

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 355

Short Title: Art for Public Places.

(Public)

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Sponsors: Senators Lee and Gulley.

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Referred to: Appropriations.

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March 11, 1997

A BILL TO BE ENTITLED

AN ACT PROVIDING A FUNDING FORMULA AND A SELECTION PROCESS  
FOR THE INCLUSION OF WORKS OF ART FOR PUBLIC PLACES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding a new  
Article to read:

**"ARTICLE 47B.**

**"ART FOR PUBLIC PLACES.**

**"§ 143-408.10. Short title.**

This Article shall be cited as 'The Art for Public Places Act'.

**"§ 143-408.11. Declaration of policy and statement of purpose.**

It is declared as a matter of public policy by the General Assembly that the State of North Carolina seeks to enhance the quality of public places for the education and enjoyment of its citizens and visitors and to promote a climate in which business and the arts, including cultural tourism, can thrive. Furthermore, it recognizes the established role that the arts play in economic development, and community revitalization and pride. It is, therefore, the purpose of the General Assembly to provide that a portion of future expenditures for construction of State properties, except as hereinafter set out, shall be used for the enrichment of public places through art.

**"§ 143-408.12. Definitions.**

1 In this Article, unless the context otherwise requires, the following definitions shall  
2 apply:

- 3 (1) Construction. – The construction, reconstruction, remodeling, or  
4 renovation of a State property.
- 5 (2) Contracting officer. – The public officer or body responsible for  
6 securing the preparation of plans and specifications for the purpose of  
7 negotiating or advertising for bids for the construction of a State  
8 property.
- 9 (3) Designer. – An architect, landscape architect, or engineer licensed in  
10 North Carolina.
- 11 (4) Principal user. – The State agency which will be the principal occupant  
12 of the proposed State property. However, in cases where more than one  
13 agency will occupy a property, 'principal user' means the Secretary of  
14 the Department of Administration.
- 15 (5) Public places. – Areas within the State property for the common use of  
16 members of the public or employees including parking areas, plazas,  
17 courtyards, gardens, lobbies, waiting rooms, hallways, lunchrooms,  
18 conference rooms, laboratories, workshops, courtrooms, hearing or  
19 meeting rooms, medical, dental, library, or museum space for use by the  
20 general public, or other space for carrying on the functions of a State  
21 agency.
- 22 (6) State property. – Any permanent structure, grounds and appurtenant  
23 structures, which is to be constructed, reconstructed, remodeled, or  
24 renovated using an appropriation of State funds when the amount  
25 appropriated for that purpose exceeds one million dollars (\$1,000,000).
- 26 (7) Works of art or artworks. – Original works of independent creative  
27 authorship or works designed by a professional artist, team of artists, or  
28 design team which includes a professional artist selected through the  
29 established selection procedures. The term 'works of art' or 'artworks'  
30 shall not include any reproductions of original art by mechanical means  
31 or mass produced items of standard manufacture except as incorporated  
32 into an artwork by a project artist. Works for hire, such as illustrations  
33 or designs for which authorship is not within the artist's jurisdiction, will  
34 not be considered 'works of art' or 'artworks'.

35 **"§ 143-408.13. Appropriations and procedure for inclusion of artworks.**

36 (a) One percent (1%) of the amount appropriated for the construction of each State  
37 property, not including the amount of funds used for land acquisition, shall be used for  
38 the acquisition of works of art for that property.

39 (b) The amount to be expended for the acquisition of artworks for the State  
40 property shall be included in the stated limit of the design contract and the amount shall  
41 also be incorporated by the designer in the total cost estimate for construction.

42 (c) If the principal user, the Secretary of Administration, and the Secretary of  
43 Cultural Resources jointly determine and certify in writing that, due to the use of the

1 building or other reasons, a particular construction project should not include artworks,  
2 the one percent (1%) shall be placed in a nonreverting fund for the purchase or  
3 commissioning of a portable artworks collection for placement in other State facilities or  
4 for the commissioning or installing of temporary works of art for public places or for  
5 performances in public places.

6 (d) The selection and commissioning of artists and the acquisition and execution  
7 of works of art for State properties undertaken pursuant to this Article shall be exempt  
8 from the provisions of all State bidding requirements. Expenditures for works of art as  
9 provided in this Article shall be contracted for separately from all other items in the  
10 construction project.

11 (e) Of the one percent (1%) of the amount appropriated, or, in cases when an  
12 appropriation has been made for planning or design only, the amount approved by the  
13 Office of State Construction for the construction cost of a State property that is dedicated  
14 to the acquisition of works of art pursuant to subsection (a) of this section, no more than  
15 twenty percent (20%) of those funds may be used for the administrative costs of  
16 acquiring the artworks, for community participation activities, and for educational  
17 materials. Funds for the administrative costs of acquiring the artworks shall be disbursed  
18 to the Department of Cultural Resources at the time the design contract is signed.

19 (f) Of the one percent (1%) of the amount appropriated for the construction cost of  
20 a State property that is dedicated to the acquisition of works of art pursuant to subsection  
21 (a) of this section, ten percent (10%) shall be placed in a nonreverting fund in the  
22 Department of Cultural Resources for the repair and conservation of the works of art.

23 (g) Of the one percent (1%) of the amount estimated for the construction cost of a  
24 State property that is dedicated to the acquisition of works of art pursuant to subsection  
25 (a) of this section, up to ten percent (10%) of the funds reserved for the artist's fee may be  
26 used as advanced planning funds to enable the artist, upon selection, to develop working  
27 drawings and to incorporate plans for the artwork in the construction documents of the  
28 State property. Funds for advanced planning shall be disbursed at the time the artist's  
29 contract is approved.

30 (h) The Department of Cultural Resources may issue any rules necessary for the  
31 implementation of this Article and shall administer the program created by this Article  
32 through the North Carolina Arts Council.

33 **"§ 143-408.14. Selection of artists and works of art.**

34 (a) Whenever a new State property is to be constructed, the contracting officer,  
35 together with the designer who has been engaged to prepare the plans for the project shall  
36 consult with the principal user and the Public Arts Administrator of the North Carolina  
37 Arts Council, prior to the schematic phase of the property's design, regarding the works  
38 of art to be included in the design of the property, and the artist or craftsman to be  
39 commissioned for the project.

40 (b) A selection panel consisting of arts professionals, the designer, and using  
41 agency representatives shall be convened by the Public Arts Administrator of the North  
42 Carolina Arts Council to recommend artists and/or works of art for the State property.

1       (c)     The approval of artists and works of art shall be determined by majority vote of  
2 a committee comprised of the designer, the principal user, the Chair of the North Carolina  
3 Arts Council, and two citizens appointed by the Chair of the North Carolina Arts Council.

4 **"§ 143-408.15. Article not exclusive.**

5       This Article shall not be construed or interpreted as precluding the placement or  
6 purchase of other works of art using public funds, nor shall it be construed or interpreted  
7 as precluding the use of ornamental detailing, or other architectural functional or  
8 structural garnishing in constructing public buildings or facilities. The works of art  
9 acquired pursuant to the Article are to be in addition to the architectural embellishments."

10       Section 2. Nothing in this act shall obligate the State of North Carolina for any  
11 additional appropriation without approval by the Joint Appropriations Committee of the  
12 General Assembly.

13       Section 3. This act is effective when it becomes law and applies to State  
14 properties authorized after July 1, 1997.