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S.B. NO. 1011

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:

SECTION 1. Since its inception in 1965, the legislature has charged the state foundation on culture and the arts with the task of stimulating, guiding, and promoting culture, arts, history, and the humanities throughout the State. Within this framework, the commission's members have a fundamental role in focusing on the foundation's mission and ensuring that the organization's objectives are in harmony

with that mission. Thus, the legislature believes that a clearer direction would enable the foundation to meet its challenges as it enters the new millennium.

The legislature notes that across the country, art foundations have evolved to remain relevant and vibrant, and able to play a significant, if not the central force, in promoting culture and the arts in their respective communities. The legislature further believes that the foundation can and must occupy such a position in Hawaii and should be the lead state agency in this area.

Given the state's geographic location and cultural influences from not only the east and west, but indigenous Polynesia as well, the legislature acknowledges Hawaii as the cradle of unique cultural and artistic forms manifested in dance, music, theater, and the visual arts that are recognized throughout the world. The foundation can and must be the premier entity in cultivating art in this light and extending its reach to the youngsters of this State. From a humanitarian perspective, studying the arts not only broadens a child's perspective of the immediate environment, but also creates a heightened sense of awareness and connection with the past and present occupants and stewards of this world.

The legislature also finds that the foundation is in need of clearer direction to enable it to meet its challenges and to ensure that its programs meet their objectives. The legislature concurs with many of the findings of the legislative auditor's 1999 report on the foundation, and has incorporated some of its recommendations in this measure.

The purpose of this Act is to:

- (1) Clarify the roles and responsibilities of the State foundation on culture and the arts commission and the executive director;
- (2) Require neighbor island representation on the commission;
- (3) Specify that agencies receiving capital improvement appropriations are responsible for calculating the one per cent due to the works of art special fund;
- (4) Stipulate that the comptroller and the executive director are responsible for tracking all amounts due from each agency;
- (5) Designate the foundation as the lead agency for arts education, in consultation with the department of education, the university of Hawaii at Manoa, the Hawaii association of independent schools, the Hawaii alliance for arts education, and other organizations; and
- (6) Provide a means of financing for the review, revision, and completion of the Hawaii content and performance standards in the arts for grades K-12 and the development of a statewide strategic plan.

SECTION 2. Section 9-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Commission” means the state foundation on culture and the arts commission established in section 9-2.

“Executive director” means the executive director of the state foundation on culture and the arts appointed in section 9-2.”

SECTION 3. Section 9-2, Hawaii Revised Statutes, is amended to read as follows:

“§9-2 Establishment of foundation. (a) There is hereby created a state foundation on culture and the arts, which shall be placed within the department of accounting and general services for administrative purposes.

(b) The foundation shall be governed by a policymaking and oversight commission to be known as the state foundation on culture and the arts commission. The commission shall be composed of nine members to be appointed and removed

by the governor pursuant to section 26-34. The term of each member shall be for four years, commencing on July 1 and expiring on June 30[; provided that of the nine members appointed for terms commencing January 1, 1978, three members shall serve for four years, three members shall serve for three years, and the remaining three members shall serve for two years.]; provided that for terms commencing on or after July 1, 1999, the governor shall appoint at least one member who resides in the county of Hawaii, one member who resides in the county of Kauai, and one member who resides in the county of Maui. The governor shall appoint the chairperson of the [foundation] commission from among [the] its members [thereof]. The members of the [foundation] commission shall serve without compensation, but [they] shall be reimbursed for travel and other necessary expenses in the performance of their official duties.

[The foundation shall be placed within the department of accounting and general services for administrative purposes.]

(c) The commission shall appoint an executive director of the foundation, who shall:

- (1) Serve as the foundation's chief executive officer;
- (2) Be responsible for developing and administering the foundation's programs under the commission's direction;
- (3) Serve on a part-time or full-time basis;
- (4) Be a person who, by reason of education or extensive experience, is generally recognized as being professionally qualified in the administration of programs in the fields of culture, the arts, history, and the humanities;
- (5) Be familiar with the people and cultures of Hawaii;
- (6) Be exempt from chapters 76 and 77; and
- (7) Select necessary additional staff pursuant to chapters 76 and 77, within available appropriations."

SECTION 4. Section 9-3, Hawaii Revised Statutes, is amended to read as follows:

“§9-3 Duties. The foundation shall:

- (1) Assist in coordinating the plans, programs, and activities of individuals, associations, corporations, and agencies concerned with the preservation and furtherance of culture and the arts and history and the humanities;
- (2) Establish written standards and criteria by which grant contracts shall be evaluated;
- (3) Appraise the availability, adequacy, and accessibility of culture and the arts and history and the humanities to all persons throughout the State and devise programs whereby culture and the arts and history and the humanities can be brought to those who would otherwise not have the opportunity to participate;
- (4) Stimulate, guide, and promote culture and the arts and history and the humanities throughout the State;
- (5) Devise and recommend legislative and administrative action for the preservation and furtherance of culture and the arts and history and the humanities;
- (6) Study the availability of private and governmental grants for the promotion and furtherance of culture and the arts and history and the humanities;
- (7) Through its [chairperson:] executive director:

- (A) Administer funds allocated by grant, gift, or bequest to the foundation; accept, hold, disburse, and allocate funds which may become available from other governmental and private sources; provided that all those funds shall be disbursed or allocated in compliance with any specific designation stated by the donor and in the absence of any designation, the funds shall be disbursed or allocated for the promotion and furtherance of culture and the arts and history and the humanities; and
- (B) Accept, hold, disburse, and allocate public funds that are made available to the foundation by the legislature for disbursement or allocation, pursuant to the standards and procedures established in part II, for the promotion and furtherance of culture and the arts and history and the humanities;
- [(8) Select and employ a director to serve on a part-time or full-time basis who shall be a person who by reason of education or extensive experience is generally recognized as being professionally qualified in the administration of programs in the fields of culture and the arts and history and the humanities, who is familiar with the peoples and cultures of Hawaii, and who shall be exempt from chapters 76 and 77 and select necessary additional staff subject to chapters 76 and 77, within available appropriations;
- (9)] (8) Submit an annual report with recommendations to the governor and legislature, prior to February 1, of each year. Annual reports shall include the total number and amount of gifts received, payroll disbursements, contracts entered into, and progress and accomplishments made during the year;
- (9) In consultation with the department of education, the colleges of education and arts and humanities of the university of Hawaii at Manoa, and other arts education organizations with statewide representation:
 - (A) Review, revise, and complete the Hawaii content and performance standards in the arts for all K-12 grade students; and
 - (B) Develop a statewide strategic plan for grades K-12 arts education that incorporates and integrates the arts content and performance standards established in subparagraph (A). The plan shall address curriculum development for classroom instruction, professional development for educators and artists, and the methodology and mechanisms by which implementation and attainment of fine arts content and performance standards can be ascertained and assessed;
- (10) Display student art works in public buildings, sponsor student art displays, promote arts education, and in other ways encourage the development of creative talent among the young people of Hawaii;
- (11) In cooperation with qualified organizations conduct research, studies, and investigations in the fields of ethnohistory and the humanities; make, publish, and distribute works documenting the contributions of individual ethnic groups in their relationship to one another and to the whole population of Hawaii; place ethnohistorical and cultural materials developed by the foundation or received by the foundation as gifts and donations in public archives, libraries, and other suitable institutions accessible to the public; and maintain a register of the location of such materials;
- (12) Cooperate with and assist the department of land and natural resources and other state agencies in developing and implementing programs

- relating to historic preservation, research, restoration, and presentation, as well as museum activities; and
- (13) Establish an individual artist fellowship program to encourage artists to remain and work in Hawaii and to reaffirm the importance of Hawaii's artists and their cultural and economic contributions to the State by:
- (A) Recognizing and honoring Hawaii's exceptionally talented visual and performing artists for their outstanding work and commitment in the arts; and
 - (B) Enabling these artists to further their artistic goals."

SECTION 5. Section 103-8.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§103-8.5]] Works of art special fund. (a) There is created a works of art special fund, into which shall be transferred one per cent of all state fund appropriations for capital improvements designated for the construction cost element; provided that this transfer shall apply only to capital improvement appropriations that are designated for the construction or renovation of state buildings.

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

- (1) Costs related to the acquisition of works of art, including any consultant or staff services required to carry out the art in public places and relocatable works of art programs;
- (2) Site modifications, display, and interpretive work necessary for the exhibition of works of art;
- (3) Upkeep services, including maintenance, repair, and restoration of works of art; [and]
- (4) Storing and transporting works of art[.];
- (5) Reviewing, revising, and completing the Hawaii content and performance standards in the arts for all K-12 grade students; and
- (6) Developing a statewide strategic plan for grades K-12 arts education that incorporates and integrates the arts content and performance standards established in paragraph (5).

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

(d) The comptroller and the state foundation on culture and the arts shall decide on the specific art objects to acquire, giving first consideration to placing appropriate pieces of art at the locations of the original appropriation.

The selection of, commissioning artists for, reviewing of design, execution, and placement of, and the acceptance of works of art shall be the responsibility of the comptroller and the state foundation on culture and the arts in consultation with the affected agency or department.

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

(e) The comptroller shall:

- (1) Provide each agency receiving capital improvement appropriations with information regarding items that shall be included and excluded from the one per cent amount;
- (2) Ensure that each agency calculates its one per cent amount correctly; and

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(3) Ensure that each agency transfers the correct amount to the works of art special fund in a timely manner;¹

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

SECTION 6. Pursuant to section 9-3, Hawaii Revised Statutes, the state foundation on culture and the arts shall include in its annual report its efforts and progress on the Hawaii content and performance standards in the arts.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval; provided that:

(1) Section 103-8.5(b)(5) and (6), Hawaii Revised Statutes, as amended by section 5 of this Act; and

(2) Section 6 of this Act,
shall be repealed on June 30, 2001.

(Approved June 21, 1999.)

Note

1. So in original.