

HOUSE BILL No. 5084

September 26, 1989, Introduced by Reps. Richard A. Young, Bryant, Johnson and Berman and referred to the Committee on State Affairs.

A bill to amend the title and sections 1, 2, 3, 5, 6, 7, 8, 9, and 10 of Act No. 105 of the Public Acts of 1980, entitled "The Faxon-McNamee art in public places act," being sections 18.71, 18.72, 18.73, 18.75, 18.76, 18.77, 18.78, 18.79, and 18.80 of the Michigan Compiled Laws; and to add sections 3a and 10a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 5, 6, 7, 8, 9,
2 and 10 of Act No. 105 of the Public Acts of 1980, being
3 sections 18.71, 18.72, 18.73, 18.75, 18.76, 18.77, 18.78, 18.79,
4 and 18.80 of the Michigan Compiled Laws, are amended and
5 sections 3a and 10a are added to read as follows:

1 TITLE

2 An act to encourage integration of art and public places; to
3 establish a state art in public places fund; to establish a
4 ~~committee~~ MICHIGAN COMMISSION on PUBLIC art ~~in public places~~
5 within the department of management and budget; to prescribe the
6 ~~committee's~~ COMMISSION'S powers and duties; and to prescribe
7 powers and duties of ~~the department of management and budget~~
8 CERTAIN STATE AGENCIES AND DEPARTMENTS.

9 Sec. 1. As used in this act:

10 (a) "Art" means an original, visual creation of quality exe-
11 cuted in any size or shape, in any media, using any kind or com-
12 bination of materials.

13 (b) ~~"Committee"~~ "COMMISSION" means the ~~committee on art~~
14 ~~in~~ MICHIGAN COMMISSION ON public ~~places~~ ART.

15 (c) "Department" means the department of management and
16 budget.

17 (d) "Director" means the director of the department of man-
18 agement and budget or the designated representative of the
19 director.

20 (e) "Fund" means the state art in public places fund CREATED
21 IN SECTION 2.

22 (F) "GIFT" MEANS A BEQUEST, CONTRIBUTION, GRANT, OR DONATION
23 OF AN ITEM OF VALUE.

24 (G) ~~(f)~~ "Public place" means real property or an appurte-
25 nance to the real property which is owned by this state, a public
26 agency, or by a college or university in this state. It may
27 include a structure, enclosure, facility, or complex, including a

1 court, mall, park, or other area, feature, or element used by
2 this state, a college or university in this state, or other
3 public agency in the conduct of the agency's business.

4 Sec. 2. A ~~separate account is established~~ SPECIAL FUND IS
5 CREATED within the state treasury to be known ~~and maintained~~ as
6 the state art in public places fund. THE FUND SHALL BE ADMINIS-
7 TERED BY THE COMMISSION. The fund shall be used for acquisition
8 of art for display in appropriate public places and EXPENSES FOR
9 RELATED ACTIVITIES AUTHORIZED BY THE COMMISSION, BUT SHALL NOT BE
10 USED FOR expenses incurred in the administration of this act.

11 Sec. 3. ~~The fund may derive income from:~~

12 ~~(a) Gifts, if the terms of the gift are consistent with the~~
13 ~~purposes of this act and other lawful requirements.~~

14 ~~(b) Transfers from appropriations for specific capital~~
15 ~~outlay projects, if the projects are estimated to cost at least~~
16 ~~\$250,000.00 and are identified by the legislature to include~~
17 ~~art. Each transfer to the fund shall be specifically designated~~
18 ~~by the legislature, be made only at the time when project money~~
19 ~~is appropriated, and not exceed 1% of the total appropriation for~~
20 ~~a specific project.~~

21 ~~(c) Other appropriations made by the legislature.~~

22 (1) THE STATE TREASURER SHALL CREDIT TO THE FUND ALL GIFTS
23 AND AMOUNTS APPROPRIATED FROM PUBLIC OR PRIVATE SOURCES CONSIS-
24 TENT WITH THE PURPOSES PROVIDED FOR IN SECTION 2.

25 (2) THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE
26 FUND, AND ALL INTEREST AND EARNINGS FROM FUND INVESTMENTS SHALL
27 BE CREDITED TO THE FUND.

1 (3) MONEY IN THE FUND AT THE END OF A FISCAL YEAR SHALL NOT
2 REVERT TO THE GENERAL FUND BUT BE CARRIED OVER IN THE FUND TO THE
3 NEXT AND SUCCEEDING FISCAL YEAR TO BE USED FOR THE PURPOSES PRO-
4 VIDED FOR IN SECTION 2.

5 SEC. 3A. (1) A NEW OR EXISTING STATE BUILDING OR FACILITY
6 CONSTRUCTED, REMODELED, RENOVATED, OR LEASED AFTER THE EFFECTIVE
7 DATE OF THE AMENDATORY ACT WHICH ADDED THIS SECTION SHALL, WHEN-
8 EVER POSSIBLE, INCLUDE WORKS OF ART FOR PUBLIC DISPLAY.

9 (2) STATE DEPARTMENTS, AGENCIES, AND INSTITUTIONS OF HIGHER
10 EDUCATION ARE ENCOURAGED TO INCLUDE AN AMOUNT OF AT LEAST 1%, AS
11 A NONDEDUCTIBLE ITEM, OUT OF ANY STATE APPROPRIATED MONEY THAT
12 EXCEEDS \$50,000.00 ALLOCATED FOR CONSTRUCTION, REMODELING, RENO-
13 VATION, OR LEASING OF A STATE BUILDING OR FACILITY TO BE TRANS-
14 FERRED TO THE FUND FOR THE PURPOSE OF ACQUIRING WORKS OF ART FOR
15 THE BUILDING OR FACILITY.

16 (3) IF THE COMMISSION IDENTIFIES A STATE BUILDING OR FACIL-
17 ITY AS INAPPROPRIATE FOR THE DISPLAY OF WORKS OF ART, ANY FUNDS
18 WHICH HAVE BEEN ALLOCATED UNDER SUBSECTION (2) SHALL BE UTILIZED
19 FOR THE ACQUISITION OF WORKS OF ART FOR OTHER STATE BUILDINGS AND
20 FACILITIES.

21 (4) IF FUNDS ALLOCATED UNDER SUBSECTION (2) ARE NOT TOTALLY
22 EXPENDED FOR THAT BUILDING OR FACILITY, THE BALANCE SHALL BE UTI-
23 LIZED FOR THE ACQUISITION OF WORKS OF ART FOR OTHER STATE BUILD-
24 INGS AND FACILITIES.

25 Sec. 5. (1) The ~~committee on art in~~ MICHIGAN COMMISSION
26 ON public ~~places~~ ART is created within the department and shall
27 consist of ~~7~~ 12 members. ~~Five~~ NINE of the members shall be

1 appointed by the governor with the advice and consent of the
 2 senate. ~~Three~~ SIX of the appointed members shall be profes-
 3 sionals ~~. One shall be~~ WHICH SHALL INCLUDE an art museum
 4 director, ~~or~~ A curator, ~~+~~ an artist, ~~and~~ ~~+~~ an art
 5 historian, AND AN ARCHITECT. ~~Two~~ THREE of the appointed mem-
 6 bers shall be from the general public AND SHALL BE KNOWLEDGEABLE
 7 IN THE AREA OF VISUAL ARTS. The members shall ~~not~~ be eligible
 8 for consecutive reappointment. The ~~sixth~~ TENTH member shall be
 9 the director of the Detroit institute of arts OR THE INSTITUTE'S
 10 CURATOR OF CONTEMPORARY ART. The ~~seventh~~ ELEVENTH member shall
 11 be the director OF THE DEPARTMENT. THE TWELFTH MEMBER SHALL BE
 12 THE DIRECTOR OR DEPUTY DIRECTOR OF THE OFFICE OF FACILITIES
 13 WITHIN THE DEPARTMENT.

14 (2) The term of office of the appointed members shall be 4
 15 years. ~~, except of the members first appointed by the governor,~~
 16 ~~+ shall be appointed for a term of 2 years, 2 for a term of 3~~
 17 ~~years, and 2 for terms of 4 years.~~ A vacancy on the ~~committee~~
 18 COMMISSION shall be filled for the balance of the unexpired term
 19 in the same manner as the original appointment.

20 (3) ~~The state architect shall be the secretary of the board~~
 21 ~~and a nonvoting member.~~ THE GOVERNOR SHALL DESIGNATE THE COMMIS-
 22 SION CHAIRPERSON FROM THE APPOINTED MEMBERS.

23 (4) Members of the ~~committee~~ COMMISSION shall serve with-
 24 out pay. They shall be reimbursed for actual and necessary
 25 expenses incurred in the performance of their duties.

1 (5) THE COMMISSION SHALL BE RESPONSIBLE FOR THE
2 ADMINISTRATION OF THIS ACT. THE DEPARTMENT SHALL PROVIDE TO THE
3 COMMISSION ALL NECESSARY ADMINISTRATIVE SUPPORT SERVICES.

4 (6) THE EXPENSES OF ADMINISTERING THIS ACT SHALL BE INCLUDED
5 IN THE DEPARTMENT'S ANNUAL APPROPRIATION.

6 Sec. 6. (1) The ~~committee~~ COMMISSION shall determine
7 works of art to be acquired under this act. The ~~committee~~
8 COMMISSION may select, accept, and purchase an existing work of
9 art. The ~~committee~~ COMMISSION may select an artist to be com-
10 missioned to execute a new work of art.

11 (2) If the cost of a commissioned work of art exceeds
12 ~~\$20,000.00~~ \$50,000.00 of legislatively appropriated funds, the
13 action by the ~~committee~~ COMMISSION shall be made only after
14 recommendation by an artist selection jury. The jury shall be
15 appointed by the ~~committee~~ COMMISSION and shall include ~~3~~ 2
16 members from in-state and ~~3~~ 2 members from out-of-state; ~~2~~ 1
17 of whom shall be AN art ~~historians, 2 shall be either art museum~~
18 ~~directors, curators or critics~~ MUSEUM DIRECTOR, CURATOR, OR
19 CRITIC; 1 OF WHOM SHALL BE an artist; ~~, and~~ 1 OF WHOM shall be
20 the project architect for the agency for whom the work is
21 commissioned; AND 1 OF WHOM SHALL BE A PERSON APPOINTED BY THE
22 COMMISSION.

23 (3) The ~~committee~~ COMMISSION and its ARTIST selection
24 juries ~~shall~~ MAY give priority consideration to artists who are
25 residents ~~of this state,~~ OR former residents of this state. ~~7~~
26 ~~or natives of this state.~~

1 Sec. 7. The ~~committee~~ COMMISSION shall report annually
2 to the governor and the legislature regarding the progress of
3 programs to integrate art and public places AND THE STATUS OF THE
4 INVENTORY AND CONSERVATION OF STATE OWNED WORKS OF ART.
5 ~~Included in the report shall be recommendations regarding future~~
6 ~~program and funding priorities.~~

7 Sec. 8. The ~~department~~ COMMISSION shall ~~continue to~~
8 MAINTAIN AN inventory ~~and maintain~~ OF existing state owned
9 WORKS OF art. The ~~department~~ COMMISSION shall be responsible
10 for ~~supervision and~~ COORDINATING THE maintenance, ~~of new~~
11 ~~artistic decoration supported by the state art fund~~
12 CONSERVATION, AND RESTORATION OF STATE OWNED WORKS OF ART. THE
13 COMMISSION SHALL ARRANGE FOR A PERIODIC REVIEW AND EXAMINATION OF
14 STATE OWNED WORKS OF ART.

15 Sec. 9. The business which the ~~committee~~ COMMISSION may
16 perform shall be conducted at a public meeting of the ~~committee~~
17 COMMISSION held in compliance with THE OPEN MEETINGS ACT, Act
18 No. 267 of the Public Acts of 1976, ~~as amended,~~ being sections
19 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of
20 the time, date, and place of the meeting shall be given in the
21 manner required by Act No. 267 of the Public Acts of 1976. ~~as~~
22 ~~amended.~~

23 Sec. 10. A writing prepared, owned, used, in the posses-
24 sion of, or retained by the ~~committee~~ COMMISSION in the per-
25 formance of an official function shall be made available to the
26 public in compliance with THE FREEDOM OF INFORMATION ACT, Act

1 No. 442 of the Public Acts of 1976, ~~as amended,~~ being sections
2 15.231 to 15.246 of the Michigan Compiled Laws.

3 SEC. 10A. (1) THE STATE SHALL HAVE THE RIGHTS TO SOLE
4 OWNERSHIP AND PUBLIC DISPLAY OF ALL ART ACQUIRED UNDER THIS ACT.

5 (2) THE CONTRACTUAL AGREEMENT BETWEEN THE COMMISSION AND THE
6 ARTIST COMMISSIONED TO CREATE A WORK OF ART FOR THE STATE SHALL
7 INCLUDE A PROVISION WHICH DEFINES THE RIGHTS, IF ANY, OF THE
8 ARTIST.