

# **MUSEUM ASSOCIATION OF NEW YORK**

Report to the Field: Deaccessioning Bill (A6959-A/S4584-A)

January 2009

## **Introduction**

This survey was available online from December 8, 2009 until January 7, 2010. Thirty-seven institutions responded to the survey representing approximately 17% of the Association's membership. Responding institutions represented all budget categories from under \$50,000 to \$20 million, with the majority falling in the under \$50,000 to \$500,000 range.

The survey asked respondents to rank their level of support for all the major elements in the current deaccessioning bill. The survey found that there is widespread support for

- restricting the proceeds from deaccessioning to acquisition, preservation, protection and care of collections
- establishing broad criteria for deaccessioning
- forbidding the capitalization of collections, and
- requiring all collecting institutions to have mission statements and collection management policies that guide collecting activities

The one broadly held reservation is the creation of a register by each museum. For a very wide variety of reasons – almost all of them practical rather than principle – the field sees real difficulty in compliance here. There does not seem to be the same resistance to the desirability of reporting current deaccessioning activity as it takes place. Lack of financial resources and manpower are the overriding concerns.

The survey also revealed that there are some misunderstanding of the public trust issues surrounding collections and deaccessioning. The Regents and SED staff must to do a better job clarifying these issues along with the laws and voluntary professional standards that surround them for the institutions SED charters.

## **Profile of Respondents**

- 85.3% are chartered by the Board of Regents
- 58.3% are institutions will operating budget of less than \$500,000

## What Respondents Support

- 97.2% support the need for collection management policies and mission statements to guide institutional decision-making about collections
- 94.3% support the stated list of deaccessioning criteria, which is well-accepted in the field, but is more encompassing than the current Regents' Rules
- 91.4% support the standard that collections should not be capitalized or used as collateral for loans
- 88.9% support the national standard that the proceeds from deaccessioning are not used to offset operating and capital debts. There is some misunderstanding about the public trust issues regarding collections, as well as concern for paying for capital upgrades that directly impact collections care.
- 85.7% support the Regents' standard that proceeds be used only for acquisition, preservation, protection or care of collections, despite concerns about the definition of some of these terms.
- 75% support the notion that collecting institutions should inform the public about the extent of their permanent collections, but there is a lot of concern about what reporting would look like and how onerous that might be.

Representative comments include:

- *"Unfunded mandate"*
- *"Based on the proposed bill, this is likely untenable for many institutions - having the kind of register of all items as suggested to be available in 3 years is impossible!"*
- *"My institution is still trying to deal with several decades worth of indiscriminate collecting. I'd rather not make an itemized list of our collection available to the public. Broad categories . . . defined by the museum . . . maybe I could get "on board" with that."*
- 58.3% support informing the public about deaccessioning activities, but many expressed concerns about what reporting activities would look like and the lack of resources to report.

## What Respondents Don't Support and Why

- 68.8% do not support the publication of a register of holdings primarily because of the lack of resources available to comply with such a provision.

Representative comments came from large and small institutions:

- *"Unless the state provides funding for museums to catalog collections, this requirement will be a huge burden for small museums. Yes, they should be required to catalog collections but they need financial support and a longer amount of time to comply."*
  - *"We have 1.2 million objects and I don't think that this is a better use of time than educating the children and families who need opportunity."*
  - *"We are a small history museum with one full-time staff person with 8,000 items catalogued and 10,000 objects un-catalogued. At this time we could not handle anticipated inquiries about published materials nor questions from donors about un-published donations."*
- 48.6% of respondents support the designation of historic structures as collection items, thus making them eligible to receive deaccessioning proceeds to pay for issues related to acquisition, preservation, protection or care, 31.4% of respondents don't know about or understand this issue.
  - Respondents divided their support (45.7% each) on the issue of the Regents creating a statewide deaccessioning register noting concern about the extent of reporting and the ability of organizations to comply without resources:
    - *"The problem with this is the term "register." This entire provision is likely to end up in a bureaucratic and PR nightmare that paralyzes boards and strangles well-managed organizations."*

## Biggest Obstacles the Field Faces in Compliance

- Biggest obstacles the field faces in complying with such legislation should it become law:
  1. We don't have the funding to hire staff who would focus on collection work (72.7%)
  2. We believe the extent of collections-related reporting to the state is onerous (72.7%)
  3. We are concerned about the security of our collections should they be listed on the Web (60.1%)
  4. We don't have the technology to facilitate making basic collection or deaccession information available to a statewide registry (42.4%)
- *"The public has a right to know about museum collections and deaccessioning. It's a fine idea to create a public register but museums need support to meet professional standards in collections care and to comply with those*

*reporting requirements. Further, the State lacks sufficient staffing to ensure compliance. I don't see how this requirement can be implemented at this time."*

- *"The board of regents should spend a lot more time thinking about how it can support museums and increase professional standards for collections care. Requiring burdensome lists of artifacts won't help preserve our cultural heritage if those items are molding away in inadequate storage because museums do not receive sufficient support."*

## The Details

**The current bill specifies that each collecting institution shall develop, adopt and publish a collection management policy and a mission statement, and be bound by them.**

Answer Options	Response Percent	Response Count
Strongly Support	69.4%	25
Support	27.8%	10
Do Not Support	2.8%	1
Strongly Do Not Support	0.0%	0
Don't Know	0.0%	0
Comment		2

Respondent Comments:

"As long as we can have flexibility to change them with a vote of the board, periodically"

"It would be great to have a method of reinforcement for this."

**The current bill prevents all collecting institutions in the state from selling permanent collections to offset operating and capital debts.**

Answer Options	Response Percent	Response Count
Strongly Support	50.0%	18
Support	38.9%	14
Do Not Support	8.3%	3
Strongly Do Not Support	2.8%	1
Don't Know	0.0%	0

## Respondent Comments:

"So what does an organization do if its operating costs cannot be met. If you can't look after your collection or parts of it, then selling it might actually be a better solution for the collection!"

"There are items in our collection that do not relate to the museum's mission. It would be helpful for us to deaccession some of these items and use the funds to pay for the operating costs of storing the collection in an offsite storage facility."

"Are they distinguishing debt and expense. We support deaccessioning and using the funds to improve storage conditions."

"My only caveat is how capital debts or expenses are defined. It sounds like the state would allow collections sales to support the purchase of new collections or conservation on current collections. In the case of the smaller institution, there are needs (such as HVAC, shelving) that tremendously affect collections, yet are not permissible expenses from collections sales. To me, this is not acceptable. What's the point of spending thousands to conserve one collection item if there is no climate control?"

**The current bill requires all collecting institutions to inform the public about the extent of their permanent collections.**

Answer Options	Response Percent	Response Count
Strongly Support	16.7%	6
Support	58.3%	21
Do Not Support	13.9%	5
Strongly Do Not Support	8.3%	3
Don't Know	2.8%	1
Comment		10

## Respondent Comments:

"Support for this type of provision depends upon exactly what the requirement is. It must be reasonable."

"How?"

"Based on the proposed bill, this is likely untenable for many institutions - having the kind of register of all items as suggested to be available in 3 years is impossible! If this is not the register, then how do we do this?"

"Stop it with the unfunded mandates. In principal it is a good idea to inform the public. But why are we making this law?"

"But this may be hard for the smaller institution to manage."

"The public is always welcome to visit our Museum. It should not be necessary, and unnecessarily time consuming, to notify the public of our permanent collections. It changes monthly."

"What is meant by "inform the public"--how detailed is the information required to be? My institution is still trying to deal with several decades worth of indiscriminate collecting ("Oh! It's 'old'...of course we'll take it! So what if it has absolutely nothing to do with our raison d'etre.") I'd rather not make an itemized list of our collection available to the public. Broad categories . . . defined by the museum . . . maybe I could get "on board" with that."

"With in reason of time, budget, etc."

"Why and how?"

"with considerations of security needs"

<b>The current bill requires all collecting institutions to inform the public about the extent of their deaccessioning activities.</b>		
<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
Strongly Support	13.9%	5
Support	44.4%	16
Do Not Support	22.2%	8
Strongly Do Not Support	8.3%	3
Don't Know	11.1%	4
Comment		9

Respondent Comments:

"Same comment as for no. 3 above."

"We have a collections policy and stringent internal rules about deaccessioning but how are we supposed to do this - what sort of regulations will be developed for all this."

"See unfunded mandate comment from above."

"Could be tricky."

"As above, out collection changes periodically and would require a dedicated person to notify the public of every change, whether incoming or deaccessioning."

"Same issues as above."

"Simply maintain a transparent process."

"How?"

"I support this but think that it can pose problems for museums since the public is unaware of the nature of deaccessioning practices."

**The current bill specifies that each collecting institution will publish a "register" of the items in its collection within three years of the bill becoming law. The Board of Regents may extend the deadline for an institution if good cause is shown. The Regents will develop the reasonable requirements and standards for publication of this register.**

Answer Options	Response Percent	Response Count
Strongly Support	8.6%	3
Support	22.9%	8
Do Not Support	31.4%	11
Strongly Do Not Support	31.4%	11
Don't Know	5.7%	2
Comment		15

Respondent Comments:

"We are a small history museum with one full-time staff person with 8,000 items catalogued and 10,000 objects un-catalogued. At this time we could not handle anticipated inquires about published materials nor questions from donors about un-published donations."

"This is a decent idea on the surface, but it is not practical. "Description of the scope" might be doable; a "register" is not."

"In what form?"

"does not seem possible without lots of grant money to pay for it. But a worthy goal"

"This will create a lot of work for small institutions"

"too labor intensive for small museums with very limited staff."

"See previous comments. I want to know what "reasonable" means. Having to find the operating costs to create this register is quite unreasonable for us. We have records in various forms depending on the collections and do not hide anything, but we cannot do this."

"We have 1.2 million objects and I don't think that this is a better use of time than educating the children and families who need opportunity. Stop it with the rules and regs."

"This kind of project will halt the work of already over-burdened institutions."

"Depending on what the word "publish" means, this could become quite expensive."

"Our staff currently maintains an up to date "register" of our collection. A museum should not have to be told by law to do this."

"This will place a heavy burden on small institutions like ours with volunteer staff. we struggle just to keep up with the day to day demands of operating and maintaining two historic buildings."

"This will put stress on all organizations at a time where there are other priorities."

"Who is going to pay for this? Is this yet another unfunded mandate from Albany?"

"Unless the state provides funding for museums to catalog collections, this requirement will be a huge burden for small museums. Yes, they should be required to catalog collections but they need financial support and a longer amount of time to comply."

**Proceeds from the disposal of an item or items may be used for the acquisition of another item or items for the collection and/or for the preservation, protection or care of an item or items in the collection. In no event, however, shall proceeds derived from the disposal of an item or items from a collection be used for traditional and customary operating expenses. Nothing shall limit the ability of a collecting institution to set more restrictive policies relating to the use of proceeds from a disposed item.**

Answer Options	Response Percent	Response Count
Strongly Support	37.1%	13
Support	48.6%	17
Do Not Support	11.4%	4
Strongly Do Not Support	2.9%	1
Don't Know	0.0%	0
Comment		7

Respondent Comments:

"Support only to the extent that "preservation, protection or care" are broadly defined. There is danger here in some bureaucratic misinterpretation of "traditional and customary.""

"Our collection does have several items which should not have been accepted as they do not pertain to our collection, so to deaccess them would be the correct thing to do."

"We do not pay to acquire anything but not being able to use proceeds of a sale to help pay the people who do the preservation and care is not reasonable. If items are sold according to a collections policy, then why is this so restrictive."



"We do not sell items unless they do not meet our mission and/or collections policy - we are not talking much money here!"

"Please be specific regarding the definition of "preservation and/or care.""

"I support this in concept but I don't think it is a good rule. Our collections are a resource and should be looked at in total case by case situation."

"However, again, "preservation, protection, and care of items" should be broadened to include the item's environment."

"This is not the same as the emergency Regent's Rule which is more restrictive. In this form the rule is acceptable."

**No item in a collecting institution's collections may be used as collateral or may be capitalized.**

Answer Options	Response Percent	Response Count
Strongly Support	57.1%	20
Support	34.3%	12
Do Not Support	5.7%	2
Strongly Do Not Support	0.0%	0
Don't Know	2.9%	1
Comment		2

Respondent Comments:

"If a disaster happens, collections as assets may be needed to borrow funds to restore and keep open a small, under funded museum."

"I wish we had something that valuable!"

**Should a collecting institution's historically and/or architecturally significant building(s) be designated collection objects, thus making them eligible for deaccessioning proceeds to be used toward their preservation, protection and care (as any other collection item)?**

Answer Options	Response Percent	Response Count
Strongly Support	20.0%	7
Support	28.6%	10
Do Not Support	17.1%	6
Strongly Do Not Support	2.9%	1
Don't Know	31.4%	11
Comment		2

Respondent Comments:

"Not sure how this would work - we sell the building to get money to preserve it? Isn't that the new owners problem?"

"I think we need to form a committee of professionals to address this issue on a case by case basis. Professionals to include on the panel: the director of MANY, UHA, Lower Hudson Conference (and/or other regional professional orgs) and well established curatorial and historic preservation experts."

**A collecting institution may deaccession for one or more of the following criteria: • the item is inconsistent with the mission of the collecting institution as set forth in its mission statement; • the item has failed to retain its identity; • the item is redundant; • the item's preservation and conservation needs are beyond the capacity of the collecting institution to provide; • the item is deaccessioned to accomplish refinement of collections as required by and/or stated in its collection management policy; • it has been established that the item is inauthentic; • the collecting institution is repatriating the item or returning the item to its rightful owner; • the collecting institution is returning the item to the donor, or the donor's heirs or assigns, to fulfill donor restrictions relating to the item which the collecting institution is no longer able to meet; • the item presents a hazard to people or other collection items.**

Answer Options	Response Percent	Response Count
Strongly Support	54.3%	19
Support	40.0%	14
Do Not Support	2.9%	1
Strongly Do Not Support	2.9%	1
Don't Know	0.0%	0
Comment		3

Respondent Comments:

""Repatriation" and "rightful owner" are not defined."

"all except the donor's heirs..."

"Add: If the donor or heirs request return of the item."

**The current bill directs the Board of Regents to create a statewide electronic register for the purposes of collecting and providing public information about deaccessioning, which shall include the ability of a collecting institution to list an item for actual or potential deaccessioning.**

Answer Options	Response Percent	Response Count
Strongly Support	11.4%	4
Support	34.3%	12
Do Not Support	40.0%	14
Strongly Do Not Support	5.7%	2
Don't Know	8.6%	3
Comment		12

Respondent Comments:

"The state government should stay out of private affairs. These collections belong to the corporations for the distinct purpose of them being maintained without public intervention. There is more danger in government intervention than in foolish choices made by trustees."

"The problem with this is the term "register." This entire provision is likely to end up in a bureaucratic and PR nightmare that paralyzes boards and strangles well-managed organizations."

"Too much government involvement"

"Would rather have the various museums net work than have the state involved."

"Who will actually do this? What sort of information? How much time and effort does it take to provide the information? If it is a place to advertise an item for placement in or gifting to a more appropriate institution, that could be useful."

"I want Albany to stop creating work for itself."

"Again, implementation will be tough for the small institution."

"Unnecessary. Our transmission sheets, which are signed by the donor, allows us the ability to deaccession if necessary."

"I'd be interested in learning more about this provision. How will this list be used & by whom?"

"Cumbersome extra level of management"

"With the qualification that it is an enormous undertaking and may not be practicable."

"I support this if funding is provided to allow museums to comply."

<b>What are the biggest obstacles for your institution in meeting the requirements of the bill if it were to become law as it currently is written? (check all that apply)</b>		
<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
We don't have the staff to accession the collection	30.3%	10
We don't have the technology to facilitate making basic collection or deaccession information available to a statewide registry	42.4%	14
We don't have the funding to hire staff who would focus on collection work	72.7%	24
We don't have the funding to purchase the technology	39.4%	13
We don't have the training to do this	27.3%	9
We are concerned about the security of our collections should they be listed on the Web	60.6%	20
We believe the extent of collections-related reporting to the state is onerous	72.7%	24
Comment		6

Respondent Comments:

"Again, the governmental layer is too much"

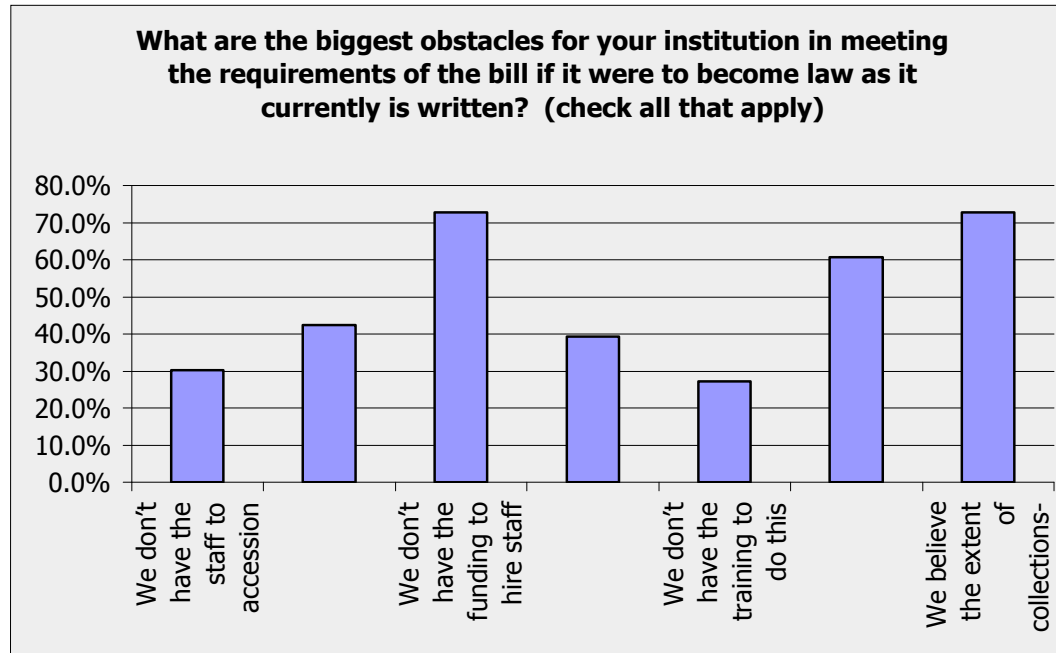
"This all seems overkill to address problems that occurred in some large, well known institutions and does not apply to most of us. What regulations are developed for this law will be key and are likely to be very onerous. Who will police any of it? How can we afford to do all this? This is another type of unfunded mandate and while I am not generally anti-government, these law/regs will not be helpful - it all appears to be punitive rather than positive. Encouraging well developed collection development and management policies would be a smarter idea."

"We have our accession list in an Access data base - and honestly there are some things in it that are long gone. Former staff person accessioned ANYTHING purchased for the museum, so these missing items are likely supplies that were consumed."

"Worry about public backlash about deaccessioned material or lost material that did not show up in the register."

"We are struggling with a backlog of fifty years. While we are making progress and all current donations are accessioned, it will be years before we have all the accumulations documented."

"The public has a right to know about museum collections and deaccessioning. It's a fine idea to create a public register but museums need support to meet professional standards in collections care and to comply with those reporting requirements. Further, the State lacks sufficient staffing to ensure compliance. I don't see how this requirement can be implemented at this time."



**Additional Respondent Comments:**

"Deaccessioning is a very emotional issue and needs to be monitored by a large collections committee made up of museum volunteers but discretion is imperative. If public disclosure is not handled correctly it could threaten a museum's fundraising."

"One would hope that museums are generally honest in their accession/deaccession activity, the government oversight is an unnecessary layer, which the funding for should be redirected back to the museums."

"The state can not handle what is has to do now - how can they be responsible for anything else?"

"State needs to give institutions funds to cover the cost of cataloguing, scanning, and uploading to the web. However, wouldn't it be great to know about the related objects in other collections for research and exhibitions?"

"I am aware of an institution that was able to sell an item not related to their mission for a substantial amount of money. Apparently, they may not be able to use the funds to expand a building that would allow them to better preserve and care for their current mission-based collection and better meet their mission. There is something wrong with this picture!"

"We are a small, all-volunteer organization, with no paid staff and limited resources. Who pays for this?"

"The confusing and contradictory discrepancies between the proposed Deaccessioning Bill and the Regent's Rules need to be clarified. Protection of Collections is a fundamental obligation as is evidenced by the wording that deaccession funds can be used for "preservation, protection or care of an item or items". Current attempts by the Regents to further restrict this undermines the fundamental responsibility that museums have to care for collections."

"Where is the enforcement and penalty section? What happens to institutions that fail to comply? Can an "absolute" charter be revoked? Can trustees be prevented from privatizing their institutions to avoid compliance?"

"Please keep in mind the majority of small museum's in New York State and the wide service they provide to local communities. Donations of ordinary objects of little value but given by well meaning community members can be a daily transaction for small community based museums. These unwanted items bog down museums with little or no staff and need to be disposed of in an honest way. Full public disclosure for the donation and/or deaccessioning a used egg beater made in 1950 is not necessary and too labor intensive."

"These objects were given for the public good, and a tax deduction given to the donor. We should not consider them lightly, but instead fulfill our mandates to preserve, interpret & educate."

"I've ranted enough! Much of this proposed law is too onerous"

"While I appreciate the controls trying to be put in place, I think compliance will be extremely difficult for staff/ volunteers of the small institution."

"The board of regents should spend a lot more time thinking about how it can support museums and increase professional standards for collections care. Requiring burdensome lists of artifacts won't help preserve our cultural heritage if those items are molding away in inadequate storage because museums do not receive sufficient support."

<b>Is your museum/historical society/historic site chartered by the Board of Regents/NYS Education Department?</b>		
<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
Yes	85.3%	29
No	14.7%	5
Don't Know	0.0%	0

**What is the size of your institution's annual operating budget?**

<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
Budget under \$50,000	19.4%	7
Budget \$50,001 - \$100,000	11.1%	4
Budget \$100,001 - \$500,000	27.8%	10
Budget \$500,001 - \$1,000,000	8.3%	3
Budget \$1,000,001 - \$2,500,000	8.3%	3
Budget \$2,500,001 - \$5M	11.1%	4
Budget \$5,000,001 - \$10M	8.3%	3
Budget \$10,000,001 - \$20M	5.6%	2
Budget over \$20M	0.0%	0