

periods of application least harmful to living beings, ~~and adopt rules to implement these provisions. The rules shall provide that a commercial or public applicator must provide notice only if an occupant requests that the commercial or public applicator provide the occupant notice in a timely manner prior to the application. The request shall include the name and address of the occupant, a telephone number of a location where the occupant may be contacted during normal business hours and evening hours, and the address of each property that adjoins the occupant's property. The notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier.~~ Municipalities shall cooperate with the department by reporting infractions and in implementing this subsection.

Sec. 4. Section 206.22, subsection 4, Code 1995, is amended by striking the subsection.

Sec. 5. REPEAL. Chapter 206A, Code 1995, is repealed.

Approved May 4, 1995

CHAPTER 173

ARTS AND CULTURAL ENHANCEMENT AND ENDOWMENT

S.F. 390

AN ACT relating to recompense to a cooperating teacher and to the Iowa arts and cultural enhancement and endowment program and foundation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 262.75, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In lieu of the payment of monetary recompense to a cooperating teacher, the cooperating teacher may direct that the monetary recompense be paid by the institution directly into a scholarship fund which has been established jointly by the board of directors of the school district that employs the teacher and the local teachers' association. In such cases, the cooperating teacher shall receive neither monetary recompense nor any reduction in tuition at the institution.

Sec. 2. Section 303C.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Enhancement account funds shall be available, upon certification by the department of ~~the availability of matching funds from private sources, to nonprofit organizations for the purposes of education, outreach, and enhancement that the applicant has secured nonstate matching funds at least equal to the amount of the grant award. An organization proposing a program must have available funds from private sources in order to receive an equal amount of public funds contained in the enhancement account.~~ The department shall consider the recommendations of the caucus on arts and cultural enhancement made pursuant to section 303C.6, and the recommendations of the advisory council created in section 303C.5, and shall adopt rules pursuant to chapter 17A governing the distribution of funds to organizations. Proposed programs shall do at least one of the following:

Sec. 3. Section 303C.5, Code 1995, is amended to read as follows:

303C.5 BLOCK GRANTS PROVIDED TO QUALIFIED ORGANIZATIONS.

1. Enhancement account funds shall be available ~~for distribution to qualified organizations~~ for the purposes of enhancing the quality of local arts and cultural programs. ~~In order to qualify for a block grant, an organization must represent at least seventy percent of its defined membership.~~ The department shall adopt rules pursuant to chapter 17A governing the eligibility for, and the distribution of, block grants. The rules adopted shall include, but are not limited to, requirements that eligible organizations have adequate by-laws, mission statements, representational board structure, and publicly accessible arts programming.

2. ~~An advisory council consisting of organizations funded by the department pursuant to this section, and representatives of the Iowa assembly for local arts agencies, Iowa alliance for arts education, Iowa arts coalition, the Iowa museum association, the chairperson of the statewide caucus, the department of education, and the Iowa humanities board is established. The advisory council shall review and advise the department regarding the awarding of funds pursuant to section 303C.4.~~

Sec. 4. NEW SECTION. 303C.5A ADVISORY COUNCIL.

1. An advisory council is established to advise the department regarding the awarding of funds pursuant to section 303C.4. The advisory council shall consist of seven members selected as follows:

- a. The person elected as chairperson of the statewide cultural caucus pursuant to section 303C.6, subsection 2.
- b. The chairperson of the Iowa humanities board.
- c. The chairperson of the Iowa arts council.
- d. Four members appointed by the director of the department of cultural affairs, two of whom shall be representatives of statewide arts organizations.

2. The majority shall not include any member who has a conflict of interest and a statement by a member of a conflict of interest shall be conclusive for this purpose.

3. The term of office for the member selected pursuant to subsection 1, paragraph "a", is one year. The term of office for members selected pursuant to subsection 1, paragraphs "b" through "d", is three years. Terms shall be staggered and shall commence and end as provided in section 69.19. A vacancy shall be filled by the original appointing authority.

4. The advisory council shall be bipartisan and gender balanced in accordance with sections 69.16 and 69.16A.

Sec. 5. Section 303C.6, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Biennially, in the month of June during odd-numbered years, the department shall convene a statewide caucus on arts and cultural enhancement. ~~The caucus shall be held for one day during the month of June in the capitol complex, Des Moines.~~

Sec. 6. Section 303C.6, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. Prior to a the statewide caucus, the department shall make arrangements to hold a conference in each of six regions of the state as defined by the Iowa arts council. The department shall promote attendance of interested persons at each conference. A designee of the department shall call each conference to order and serve as temporary chairperson until persons attending elect a chairperson. The department shall provide persons attending with current information regarding cultural enhancement programs and expenditures. Persons attending shall identify opportunities for programs in the areas of education, outreach, and enhancement and review recommended changes in enhancement account policies, programs, and funding, and make recommendations in the form of a resolution. The persons attending each the conference shall elect six persons from among the attendees to serve as regional, voting delegates to the statewide caucus, and one person to serve as. The conference attendees shall elect a chairperson of the region from among the

six representatives. The selection of persons at each conference to serve as regional, voting delegates to the statewide caucus shall conform to the gender balance requirements of section 69.16A. Other interested persons may attend the statewide caucus as nonvoting attendees.

Sec. 7. Section 303C.6, subsection 3, Code 1995, is amended by striking the subsection.

Sec. 8. Section 303C.7, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

303C.7 ARTS AND CULTURAL ENDOWMENT PROGRAM ESTABLISHED.

The arts and cultural endowment program is established. The program shall be administered by the arts and cultural endowment foundation governing board established in section 303C.8, which shall adopt rules pursuant to chapter 17A to fulfill the purposes of this section. Interest on the funds in the endowment account established in section 303C.2, subsection 2, is available for the purposes of this section. The endowment foundation shall establish criteria for the awarding of grants, fellowships, and scholarships to nonprofessional, professional, and student artists to develop, encourage, and enhance the arts and cultural programs in the state, upon submission of a proposal by the artist. An artist shall request no more than twenty-five thousand dollars in a proposal.

Sec. 9. NEW SECTION. 303C.8 ARTS AND CULTURAL ENDOWMENT FOUNDATION – GOVERNING BOARD – ESTABLISHED.

1. The arts and cultural endowment foundation is established and shall be administered by a governing board consisting of seven members, three of whom shall be appointed by the Iowa humanities board and four of whom shall be appointed by the director of the department. Members shall be knowledgeable about education, arts, the humanities, and fund-raising activities in this state. A vacancy shall be filled by the original appointing authority. Members shall serve three-year staggered terms which shall commence and end as provided in section 69.19. The governing board shall be bipartisan and gender balanced in accordance with sections 69.16 and 69.16A.

2. The Iowa arts council shall provide administrative services for the arts and cultural endowment foundation and shall advise and assist the governing board. The exercise of the powers granted to the endowment foundation in this chapter is an essential governmental function. The endowment foundation shall be located in the department's offices.

3. The endowment foundation may solicit and accept gifts, grants, donations, bequests, and in-kind contributions for deposit in the endowment account. The endowment foundation shall, to the extent possible, use gifts, donations, and bequests in accordance with the expressed desires of the person making the gift, donation, or bequest.

Sec. 10. **TRANSITION.** The terms of members serving on the advisory council abolished by this Act shall expire June 30, 1995. Members of the initial advisory council established pursuant to section 4 of this Act shall be appointed not later than July 1, 1995. Notwithstanding section 4 of this Act, two members appointed to the initial advisory council established under this Act shall serve terms ending April 30, 1996; two members shall serve terms ending April 30, 1997; and two members shall serve terms ending April 30, 1998. The person elected as chairperson of the statewide cultural caucus pursuant to section 303C.6, subsection 2, shall serve a term ending April 30, 1996.

Sec. 11. **INITIAL GOVERNING BOARD.** Members of the initial governing board established pursuant to section 9 of this Act shall be appointed not later than July 1, 1995. Notwithstanding section 9 of this Act, one member appointed by the Iowa humanities board and one member appointed by the department to the initial governing board established under section 9 of this Act shall each serve terms ending April 30, 1996; one member

appointed by the Iowa humanities board and one member appointed by the department shall each serve terms ending April 30, 1997; and one member appointed by the Iowa humanities board and two members appointed by the department shall each serve terms ending April 30, 1998.

Approved May 4, 1995

CHAPTER 174

SALES TAX EXEMPTION - PLANT PRODUCTION

H.F. 159

AN ACT relating to the production of ornamental, flowering, or vegetable plants for purposes of the state sales tax.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.42, Code 1995, is amended by adding the following new subsections and renumbering current subsections as necessary:

NEW SUBSECTION. 1. "Agricultural production" includes the production of flowering, ornamental, or vegetable plants in commercial greenhouses or otherwise. "Agricultural products" include flowering, ornamental, or vegetable plants.

NEW SUBSECTION. 2A. "Farm machinery and equipment" means machinery and equipment used in agricultural production.

Sec. 2. Section 422.42, subsection 11, Code 1995, is amended to read as follows:

11. "Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing, for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services; and includes the sale of gas, electricity, water, and communication service to retail consumers or users; but does not include agricultural breeding livestock and domesticated fowl; and does not include commercial fertilizer, agricultural limestone, herbicide, pesticide, insecticide, food, medication, or agricultural drain tile, including installation of agricultural drain tile, any of which are to be used in disease control, weed control, insect control, or health promotion of plants or livestock produced as part of agricultural production for market; and does not include electricity, steam, or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. When used by a manufacturer of food products, carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services are sold for processing when used to produce marketable food products for human consumption, including but not limited to, treatment of material to change its form, context, or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that the property will, by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail; or will be consumed as fuel in