

CHAPTER 129D

BOARD OF THE ARTS; TV, RADIO GRANTS

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129D.01 DEFINITIONS.

As used in this chapter, the following terms shall have the definitions given them:

(a) "Arts" means activities resulting in the artistic creation or artistic performance of works of the imagination. Artistic activities include but are not limited to the following forms: music, dance, drama, folk art, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, costume and fashion design, motion pictures, television, radio, tape and sound recording, activities related to the presentation, performance, execution, and exhibition of the art forms, and the study of the arts and their application to the human environment;

(b) "Board" means the board of the arts;

(c) "Director" means the executive director of the board;

(d) "Sponsoring organization" means an association, corporation or other group of persons (1) providing an opportunity for citizens of the state to participate in the creation, performance or appreciation of the arts and (2) qualifying as a tax-exempt organization within the meaning of section 290.05, subdivision 1, clause (i).

History: 1975 c 297 s 1

129D.02 BOARD OF THE ARTS.

Subdivision 1. Membership. The board of the arts shall consist of 11 members to be appointed by the governor with the advice and consent of the senate. One member shall be appointed from each of the congressional districts, and the remaining members shall be appointed at large. Persons appointed to the board shall have demonstrated experience or interest in the arts. No member shall within two years prior to appointment have received or applied for, in the member's name, a grant, loan or other form of assistance from the board or its predecessor, the state arts council. No more than four of the members shall during their terms of office be officers, directors or employees of recipient sponsoring organizations. The board members shall annually select from their membership a chair and other officers as they deem necessary.

Subd. 2. Terms of office. Three of the initial members including one at-large member shall be appointed to terms ending the first Monday in January in each of the years 1977, 1979 and 1980. The remaining two members shall be appointed to terms ending the first Monday in January, 1978. Thereafter, the terms of all members of the board shall be four years. Members may serve until their successors are appointed and qualify. If the governor fails to appoint a successor by the July 1 of the year in which the term expires, the term of the member for whom a successor has not been appointed shall extend, subject to the advice and consent of the senate, until the first Monday in January four years after the scheduled end of the original term.

Subd. 3. Compensation. Members shall be compensated at the rate of \$35 per day spent on board activities. In addition, members shall receive reimbursement for expenses in the same manner and amount as state employees. Employees of the state or its political subdivisions shall not be entitled to the per diem, but they shall suffer no loss in compensation or benefits as a result of service on the board. Members not entitled to the per diem shall receive expenses as provided in this subdivision unless the expenses are reimbursed from another source.

Subd. 4. **Removal of members; filling vacancies.** A member may be removed by the governor at any time (1) for cause after notice and hearing, (2) for failing to submit any report required in subdivision 5, or (3) for missing three consecutive scheduled meetings of the board. The chair shall inform the governor of a member missing the three meetings. The secretary of the board shall inform in writing a member after two consecutive missed meetings and before the next meeting that the member is subject to removal by missing the next meeting. Vacancies on the board shall be filled by the governor, with the advice and consent of the senate, for the remainder of the unexpired term.

Subd. 5. **Reports.** By November 15 of each year, the board shall prepare and deliver to the legislature and the governor a report which shall include the following:

(a) a financial statement showing receipts and disbursements for the year ending the preceding June 30, including a listing of the donors and amounts of gifts to the board or its advisory committees valued in excess of \$1,000;

(b) a brief description of the activities of the board for the preceding year;

(c) the number of meetings and approximate hours spent by board members in meetings and on other board activities;

(d) the names of board members and their addresses, occupations, and dates of appointment and reappointment to the board;

(e) the names and job classifications of board employees;

(f) a brief summary of board rules proposed or adopted during the period with appropriate citations to the state register and published rules;

(g) the number of requests for assistance received by the board and the number of written and oral complaints received from residents of the state relating to the activities of the board or the performance of the duties of the board as provided in this chapter;

(h) a summary by category of the substance of the complaints and requests referred to in (g) above and the responses of the board thereto;

(i) a listing of all grants, loans or other forms of assistance given by the board. This listing shall indicate (1) the recipients of board assistance who are members of the board or its advisory committees, and (2) each recipient sponsoring organization having a member of the board or its advisory committees as a director, officer or employee. The indication required in clause (2) shall also specify the name of the member who is the officer, director or employee. The listing shall also include the amount of money, number of grants, and the basis for the allocations made to major arts organizations, to individuals, for statewide distribution, for regional distribution, for sponsor assistance to community organizations, and for sponsor assistance to educational organizations.

History: 1975 c 297 s 2; 1977 c 332 s 11; 1986 c 444

129D.03 EXECUTIVE DIRECTOR; STAFF.

The director shall be selected by a majority of the board, and shall serve at the pleasure of the board. The director shall be knowledgeable in the arts, and shall have demonstrated proficiency in the administration of programs relating to the arts. The director may upon designation and instruction by the board serve as the state agent to apply for, receive and disburse federal funds made available to the state in furtherance of the arts. The director is the chief administrative officer of the board and is responsible for performing the executive duties of the board as provided in this chapter. The director shall not be a member of the board. All other employees of the board shall be in the classified civil service of the state. No employee of the board or its advisory committees may be an applicant for or recipient of board assistance, nor may an employee be an officer, director or employee of a recipient sponsoring organization.

History: 1975 c 297 s 3; 1986 c 444

129D.04 DUTIES.

Subdivision 1. The board shall through the following activities stimulate and encourage the creation, performance and appreciation of the arts in the state:

- (a) receive and consider any requests for grants, loans or other forms of assistance;
- (b) advise and serve as a technical resource at the request of sponsoring organizations and political subdivisions in the state on programs relating to the arts;
- (c) advise and recommend on existing or proposed activities of the departments of the state relating to the arts;
- (d) accept gifts and grants to the board and distribute the same in accordance with the instructions of the donor insofar as the instructions are consistent with law;
- (e) promulgate by rule procedures to be followed by the board in receiving and reviewing requests for grants, loans or other forms of assistance;
- (f) promulgate by rule standards consistent with this chapter to be followed by the board in the distribution of grants, loans, and other forms of assistance;
- (g) distribute according to the above procedures and standards grants, loans, and other forms of assistance for artistic activities to departments and agencies of the state, political subdivisions, sponsoring organizations and, in appropriate cases, to individuals engaged in the creation or performance of the arts; provided that a member of the board shall not participate in deliberations or voting on assistance to groups or persons in which that member has an interest as officer, director, employee, or recipient;
- (h) appoint advisory committees which the board determines are essential to the performance of its powers and duties under this section; provided that no member of an advisory committee shall serve on a committee to which the member has an application pending for a grant, loan, or other form of assistance from the board or its predecessor;
- (i) serve as a fiscal agent to disburse appropriations for regional arts councils throughout the state.

Subd. 2. In performing the duties under subdivision 1, the board shall insofar as reasonably possible:

- (a) avoid any actions which infringe on the freedom of artistic expression or which interfere with programs in the state which relate to the arts but which do not involve board assistance;
- (b) distribute board assistance equitably according to population throughout the geographical regions of the state;
- (c) give special consideration to requests for assistance for the creation or performance of types or variations of the arts which have yet to receive the level of general support and assistance given to the more established types or variations of the arts;
- (d) distribute appropriations to regional arts councils upon receipt of the biennial plan or, in even-numbered years, the annual plan update. These plans are not subject to modification by the board. The annual report from the previous year must be on file at the board before distribution of appropriations to a regional arts council.

Subd. 3. The board shall be responsible for the administration of the professional touring program.

Subd. 4. The board shall develop and implement a comprehensive statewide information and publicity system. In its report required under section 129D.02, subdivision 5, the board shall summarize its activities pursuant to this subdivision.

Subd. 5. The board may contract as necessary in the performance of its duties.

Subd. 6. The board's receipts from the sale of publications, mailing lists, recordings or media projects, and fees from seminars or workshops are annually appropriated to the board for the purposes of this section.

History: 1975 c 297 s 4; 1977 c 332 s 12; 1977 c 444 s 9; 1979 c 337 s 17; 1986 c 444; 1988 c 560 s 1; 1991 c 233 s 53.54

129D.05 PUBLICATIONS; LEGEND.

Every publication, program, or other graphic material prepared by the board or prepared for use by any other organization in connection with an activity paid for by the board shall bear the legend: "This activity is made possible in part by a grant provided by the Minnesota state arts board through an appropriation by the Minnesota state legislature."

Each publication, program, or other graphic material prepared by an individual artist in connection with an activity paid for by the board shall bear the legend: "(artist's name) is a (fiscal year) recipient of a (program) grant from the Minnesota state arts board from funds appropriated by the Minnesota legislature."

History: 1977 c 332 s 13; 1991 c 233 s 55

129D.06 GRANTS TO ARTS ORGANIZATIONS.

Subdivision 1. **State arts account; appropriation.** The state arts account consists of amounts credited to it by law. Money in the account is appropriated to the board for annual distribution as follows, after deducting the board's reasonable expenses for administration:

(1) 85 percent must be used to fund grants to qualified arts organizations as provided in subdivision 2; and

(2) 15 percent must be distributed to the regional arts councils designated by the board through the board acting as a fiscal agent for the regional arts councils.

Subd. 2. **Grants; amount.** The board shall make grants to qualified arts organizations. The amount of the grant to each organization is the percentage of the organization's three-year average cash operating expense budget for nonprofit arts activities that, when applied to the three-year nonprofit average cash operating expense budgets of all qualified arts organizations, equals the amount available for distribution from the state arts account under subdivision 1. The board shall require an organization that receives a grant under this section to annually report to the board in the form required by the board the purposes for which the grant was used.

As used in this section, "qualified arts organization" means a sponsoring organization as defined in section 129D.01, paragraph (d), that has applied for a grant under this section if the board finds that the organization:

(1) has a three-year average cash operating expense budget for nonprofit arts activities of at least \$100,000, as adjusted annually by a consumer price index determined by the board; and

(2) is a recipient of a grant from the board or from one of the regional arts councils in the fiscal year in which application is made.

Under emergency circumstances as defined by the board, a sponsoring organization may be reevaluated using established review criteria prior to receiving a grant under this section.

A "qualified arts organization" does not include an organization that receives any proceeds from a tax levy under section 450.25.

History: 1993 c 369 s 59

NOTE: This section, as added by Laws 1993, chapter 369, section 59, is effective July 1, 1995. See Laws 1993, chapter 369, section 147, subdivision 2.

129D.11 PUBLIC TELEVISION GRANTS; PURPOSE.

The purpose of sections 129D.11 to 129D.13 is to facilitate the use of public television as a community resource for the public by providing financial assistance to public television stations serving Minnesota citizens, and to provide for cooperation between public television station officials and the department of administration.

History: 1975 c 271 s 6; 1975 c 298 s 5; 1976 c 201 s 1; 1981 c 356 s 317

129D.12 DEFINITIONS.

Subdivision 1. As used in sections 129D.11 to 129D.14, the terms defined in this section have the meanings here given them.

Subd. 2. "Public station" means a station holding a license or operating under a program test authority from the Federal Communications Commission as a noncommercial educational television broadcast station within this state or a station outside the state which received funds under section 129D.13 in 1976.

Subd. 3. "Commissioner" means the commissioner of administration.

History: 1976 c 201 s 2; 1979 c 337 s 18; 1981 c 356 s 318,319

129D.13 GRANTS.

Subdivision 1. The commissioner shall distribute the money provided by sections 129D.11 to 129D.13. Twice annually the commissioner shall make block grants which shall be distributed in equal amounts to public stations for operational costs. The commissioner shall allocate money appropriated for the purposes of sections 129D.11 to 129D.13 in such a manner that each eligible public station receives a block grant. In addition, the commissioner shall make matching grants to public stations. Matching grants shall be used for operational costs and shall be allocated using the procedure developed for distribution of state money under this section for grants made in fiscal year 1979. No station's matching grant in any fiscal year shall exceed the amount of Minnesota based contributions received by that station in the previous fiscal year. Grants made pursuant to this subdivision may only be given to those federally licensed stations that are certified as eligible for community service grants through the corporation for public broadcasting.

Subd. 2. In calculating the amount of contributions received by a public station pursuant to subdivision 1, there shall be excluded: contributions, whether monetary or in kind, from the corporation for public broadcasting; tax generated funds, including payments by public or private elementary and secondary schools; that portion of any foundation or corporation donation in excess of \$500 from any one contributor in a calendar year; contributions from any source if made for the purpose of capital expenditures; and contributions from all sources based outside the state.

Subd. 3. Each educational station receiving a grant shall annually report by July 1 to the commissioner the purposes for which the money was used in the past fiscal year and the anticipated use of the money in the next fiscal year. The report shall be certified by an independent auditor or a certified public accountant. If the report is not submitted by September 1, the commissioner may withhold from the educational station 45 percent of the amount to which it was entitled based upon the contribution of the previous fiscal year, and may redistribute that money to other educational stations.

Subd. 4. The board of the arts may develop program categories and funding programs in television, film and other public media.

History: 1975 c 271 s 6; 1975 c 298 s 5; 1976 c 201 s 3; 1977 c 445 s 1,2; 1978 c 793 s 65; 1979 c 337 s 19,20; 1981 c 356 s 320-322; 1983 c 301 s 137

129D.14 GENERAL NONCOMMERCIAL RADIO STATION GRANTS.

Subdivision 1. **Purpose.** The purposes of this section are to facilitate the use of the noncommercial radio station as a community resource by providing financial assistance to noncommercial radio stations serving Minnesota citizens.

Subd. 2. **Definitions.** As used in this section, the terms defined in this subdivision have the meanings given them.

(a) "Corporation for Public Broadcasting" means the nonprofit organization established pursuant to United States Code, title 47, section 396.

(b) "Federal Communications Commission" means the federal agency established pursuant to United States Code, title 47, section 151.

(c) "Licensee" means the individual or business entity to whom the Federal Com-

munications Commission has issued the license to operate a noncommercial radio station.

(d) "Noncommercial radio station" means a station operated by a licensee as a noncommercial educational radio station under a license or program test authority from the Federal Communications Commission as a noncommercial educational radio station, licensed to a community within the state and serving a segment of the population of the state.

(e) "Operating income" may include:

- (1) individual and other community contributions;
- (2) all grants received from the Corporation for Public Broadcasting;
- (3) grants received from foundations, corporations, or federal, state, or local agencies or other sources for the purpose of programming or general operating support;
- (4) interest income;
- (5) earned income;
- (6) employee salaries paid through the federal Comprehensive Employment Training Act, or other similar public employment programs, provided that only salary expended for employee duties directly relating to radio station operations shall be counted;
- (7) employee salaries paid through supporting educational institutions, provided that only salary expended for employee duties directly relating to radio station operations shall be counted;
- (8) direct operating costs provided by supporting educational institutions; and
- (9) no more than \$15,000 in volunteer time calculated at the federal minimum wage.

The following are specifically excluded in determining a station's operating income:

- (1) dollar representations in in-kind assistance from any source except as stipulated in clauses (8) and (9) above;
- (2) grants or contributions from any source for the purpose of purchasing capital improvements or equipment; and
- (3) noncommercial radio station grants received in the previous fiscal year pursuant to this section.

Subd. 3. Eligibility. To qualify for a grant under this section, the licensee shall:

- (a) Hold a valid noncommercial educational radio station license or program test authority from the Federal Communications Commission;
- (b) Have facilities adequate to provide local program production and origination;
- (c) Employ a minimum of two full-time professional radio staff persons or the equivalent in part-time staff and agree to employ a minimum of two full-time professional radio staff persons or the equivalent in part-time staff throughout the fiscal year of the grant;
- (d) Maintain a minimum daily broadcasting schedule of (1) the maximum allowed by its Federal Communications Commission license or (2) 12 hours a day during the first year of eligibility for state assistance, 15 hours a day during the second year of eligibility and 18 hours a day during the third and following years of eligibility;
- (e) Broadcast 365 days a year or the maximum number of days allowed by its Federal Communications Commission license;
- (f) Have a daily broadcast schedule devoted primarily to programming that serves ascertained community needs of an educational, informational or cultural nature within its primary signal area; however, a program schedule of a main channel carrier designed to further the principles of one or more particular religious philosophies or including 25 percent or more religious programming on a broadcast day does not meet this criterion, nor does a program schedule of a main channel carrier designed primarily for in-school or professional in-service audiences;

(g) Originate significant, locally produced programming designed to serve its community of license;

(h) Have a total annual operating income and budget of at least \$50,000;

(i) Have either a board of directors representing the community or a community advisory board that conducts advisory board meetings that are open to the public;

(j) Have a board of directors that: (1) holds the portion of any meeting relating to the management or operation of the radio station open to the public and (2) permits any person to attend any meeting of the board without requiring a person, as a condition to attendance at the meeting, to register the person's name or to provide any other information; and

(k) Have met the criteria in clauses (a) to (j) for six months before it is eligible for state assistance under this section.

The commissioner shall accept the judgment of Corporation for Public Broadcasting accepted audit when it is available on a station's eligibility for assistance under the criteria of this subdivision. If the station is not qualified for assistance from the Corporation for Public Broadcasting, an independent audit is required. If neither is available, the commissioner may accept a written declaration of eligibility signed by an independent auditor, a certified public accountant, or the chief executive officer of the station's parent organization if it is an institution of education.

Subd. 4. Application. To be eligible for a grant under this section, a licensee shall submit an application to the commissioner within the deadline prescribed by the commissioner. Each noncommercial radio station receiving a grant shall report annually within the deadline prescribed by the commissioner the purposes for which the money was used in the past fiscal year and the anticipated use of the money for the next fiscal year. If the application and report are not submitted within the deadline prescribed by the commissioner, the grant may be redistributed to the other noncommercial radio stations eligible for a grant under this section.

Subd. 5. State community service block grants. (a) The commissioner shall determine eligibility for block grants and the allocation of block grant money on the basis of audited financial records of the station to receive the block grant funds for the station's fiscal year preceding the year in which the grant is made, as well as on the basis of the other requirements set forth in this section. The commissioner shall annually distribute block grants equally to all stations that comply with the eligibility requirements and for which a licensee applies for a block grant. The commissioner may promulgate rules to implement this section. For this purpose the commissioner may promulgate emergency rules pursuant to sections 14.29 to 14.36.

(b) A station may use grant money under this section for any radio station expenses.

Subd. 6. Audit. A station that receives a grant under this section shall have an audit of its financial records made by an independent auditor or Corporation for Public Broadcasting accepted audit at the end of the fiscal year for which it received the grant. The audit shall include a review of station promotion, operation, and management and an analysis of the station's use of the grant money. A copy of the audit shall be filed with the commissioner. If neither is available, the commissioner may accept a letter of negative assurance from an independent auditor or a certified public accountant.

History: 1979 c 337 s 21; 1981 c 356 s 323-326; 1982 c 424 s 130; 1984 c 640 s 32; 1987 c 365 s 19; 1992 c 514 s 16-18; 1994 c 632 art 3 s 49

129D.15 EQUIPMENT GRANTS.

To be eligible for an equipment grant under sections 129D.11 to 129D.14, a public broadcasting station must meet the eligibility criteria set forth in sections 129D.13 and 129D.14.

History: 1Sp1985 c 13 s 271

129D.155 REPAYMENT OF FUNDS.

State funds distributed to public television or noncommercial radio stations and used to purchase equipment assets must be repaid to the state, without interest, if the assets purchased with these funds are sold or otherwise converted to a person other than a nonprofit or municipal corporation. The amount due to the state shall be the net amount realized from the sale of the assets, but shall not exceed the amount of state funds advanced for the purchase of the asset. Public television and noncommercial radio stations receiving state funds must report biennially to the legislature on the location and usage of assets purchased with state funds.

History: *1991 c 345 art 1 s 76*

129D.16 AUDIT PROCEDURES.

The commissioner of administration may establish a procedure to audit expenditure of money appropriated for grants to public television stations and noncommercial radio stations.

History: *1Sp1985 c 13 s 272; 1993 c 337 s 9*