

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 702

(Senator Madaleno, *et al.*)

Finance

Health and Government Operations

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**Maryland Public Art Initiative Program - Selection of Art for Capital Projects**

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This bill requires the State, to the extent practicable, to include public art in specified new buildings and major renovations that are funded entirely with State funds, subject to a waiver process. The bill does not apply to specified unoccupied buildings.

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**Fiscal Summary**

**State Effect:** No effect on total spending in the State capital budget. However, to the extent that money allocated for public art in a project under the bill displaces other capital spending, the bill reduces funding for other capital expenditures – either within the project or in other capital projects. The Department of Business and Economic Development (DBED), the Department of Budget and Management (DBM), and the Department of General Services (DGS) can implement the bill with existing resources.

**Local Effect:** None. The bill only applies to projects funded entirely with State funds.

**Small Business Effect:** Potential meaningful for artists whose work may be acquired or commissioned under the bill.

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**Analysis**

**Bill Summary:** “Public art” means an architectural enhancement of artistic significance or an individual piece of art, including a mural, a tile mosaic, a painting, or a sculpture. “Construction project” means the construction of a new building that is proposed to contain 15,000 or more square feet. “Major renovation project” means the renovation of an existing building where (1) the building is to be reconstructed and reused after the construction; (2) the heating, ventilation, and air conditioning, electrical, and plumbing systems are to be replaced; and (3) the scope of the renovation is 15,000 or more square feet.

The identification and selection of public art included in a project must be determined by a group composed of representatives of (1) the unit of State government that will be the primary user of the building; (2) the unit of State government responsible for project management of the building; and (3) the Division of Tourism, Film, and the Arts within DBED. The division must work with the Maryland State Arts Council and the Maryland Commission on Public Art (commission) in the selection of public art for any project under the bill.

It is the intent of the General Assembly that the requirements of the bill will not increase the cost of a construction project or a major renovation project.

#### *Waiver Process*

DBM and DGS must jointly establish a process to allow a unit of State government to obtain a waiver from complying with art inclusion provisions established under the bill. The waiver process must (1) provide for consultation with the Division of Tourism, Film, and the Arts on behalf of the council and the commission to determine if the inclusion of public art in a proposed project is too costly or not practicable and (2) require the approval of the Secretaries of Budget and Management and General Services.

All artwork funded by the Maryland Public Art Initiative Program (MPAIP) is the property of the commission, instead of the Maryland Historical Trust (MHT). Similarly, MHT is no longer responsible for the inventory, maintenance, and presentation of all artwork acquired through the program. Rather, the commission, in cooperation with DGS, is responsible for the management of the collection.

**Current Law:** Chapter 393 of 2005 (HB 749) established MPAIP in order to (1) promote the installation of artwork in public facilities in the State; (2) provide for the acquisition of public art to be owned by the State; (3) provide for the preservation of public art assets; and (4) provide for a grant fund for local governments. It also established the Maryland Commission on Public Art to ensure that new public facilities constructed by State agencies include installation of artwork.

The commission is required to work with the Maryland Department of Transportation, DGS, and the University System of Maryland to ensure that new public facilities constructed by State units include the installation of artwork.

All art funded under the program is the property of MHT, which, in cooperation with DGS, is responsible for the inventory, maintenance, and preservation of all artwork acquired through the program.

**Background:** Although the bill does not mandate an allocation for art within State capital projects, DBED advises that 23 states and the District of Columbia have formal “percent-for-art” programs and that the majority (16 out of 24) specify an allocation of 1%. Further, percent-for-art programs currently exist on the local level in Prince George’s and Montgomery counties and Baltimore City.

Although Chapter 393 of 2005 expressed legislative intent for the Governor to appropriate up to \$1 million annually to support MPAIP, no money has ever been appropriated, except \$62,000 to hire a contractual program administrator in the fiscal 2010 budget for MPAIP, which remains the only staff support for the program.

**State Fiscal Effect:** No effect on total spending in the capital budget. However, to the extent that money allocated for public art on a project under the bill displaces other capital spending, the bill reduces other capital expenditures – either within the project or in other capital projects.

The Department of Legislative Services advises the bill affects the majority of State-funded projects, based on the project size specified in the bill (excluding the specified unoccupied structures to which the bill does not apply). The effect of the bill on individual capital projects cannot be determined at this time. While the bill specifies that it is the intent of the General Assembly that the bill will not increase the cost of a construction project or a major renovation project, the bill does not prohibit the cost from increasing. In addition, in order for the total cost of any one project to not increase, any incremental spending on public art under the bill must be offset by reductions in spending elsewhere in the project. To the extent that public art with an incremental cost is included in a project under the bill, and reductions within the project are not made, funding for other capital projects is reduced.

The effect of the waiver process authorized under the bill on capital expenditures cannot be reliably estimated at this time. However, the waiver likely reduces capital expenditures on public art for projects where the inclusion is determined to be too costly or not practicable by DBM and DGS in consultation with DBED.

In addition, the bill specifies that artwork funded by MPAIP is the property of the commission, not MHT as under current law. As the program has not yet received sufficient funding to purchase artwork, this provision would apply only prospectively.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1337 (Delegate Griffith, *et al.*) - Health and Government Operations and Appropriations.

**Information Source(s):** Department of Business and Economic Development, Department of Budget and Management, Department of General Services, Department of Housing and Community Development, Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2013  
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