

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1653

H.P. 1128

House of Representatives, April 24, 1991

Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative JACQUES of Waterville.

Cosponsored by Representative LORD of Waterboro, Representative MITCHELL of Vassalboro and Representative TAMMARO of Baileyville.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Provide a Percent for Art Program Waiver.**

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

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Sec. 1. 27 MRSA §452, sub-§2, as amended by PL 1989, c. 912, §2, is further amended to read:

2. Artist. "Artist" means a practitioner in--the--arts, generally recognized as a professional by critics and peers, who produces works of art and who is not the architect or an employee of the architectural firm retained by the contracting agency.

Sec. 2. 27 MRSA §452, sub-§6, as amended by PL 1989, c. 912, §3, is further amended to read:

6. Works of art. "Works of art" means any of the following original-creations-of-art:

- A. Sculpture in any material or combination of materials;
- B. Painting;
- C. Graphic arts, printmaking and drawing;
- E. Photography, video or electronic media;
- F. Crafts in clay, fiber and textiles, wood, metal, plastics and other materials; and
- H. Mixed or conceptual media, or any combination of forms or media, including collage; ;
- I. Conceptual landscaping;
- J. Unique architectural stylings or embellishments, including architectural crafts and masonry workings; and
- K. Original or unique furnishings.

Sec. 3. 27 MRSA §455, as amended by PL 1989, c. 912, §5, is repealed and the following enacted in its place:

§455. Determination of amount for acquisition of art

1. Minimum amount. The commission, in consultation with the Bureau of Public Improvements, the Bureau of School Management, the Office of Facilities within the University of Maine System or the Maine Technical College System, whichever has budgetary authority over the project, shall determine the minimum amount to be made available for the purchase of art for each public building or facility.

2. Waiver. At any time, the Bureau of Public Improvements, after consultation with the commission and the contracting

2 agency, may determine that no state money, or an amount less than  
4 the minimum amount specified in subsection 1, may be spent to  
6 purchase works of art. The Bureau of Public Improvements may  
8 make this determination only if:

10 A. Works of art would be out of place in, on, or around the  
12 building or facility;

14 B. There would be little or no opportunity for the public  
16 to appreciate works of art in, on or around the buildings or  
18 facility; or

20 C. Funds that would otherwise be spent on works of art are  
22 necessary to fulfill the primary purpose or function of the  
24 building or facility due to either:

26 (1) An underallocation of funds; or

28 (2) Higher-than-expected building costs.

30 Sec. 4. 27 MRSA §456, as enacted by PL 1979, c. 525, is  
32 amended to read:

34 §456. Duties of the contracting agency

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

40 1. Notify. Notify the architect of this chapter;

42 2. Commission. Notify the commission of the selection of  
44 the architect and the details of the project; and

46 3. Consultation. Consult with the commission and the Bureau  
48 of Public Improvements about the amount to be expended for works  
50 of art; and

~~40 4. Selection of artist and works of art. Select the artist~~  
~~42 and the works of art in accordance with the rules established~~  
~~44 under section 458, and in consultation with the commission.~~

46 Sec. 5. 27 MRSA §456-A is enacted to read:

48 §456-A. Duties of the architect

50 Upon selection as architect for any project, that architect  
shall:

1. Administration. Play the leading role in the  
administration and process of the Percent for Art Program in  
order to achieve structural integration or artistic unity, or

2 both, of the works of art and the design of the building or  
3 facility; and

4 2. Selection of artist and works of art. Select the artist  
5 and works of art in accordance with the rules established under  
6 section 458, in consultation with the contracting agency and the  
7 commission.

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9 Sec. 6. 27 MRSA §457, sub-§4, as enacted by PL 1989, c. 912,  
10 §6, is amended to read:

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12 4. Selection. Approve the process used by the contracting  
13 agency architect in selection of the artist or works of art. If  
14 the commission does not approve the process used to select the  
15 artist or works of art, then the contracting-agency architect  
16 shall use another selection process in accordance with the  
17 procedure authorized in section 456 458, subsection -4- 1 and in  
18 consultation with the commission;

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20 Sec. 7. 27 MRSA §459, as amended by PL 1989, c. 912, §9, is  
21 repealed and the following enacted in its place:

22 §459. Administrative costs

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24 1. Minimum and maximum amounts. Eligible administrative  
25 costs incurred by the contracting agency and the architect,  
26 including reasonable costs for the time of the architect, that  
27 are associated with the acquisition of works of art must be  
28 included as part of the amount allocated under section 453,  
29 subsection 1, for works of art. Such costs may not be less than  
30 5% nor more than 15% of the amount allocated for the purchase of  
31 works of art.

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34 2. Exceptions. If the administration of the Percent for  
35 Art Program is exceptionally costly due either to its degree of  
36 complexity or its scope, the Director of the Maine Arts  
37 Commission may authorize the payment of reasonable administrative  
38 costs that constitute more than 15%, but not more than 25%, or  
39 the amount allocated for the purchase of works of art.

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44 **STATEMENT OF FACT**

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46 This bill grants the Bureau of Public Improvements the  
47 limited discretion to decrease Percent for Art Program funding  
48 requirements under the following conditions: art would be  
49 unsuited for or unappreciated at a public construction or the  
50 funds are necessary, because of an underallocation of funds or  
51 cost overruns, to purchase items fundamental to the purposes of a  
52 public building. Furthermore, by enlarging the role of the  
architect in the administration of the program, it enables

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architects to achieve to a greater degree structural integration and artistic unity of their building designs and the works of art purchased with Percent for Art Program funds.