.S.L. 2004, Section 4, Chapter 254, O.S.L. 2004, Section 5, Chapter 254, O.S.L. 2004, Section 6, Chapter 254, O.S.L. 2004, as amended by Section 2, Chapter 400, O.S.L. 2004 and Section 7, Chapter 254, O.S.L. 2004 (74 O.S. Supp. 2005, Sections 9030.2, 9030.3, 9030.4, 9030.5 and 9030.6), which relate to the Oklahoma Art in Public Places Act; modifying definitions; modifying certain duties of the Oversight Committee; modifying recommendation requirements; adding exemptions; modifying the Commissioning of Art in Public Places Revolving Fund; clarifying the applicability of the act; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 3, Chapter 254, O.S.L. 2004 (74 O.S. Supp. 2005, Section 9030.2), is amended to read as follows:

Section 9030.2 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~~ chief executive officer of the Project Agency or in the case of higher education, the governing board of the university or college;

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~~ any agency, board, or commission in the executive branch including the institutions of The Oklahoma State System of Higher Education. 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~~ 9030.5 of this ~~act~~ title;

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 2. AMENDATORY Section 4, Chapter 254, O.S.L. 2004 (74 O.S. Supp. 2005, Section 9030.3), is amended to read as follows:

Section 9030.3 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 and H 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~~ this title.

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.

I. Agencies are encouraged to have artists involved during the design phase of large projects.

J. The Committee shall also develop a project-specific educational program for tourism and public school curriculum.

SECTION 3. AMENDATORY Section 5, Chapter 254, O.S.L. 2004 (74 O.S. Supp. 2005, Section 9030.4), is amended to read as follows:

Section 9030.4 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~~ acquired shall become property of the State of Oklahoma.

SECTION 4. AMENDATORY Section 6, Chapter 254, O.S.L. 2004, as amended by Section 2, Chapter 400, O.S.L. 2004 (74 O.S. Supp. 2005, Section 9030.5), is amended to read as follows:

Section 9030.5 A. 1. ~~All state agencies, including institutions within The Oklahoma State System of Higher Education, all state departments, boards, councils, and commissions~~ All project agencies 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~~ project 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 September 1, 2004~~ and for which the initial construction contract is executed after September 1, 2006. The works of art ~~commissioned~~ acquired 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 9030.6 of ~~Enrolled Senate Bill No. 1347 of the 2nd Session of the 49th Oklahoma Legislature,~~ this title for the ~~commission~~ acquisition 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 their 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~~ 9030.7 of ~~Enrolled Senate Bill No. 1347 of the 2nd Session of the 49th Oklahoma Legislature~~ this title.

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~~ acquired pursuant to the Oklahoma Art in Public Places Act, and
- b. the administrative and educational costs incurred by the Division.

3. Construction or building projects with The Oklahoma State System of Higher Education funded from student fees shall be exempt from the assessment made by this section.

SECTION 5. AMENDATORY Section 7, Chapter 254, O.S.L. 2004, (74 O.S. Supp. 2005, Section 9030.6), is amended to read as follows:

Section 9030.6 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~~ 9030.5 of this ~~act~~ title.

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~~ the acquisition of 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~~ acquisition 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~~ acquisition of art not spent, those monies may be pooled in the fund for the ~~commissioning~~ acquisition of art in, on, or near other state buildings.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9030.8 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. All public building projects are included under the Oklahoma Art in Public Places Act except the following:

1. Projects such as repair and renovation, health, safety and environment, energy conservation, accessibility, water, sewer, public utility and advance property acquisition;

2. Projects with the primary purpose of complying with the standards of the Americans with Disabilities Act;

3. Data processing purchases that are not part of a public construction project;

4. 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;

5. Capital projects subject to federal public art laws;

6. Projects for sheds, warehouses, highways, streets, utility projects including, but not limited to:

- a. parking ramps and lots,
- b. walks and pavements,
- c. toilet/shower buildings,
- d. heating plants, and
- e. electrical substations, etc.;

7. Other buildings or spaces which are not open for public entry in the normal use of the building or space that is not considered under this act shall include but not be limited to:

- a. prisons and secure treatment facilities,
- b. secure military facilities,
- c. state-operated farms,
- d. sign shops,
- e. maintenance facilities, and
- f. game farms, fish hatcheries, nurseries and other production facilities operated by the Department of Wildlife Conservation or the Grand River Dam Authority; and

8. Projects primarily involved with nonpublic spaces, and therefore exempt would include but not be limited to:

- a. storerooms,
- b. mechanical equipment rooms,
- c. kitchen remodeling,
- d. equipment replacement, and
- e. secure areas.

B. When a project includes only part of an existing facility, the functions involved in the remodeling determine the applicability of under this act.

C. When a project renovates or restores a property listed on the National Register of Historic Places, the assessment made in Section 9030.5 of Title 74 of the Oklahoma Statutes may be used to

hire an artist or conservator to conserve artwork appropriate to the period.

D. Art acquired pursuant to this act shall be displayed in areas of significant public access.

SECTION 7. This act shall become effective July 1, 2006.

SECTION 8. 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.

50-2-8526

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