

# MAINE STATE LEGISLATURE

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New Draft of: H. P. 171, L. D. 222  
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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1224**

H. P. 1071

House of Representatives, March 20, 1979

Reported by Mrs. Masterton from the Committee on State Government. Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Provide for Art in Public Buildings and Other Facilities.**

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Be it enacted by the People of the State of Maine, as follows:

**27 MRSA c. 16** is enacted to read:

**CHAPTER 16**

**THE PERCENT FOR ART ACT**

**§ 451. Purpose**

Recognizing the need to enhance culture and the arts and to encourage the development of artists, it is the intent of the Legislature to establish a program to provide funds for and authorize the acquisition of works of art for certain public buildings and other facilities.

**§ 452. Definitions**

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. Architect. "Architect" means the person or firm retained by the contracting agency to design the project to which the 1% provision of this chapter applies.

2. Artist. "Artist" means a practitioner in the visual arts, generally recognized by critics and his peers as a professional, who produces works of art

and who is not the architect or a member of the architectural firm retained by the contracting agency.

3. **Commission.** “Commission” means the Maine State Commission on the Arts and the Humanities.

4. **Contracting agency.**

A. “Contracting agency” means the agency of State Government to which funds have been appropriated or allocated by the Legislature for the construction of any public building or other public facility. In the case of school construction, the contracting agency shall be the governance body of the local school administrative unit.

B. “Contracting agency” does not include municipalities and special purpose quasi-municipal districts such as, but not limited to, sewer districts and water districts.

5. **Public building or public facility.**

A. “Public building” or “public facility” means any building or facility which is to be constructed in part or totally with funds from any source appropriated or allocated by the Legislature and which is intended for the use of the general public.

(1) If only part or parts of the building or facility are for the use of the public, then the terms shall include only that part or those parts designed for the use of the public. The method of cost allocation to the identifiable part or parts shall be determined by a generally accepted method of cost allocation, provided that the allocated cost for that part or those parts shall exceed \$100,000.

B. “Public building” or “public facility” shall also include all new school construction projects which have been approved by the State Board of Education after the effective date of this chapter and which are subject to state reimbursement for their debt service costs. Any school construction project approved after the effective date of this chapter which does not include a work of art as part of the project shall not be eligible for future state reimbursements for any debt service costs related to the project.

(1) Any local school administrative unit which desires to be eligible for possible future reimbursement from the State should abide by this chapter.

C. “Public building” or “public facility” shall not include highways, sheds, warehouses, buildings of a temporary nature and buildings and facilities which cost \$100,000 or less to construct.

6. **Works of art.** “Works of art” mean any of the following original creations of visual art:

A. Sculpture, including in the round, bas-relief, high relief, mobil fountain, kinetic, electronic, in any material or combination of materials;

- B. Painting, all media including portable and permanently affixed works such as murals;**
- C. Graphic arts, printmaking and drawing;**
- D. Mosaics;**
- E. Photography;**
- F. Crafts in clay, fiber and textiles, wood, metal, plastics and other materials;**
- G. Calligraphy; and**
- H. Mixed media, any combination of forms or media, including collage.**

**§ 453. Expenditure for and location of art**

**1. Amount.** Any contracting agency shall expend out of any moneys appropriated or allocated by the Legislature for the original construction of any public building or facility a minimum amount of 1% of the appropriation or allocation, or \$25,000, whichever is less, for the purpose of acquiring, transporting and installing works of art.

**2. Location of works of art.** Works of art may be included as an integral part of the structure of the building or facility, may be attached to the structure or may be detached within or outside of the structure.

**§ 454. Contracts for works of art**

For purposes of this chapter, expenditures for works of art shall be contracted for separately from all other items in any original construction of any public building or facility. Contracts shall be made according to section 457.

**§ 455. Determination of amount for acquisition of art**

The commission shall determine, in consultation with the contracting agency, the minimum amount to be made available for the purchase of art for each public building or facility.

**§ 456. Duties of the contracting agency**

Upon selection of an architect for any project, the contracting agency shall:

- 1. Notify.** Notify the architect of this chapter;
- 2. Commission.** Notify the commission of the selection of the architect and the details of the project;
- 3. Consultation.** Consult with the commission about the amount to be expended for works of art; and
- 4. Selection of artist and works of art.** Select the artist and the works of art in accordance with the rules established under section 458, and in consultation with the commission.

**§ 457. Duties of commission****1. Consultation. The commission shall:**

**A. Consult with the architect about any administrative costs or design services which may be required in connection with the selection of works of art; and**

**B. Approve the contract between the contracting agency and the architect for any such services.**

**2. Additional duties. The commission shall:**

**A. Advise the contracting agency;**

**B. Approve the contracting agency's selection of the artist; and**

**C. Review the design, execution and placement and the acceptance of any works of art which are, or are intended to be, acquired under this chapter.**

**§ 458. Rules and regulations**

**The commission shall establish rules in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, section 8051, et seq., to carry out the purposes of this chapter. These rules shall include, but not be limited to, the following:**

**1. Selection. Procedures for the selection of artists and works of art;**

**2. Standards. Standards for the artist and works of art which may be eligible for selection; and**

**3. Contract procedures. Procedures for contracting with artists for works of art and with architects for services relating to the planning for the acquisition of works of art.**

**§ 459. Administrative costs**

**Any administrative costs incurred by the contracting agency or the architect which are associated with the acquisition of works of art shall be included as part of the amount allocated to section 453, subsection 1, for works of art.**

**STATEMENT OF FACT**

The purpose of this bill is to enact the Percent for Art Act in which a minimum of 1% of the moneys appropriated for construction of certain public buildings and other facilities, or \$25,000, whichever is less, is required to be expended for works of art for that building or facility. This bill defines the roles of the contracting agencies and the Maine State Commission on the Arts and the Humanities.