

JAN 18 2023

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# A BILL FOR AN ACT

RELATING TO THE STATE FOUNDATION ON CULTURE AND THE ARTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The legislature finds that the mission of the state  
2 foundation on culture and the arts is to promote, perpetuate,  
3 preserve, and encourage culture and the arts as central to the  
4 quality of life and people of Hawaii. One of the foundation's  
5 strategic priorities includes increasing public accessibility to  
6 arts and culture.

7 The foundation administers the state art museum and the art  
8 in public places and relocatable works of art programs, using  
9 the works of art special fund created pursuant to section 103-  
10 8.5, Hawaii Revised Statutes. The museum and these programs aim  
11 to support, promote, and recognize the excellence of the State's  
12 diverse artists and create, display, and maintain in public  
13 places and the state art museum a collection of works of art  
14 that represent the diversity and excellence of the State's  
15 artistic expression and provide the fullest possible access to  
16 the highest quality aesthetic and educational experiences  
17 available to all the citizens of the State.



1           The purpose of this Act is to further the foundation's  
2 endeavors by allowing forty per cent of the works of art special  
3 fund to be used for the support and promotion of performing arts  
4 in the State.

5           SECTION 2. Chapter 9, Hawaii Revised Statutes, is amended  
6 by adding a new section to part III to be appropriately  
7 designated and to read as follows:

8           "§9- Definitions. As used in this part:

9           "Display" includes the posting of a recording of works of  
10 art at presentation sites maintained by the foundation or the  
11 state art museum for public view and listening.

12           "Works of art" includes works of performing arts; provided  
13 that meet the following criteria:

14           (1) The performance is recorded on an audio file, video  
15 file, audiovisual file, or other medium intended to be  
16 shown by or through the use of machines or devices  
17 such as projectors, viewers, or electronic equipment  
18 or device, together with accompanying sounds, if any;

19           (2) The recording of the performance is archived and  
20 maintained by the foundation or the state art museum  
21 as property of the State;



1       (3) The State has whole and exclusive copyrights in the  
2           performance and its recordings pursuant to the works  
3           made for hire doctrine under federal copyright laws;  
4           and

5       (4) The recording of the performance is displayed for  
6           viewing and listening at presentation sites and in a  
7           format determined by the comptroller and the  
8           foundation to be most easily accessible to the  
9           public."

10       SECTION 3. Section 9-1, Hawaii Revised Statutes, is  
11 amended by adding a new definition to be appropriately inserted  
12 and to read as follows:

13       "Performing arts" means arts or skills that are intended  
14 to be performed for an audience. "Performing arts" includes  
15 dance choreography, singing, lyrics, motion pictures, music,  
16 theater, pantomime, screenplays, sound recordings, and similar  
17 types of works."

18       SECTION 4. Section 103-8.5, Hawaii Revised Statutes, is  
19 amended to read as follows:

20       "**§103-8.5 Works of art special fund.** (a) There is  
21 created a works of art special fund, into which shall be



1 transferred one per cent of all state fund appropriations for  
2 capital improvements designated for the construction cost  
3 element; provided that this transfer shall apply only to capital  
4 improvement appropriations that are designated for the  
5 construction or renovation of state buildings. The one per cent  
6 transfer requirement shall not apply to appropriations from the  
7 passenger facility charge special fund established by section  
8 261-5.5 and the rental motor vehicle customer facility charge  
9 special fund established under section 261-5.6.

10 (b) The works of art special fund shall be used solely for  
11 the following purposes:

12 (1) Costs related to the acquisition of works of art,  
13 including any consultant or staff services required to  
14 carry out the art in public places and relocatable  
15 works of art programs;

16 (2) Site modifications, display, and interpretive work  
17 necessary for the exhibition, performance, and  
18 recording of works of art;

19 (3) Upkeep services, including maintenance, repair, and  
20 restoration of works of art [†] and works of performing  
21 arts; and



1           (4) Storing and transporting works of art [redacted],  
2 provided that forty per cent of the works of art special fund  
3 shall be used for performing arts.

4           (c) The one per cent amount, which is included in all  
5 capital improvement appropriations, shall be calculated at the  
6 time the appropriation bills are signed into law. The moneys  
7 shall be transferred into the works of art special fund upon  
8 availability of moneys from the appropriations. Each agency  
9 receiving capital improvement appropriations shall calculate the  
10 one per cent amount and transfer the moneys into the works of  
11 art special fund.

12           (d) The comptroller and the state foundation on culture  
13 and the arts shall decide on the specific works of art [objects]  
14 to acquire, giving first consideration to placing appropriate  
15 pieces of art at the locations of the original appropriation [redacted],  
16 when applicable.

17           The comptroller and the state foundation on culture and the  
18 arts, in consultation with the affected agency or department,  
19 shall be responsible for the selection of [redacted]; commissioning of  
20 artists for [redacted]; reviewing of the design, content, execution,  
21 performance, recording, and placement of [redacted]; and [the]



1 acceptance of the works of art [~~shall be the responsibility of~~  
2 ~~the comptroller and the state foundation on culture and the arts~~  
3 ~~in consultation with the affected agency or department]~~ .

4 Expenditures from the works of art special fund shall be  
5 made by the comptroller.

6 (e) The comptroller shall:

7 (1) Provide each agency receiving capital improvement  
8 appropriations with information regarding items that  
9 shall be included and excluded from the one per cent  
10 amount;

11 (2) Ensure that each agency calculates its one per cent  
12 amount correctly; and

13 (3) Ensure that each agency transfers the correct amount  
14 to the works of art special fund in a timely manner.

15 (f) The comptroller and the executive director shall track  
16 amounts due from each agency under the one per cent requirement  
17 as provided in this section.

18 (g) For the purposes of this section, "display" and "works  
19 of art" have the same meaning as those terms are defined in  
20 section 9- ."



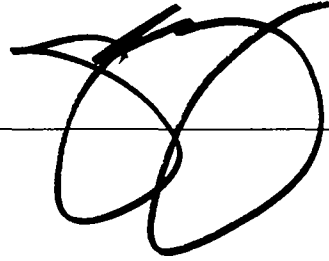
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1           SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 6. This Act shall take effect upon its approval.

4

INTRODUCED BY: \_\_\_\_\_

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and curves, positioned over a horizontal line.

# S.B. NO. 119

**Report Title:**

State Foundation on Culture and the Arts; Performing Arts; Works of Art Special Fund

**Description:**

Allows the Works of Art Special Fund to be used for performing arts, under certain conditions. Provides that forty per cent of the Works of Art Special Fund be used for performing arts. Defines performing arts.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

