

# House Bill 2970

Sponsored by Representative BARTON

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Transfers Oregon Arts Commission from Oregon Business Development Department to Office of the Secretary of State. Transfers responsibility for Trust for Cultural Development Account from Oregon Business Development Department to Office of the Secretary of State.

## A BILL FOR AN ACT

1  
2 Relating to cultural programs; amending ORS 276.090, 276.096, 359.010, 359.020, 359.025, 359.030,  
3 359.040, 359.050, 359.065, 359.100, 359.110, 359.120, 359.130, 359.135, 359.142 and 359.405; and re-  
4 pealing ORS 359.137.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 359.010 is amended to read:

7 359.010. As used in ORS 359.010 to 359.137, unless the context requires otherwise:

8 [(1) "Administrator" means the Administrator of the Arts Program of the Oregon Business Devel-  
9 opment Department.]

10 [(2)] (1) "Arts" includes, but is not limited to, instrumental and vocal music; dance, drama, folk  
11 art, creative writing and poetry; architecture and landscaping design and the fields allied to them;  
12 painting, sculpture, photography; graphic and craft arts; industrial design; costume and fashion de-  
13 sign; motion pictures, television, radio; tape and sound recording; the history, criticism, theory and  
14 practice of the arts; and the arts related to the presentation, performance, execution and exhibition  
15 of such art forms.

16 (2) "Arts Program" means the Arts Program established under ORS 359.065.

17 (3) "Association" means a nonprofit, private, incorporated or unincorporated institution, foun-  
18 dation, museum, organization, society or group, whether local, state, regional or national, that is  
19 operating, or doing business, in Oregon.

20 [(4) "Commission" means the Oregon Arts Commission.]

21 [(5) "Department" means the Oregon Business Development Department.]

22 [(6) "Director" means the Director of the Oregon Business Development Department.]

23 [(7) "Program" means the Arts Program of the Oregon Business Development Department.]

24 [(8)] (4) "Local agencies" includes cities, counties and other public corporations and their offi-  
25 cers, boards and commissions.

26 [(9) "Public agencies" means state agencies and local agencies.]

27 [(10)] (5) "Private corporation" means a corporation organized for profit and authorized to do  
28 business in this state.

29 (6) "Public agencies" means state agencies and local agencies.

30 [(11)] (7) "State agencies" includes state officers, departments, boards and commissions.

31 **SECTION 2.** ORS 359.020 is amended to read:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 359.020. (1) The Oregon Arts Commission is created as a policy-making and advisory body within  
 2 the [*Oregon Business Development Department*] **Office of the Secretary of State**. The commission  
 3 shall consist of nine members appointed by the Governor. The term of a member is four years, and  
 4 the member shall serve until a successor is appointed and qualifies.

5 (2) Persons appointed members of the commission shall be [*citizens*] **residents** of Oregon well  
 6 qualified by experience to make policy and recommendations in areas of concern to the Arts Pro-  
 7 gram [*of the Oregon Business Development Department and otherwise to perform the duties of the*  
 8 *office*].

9 (3) In case of a vacancy on the commission for any cause, the Governor shall appoint a succes-  
 10 sor to serve for the unexpired term.

11 (4) A member of the commission may be appointed to serve two consecutive terms. A member  
 12 who serves two consecutive terms shall not be eligible for reappointment within one year following  
 13 the expiration of the second term.

14 (5) A member of the commission is entitled to compensation and expenses as provided in ORS  
 15 292.495.

16 (6) The commission shall select one of its members to chair the commission for such term and  
 17 with duties and powers necessary to perform the functions of the office as the commission deter-  
 18 mines.

19 (7) A majority of the members of the commission constitutes a quorum for the transaction of  
 20 business.

21 **SECTION 3.** ORS 359.025 is amended to read:

22 359.025. (1) The Oregon Arts Commission shall perform the following duties:

23 (a) Serve as a body to advise governmental bodies and agencies and private persons on the de-  
 24 velopment and implementation of state policies and programs relating to the arts, heritage, historic  
 25 preservation, humanities and culture, and to assist in the coordination of these activities.

26 (b) Advise the Governor[, *the Director of the Oregon Business Development Department and the*  
 27 *Oregon Business Development Commission*] **and the Secretary of State** on all matters relating to  
 28 the arts that pertain to the powers, duties and functions of the Arts Program [*of the Oregon Business*  
 29 *Development Department*].

30 (c) [*Develop a recommended*] **Recommend** a biennial budget for the operation of the Arts Pro-  
 31 gram [*that will be submitted*] to the [*director*] **Secretary of State** and the Governor.

32 (d) Seek and receive the views of all levels of government and the private sector with respect  
 33 to state programs and policies for the promotion and assistance of the arts.

34 (e) [*Prepare and*] Submit [*suggested*] administrative rules to the [*director*] **Secretary of State**  
 35 that the Oregon Arts Commission determines are necessary for the operation of the programs of the  
 36 Arts Program.

37 (f) Establish policy and procedures for grant programs administered by the Arts Program.

38 (2)(a) In addition to the duties imposed by subsection (1) of this section, the Oregon Arts Com-  
 39 mission shall establish policies and provide management and operational staff support for the Trust  
 40 for Cultural Development Board.

41 (b) Notwithstanding paragraph (a) of this subsection, the Trust for Cultural Development Board  
 42 shall make any decisions relating to the investment and disbursement of moneys in the Trust for  
 43 Cultural Development Account.

44 **SECTION 4.** ORS 359.030 is amended to read:

45 359.030. The objectives of the Arts Program [*of the Oregon Business Development Department*]

1 are:

2 (1) To complement, assist and strengthen existing or planned programs and activities of public  
3 and private associations in the arts to promote the broadest public benefit, while maintaining high  
4 artistic and scholarly standards.

5 (2) To encourage and give greater opportunities and recognition to individual Oregon artists  
6 whose work is, or gives promise of being, of high quality.

7 (3) To stimulate and encourage private and local initiative and financial support in connection  
8 with programs and activities in the arts.

9 **SECTION 5.** ORS 359.040 is amended to read:

10 359.040. To carry out its objectives the Arts Program [*of the Oregon Business Development De-*  
11 *partment*] shall:

12 (1) Develop programs and plans:

13 (a) To encourage broad public participation in, and understanding of, programs in the arts.

14 (b) To encourage public interest in conserving and understanding the cultural and artistic her-  
15 itage of the state and of its people.

16 (c) To encourage increased recognition of the contributions of the arts to the richness of com-  
17 munity life and to the development of the individual.

18 (d) To assist communities within the state in establishing or conserving local cultural, historical  
19 and artistic programs.

20 (e) To stimulate and encourage throughout the state the presentation, enjoyment and study of  
21 the arts among the youth and elderly people.

22 (f) To encourage and facilitate, where feasible, wider circulation throughout the state of note-  
23 worthy programs, productions, exhibitions and performances [*which*] **that** demonstrate the artistic  
24 and cultural resources and accomplishments of the people of Oregon.

25 (g) To encourage and facilitate, where feasible, programs, productions, exhibitions and perform-  
26 ances in Oregon of outstanding works of art and artistic talent in the fields of the arts, which may  
27 be brought from outside the state.

28 (2) Develop, maintain and make available to the public[,] information concerning:

29 (a) The cultural and artistic resources and activities within the state.

30 (b) The organizations and groups conducting, supporting or fostering programs and activities  
31 involving the employment, conservation and presentation of such resources.

32 (3) Advise and assist upon request and within the limits of the funds available:

33 (a) The Governor and other state officers, public agencies, the legislature, communities of the  
34 state and the public concerning the development, housing, presentation and conservation of the ar-  
35 tistic and cultural resources within the state.

36 (b) State agencies concerning the acceptance and disposition of gifts of art to the state.

37 (4) Develop an honors program in the arts[ *which*] **that** includes the means for recognizing  
38 distinguished artists and other Oregon [*citizens*] **residents** whose creative works or effort or whose  
39 services of philanthropy on behalf of the arts are such as to merit the official appreciation of the  
40 people of Oregon.

41 (5) Manage the Trust for Cultural Development Account established by ORS 359.405.

42 **SECTION 6.** ORS 359.050 is amended to read:

43 359.050. (1) In performing its duties, the Arts Program [*of the Oregon Business Development De-*  
44 *partment*], within the limits of available funds, may:

45 (a) Conduct hearings and conferences to develop facts, to explain programs and activities, and

1 to obtain advice.

2 (b) Enter into agreements with other public agencies and with associations and individuals for  
3 services that will assist the Oregon Arts Commission or the Trust for Cultural Development Board.

4 (c) Enter into agreements with other public agencies of Oregon or with agencies of other states  
5 or the federal government, and with private corporations, associations and individuals in Oregon or  
6 other states for cooperative endeavors [*which*] **that** further the objectives and programs of the  
7 commission.

8 (d) Make grants, **in accordance with policies and procedures adopted by the commission**,  
9 to local agencies, [*to*] associations or [*to*] individuals for the development and conservation of pro-  
10 grams in the arts[, *such grants to be made in accordance with policies and procedures adopted by the*  
11 *commission*].

12 (2) In carrying out the purposes of ORS 359.010 to 359.137, the Arts Program, in addition to the  
13 other powers granted:

14 (a) Shall, as needed, appoint committees, consultants, artists and other persons expert in sub-  
15 jects of concern to the program to advise and assist the commission.

16 (b) May obtain from any state agency necessary assistance and data.

17 (c) May perform other acts necessary to carry out its duties.

18 **SECTION 7.** ORS 359.065 is amended to read:

19 359.065. (1) The Arts Program is established as an administrative section within the [*Oregon*  
20 *Business Development Department*] **Office of the Secretary of State**. The program is subject to the  
21 supervision of the Administrator of the Arts Program. The program shall consist of the administra-  
22 tor and all personnel employed in the program.

23 **(2) The program shall employ, in accordance with the State Personnel Relations Law, the**  
24 **staff necessary to allow the program to carry out the provisions of ORS 359.010 to 359.137.**

25 [(2)] **(3)** The program shall provide the Oregon Arts Commission with staff and other assistance  
26 as necessary for the commission to perform its duties.

27 **SECTION 8.** ORS 359.100 is amended to read:

28 359.100. (1) The Arts Program [*of the Oregon Business Development Department*] shall prepare  
29 and study plans for participation of public agencies and associations in federal government programs  
30 for the support and encouragement of the arts.

31 (2) The program may apply for and accept grants or services from the federal government or  
32 any of its agencies[,] **and** from associations, individuals and private corporations to carry out the  
33 purposes of ORS 359.010 to 359.137.

34 **(3) The program may not accept restricted** grants or services from individuals, associations  
35 or private corporations [*shall not be accepted if restricted to a use which*] **if the use to which the**  
36 **grants or services are restricted** would be contrary to the laws of this state.

37 **SECTION 9.** ORS 359.110 is amended to read:

38 359.110. (1) The Arts Program [*of the Oregon Business Development Department*] may solicit and  
39 accept gifts, bequests or devises of money, securities or other property [*of whatever character*] to  
40 carry out the purposes of ORS 359.010 to 359.137. **The program may not accept** a restricted gift,  
41 bequest or devise [*shall not be accepted*] if [*such*] **the** restriction would be contrary to the laws of  
42 this state.

43 (2) The program [*shall be*] **is** the custodian of any securities or other property accepted as a gift,  
44 bequest or devise. The program shall hold [*such*] **the** property as trustee for the state and shall  
45 conserve and administer [*such*] **the** property to carry out the purposes of ORS 359.010 to 359.137.

1 Except as prohibited by law or restricted by the terms of the gift, bequest or devise, the program  
 2 may sell or exchange any property accepted as a gift, bequest or devise [*as it may from time to time*  
 3 *determine*]. The income from [*such*] **the** money, securities or other property shall be credited to the  
 4 Arts Trust Account established by ORS 359.120.

5 **SECTION 10.** ORS 359.120 is amended to read:

6 359.120. [*There hereby*] **The Arts Trust Account** is established [*an account*] separate and dis-  
 7 tinct from the General Fund [*to be known as the Arts Trust Account*]. Except for moneys received  
 8 for the purposes of the Trust for Cultural Development Account, all moneys received by the Arts  
 9 Program [*of the Oregon Business Development Department*] pursuant to ORS 359.100 and 359.110 shall  
 10 be paid into the State Treasury and credited to the Arts Trust Account. All moneys in the Arts  
 11 Trust Account are continuously appropriated to the [*Oregon Business Development Department*] **Of-**  
 12 **ice of the Secretary of State** and shall be used by the program in carrying out the purposes for  
 13 which the funds were received.

14 **SECTION 11.** ORS 359.130 is amended to read:

15 359.130. (1) The Arts Program [*of the Oregon Business Development Department shall*] **may** not  
 16 direct, supervise or control the policy, programs, personnel, curriculum or administration of any  
 17 public or private agency, school, association or entity having to do with the arts.

18 (2) Nothing in ORS 359.010 to 359.137 is intended to transfer from any other state agency to the  
 19 program any duty or power granted by statute to [*such*] **the** other state agency prior to July 1, 1967.

20 **SECTION 12.** ORS 359.135 is amended to read:

21 359.135. (1) The [*Director of the Oregon Business Development Department*] **Secretary of State**,  
 22 upon consultation with and the approval of the Oregon Arts Commission, shall appoint an adminis-  
 23 trator of the Arts Program who shall serve at the pleasure of the [*director*] **Secretary of State**.

24 (2) The administrator shall receive such salary as may be provided by law or as fixed by the  
 25 [*director*] **Secretary of State**.

26 (3) The administrator shall be the administrative head of the program.

27 (4) The administrator may suggest rules to the [*director*] **Secretary of State** for the government  
 28 of the program, the conduct of its employees and the assignment and performance of its business  
 29 and the custody, use and preservation of its records, papers and property.

30 **SECTION 13.** ORS 359.142 is amended to read:

31 359.142. The [*Director of the Oregon Business Development Department*] **Secretary of State**, in  
 32 accordance with ORS chapter 183, may adopt such rules for the operation of the Arts Program as  
 33 the [*director*] **Secretary of State** determines **are** necessary or convenient for the program to per-  
 34 form its duties and functions.

35 **SECTION 14.** ORS 359.405 is amended to read:

36 359.405. (1) The Trust for Cultural Development Account is established in the State Treasury,  
 37 separate and distinct from the General Fund. Interest earned by the Trust for Cultural Development  
 38 Account shall be credited to the account. The primary purpose of the account is to serve as a re-  
 39 pository for both public and private moneys designated to fund specific arts, heritage and humanities  
 40 programs.

41 (2) All moneys in the Trust for Cultural Development Account are appropriated continuously to  
 42 the [*Oregon Business Development Department*] **Office of the Secretary of State** for the Arts Pro-  
 43 gram for the purposes of ORS 359.400 to 359.444.

44 **SECTION 15.** ORS 276.090 is amended to read:

45 276.090. (1) The Arts Program **established under ORS 359.065** [*of the Oregon Business Devel-*

1 *opment Department]* and the Oregon Department of Administrative Services, if the construction  
 2 project is located within the area described in ORS 276.054, and the Arts Program [*of the Oregon*  
 3 *Business Development Department]*, the Oregon Department of Administrative Services and the con-  
 4 tracting agency, if the project is located outside the area described in ORS 276.054, in consultation  
 5 with the architect for the particular building shall determine the amount available for each state  
 6 building and shall commission by contract or shall purchase suitable works of art for each building.  
 7 The agencies designated by this section are solely responsible for selection, review of design, exe-  
 8 cution, placement and acceptance of works of art acquired pursuant to ORS 276.073 to 276.090. The  
 9 designated agencies, to the extent reasonable, shall consult with appropriate local citizens groups  
 10 and the occupants of the affected state building in determining the selection of the works of art.

11 (2) Of the amount determined to be available for a state building under subsection (1) of this  
 12 section, a portion may be assessed by the Arts Program [*of the Oregon Business Development De-*  
 13 *partment]* and used to reimburse the program for costs incurred under ORS 276.073 to 276.090 as  
 14 administrative expenses or as expenses for maintaining the works of art acquired. No more than 10  
 15 percent of the amount available for a state building may be assessed under this subsection.

16 (3) Title to works of art acquired pursuant to ORS 276.073 to 276.090 vests with the contracting  
 17 agency in the name of the state. The agencies designated by this section may lend works of art be-  
 18 tween public buildings whenever in their judgment the loan will be to the benefit of the [*citizens*]  
 19 **residents** of this state. However, the works of art shall be returned to the contracting agency at  
 20 its request.

21 **SECTION 16.** ORS 276.096 is amended to read:

22 276.096. (1) In carrying out the duties of the Director of the Oregon Department of Administra-  
 23 tive Services under ORS 276.095, the director shall consult with the Capitol Planning Commission,  
 24 the designated State Historic Preservation Officer, the State Parks and Recreation Department, the  
 25 Oregon Historical Society, the Arts Program **established under ORS 359.065** [*of the Oregon Busi-*  
 26 *ness Development Department]*, local landmark commissions and historic societies and the chief  
 27 executive officers of those units of local government in each area served by existing or proposed  
 28 state offices and shall solicit the comments of other community leaders and members of the general  
 29 public that the director considers appropriate.

30 (2) Whenever the director undertakes a review of state building needs within a geographical  
 31 area, the director shall request the cooperation of the state historic preservation officer to identify  
 32 an existing building within the geographical areas that is of historical, architectural or cultural  
 33 significance and that is suitable, whether or not in need of repair, alteration or addition, for acqui-  
 34 sition or purchase to meet the building needs of state government.

35 **SECTION 17.** ORS 359.137 is repealed.

36