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PUBLIC ART FUNDING AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Ann Millner
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill creates a state matching program for local installation of public art.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the purposes of the Utah Percent-for-Art Act;
- creates the Public Art Installation Initiative;
- authorizes the Division of Arts and Museums to offer a qualifying county of the first class, a municipality in a county of the first class, or a metro township in a county of the first class a dollar-for-dollar state match on local funding for the purchase or commission of a public art installation;
- authorizes the Division of Arts and Museums to make rules; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 9-6-402**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 9-6-403**, as last amended by Laws of Utah 1993, Chapter 4
- 9-6-404**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 63A-5b-609**, as last amended by Laws of Utah 2020, Chapter 261 and renumbered and amended by Laws of Utah 2020, Chapter 152

28 **63I-2-209**, as last amended by Laws of Utah 2023, Chapter 33

29 ENACTS:

30 **9-6-410**, as Utah Code Annotated 1953

31

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **9-6-402** is amended to read:

34 **9-6-402 . Purpose.**

35 This part is designed to:

- 36 (1) establish a program which administers that portion of appropriations for capital
 37 expenditures which is set aside[-] :
- 38 (a) for the acquisition of works of art used for public buildings; and
 39 (b) to facilitate public art installations as described in Section 9-6-410;
- 40 (2) enhance the quality of life in the state by placing art of the highest quality in public
 41 spaces where it is seen by the general public;
- 42 (3) promote and preserve appreciation for and exposure to the arts; and
- 43 (4) foster cultural development in the state and encourage the creativity and talents of its
 44 artists and craftspeople.

45 Section 2. Section **9-6-403** is amended to read:

46 **9-6-403 . Definitions.**

47 As used in this part:

- 48 (1) "Artist" means a practitioner in the visual arts, generally recognized by critics and the
 49 artist's peers as a professional who is committed to producing high quality work on a
 50 regular basis, and who is not the project architect or a member of the project's
 51 architectural firm.
- 52 (2) "Acquired or constructed" means acquired, constructed, reconstructed, restored,
 53 enlarged, improved, renovated, repaired, replaced, equipped, or furnished in whole or in
 54 part with state funds.
- 55 (3) "Contracting agency" means the state agency which is responsible for supervising the
 56 principal user of a state building or facility.
- 57 (4) "Public art installation" means a work of art:
- 58 (a) owned by a:
- 59 (i) county of the first class; or
 60 (ii) municipality or metro township in a county of the first class;
- 61 (b) created by an artist, with a preference for a Utah artist;

62 (c) located in a public place where the county of the first class, municipality in a county
63 of the first class, or metro township in a county of the first class has jurisdiction; and

64 (d) that is intended to be a permanent fixture in the public place.

65 [(4)] (5) "Principal user" means the department, board, commission, institution, or agency of
66 the state for the principal use of which a state building or facility is acquired or
67 constructed.

68 [(5)] (6) (a) "Program" means the Percent-for-Art Program created in this part.

69 (b) "Program" does not mean the Public Art Installation Initiative created in Section
70 9-6-410.

71 [(6)] (7) "Project" means the project whereby state buildings or facilities are acquired or
72 constructed.

73 [(7)] (8) (a) "State building or facility" means a state building, permanent structure,
74 facility, park, or appurtenant structure thereof, wholly or partially enclosed, which
75 includes, but is not restricted to a space or facility used or to be used for carrying out
76 the functions of a department, board, commission, institution, or agency of the state,
77 including offices, hearing or meeting rooms, auditoriums, libraries, courtrooms,
78 classrooms, workshops, laboratories, eating or sleeping facilities, or highway rest
79 areas.

80 (b) "State building or facility" does not include motor pools, heating plants, sheds,
81 sewers, parking lots, bridges, highways, or buildings used solely for storage or
82 warehousing.

83 (9) "Utah artist" means:

84 (a) an individual who produces paintings, drawings, photos, sculptures, or similar works;
85 and

86 (b) who has:

87 (i) lived in Utah a minimum of ten years; or

88 (ii) a primary residence in the state.

89 [(8)] (10) "Work of art" or "works of art" means any form of original creation of visual art
90 including, but not restricted to any sculpture, bas relief, high relief, mobile, fountain,
91 painting, graphic, print, lithograph, etching, embossing, drawing, mural, mosaic,
92 supergraphic, fresco, photograph, ceramic, fiber, mixed media, or combination of forms.

93 Section 3. Section **9-6-404** is amended to read:

94 **9-6-404 . Creation of program -- Use of appropriations.**

95 (1) A Percent-for-Art Program shall be administered by the division.

- 96 (2) (a) [Any] An appropriation received by or available to the director under Subsection
 97 63A-5b-609(5) for a new state building or facility that is not located in a county of
 98 the first class shall be used to acquire existing works of art or to commission the
 99 creation of works of art placed in or at appropriate state buildings or facilities as
 100 determined by the division.
- 101 (b) For appropriations annually received by or available to the director under Subsection
 102 63A-5b-609(5) for a new state building or facility that is located in a county of the
 103 first class:
- 104 (i) eighty percent shall be used to acquire existing works of art or to commission the
 105 creation of works of art placed in or at appropriate state buildings or facilities as
 106 determined by the division; and
- 107 (ii) twenty percent shall be used to support the Public Art Installation Initiative
 108 described in Section 9-6-410.
- 109 (c) Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing
 110 and not revert to the General Fund.

111 Section 4. Section **9-6-410** is enacted to read:

112 **9-6-410 . Public Art Installation Initiative.**

- 113 (1) As used in this section:
- 114 (a) "Applicant" means:
- 115 (i) a county of the first class;
- 116 (ii) a municipality in a county of the first class; or
- 117 (iii) a metro township in a county of the first class.
- 118 (b) (i) "Local funds" means money in the possession of a county, municipality, or
 119 metro township through local revenue generation, private donation, or federal or
 120 philanthropic grant.
- 121 (ii) "Local funds" does not mean money from a state grant.
- 122 (2) There is created a Public Art Installation Initiative to be administered by the division.
- 123 (3) Within available funds, the division may award an applicant a dollar-for-dollar match
 124 on the purchase or commission of a public art installation as described in this section.
- 125 (4) Before the division may offer a dollar-for-dollar match as described in Subsection (3),
 126 an applicant shall provide the division with:
- 127 (a) documentation of the local funds dedicated to the proposed public art installation;
- 128 (b) a description or rendering of the proposed public art installation;
- 129 (c) a copy of any contractual agreement the applicant has with the proposed artist, or a

- 130 template contractual agreement to be offered to an artist; and
- 131 (d) any other information requested by the division.
- 132 (5) The division shall establish by rule in accordance with Title 63G, Chapter 3, Utah
- 133 Administrative Rulemaking Act:
- 134 (a) an application process;
- 135 (b) a process to approve or deny an application, in accordance with the purposes
- 136 described in Section 9-6-402; and
- 137 (c) a process to prioritize applications in the event of limited funding.
- 138 (6) The division:
- 139 (a) may solicit and receive a donation to further the objectives of this section; and
- 140 (b) shall deposit any donation received to further the objectives of this section and
- 141 reserve the use of that donation for the Public Art Installation Initiative.
- 142 (7) A donation under Subsection (6) may not supplant appropriations for the Public Art
- 143 Installation Initiative as described in Subsection 9-6-404(2)(b).
- 144 Section 5. Section **63A-5b-609** is amended to read:
- 145 **63A-5b-609 . Expenditure of appropriated funds supervised by director --**
- 146 **Contingencies -- Disposition of project reserve funds -- Set aside for Utah**
- 147 **Percent-for-Art Program.**
- 148 (1) The director shall:
- 149 (a) (i) supervise the expenditure of funds in providing plans, engineering
- 150 specifications, sites, and construction of the buildings for which legislative
- 151 appropriations are made; and
- 152 (ii) specifically allocate money appropriated if more than one project is included in
- 153 any single appropriation without legislative directive;
- 154 (b) (i) expend the amount necessary from appropriations for planning, engineering,
- 155 and architectural work; and
- 156 (ii) (A) allocate amounts from appropriations necessary to cover expenditures
- 157 previously made from the planning fund under Section 63A-5b-503 in the
- 158 preparation of plans, engineering, and specifications; and
- 159 (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund;
- 160 and
- 161 (c) hold in a statewide contingency reserve the amount budgeted for contingencies:
- 162 (i) in appropriations for the construction or remodeling of facilities; and
- 163 (ii) that are over and above all amounts obligated by contract for planning,

- 164 engineering, architectural work, sites, and construction contracts.
- 165 (2) (a) The director shall base the amount budgeted for contingencies on a sliding scale
166 percentage of the construction cost ranging from:
- 167 (i) [~~4-1/2~~] 4.5% to [~~6-1/2~~] 6.5% for new construction; and
168 (ii) 6% to [~~9-1/2~~] 9.5% for remodeling projects.
- 169 (b) The director shall hold the statewide contingency funds to cover:
- 170 (i) costs of change orders; and
171 (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.
- 172 (c) (i) The Legislature shall annually review the percentage and the amount held in
173 the statewide contingency reserve.
174 (ii) The Legislature may reappropriate to other building needs, including the cost of
175 administering building projects, any amount from the statewide contingency
176 reserve that is in excess of the reserve required to meet future contingency needs.
- 177 (3) (a) The director shall hold in a separate project reserve state appropriated funds
178 accrued through bid savings and project residual.
- 179 (b) The director shall account for the funds accrued under Subsection (3)(a) in separate
180 accounts as follows:
- 181 (i) bid savings and project residual from a capital improvement project, as defined in
182 Section 63A-5b-401; and
183 (ii) bid savings and project residual from a capital development project, as defined in
184 Section 63A-5b-401.
- 185 (c) The director may use project reserve funds in the account described in Subsection
186 (3)(b)(i) for a capital improvement project:
- 187 (i) approved under Section 63A-5b-405; and
188 (ii) for which funds are not allocated.
- 189 (d) The director may:
- 190 (i) authorize the use of project reserve funds in the accounts described in Subsection
191 (3)(b) for the award of contracts in excess of a project's construction budget if the
192 use is required to meet the intent of the project;
- 193 (ii) transfer money from the account described in Subsection (3)(b)(i) to the account
194 described in Subsection (3)(b)(ii) if a capital development project has exceeded its
195 construction budget; and
196 (iii) use project reserve funds for any emergency capital improvement project,
197 whether or not the emergency capital improvement project is related to a project

- 198 that has exceeded its construction budget.
- 199 (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30
200 days:
- 201 (i) an expenditure under Subsection (3)(c); or
202 (ii) a transfer under Subsection (3)(d).
- 203 (f) The Legislature shall annually review the amount held in the project reserve for
204 possible reallocation by the Legislature to other building needs, including the cost of
205 administering building projects.
- 206 (4) If any part of the appropriation for a building project, other than the part set aside for the
207 Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act,
208 remains unencumbered after the award of construction and professional service contracts
209 and establishing a reserve for fixed and moveable equipment, the balance of the
210 appropriation is dedicated to the project reserve and does not revert to the General Fund.
- 211 (5) (a) (i) One percent of the amount appropriated for the construction of any new
212 state building or facility may be appropriated and set aside for the Utah
213 Percent-for-Art Program administered by the Division of Fine Arts under Title 9,
214 Chapter 6, Part 4, Utah Percent-for-Art Act.
- 215 (ii) The total amount appropriated and set aside under Subsection (5)(a)(i) may not
216 exceed[-] :
- 217 (A) \$200,000[-] , if the new state building or facility is not located in a county of
218 the first class; and
- 219 (B) \$250,000, if the new state building or facility is located in a county of the first
220 class.
- 221 (b) The director shall release to the Division of Fine Arts any funds included in an
222 appropriation to the division that are designated by the Legislature for the Utah
223 Percent-for-Art Program.
- 224 (c) Funds from appropriations for a state building or facility may not be set aside:
- 225 (i) if any part of the funds is derived from the issuance of bonds; and
226 (ii) to the extent the set aside of funds would jeopardize the federal income tax
227 exemption otherwise allowed for interest paid on bonds.
- 228 Section 6. Section **63I-2-209** is amended to read:
- 229 **63I-2-209 . Repeal dates: Title 9.**
- 230 (1) Subsection 9-6-402(1)(b) is repealed January 1, 2035.
- 231 (2) Subsections 9-6-403(4) and (6)(b) are repealed January 1, 2035.

- 232 (3) Subsection 9-6-404(2)(a) is amended to read, "Any appropriation received by or
233 available to the director shall be used to acquire existing works of art or to commission
234 the creation of works of art placed in or at appropriate state buildings or facilities as
235 determined by the division." on January 1, 2035.
- 236 (4) Subsection 9-4-404(2)(b) is repealed January 1, 2035.
- 237 (5) Section 9-6-410 is repealed January 1, 2035.
- 238 (6) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December
239 31, 2024.
- 240 [~~2~~] (7) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is
241 repealed June 30, 2021.
- 242 [~~3~~] (8) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange
243 Restricted Account Act, is repealed on July 1, 2024.
- 244 [~~4~~] (9) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted
245 Account Act, is repealed on July 1, 2024.
- 246 [~~5~~] (10) Title 9, Chapter 19, National Professional Men's Soccer Team Support of Building
247 Communities Restricted Account Act, is repealed on July 1, 2024.
- 248 Section 7. **Effective date.**
- 249 This bill takes effect on May 1, 2024.