

SENATE No. 2190

The Commonwealth of Massachusetts

PRESENTED BY:

Robyn K. Kennedy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a program for local art and community engagement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Robyn K. Kennedy</i>	<i>First Worcester</i>	
<i>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	<i>1/25/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>1/31/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/2/2023</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/3/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>2/16/2023</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/22/2023</i>

SENATE No. 2190

By Ms. Kennedy, a petition (accompanied by bill, Senate, No. 2190) of Robyn K. Kennedy, Paul W. Mark, Rodney M. Elliott, Vanna Howard and other members of the General Court for legislation to establish a program for local art and community engagement. Tourism, Arts and Cultural Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act establishing a program for local art and community engagement.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 7C of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting after the definition of "Counties" the following
3 definition:-

4 "Creative placekeeping", the active care and maintenance of a place and its social fabric
5 by the artists and people who live and work there, including maintaining the cultural memories
6 associated with a locale and supporting the ability of local people to maintain their way of life as
7 they choose.

8 SECTION 2. Said chapter 7C, as so appearing, is hereby amended by adding the
9 following new section:-

10 Section 73. There shall be established a new fund to be known as the program for local
11 art and community engagement fund (hereinafter "the PLACE Fund") for the exclusive purpose

12 of providing for the selection, design, creation, acquisition, installation, maintenance, and/or
13 conservation of public art in or on commonwealth-owned, managed, or occupied buildings. The
14 PLACE Fund shall receive its funds from the following sources: (i) no less than half of one per
15 cent of the funds designated for the construction or substantial renovation of any commonwealth-
16 owned, managed, or occupied building shall be allocated to the PLACE Fund for selection,
17 design, creation, acquisition, installation, maintenance, and/or conservation of public art in or on
18 the construction or renovation site; (ii) no less than a quarter of one per cent of state funds
19 allocated for new building or construction projects over \$200,000 and excluding funding sources
20 already allocated specifically for arts and cultural use shall be allocated to the PLACE Fund for
21 the selection, design, creation, acquisition, installation, maintenance, and/or conservation of
22 public art in or on the building or construction site; and (iii) monetary donations from
23 individuals, museums, organizations, associations, nonprofits, businesses, estates, foundations, or
24 other entities. The PLACE Fund shall be held in trust by the department of housing and
25 community development, which will serve as treasurer and custodian of its monies and
26 securities.

27 (a) There shall be established a new commission to be known as the program for local art
28 and community engagement commission (hereinafter “the PLACE Commission”) that shall
29 administer, in consultation with the department of housing and community development and the
30 mass cultural council, the PLACE Fund. By doing so, the PLACE Commission shall provide for
31 the selection, design, creation, acquisition, installation, maintenance, and/or conservation of
32 public art that connects communities, elevates cultures, supports community development, and
33 advances creative placemaking strategies in cities and towns throughout the commonwealth. The
34 PLACE Commission shall consist of the following 13 members: 1 member to be appointed by

35 the governor and who shall be an artist or representative from a nonprofit or community
36 organization associated with creative placekeeping or has experience with the creation and
37 installation of public art; 1 member to be appointed by the speaker of the house of
38 representatives and who shall be an artist or representative from a nonprofit or community
39 organization associated with creative placekeeping or has experience with the creation and
40 installation of public art; 1 member to be appointed by the senate president and who shall be an
41 artist or representative from a nonprofit or community organization associated with creative
42 placekeeping or has experience with the creation and installation of public art; the undersecretary
43 of the department of housing and community development, or a designee, who shall serve as
44 chair; the commissioner of capital asset management and maintenance, or a designee; the
45 executive director of the massachusetts cultural council, or a designee; 1 member to be appointed
46 by the president of the massachusetts college of art and design; 1 member who shall be an
47 architect appointed by the central massachusetts chapter of the american institute of architecture;
48 the executive director of the massachusetts municipal association, or a designee; the executive
49 director of MassDevelopment, or a designee; the executive director of the massachusetts
50 association of community development corporation, or a designee; the executive director of the
51 metropolitan area planning council, or a designee; and the executive director of MASSCreative,
52 or a designee. Members of the commission shall be citizens of the commonwealth representing
53 geographically diverse regions and who have demonstrated a commitment to public art and/or
54 creative placekeeping. Members shall be considered special state employees for the purposes of
55 chapter 268A.

56 (b) The PLACE Commission shall administer the PLACE Fund, in consultation with the
57 department of housing and community development and the mass cultural council, as follows: (i)

58 establishing a process for capital projects to apply for funding; (ii) creating a set of criteria to
59 determine the level of funding, if any, for each project applicant; (iii) working with the
60 department of housing and community development, the division of capital asset management
61 and maintenance, project managers and contractors to identify opportunities and locations for
62 public art; (iv) ensuring relevance of and support for public art by convening a local advisory
63 group for each new public art project that includes relevant local site users and community
64 stakeholders; (v) ensuring an inventory of and maintenance plan for the public art collection; (vi)
65 coordinating with the department of housing and community development to ensure compliance
66 with and participation in the PLACE Fund; (vii) making curatorial decisions on a project-by-
67 project basis; (viii) forming partnerships and relationships as relevant to the administration of the
68 PLACE Fund, including with members of the commonwealth's artist community, artists, cultural
69 institutions, arts organizations and educational institutions; (ix) consulting with local art and
70 cultural commissions; (x) promoting and encouraging public art; (xi) promoting and developing
71 public access to and education of art installations in public facilities; (xii) coordinating with
72 educational, arts and cultural organizations, municipalities and other organizations to provide
73 alternative sources of funding for public art and programming for arts and cultural education; and
74 (xiii) researching alternative funding mechanisms including public-private partnerships that may
75 increase the total pool of funds for public art and education.

76 (c) The PLACE Commission shall appoint: (1) a PLACE coordinator, who shall be an
77 employee of the department of housing and community development; and (2) a PLACE grants
78 officer, who shall be an employee of the mass cultural council. Both positions shall have the
79 requisite qualifications related to public arts programs and project management to administer the
80 PLACE Fund. Persons appointed to both positions shall be considered state employees for the

81 purpose of chapter 268A. The salaries for both positions shall be drawn from the PLACE Fund
82 and, along with their contract, be subject to the approval of the PLACE Commission. In
83 coordination with PLACE Commission, the PLACE coordinator and PLACE grants officer shall
84 (i) recommend the guidelines and parameters for the PLACE Fund; (ii) coordinate the PLACE
85 Fund, including soliciting artists, setting up proposal reviews, overseeing artists' work and
86 developing and managing community engagement and educational activities; (iii) research other
87 successful funding mechanisms that increase the total pool of funds for public art; (iv) oversee
88 the creation of a central entity to host a variety of shared resources relating to the
89 implementation, installation, maintenance and preservation of public art; and (v) distribute the
90 PLACE Fund as allocated by the public arts commission.

91 (d) Pursuant to section 21 of chapter 30B of the General Laws, public entities may as a
92 public procurement, enter into a grant agreement with an individual to "carry out a public
93 purpose"; and, whereas the creation of public art is a public purpose to enhance the cultural
94 nature, historical background, and beautification of public space, the PLACE Commission shall
95 implement a grant agreement process for public art projects using the following procedure: (1)
96 publicize an open call for artists or call for art; (2) hold a public information session and publish
97 written responses to all questions available to all applicants; (3) convene in order to review
98 submitted applications; (4) select a group of finalists based on application requirements and
99 selection criteria described in the open call; (5) solicit additional information from artists,
100 including full project concept; (6) select a final artist or artists and enter into a grant agreement
101 that details all terms of the project. Where artists are required to submit concepts for final
102 selection, less than \$10,000 may be allocated for concept development, to be split among artist
103 finalists through grant agreement. Installation of artwork shall be subject to section 39M of

104 chapter of 30 of the General Laws. At its discretion, the PLACE Commission may include a
105 public feedback process to solicit public input on the final artist selection. The PLACE
106 Commission shall give preference to artists residing in the commonwealth.

107 (e) The PLACE Commission shall be established no later than December 1, 2025.
108 Members shall serve without compensation and shall serve for terms of 5 years. Members may
109 be reappointed but shall not serve for more than 2 consecutive terms. The PLACE coordinator
110 shall be a non-voting member of the PLACE Commission and shall serve as its secretary. The
111 PLACE Commission shall meet at least quarterly and otherwise at the discretion of the chair.

112 (f) The commonwealth shall have sole ownership of all artworks acquired through the
113 PLACE Fund, subject to exceptions approved by the PLACE Commission. The artist shall retain
114 copyright of the artwork unless otherwise noted in the contract for the work.

115 (g) Annually, on September 1 of each year, the PLACE Commission shall provide a
116 report describing the implementation of the PLACE Fund and awarded funds to: the secretary of
117 administration and finance; the house committee on ways and means; the senate committee on
118 ways and means; the joint committee on tourism, arts and cultural development; the clerk's office
119 for the house of representatives; and the clerk's office for the senate.