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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  
2 state foundation on culture and the arts is to promote,  
3 perpetuate, preserve, and encourage culture and the arts as  
4 central to the quality of life and people of Hawaii. The  
5 foundation's strategic priorities include increasing public  
6 accessibility to 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.



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

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

7           "Performance of art" means to recite, render, play, dance,  
8 or act it, either directly or by means of any device or process  
9 or, in the case of a motion picture or other audiovisual work,  
10 to show its images in any sequence or to make the sounds  
11 accompanying it audible.

12           "Performing arts" is a form of art that is intended to be  
13 performed for an audience. "Performing arts" includes but is  
14 not limited to choreography, lyrics, motion pictures, music,  
15 pantomime, screenplays, sound recordings, and similar types of  
16 works."

17           SECTION 3. Chapter 9, part III, Hawaii Revised Statutes,  
18 is amended as follows:

19           1. By amending its title to read:

20           " **[+]PART III.[+] ART IN PUBLIC PLACES AND RELOCATABLE**  
21           **WORKS OF [+]ART[+] PROGRAMS AND STATE ART MUSEUM"**



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1           2. By adding a new section to be appropriately designated  
2 and to read:

3           "§9-A Definitions. As used in this part:

4           "Display" includes the act of posting for public view and  
5 listening, a recording of a work of art onto an internet website  
6 maintained by the foundation or the state art museum.

7           "Public places" includes internet websites maintained by  
8 the foundation or the state art museum.

9           "Works of art" includes works of performing arts; provided  
10 that:

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

17           (2) The recording of the performance shall be archived and  
18 maintained by the foundation or the state art museum  
19 as property of the State;

20           (3) The State shall have whole and exclusive copyrights in  
21 the performance and its recordings pursuant to the



1           works made for hire doctrine under federal copyright  
2           laws; and  
3       (4) The recording of the performance shall be displayed  
4           for permanent viewing and listening in a public place,  
5           in a format determined by the comptroller and the  
6           foundation to be most easily accessible to the  
7           public."

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

10           "**§103-8.5 Works of art special fund.** (a) There is  
11 created a works of art special fund, into which shall be  
12 transferred one per cent of all state fund appropriations for  
13 capital improvements designated for the construction cost  
14 element; provided that this transfer shall apply only to capital  
15 improvement appropriations that are designated for the  
16 construction or renovation of state buildings. The one per cent  
17 transfer requirement shall not apply to appropriations from the  
18 passenger facility charge special fund established by section  
19 261-5.5 and the rental motor vehicle customer facility charge  
20 special fund established under section 261-5.6.



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

3           (1) Costs related to the acquisition of works of art,  
4 including any consultant or staff services required to  
5 carry out the art in public places and relocatable  
6 works of art programs;

7           (2) Site modifications, public display, and interpretive  
8 work necessary for the exhibition, performance, and  
9 recording of works of art;

10          (3) Upkeep services, including maintenance, repair, and  
11 restoration of works of art [+] and the internet  
12 website on which the works of art are publicly  
13 displayed; and

14          (4) Storing and transporting works of art.

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



1 one per cent amount and transfer the moneys into the works of  
2 art special fund.

3 (d) The comptroller and the state foundation on culture  
4 and the arts shall decide on the specific works of art [~~objects~~]  
5 to acquire, giving first consideration to placing appropriate  
6 pieces of art at the locations of the original appropriation[~~]~~,  
7 when applicable.

8 The comptroller and the state foundation on culture and the  
9 arts, in consultation with the affected agency or department,  
10 shall be responsible for the selection of [~~]~~; commissioning of  
11 artists for [~~]~~; reviewing of the design, content, execution,  
12 performance, recording and placement of [~~]~~; and [the] acceptance  
13 of the works of art [~~shall be the responsibility of the~~  
14 comptroller and the state foundation on culture and the arts in  
15 consultation with the affected agency or department].

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

18 (e) The comptroller shall:

19 (1) Provide each agency receiving capital improvement  
20 appropriations with information regarding items that



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1 shall be included and excluded from the one per cent  
2 amount;

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

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

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

10 (g) For the purposes of this section:

11 "Performance of art" has the same meaning as defined in  
12 section 9.1.

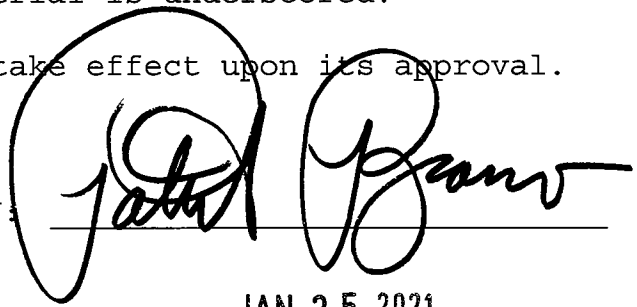
13 "Public display" and "works of art" has the same meaning as  
14 defined in section 9-A."

15 SECTION 5. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

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

18

INTRODUCED BY:



A large, stylized handwritten signature in black ink, appearing to read "John Brann", is written over a horizontal line. The signature is bold and cursive.

JAN 25 2021



# H.B. NO. 760

**Report Title:**

State Foundation on Culture and the Arts; Culture and Arts;  
Performing Arts

**Description:**

Allows the works of art special fund to be used for performing arts, under certain conditions. Includes posting of a recording of performing art as a form of public display. 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.*

