

# CITY OF SACRAMENTO

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## DEPARTMENT OF PARKS AND COMMUNITY SERVICES

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April 8, 1985

Law and Legislative Committee  
Sacramento, California

Honorable Members in Session:

SUBJECT: Support of Senate Bill 44 - Art in Public Buildings Program

### SUMMARY

Senate Bill 44 would create the California Percent-for-Art in Public Buildings Program. The Department of Parks and Community Services recommends that the City support this legislation.

### BACKGROUND INFORMATION

Senate Bill 44, introduced by Senator Garamendi, would create the California Percent-for-Art in Public Buildings Program effective July 1, 1987. The bill would require, on any State public construction that two percent of any amount appropriated for capital construction or remodeling be used for the acquisition of works of art. The term "State public projects" would include State buildings, University of California facilities, other State facilities, and public places.

This bill is designed to ensure the provision of quality art works for public appreciation in public places. The City of Sacramento already recognizes the importance of art to the quality of life as demonstrated through the implementation in 1979 of the Art in Public Places ordinance requiring two percent of the construction costs of City buildings and parks be allocated for public art. The Sacramento Housing and Redevelopment Agency and the County of Sacramento have enacted similar requirements. The Sacramento Metropolitan Arts Commission, a City/County agency, administers this program which has increased the City's collection of public art by over 54 works.

the State capital, the City contains a large portion of State buildings which would benefit from the enactment of Senate Bill 44, thereby, further increasing the aesthetic value and quality of life to City residents.

April 8, 1985

The Sacramento Metropolitan Arts Commission voted to express their support of Senate Bill 44 at the March 5, 1985, meeting. Likewise, the Crocker Commission trustees voted to express their support of this bill at their February 1985 board meeting.

The City Council endorsed a similar bill, Senate Bill 1326, in May 1984. However, this bill, which was also introduced by Senator Garamendi, was vetoed by the Governor.

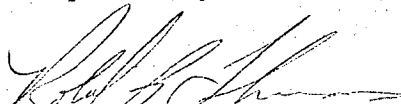
FINANCIAL DATA

No City funds are involved.

RECOMMENDATION

It is recommended that the Law and Legislative Committee support Senate Bill 44.

Respectfully submitted,



ROBERT P. THOMAS, Director  
Parks and Community Services

Recommendation Approved:

\_\_\_\_\_  
SOLON WISHAM, JR.  
Assistant City Manager

RPT:sl

May 2, 1985  
All Districts

Introduced by Senator Garamendi

December 4, 1984

An act to add Chapter 9.5 (commencing with Section 8760) to Division 1 of Title 2 of, to add Section 15813.9 to, and to repeal Chapter 2.1 (commencing with Section 15813) of Division 3 of Title 2 of, the Government Code, relating to public buildings.

LEGISLATIVE COUNSEL'S DIGEST

SB 44, as amended, Garamendi. Public buildings: California Percent-for-Art in Public Buildings Program.

Existing law recognizes the importance of art to the quality of life in California and provides for the placing of art in state buildings.

This bill would repeal existing provisions of law relating to art in state buildings as of July 1, 1987, and would create the California Percent-for-Art in Public Buildings Program, expressing the intent of the Legislature that this program provide quality art works for public appreciation in public places.

The bill would require on any state public construction project, with specified exceptions, that 2% of any amount appropriated for capital construction costs, not to exceed \$1,000,000, shall be used for the acquisition of works of art to be included in construction or remodeling when the construction or remodeling costs exceed \$50,000, for state buildings, other state facilities, or public places. In addition, the bill would provide that no more than 10% of the amount allocated for works of art could be expended for those elements generally considered to be components of a landscape architectural design, such as plant materials, pools,

paths, benches, receptacles, fixtures, and planters, unless they are designed by the artist.

This bill also would establish definitions applicable to the operation of the program, and would create advisory and selection committees with specified duties involving the process of selecting the works of art that would be used in the program. It would set forth the responsibilities of the various agencies and persons which would be involved in the program and would specify the purposes for which the amounts appropriated for art under the program could be spent.

In addition, the bill would specify the intent of the Legislature that the Regents of the University of California adopt a policy to set aside 1% of state-appropriated capital construction funds for acquisition of works of art for construction projects which exceed \$50,000, as specified.

These provisions would become operative on July 1, 1987.  
Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 9.5 (commencing with Section  
2 8760) is added to Division 1 of Title 2 of the Government  
3 Code, to read:

4  
5 CHAPTER 9.5. CALIFORNIA PERCENT-FOR-ART IN  
6 PUBLIC BUILDINGS PROGRAM

7  
8 Article 1. General Provisions

9  
10 8760. The State of California recognizes its  
11 responsibility to create a more humane environment of  
12 distinction, enjoyment, and pride for all of its citizens.  
13 Further, the State of California recognizes that public art  
14 is a resource which stimulates the vitality and economy  
15 of the state's communities and which provides  
16 opportunities for artists and other skilled workers to  
17 practice their crafts. Therefore, the State of California  
18 declares it to be a matter of state policy that a portion of

1 each capital construction appropriation be allocated for  
2 the acquisition of works of art to be placed in public  
3 places.

4 It is the intent of the Legislature that the California  
5 Percent-for-Art in Public Buildings Program provide  
6 quality art works for public appreciation in public places  
7 and recognize the work of qualified professional artists  
8 through the commissioning or purchase of their art.

9 8761. (a) On any state public construction project  
10 except those primarily involving motor pools, heating  
11 plants, parking lots, maintenance sheds, bridges, sewers  
12 and other utility improvements, trails, fishponds,  
13 fishways, highways and highway rest areas, Amtrak  
14 stations, prisons, projects which correct code deficiencies  
15 projects to construct buildings for utility purposes  
16 which the public does not normally have access, or  
17 Department of the Youth Authority facilities, 2 percent  
18 of any amount appropriated for capital construction costs  
19 shall be used for the acquisition of works of art to be  
20 included in the construction or remodeling, where the  
21 construction or remodeling costs exceed fifty thousand  
22 dollars (\$50,000), for state buildings, other state facilities  
23 or public places.

24 (b) On any state public construction project involving  
25 prisons or Department of the Youth Authority facilities  
26 the percentage of the amount appropriated for capital  
27 construction costs used for acquisition of works of art shall  
28 be not less than one-quarter of 1 percent.

29 (c) No percentage for the acquisition of works of art  
30 made for any single public construction project shall  
31 exceed the sum of one million dollars (\$1,000,000).

32 (d) Any art work to be placed within the state park  
33 system shall be consistent with the classification and  
34 general plan of the affected unit and in compliance with  
35 Section 5024.5 of the Public Resources Code.

36  
37 Article 2. Definitions

38  
39 8765. The definitions contained in this article govern  
40 the construction of this chapter.

1 8766. (a) "Artist" means a practitioner in the visual  
2 arts, generally recognized by critics and peers as a  
3 professional of serious intent who is not a member of the  
4 project architectural firm.

5 (b) "Work of art" includes all forms of original  
6 creations of visual art, including, but not limited to:

7 (1) Painting, including all media and both portable  
8 and permanently affixed works such as murals.

9 (2) Sculpture, including bas-relief, high relief, mobile,  
10 fountain, kinetic, electronic, and in-the-round sculpture.

11 (3) Mixed media, including any combination of forms  
12 of media, including collage.

13 (4) Prints, calligraphy, clay, drawings, stained glass,  
14 mosaics, photographs, fiber and textiles, wood, metal,  
15 plastics, and other materials or a combination of  
16 materials.

17 (c) "Architect" means a person licensed pursuant to  
18 the provisions of Chapter 3 (commencing with Section  
19 5500) of Division 3 of the Business and Professions Code,  
20 or a firm offering the services of a licensed architect, with  
21 which the State Architect has contracted to design a  
22 project to which the percent provisions, set forth in  
23 subdivisions (a) and (b) of Section 8761, apply.

24 (d) "State building, other state facilities, and public  
25 places" means any facility, park, or structure built or  
26 remodeled by the state using legislatively appropriated  
27 moneys.

28 (e) "Resident agency" means that state agency or  
29 agencies which will occupy or otherwise use the planned  
30 or renovated building.

31 (f) "Appropriation" means capital outlay from any  
32 funding source appropriated by the Legislature in the  
33 annual Budget Act.

34 (g) "Arts Council" means the Arts Council created by  
35 Section 8751.

36 (h) "State Architect" means the Office of the State  
37 Architect.

38 (i) "Advisory Committee" means the committee  
39 created by Section 8767.

40 (j) "Selection Committee" means the committee

1 created by Section 8771.

2 (k) "State Art in Public Places Plan" means a guide for  
3 site selection for the placement of art works under this  
4 program.

5 (l) "Art Slide Bank" means the slide bank maintained  
6 by the Arts Council in administering the provisions of the  
7 Art in Public Buildings Program.

### 8 Article 3. Art Selection Process

9  
10  
11 8767. The Advisory Committee is hereby created and  
12 has the membership, powers, and duties prescribed in  
13 this article.

14 8767.5 (a) The number of persons serving on the  
15 Advisory Committee shall be nine.

16 (b) The Arts Council shall appoint six members to the  
17 Advisory Committee and the State Architect shall  
18 appoint three members. Appointment of members of the  
19 Advisory Committee is subject to the following  
20 conditions:

21 (1) At all times, a majority of the members serving on  
22 the committee shall be working artists.

23 (2) At all times, at least one of the members serving on  
24 the committee shall be a curator or director of an art  
25 museum, an art historian, or an architect.

26 (3) All persons appointed to the Advisory Committee  
27 shall make a conflict-of-interest declaration pursuant to  
28 Section 8751.5.

29 8768. The Advisory Committee shall do all of the  
30 following:

31 (a) Assist the Arts Council and the State Architect in  
32 choosing eligible artists.

33 (b) Assist the Arts Council and the State Architect in  
34 choosing the method of selection.

35 (c) Assist the Arts Council and the State Architect in  
36 making any offsite allocations pursuant to subdivision (a)  
37 of Section 8785.

38 (d) Assist the Arts Council and the State Architect in  
39 developing the State Art in Public Places Plan. The plan  
40 shall be based upon factors, including, but not limited to,

1 local ordinances, existing art within the proposed site.  
2 vicinity; environmental concerns, and public accessibility  
3 to the work.

4 (e) Assist the Arts Council and the State Architect in  
5 developing any other policies deemed necessary by the  
6 Arts Council and the State Architect or the Joint  
7 Committee on Arts.

8 8769. Advisory Committee members who are not  
9 employees of the Arts Council or of the State Architect  
10 shall be reimbursed for their actual and necessary  
11 expenses. The total cost of advisory services for each  
12 project shall not exceed 5 percent of the amount  
13 allocated for the purchase of works of art.

14 8770. Members of the Advisory Committee shall be  
15 appointed to one-year terms. Members of the Advisory  
16 Committee may serve for up to three consecutive terms.

17 8771. (a) The Selection Committee shall consist of  
18 the State Architect or a person designated by the State  
19 Architect, a member of the Arts Council or a person  
20 designated by the council, and one person selected by the  
21 other two, who shall be a visual artist, an architect, a  
22 person employed by an art museum, or a collector of  
23 visual art. At least one member shall be a working visual  
24 artist. The Selection Committee shall carry out the  
25 responsibilities set forth in Section 8772.

26 (b) The Selection Committee shall consider the  
27 recommendations of the Advisory Committee.

28 (c) In case of construction for the California State  
29 University system, the Advisory Committee shall  
30 recommend up to three artists to the trustees, who shall  
31 make the final decision.

32 8772. The Arts Council, in consultation with the  
33 Advisory Committee, shall choose one of the following  
34 methods to select the artists and works of art to be used  
35 in a project.

36 (a) The Selection Committee selects the artist or a  
37 completed work after reviewing the Art Slide Bank  
38 maintained by the Arts Council.

39 If this method of selection is used, the artist shall be  
40 selected prior to the final design phase of the building

1 plans.

2 (b) The Selection Committee, upon the advice and  
3 recommendations of the Advisory Committee, after  
4 reviewing the Art Slide Bank, shall commission no more  
5 than five artists who shall be paid a reasonable fee, as  
6 determined by the State Architect, to develop maquettes  
7 or drawings. If, in the opinion of the Selection  
8 Committee, a satisfactory proposal is not made, the  
9 process shall begin again, or another method of selection  
10 shall be adopted.

11 (c) The project is publicly announced and widely  
12 publicized by the Arts Council, using the visual artists  
13 registry utilized when carrying out its responsibilities  
14 under paragraph (5) of subdivision (a) of Section 986 of  
15 the Civil Code. Any professional artist is eligible to apply.  
16 The Advisory Committee shall screen applicants using  
17 the Art Slide Bank and shall make recommendations  
18 which are reviewed during public meetings held at each  
19 site. The purpose of the public meeting is to rank  
20 selections in priority as recommendations to the  
21 Selection Committee for final selection. The resident  
22 agency shall participate in the public meeting.

23 The Selection Committee may select artists from the  
24 recommendations made from the public meeting or  
25 choose directly from an invited list, as described in  
26 subdivision (b). The architect working with the advice of  
27 the Arts Council shall negotiate the final cost and work  
28 with the artist within limits set by the Selection  
29 Committee.

30 (d) The Arts Council and the State Architect may use  
31 more than one of the above methods of selection at the  
32 same time or on the same project during any fiscal year.

33 8773. (a) Preference shall be given to California  
34 artists in the selection process. Artists who wish to be  
35 considered for commissioning under the California  
36 Percent-for-Art in Public Buildings Program shall  
37 register with the Arts Council and shall submit  
38 biographical materials as well as color slides to the agency  
39 for use by the Advisory Committee.

40 (b) All of the following are ineligible to submit

proposals or to be selected for the California Percent-for-Art in Public Buildings project: the project architect, a member of the project architect's firm, an Arts Council member or staff member, a staff member of the project or of the resident agency, or any member of the Advisory Committee or Selection Committee.

(c) In the selection process for the commissioning of works of art for prisons and Department of the Youth Authority facilities, inmates and wards of the Department of the Youth Authority shall be given preference over other California artists. Inmates who are chosen shall conform to guidelines established for the Inmate Work Credit Program in Section 2933 of the Penal Code.

8774. (a) Works of any genre appropriate as art in public places and compatible in scale, material, form, and content with their surroundings shall be considered. Works may be participatory in nature.

(b) The consideration of highest priority in the selection process is the inherent quality of the work itself.

(c) All visual art forms may be considered. Works may be either portable or permanently affixed and may serve as space dividers.

(d) Due consideration shall be given to structural and surface soundness and to permanence in terms of relative proof against theft, vandalism, weathering, or excessive maintenance or repair costs.

8775. The Arts Council and the State Architect shall set aside sufficient funds from each percent appropriation for the purpose of maintaining works of art created under the program for 10 years. Maintenance may be performed by entities outside the state government, pursuant to contract, when it is not economical or practical to use state civil service employees, to the extent permitted by Article VII of the California Constitution. When maintenance is deemed necessary, the Arts Council and the State Architect shall consult with the artist regarding repairs and restoration insofar as that consultation is practicable.

#### Article 4. Responsibilities of Affected Agencies and Persons

8777. The Arts Council shall:

(a) Be responsible for the selection and commissioning of the artist for the project, and for reviewing the design, execution, placement of, and acceptance of works of art.

(b) Work with the architect and the Advisory Committee on choosing the method of selection.

(c) Appoint the Advisory Committee in accordance with subdivision (b) of Section 8767.5.

(d) Appoint one council member or a person designated by the council to the Selection Committee.

(e) Assist the State Architect in contract negotiations with artists.

(f) Administer the Art Slide Bank and publicize the program, the slide bank, and the open competitions with the administrative funds it receives from each project.

Administrative funds shall be 10 percent of the amount set aside for the 2 percent project up to a maximum of one thousand five hundred dollars (\$1,500) on any single project.

(g) Maintain an inventory of all works of art purchased under this program and inspect each work of art every two years using the funds described in subdivision (f).

(h) Provide notice to a designated agency under the Art Council State and Local Partnership Program whenever art is to be placed in a state building in the local agency's area, and seek the involvement and input of the local agency.

8778. The State Architect shall:

(a) Notify the Arts Council upon legislative approval of construction and renovation projects which are subject to the California Percent-for-Art in Public Buildings Program.

(b) Notify the Arts Council of the project details, including the amount of the California Percent-for-Art in Public Buildings Program allocation.

(c) Notify the architect of the state law requiring a



1 nondeductible allocation for works of art, and the scale  
2 and type of work thought to be most appropriate.

3 (d) Consult with the Arts Council and Advisory  
4 Committee on the determination of the arts budget and  
5 selection procedures.

6 (e) Contract with the architect for additional  
7 administrative or design services to be rendered in  
8 connection with the commissioning of works of art, if  
9 necessary.

10 (f) Ensure that payment is made for all costs,  
11 professional fees, purchases, and commissions in  
12 accordance with state law.

13 (g) Provide project coordination to assure timeliness  
14 of completion.

15 (h) Review and authorize all changes proposed  
16 involving cost, time, or the scope of the art project.

17 (i) Appoint a person to serve on the Selection  
18 Committee, if the State Architect chooses not to so serve.

19 (j) Appoint, with the Arts Council, members of the  
20 Advisory Committee in accordance with subdivision (b)  
21 of Section 8767.5.

22 8779. The resident agency shall:

23 (a) Be responsible for any costs associated with the  
24 dedication or unveiling of the work of art.

25 (b) Be responsible for all maintenance, in consultation  
26 with the Arts Council, and all maintenance costs, after  
27 the stipulated 10-year maintenance period for the  
28 reasonable life of the work of art.

29 8780. The architect shall:

30 (a) Recommend to the Arts Council and the State  
31 Architect specific sites for works of art and the scale and  
32 type of work thought to be most appropriate.

33 (b) Act as an advisor to the Advisory Committee.

34 (c) Work closely with the artist where required,  
35 provide engineering and technical assistance to the artist  
36 if the artist so requests, and supervise the delivery and  
37 installation of the work under contract with the State  
38 Architect.

39 (d) Assure that all service requirements for the work  
40 of art are met in the design documents and that the work

1 may be efficiently installed.

2 (e) Provide the site in finished condition, free of clean  
3 and free of obstructions. Any other preparation of the site  
4 is the responsibility of the artist.

5 8781. The artist shall:

6 (a) Be commissioned by the State Architect to execute  
7 and complete the work in a timely and professional  
8 manner, or transfer title of an existing work of art to the  
9 agency for incorporation in its building.

10 (b) Deal personally with the other parties in all phases  
11 of the negotiations. However, an artist may, at his or her  
12 option, designate a dealer or agent to represent him or  
13 her in certain aspects of the project.

14 (c) Consult with the architect on integrating the  
15 artwork into the design features of the project.

16 (d) Upon completion of the work, or works, of art  
17 commissioned or purchased, the artist shall submit to the  
18 Arts Council a detailed description of the work, or works,  
19 of art with instructions on care and maintenance, two  
20 35mm slides, and two 8 by 10 inch black and white glossy  
21 photos of the work, or works, of art. The description form  
22 shall be submitted concurrently with the final invoice.

23 (e) All drawings and maquettes related to a proposed  
24 work of art are the property of the Arts Council, provided  
25 that the artist was paid a fee for the proposal and was  
26 commissioned.

27 (f) Consult with the architect to determine as early as  
28 possible whether a base or footing, or any other type of  
29 structural support, is required for installation of the work.  
30 Unless the State Architect agrees in writing to the  
31 contrary, the artist is responsible for the cost and  
32 installation of any structural support required especially  
33 for the work.

34 (g) Maintain with the Arts Council notification of  
35 current address in order to facilitate consultation.

### 37 Article 5. Inclusions and Exclusions

38  
39 8783. The portion of the capital appropriation  
40 reserved for works of art may be expended for the



1 following:

2 (a) The cost of the work of art and all associated fees  
3 and materials.

4 (b) Identification plaques and labels.

5 (c) Waterworks and electrical and mechanical devices  
6 or equipment which are integral parts of the work of art.

7 (d) Frames, mats, or pedestals necessary for the  
8 proper presentation of the works of art.

9 (e) No more than 10 percent of the amount allocated  
10 for works of art shall be expended for those elements  
11 generally considered to be components of a landscape  
12 architectural design, such as plant materials, pools, paths,  
13 benches, receptacles; fixtures, planters, and similar items,  
14 unless designed by the artist.

15 (f) Administration by the Arts Council.  
16 8784. The portion of the capital appropriation  
17 reserved for works of art may not be expended for the  
18 following:

19 (a) Reproductions, by mechanical or other means, of  
20 original works of art, with the exception of limited  
21 editions, controlled by the artist, or original prints, cast  
22 sculpture, photographs, and similar items.

23 (b) Decorative, ornamental, or functional elements  
24 which are designed by the architect or consultants  
25 engaged by the architect.

26 (c) "Art objects" which are mass produced or of  
27 standard design, such as playground sculpture.

28 (d) Directional, or other functional elements, such as  
29 supergraphics, signing, color coding, maps, and similar  
30 items except where a recognized calligrapher is  
31 employed.

32 (e) Those items which are required to fulfill the basic  
33 purpose of the resident agency.

34 (f) Electrical, water, or mechanical service for  
35 activation of the work of art.

36 (g) In connection with the works of art, before or after  
37 they are installed, lighting, registration, dedication,  
38 unveiling, insurance, security, and publicity or  
39 publications.

40 . 8785. The Arts Council and the State Architect may

1 allocate up to 20 percent of the amount allocated for  
2 artwork to be expended in one or both of the following  
3 ways:

4 (a) The allocation may be spent to provide for works  
5 of art placed offsite either in the vicinity of a building, in  
6 the surrounding community, or at a site designated as a  
7 "State Arts Park" located in a city determined by a plan  
8 developed by the Arts Council in the Public Places  
9 Advisory Committee and approved by the Joint  
10 Committee on the Arts.

11 (b) The allocation may be spent for development of  
12 educational materials or resources to be used by  
13 educational or community institutions around the state.

14 8786. (a) It is the intent of the Legislature that the  
15 Regents of the University of California shall adopt a  
16 policy to set aside 1 percent of state-appropriated capital  
17 construction funds for the acquisition of works of art for  
18 construction projects which exceed fifty thousand dollars  
19 (\$50,000).

20 (b) This policy shall provide for the commissioning of  
21 the works of art at the same time construction funds are  
22 released by the Department of Finance.

23 (c) The regents, in establishing procedures to  
24 implement this policy, may include provisions to select  
25 works of art in accordance with the methods described in  
26 Section 8772 or through other procedures.

27 (d) The regents shall have the responsibility for the  
28 selection, placement, and maintenance of the works of  
29 art obtained under the provisions of subdivision (a).

30 SEC. 2. Section 15813.9 is added to the Government  
31 Code, to read:

32 15813.9. This chapter shall remain in effect only until  
33 July 1, 1987, and as of that date is repealed, unless a later  
34 enacted statute, which is chaptered before July 1, 1987,  
35 deletes or extends that date.

36 SEC. 3. Section 1 of this act shall become operative on  
37 July 1, 1987, and shall apply commencing with amounts  
38 appropriated for capital construction costs in the Budget  
39 Act of 1987.