An Act

ENROLLED HOUSE
BILL NO. 1824

By: Martin and Sherrer of the House

and

Holt and Pittman of the Senate

An Act relating to public art; transferring the implementation and administration of the Oklahoma Art in Public Places Act from the Oklahoma Historical Society to the Oklahoma Arts Council; allowing certain contracts; providing for the transfer of certain funds, property, records and financial obligations; limiting expenditures of certain funds and use of certain property; providing for the transfer of funds, property and records acquired after certain date; prohibiting certain contracts; requiring the Director of the Office of Management and Enterprise Services to coordinate certain transfers; providing for enforcement of certain administrative rules; granting the Oklahoma Arts Council authority to amend or repeal certain rules; amending 74 O.S. 2011, Sections 9030.1, 9030.2, 9030.3, as amended by Section 1055, Chapter 304, O.S.L. 2012, 9030.5, 9030.6, as amended by Section 1056, Chapter 304, O.S.L. 2012 and 9030.7, as amended by Section 1057, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2014, Sections 9030.3, 9030.6 and 9030.7), which relate to the Oklahoma Art in Public Places Act; changing references from the Oklahoma Historical Society to the Oklahoma Arts Council; updating statutory citations; deleting obsolete language; providing for codification; providing an effective date; and declaring an emergency.

SUBJECT: Public art

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 9030.8 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. On the effective date of this act, all powers, duties, responsibilities, records and equipment of the Oklahoma Historical Society relating exclusively to the implementation and administration of the Oklahoma Art in Public Places Act are hereby transferred and shall be placed under the authority of the Oklahoma Arts Council. To the extent practicable, the transfer shall include all computer hardware and software used in regulating the functions listed in this subsection.

B. The Oklahoma Historical Society and the Oklahoma Arts Council may contract for additional legal and administrative services as necessary to effectuate the transfers as provided for in this section.

C. 1. All unexpended funds, property, furnishings, equipment, supplies, records, and outstanding financial obligations and encumbrances of the Oklahoma Historical Society relating to the implementation and administration of the Oklahoma Art in Public Places Act shall be transferred to the Oklahoma Arts Council for the continuing performance of duties relating to the implementation and administration of the Oklahoma Art in Public Places Act. No funds, property, furnishings, equipment, supplies or records may be expended or used for any purpose other than the performance of duties and responsibilities as directed and required in this act.

2. Any funds, properties, furnishings, equipment, supplies, or records related in any manner to the implementation and administration of the Oklahoma Art in Public Places Act which may not be in the current possession of the Oklahoma Historical Society on the effective date of this act, but which come into the possession of the Oklahoma Historical Society after the transfer of authority to the Oklahoma Arts Council as provided in this act, shall immediately be transferred to the Oklahoma Arts Council.

D. The Oklahoma Historical Society shall not enter into any contract or agreement relating to the implementation and administration of the Oklahoma Art in Public Places Act extending beyond the effective date of the transfer without approval by the Oklahoma Arts Council.

E. The Director of the Office of Management and Enterprise Services shall coordinate the transfer of funds, purchase orders and outstanding financial obligations and encumbrances relating to the implementation and administration of the Oklahoma Art in Public Places Act as transferred pursuant to the provisions of this act.

F. Upon the effective date of this act, all administrative rules promulgated by the Oklahoma Historical Society relating to the implementation and administration of the Oklahoma Art in Public Places Act shall be enforceable by the Oklahoma Arts Council. The rules shall continue in force and effect after the effective date of this act, and the Oklahoma Arts Council shall have authority to amend, repeal, recodify or make additions to the rules pursuant to the Administrative Procedures Act.

SECTION 2. AMENDATORY 74 O.S. 2011, Section 9030.1, is amended to read as follows:

Section 9030.1 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~~ Arts Council which is authorized to promulgate rules to administer the Oklahoma Art in Public Places Act.

SECTION 3. AMENDATORY 74 O.S. 2011, 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"~~ "Council" means the Oklahoma ~~Historical Society~~ Arts Council;

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~~ 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~~ 11 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~~ Turnpike 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. AMENDATORY 74 O.S. 2011, Section 9030.3, as amended by Section 1055, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2014, Section 9030.3), is amended to read as follows:

Section 9030.3 A. The Oklahoma ~~Historical Society~~ Arts Council 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 Office of Management and Enterprise 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 the Office of Management and Enterprise Services;

8. One engineer appointed by the Director of the Office of Management and Enterprise Services; and

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

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~~ E 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 Executive Director of the Oklahoma ~~Historical Society~~ Arts Council; 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. AMENDATORY 74 O.S. 2011, Section 9030.5, is amended to read as follows:

Section 9030.5 A. 1. Except as otherwise provided by subsection C of this section, 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~~ Arts Council 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. 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 9030.6 of this title, 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 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 9030.7 of this title.

2. Monies deposited in the Art in Public Places Administrative and Maintenance Revolving Fund for the purpose of this moratorium, shall be used for continued administration, educational costs, and maintenance.

C. The provisions of subsection A of this section shall not be applicable for the fiscal years ending:

1. June 30, 2012;

2. June 30, 2013; and

3. June 30, 2014.

SECTION 6. AMENDATORY 74 O.S. 2011, Section 9030.6, as amended by Section 1056, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2014, 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~~ Arts Council 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~~ Council from the sources provided for in Section 9030.5 of this title.

2. The ~~Society~~ Council 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~~ Arts Council 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 the Office of Management and Enterprise Services 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 7. AMENDATORY 74 O.S. 2011, Section 9030.7, as amended by Section 1057, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2014, Section 9030.7), is amended to read as follows:

Section 9030.7 A. 1. There is hereby created in the State Treasury a revolving fund for the Oklahoma ~~Historical Society~~ Arts Council 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~~ Council. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the ~~Society~~ Council from the sources provided for in Section 9030.5 of this title.

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 the Office of Management and Enterprise Services 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 8. This act shall become effective July 1, 2015.

SECTION 9. 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.

Passed the House of Representatives the 9th day of March, 2015.

Presiding Officer of the House
of Representatives

Passed the Senate the 21st day of April, 2015.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 22nd
day of April, 2015, at 12:08 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 28th
day of April, 2015, at 2:24 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 28th
day of April, 2015, at 3:30 o'clock P. M.
By: Chris Benge