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SENATE BILL 20

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

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AN ACT

RELATING TO CULTURAL AFFAIRS; CHANGING THE NEW MEXICO ARTS
COMMISSION TO A POLICYMAKING COMMISSION; REQUIRING SENATE
CONFIRMATION; GIVING THE COMMISSION AUTHORITY OVER THE ART IN
PUBLIC PLACES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-4A-1 NMSA 1978 (being Laws 1986,
Chapter 11, Section 1) is amended to read:

"13-4A-1. SHORT TITLE.--~~[This act]~~ Chapter 13, Article 4A
NMSA 1978 may be cited as the "Art in Public Places Act"."

Section 2. Section 13-4A-3 NMSA 1978 (being Laws 1986,
Chapter 11, Section 3, as amended) is amended to read:

"13-4A-3. DEFINITIONS.--As used in the Art in Public
Places Act:

A. "agency" means all state departments and

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1 agencies, boards, councils, institutions, commissions and
2 quasi-public corporations, including all state educational
3 institutions enumerated in Article 12, Section 11 of the
4 constitution of New Mexico and all statutorily created post-
5 secondary educational institutions;

6 B. "architect" means the person or firm designing
7 the project for the contracting agency to which the one percent
8 provision pursuant to Section 13-4A-4 NMSA 1978 applies;

9 C. "commission" means the New Mexico arts
10 commission;

11 [~~E.~~] D. "contracting agency" means the agency
12 having the control, management and power to enter into
13 contracts for new construction or renovation of [~~any~~] a public
14 building;

15 [~~D.~~] E. "division" means the arts division of the
16 [~~office of~~] cultural affairs department;

17 [~~E.~~] F. "public buildings" means those buildings
18 under the control and management of the property control
19 division of the general services department, the department of
20 game and fish, the energy, minerals and natural resources
21 department, the [~~state highway and~~] department of transportation
22 [~~department~~], the state fair commission, the supreme court, the
23 commissioner of public lands, the [~~office of~~] cultural affairs
24 department, the governing boards of the state educational
25 institutions and statutorily created post-secondary educational

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1 institutions, the [~~state department of~~] public education
2 department and the legislature or all buildings constructed with
3 funds appropriated by the legislature. For the purposes of the
4 Art in Public Places Act, "public buildings" does not include
5 such auxiliary buildings as maintenance plants, correctional
6 facilities, warehouses or temporary structures; and

7 [F-] G. "work of art" means any work of visual art,
8 including but not limited to a drawing, painting, mural,
9 fresco, sculpture, mosaic or photograph; a work of calligraphy;
10 a work of graphic art, including an etching, lithograph, offset
11 print, silk screen or a work of graphic art of like nature;
12 works in clay, textile, fiber, wood, metal, plastic, glass and
13 like materials; or mixed media, including a collage or
14 assemblage or any combination of the foregoing art media
15 [~~which~~] that is chosen to be included in or immediately
16 adjoining the public building under consideration. Under
17 special circumstances, the term may include environmental
18 landscaping if approved by the [~~division~~] commission."

19 Section 3. Section 13-4A-4 NMSA 1978 (being Laws 1986,
20 Chapter 11, Section 4) is amended to read:

21 "13-4A-4. ALLOCATION OF CONSTRUCTION COSTS.--

22 A. All agencies shall allocate as a nondeductible
23 item an amount of money equal to one percent or two hundred
24 thousand dollars (\$200,000), whichever is less, of the amount
25 of money appropriated for new construction, or any major

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1 renovation exceeding one hundred thousand dollars (\$100,000),
2 to be expended for the acquisition and installation of works of
3 art for the new public building to be constructed or the public
4 building in which the major renovation is to occur.

5 B. An amount of money equal to one percent or two
6 hundred thousand dollars (\$200,000), whichever is less,
7 allocated from appropriations for new construction or major
8 renovations of excluded structures pursuant to Subsection ~~[E]~~ F
9 of Section ~~[3 of the Art in Public Places Act]~~ 13-4A-3 NMSA
10 1978 shall be accounted for separately and expended for
11 acquisition and installation of art for existing public
12 buildings. The ~~[division]~~ commission shall determine the
13 amount, not to exceed fifty thousand dollars (\$50,000), to be
14 made available for the purchase of art in existing public
15 buildings in consultation with the ~~[contracting agency]~~
16 agencies that have control over the existing public buildings.

17 The selection process for art for existing public buildings
18 shall follow guidelines established by the ~~[division]~~
19 commission pursuant to the Art in Public Places Act."

20 Section 4. Section 13-4A-7 NMSA 1978 (being Laws 1986,
21 Chapter 11, Section 7) is amended to read:

22 "13-4A-7. ADMINISTRATION OF THE PROGRAM.--The ~~[division]~~
23 commission shall determine the amount to be made available for
24 the purchase of art, in consultation with the contracting
25 agency responsible for the public building to be constructed or

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1 renovated, and payments [~~thereof~~] shall be made in accordance
2 with law. All agencies shall notify the division in writing
3 upon legislative approval of construction budgets. One percent
4 of the total appropriation for new construction or renovation
5 of any public building shall be deposited into the art in
6 public places fund after the issuance of the appropriate bonds.
7 If the entire one percent of the total funds appropriated for a
8 particular public building is not required for the project, the
9 remainder shall accumulate in the art in public places fund and
10 shall be accounted for separately and expended for the
11 acquisition of art for existing public buildings, as determined
12 by the [~~division~~] commission. Any money remaining in the fund
13 at the end of each fiscal year shall not revert but shall
14 remain in the art in public places fund to be used to implement
15 the purposes of the Art in Public Places Act."

16 Section 5. Section 13-4A-8 NMSA 1978 (being Laws 1986,
17 Chapter 11, Section 8) is amended to read:

18 "13-4A-8. ARTIST SELECTION.--The [~~division~~] commission
19 shall establish guidelines for the art selection process. This
20 process shall provide for participation from representatives of
21 the contracting agency, the user agency, the commission, the
22 division, the project architect, visual artists or design
23 professionals and interested members of the community."

24 Section 6. Section 13-4A-10 NMSA 1978 (being Laws 1986,
25 Chapter 11, Section 10) is amended to read:

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1 "13-4A-10. ~~[DIVISION]~~ ART SELECTION, EXECUTION, PLACEMENT
2 AND ACCEPTANCE--RULES ~~[AND REGULATIONS]~~.--The selection,
3 execution, placement and acceptance of works of art for a
4 construction project shall be the responsibility of the
5 ~~[division]~~ commission in consultation with the contracting
6 agency and the division. The division, under the direction of
7 the commission, shall adopt rules ~~[and regulations]~~ to govern
8 the selection, execution, placement and acceptance of the works
9 of art to be acquired in accordance with this section and other
10 rules ~~[regulations and procedures]~~ necessary to implement the
11 Art in Public Places Act. Administrative costs incurred by the
12 division for the implementation of the Art in Public Places Act
13 may be charged against the art in public places fund, provided
14 that such costs have been properly budgeted and the budget has
15 been approved by the ~~[state]~~ secretary of cultural affairs
16 ~~[officer]~~ and the secretary of finance and administration."

17 Section 7. Section 18-5-3 NMSA 1978 (being Laws 1978,
18 Chapter 70, Section 2) is amended to read:

19 "18-5-3. COMMISSION--CREATION--MEMBERS--TERMS--
20 COMPENSATION.--

21 A. ~~[There is created]~~ The "New Mexico arts
22 commission" is created.

23 B. The commission is composed of fifteen members
24 appointed by the governor with the consent of the senate.
25 Members shall be broadly representative of all fields of the

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1 creative and interpretative arts.

2 C. Members of the commission shall be residents of
3 this state and shall be persons who are widely known for their
4 professional competence and experience in connection with the
5 creative or interpretive arts.

6 D. Members of the commission shall initially be
7 appointed for terms as follows: five members shall be
8 appointed for terms of one year, five members shall be
9 appointed for terms of two years and five members shall be
10 appointed for terms of three years. The first members of the
11 commission shall be appointed on or before September 1, 1965,
12 with the date of office of all these members to commence on the
13 same day. After the expiration of the initial terms, all
14 members shall be appointed for terms of three years. Vacancies
15 resulting from the death or resignation of a member shall be
16 filled by appointment for the unexpired portion of the term of
17 the member creating the vacancy.

18 E. Members of the commission [~~shall~~] are entitled to
19 receive per diem and mileage as provided for nonsalaried public
20 employees in the Per Diem and Mileage Act and shall receive no
21 other compensation, perquisite or allowance."

22 Section 8. Section 18-5-5 NMSA 1978 (being Laws 1978,
23 Chapter 70, Section 4, as amended) is amended to read:

24 "18-5-5. COMMISSION--DUTIES.--

25 A. The commission [~~will be advisory to~~] shall:

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1 (1) advise the governor, the secretary of
2 cultural affairs and the director [~~of the arts division, to the~~
3 ~~state cultural affairs officer and to state government in~~
4 ~~general where not in conflict with other statutory agencies the~~
5 ~~governor will receive general counsel~~] on the arts; [~~from the~~
6 ~~commission and from the division.~~

7 ~~B. The commission will]~~

8 (2) advise the director on all division
9 policies, and the director shall provide the commission with
10 all information requisite to such advice; and

11 (3) oversee the administration of the Art in
12 Public Places Act, including the selection, execution,
13 placement and acceptance of art and determining expenditures
14 for public art as provided in that act.

15 ~~[G.]~~ B. The director shall consult with the
16 commission [~~shall be consulted by the director~~] before [~~he~~] the
17 director approves, disapproves or modifies the distribution of
18 federal and state program funds other than art in public places
19 funds. The director shall provide the commission with all
20 information requisite to such consultation.

21 ~~[D.]~~ C. The director shall keep the commission
22 informed of the fiscal affairs of the division, including
23 budget requests, appropriations and disbursements."

24 Section 9. A new section of Chapter 18, Article 5 NMSA
25 1978 is enacted to read:

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