

Senator Ann Millner proposes the following substitute bill:

PUBLIC ART FUNDING AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: _____

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:



26 AMENDS:

27 9-6-402, as renumbered and amended by Laws of Utah 1992, Chapter 241

28 9-6-403, as last amended by Laws of Utah 1993, Chapter 4

29 9-6-404, as renumbered and amended by Laws of Utah 1992, Chapter 241

30 63A-5b-609, as last amended by Laws of Utah 2020, Chapter 261 and renumbered and
31 amended by Laws of Utah 2020, Chapter 152

32 63I-2-209, as last amended by Laws of Utah 2023, Chapter 33

33 ENACTS:

34 9-6-410, Utah Code Annotated 1953



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

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

38 **9-6-402. Purpose.**

39 This part is designed to:

40 (1) establish a program which administers that portion of appropriations for capital
41 expenditures which is set aside;

42 (a) for the acquisition of works of art used for public buildings; and

43 (b) to facilitate public art installations as described in Section 9-6-410;

44 (2) enhance the quality of life in the state by placing art of the highest quality in public
45 spaces where it is seen by the general public;

46 (3) promote and preserve appreciation for and exposure to the arts; and

47 (4) foster cultural development in the state and encourage the creativity and talents of
48 its artists and craftspeople.

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

50 **9-6-403. Definitions.**

51 As used in this part:

52 (1) "Artist" means a practitioner in the visual arts, generally recognized by critics and
53 the artist's peers as a professional who is committed to producing high quality work on a
54 regular basis, and who is not the project architect or a member of the project's architectural
55 firm.

56 (2) "Acquired or constructed" means acquired, constructed, reconstructed, restored,

57 enlarged, improved, renovated, repaired, replaced, equipped, or furnished in whole or in part
58 with state funds.

59 (3) "Contracting agency" means the state agency which is responsible for supervising
60 the principal user of a state building or facility.

61 (4) "Public art installation" means a work of art:

62 (a) owned by a:

63 (i) county of the first class; or

64 (ii) municipality or metro township in a county of the first class;

65 (b) created by an artist, with a preference for a Utah artist;

66 (c) located in a public place where the county of the first class, municipality in a county

67 of the first class, or metro township in a county of the first class has jurisdiction; and

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

69 [~~(4)~~] (5) "Principal user" means the department, board, commission, institution, or
70 agency of the state for the principal use of which a state building or facility is acquired or
71 constructed.

72 [~~(5)~~] (6) (a) "Program" means the Percent-for-Art Program created in this part.

73 (b) "Program" does not mean the Public Art Installation Initiative created in Section
74 9-6-410.

75 [~~(6)~~] (7) "Project" means the project whereby state buildings or facilities are acquired
76 or constructed.

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

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

85 (9) "Utah artist" means:

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

88 (b) who has:

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

90 (ii) a primary residence in the state.

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

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

96 **9-6-404. Creation of program -- Use of appropriations.**

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

98 (2) (a) ~~Any~~ An appropriation received by or available to the director under
99 Subsection 63A-5b-609(5) for a new state building or facility that is not located in a county of
100 the first class shall be used to acquire existing works of art or to commission the creation of
101 works of art placed in or at appropriate state buildings or facilities as determined by the
102 division.

103 (b) For appropriations annually received by or available to the director under
104 Subsection 63A-5b-609(5) for a new state building or facility that is located in a county of the
105 first class:

106 (i) eighty percent shall be used to acquire existing works of art or to commission the
107 creation of works of art placed in or at appropriate state buildings or facilities as determined by
108 the division; and

109 (ii) twenty percent shall be used to support the Public Art Installation Initiative
110 described in Section 9-6-410.

111 (c) Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing
112 and not revert to the General Fund.

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

114 **9-6-410. Public art installation initiative.**

115 (1) As used in this section:

116 (a) "Applicant" means:

117 (i) a county of the first class;

118 (ii) a municipality in a county of the first class; or

119 (iii) a metro township in a county of the first class.

120 (b) (i) "Local funds" means money in the possession of a county, municipality, or
121 metro township through local revenue generation, private donation, or federal or philanthropic
122 grant.

123 (ii) "Local funds" does not mean money from a state grant.

124 (2) There is created a Public Art Installation Initiative to be administered by the
125 division.

126 (3) Within available funds, the division may award an applicant a dollar-for-dollar
127 match on the purchase or commission of a public art installation as described in this section.

128 (4) Before the division may offer a dollar-for-dollar match as described in Subsection
129 (3), an applicant shall provide the division with:

130 (a) documentation of the local funds dedicated to the proposed public art installation;

131 (b) a description or rendering of the proposed public art installation;

132 (c) a copy of any contractual agreement the applicant has with the proposed artist, or a
133 template contractual agreement to be offered to an artist; and

134 (d) any other information requested by the division.

135 (5) The division shall establish by rule in accordance with Title 63G, Chapter 3, Utah
136 Administrative Rulemaking Act:

137 (a) an application process;

138 (b) a process to approve or deny an application, in accordance with the purposes
139 described in Section 9-6-402; and

140 (c) a process to prioritize applications in the event of limited funding.

141 (6) The division:

142 (a) may solicit and receive a donation to further the objectives of this section; and

143 (b) shall deposit any donation received to further the objectives of this section and
144 reserve the use of that donation for the Public Art Installation Initiative.

145 (7) A donation under Subsection (6) may not supplant appropriations for the Public Art
146 Installation Initiative as described in Subsection 9-6-404(2)(b).

147 Section 5. Section **63A-5b-609** is amended to read:

148 **63A-5b-609. Expenditure of appropriated funds supervised by director --**

149 **Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art**

150 **Program.**

151 (1) The director shall:

152 (a) (i) supervise the expenditure of funds in providing plans, engineering
153 specifications, sites, and construction of the buildings for which legislative appropriations are
154 made; and

155 (ii) specifically allocate money appropriated if more than one project is included in any
156 single appropriation without legislative directive;

157 (b) (i) expend the amount necessary from appropriations for planning, engineering, and
158 architectural work; and

159 (ii) (A) allocate amounts from appropriations necessary to cover expenditures
160 previously made from the planning fund under Section 63A-5b-503 in the preparation of plans,
161 engineering, and specifications; and

162 (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

163 (c) hold in a statewide contingency reserve the amount budgeted for contingencies:

164 (i) in appropriations for the construction or remodeling of facilities; and

165 (ii) that are over and above all amounts obligated by contract for planning, engineering,
166 architectural work, sites, and construction contracts.

167 (2) (a) The director shall base the amount budgeted for contingencies on a sliding scale
168 percentage of the construction cost ranging from:

169 (i) [~~4-1/2~~] 4.5% to [~~6-1/2~~] 6.5% for new construction; and

170 (ii) 6% to [~~9-1/2~~] 9.5% for remodeling projects.

171 (b) The director shall hold the statewide contingency funds to cover:

172 (i) costs of change orders; and

173 (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

174 (c) (i) The Legislature shall annually review the percentage and the amount held in the
175 statewide contingency reserve.

176 (ii) The Legislature may reappropriate to other building needs, including the cost of
177 administering building projects, any amount from the statewide contingency reserve that is in
178 excess of the reserve required to meet future contingency needs.

179 (3) (a) The director shall hold in a separate project reserve state appropriated funds
180 accrued through bid savings and project residual.

181 (b) The director shall account for the funds accrued under Subsection (3)(a) in separate
182 accounts as follows:

183 (i) bid savings and project residual from a capital improvement project, as defined in
184 Section 63A-5b-401; and

185 (ii) bid savings and project residual from a capital development project, as defined in
186 Section 63A-5b-401.

187 (c) The director may use project reserve funds in the account described in Subsection
188 (3)(b)(i) for a capital improvement project:

189 (i) approved under Section 63A-5b-405; and

190 (ii) for which funds are not allocated.

191 (d) The director may:

192 (i) authorize the use of project reserve funds in the accounts described in Subsection
193 (3)(b) for the award of contracts in excess of a project's construction budget if the use is
194 required to meet the intent of the project;

195 (ii) transfer money from the account described in Subsection (3)(b)(i) to the account
196 described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction
197 budget; and

198 (iii) use project reserve funds for any emergency capital improvement project, whether
199 or not the emergency capital improvement project is related to a project that has exceeded its
200 construction budget.

201 (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30
202 days:

203 (i) an expenditure under Subsection (3)(c); or

204 (ii) a transfer under Subsection (3)(d).

205 (f) The Legislature shall annually review the amount held in the project reserve for
206 possible reallocation by the Legislature to other building needs, including the cost of
207 administering building projects.

208 (4) If any part of the appropriation for a building project, other than the part set aside
209 for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art
210 Act, remains unencumbered after the award of construction and professional service contracts
211 and establishing a reserve for fixed and moveable equipment, the balance of the appropriation

212 is dedicated to the project reserve and does not revert to the General Fund.

213 (5) (a) (i) One percent of the amount appropriated for the construction of any new state
214 building or facility may be appropriated and set aside for the Utah Percent-for-Art Program
215 administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art
216 Act.

217 (ii) The total amount appropriated and set aside under Subsection (5)(a)(i) may not
218 exceed:

219 (A) \$200,000[-], if the new state building or facility is not located in a county of the
220 first class; and

221 (B) \$250,000, if the new state building or facility is located in a county of the first
222 class.

223 (b) The director shall release to the Division of Fine Arts any funds included in an
224 appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art
225 Program.

226 (c) Funds from appropriations for a state building or facility may not be set aside:

227 (i) if any part of the funds is derived from the issuance of bonds; and

228 (ii) to the extent the set aside of funds would jeopardize the federal income tax
229 exemption otherwise allowed for interest paid on bonds.

230 Section 6. Section **63I-2-209** is amended to read:

231 **63I-2-209. Repeal dates: Title 9.**

232 (1) Subsection 9-6-402(1)(b) is repealed January 1, 2035.

233 (2) Subsections 9-6-403(4) and (6)(b) are repealed January 1, 2035.

234 (3) Subsection 9-6-404(2)(a) is amended to read, "Any appropriation received by or
235 available to the director shall be used to acquire existing works of art or to commission the
236 creation of works of art placed in or at appropriate state buildings or facilities as determined by
237 the division." on January 1, 2035.

238 (4) Subsection 9-4-404(2)(b) is repealed January 1, 2035.

239 (5) Section 9-6-410 is repealed January 1, 2035.

240 (6) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed
241 December 31, 2024.

242 [~~2~~] (7) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is

243 repealed June 30, 2021.

244 [~~(3)~~] (8) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural
245 Exchange Restricted Account Act, is repealed on July 1, 2024.

246 [~~(4)~~] (9) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted
247 Account Act, is repealed on July 1, 2024.

248 [~~(5)~~] (10) Title 9, Chapter 19, National Professional Men's Soccer Team Support of
249 Building Communities Restricted Account Act, is repealed on July 1, 2024.

250 Section 7. **Effective date.**

251 This bill takes effect on May 1, 2024.