

## ENROLLED

HB 1361, Engrossed 1

2005 Legislature

1                                   A bill to be entitled  
2           An act relating to the Performing Arts Center Authority,  
3           Broward County; codifying, reenacting, amending, and  
4           repealing special acts relating to the authority;  
5           providing that the authority is a public body, corporate  
6           and politic; providing purposes; providing membership and  
7           organization; providing definitions; providing for the  
8           method and manner of the appointment of the authority and  
9           terms of the authority's membership; providing for  
10          reimbursement of members' expenses; providing for removal  
11          of members; providing for the organization, powers,  
12          functions, financing, privileges, duties, and  
13          responsibilities of the authority; providing for  
14          competitive bidding in certain instances; authorizing the  
15          acquisition of certain property acquired by eminent  
16          domain; providing for budget approval by the Broward  
17          County Commission and the Fort Lauderdale City Commission;  
18          providing for the issuance of revenue bonds by the  
19          authority to carry out the purposes of this act; providing  
20          for sources of revenues for paying for the construction of  
21          facilities, the administrative expenses of the authority,  
22          and said revenue bonds; authorizing appropriations by the  
23          county, the city, and other governmental units in Broward  
24          County for operation and maintenance of said facilities;  
25          providing for public or private subscriptions; providing  
26          for the issuance of a license to sell alcoholic beverages  
27          for on-premise consumption; providing severability;  
28          providing an effective date.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29  
 30 Be It Enacted by the Legislature of the State of Florida:  
 31

32       Section 1. Pursuant to section 189.429, Florida Statutes,  
 33 this act constitutes the codification of all special acts  
 34 relating to the Performing Arts Center Authority. It is the  
 35 intent of the Legislature in enacting this law to provide a  
 36 single comprehensive special act charter for the performing arts  
 37 center authority, including all current legislative authority  
 38 granted to the Performing Arts Center Authority by its several  
 39 legislative enactments and additional authority granted by this  
 40 act. It is the further intent of the Legislature that this act  
 41 preserve all of the authority's powers in addition to any  
 42 authority contained in chapter 189, Florida Statutes, as amended  
 43 from time to time.

44       Section 2. Chapters 84-396, 85-389, 92-268, and 93-371,  
 45 Laws of Florida, are codified, reenacted, amended, and repealed  
 46 as herein provided.

47       Section 3. The Performing Arts Center Authority is re-  
 48 created and reenacted to read:

49       Section 1. Performing Arts Center Authority.--There is  
 50 hereby created and established the Performing Arts Center  
 51 Authority, hereinafter referred to as the "authority," an  
 52 independent special district and a public body, politic and  
 53 corporate, in Broward County, for the purpose of planning,  
 54 promoting, developing, constructing, acquiring, owning,  
 55 reconstructing, extending, enlarging, repairing, remodeling,  
 56 improving, relocating, equipping, maintaining, and operating

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57 facilities for holding any type of cultural, tourism, or  
58 promotional event, civic, recreational, or similar event or  
59 activity. Such purpose is hereby deemed to be a public purpose  
60 the fulfillment of which is an urgent public necessity.

61 Section 2. Membership and organization.--

62 (1) The authority shall consist of 13 members, each  
63 serving a term of 4 years, except for the initial appointees, of  
64 whom six shall serve terms of 2 years, and seven shall serve  
65 terms of 4 years, as hereinafter provided. The members shall,  
66 insofar as practical, be representatives of civic, cultural,  
67 recreational, business, and social interests. Five members of  
68 the authority shall be selected by the Board of County  
69 Commissioners of Broward County, and of the five members  
70 selected by the board of county commissioners, at least one  
71 member of the five selected shall be a minority person as  
72 defined in section 288.703(3), Florida Statutes. Two members  
73 shall be selected by the Commission of the City of Fort  
74 Lauderdale, one member shall be selected by the Downtown  
75 Development Authority, one member shall be selected by the  
76 Broward County School Board, and four members shall be selected  
77 by the Broward Performing Arts Foundation, at least one of whom  
78 shall be a minority person as defined in section 288.703(3),  
79 Florida Statutes.

80 (2) The initial appointments to the authority shall be  
81 made as soon as practicable after this act takes effect. The  
82 results of all appointments and removals shall be immediately  
83 certified to the authority.

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84       (3) All members of the authority at the time of their  
85 appointment and during the term of their membership shall be  
86 permanent residents of Broward County. The members shall not  
87 receive any compensation for their services, except that they  
88 may be reimbursed for actual, necessary expenses that they incur  
89 in the performance of their duties under this act. Each member,  
90 unless removed as provided in this act, shall serve until his or  
91 her successor is appointed and qualified. A member appointed by  
92 a governmental unit may be removed by that governmental unit for  
93 just cause by a majority vote of the governmental unit. A  
94 vacancy shall be filled for the member's unexpired term as soon  
95 as practicable after the vacancy occurs by the governmental unit  
96 that appointed the member. Before entering upon the duties of  
97 office, each member shall take an oath to faithfully discharge  
98 the duties of his or her office, shall take any other oath  
99 required by law, and shall file a signed copy of such oath with  
100 the Clerk of the Circuit Court of Broward County. A majority of  
101 the membership of the authority shall constitute a quorum. A  
102 vacancy on the authority shall not impair the rights of a quorum  
103 to exercise all the rights and perform all the duties of the  
104 authority.

105       (4) The authority shall organize as soon as practicable  
106 after the effective date of this act. The authority shall by  
107 majority vote elect a chair and such other officers as the  
108 authority provides for in its bylaws. The authority may create  
109 such other offices as it deems necessary to accomplish the  
110 purpose of this act. The authority may, by two-thirds vote of  
111 its membership, create an executive committee. The executive

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112 committee shall have four members who shall be appointed by the  
 113 authority and who shall be chosen from among two members  
 114 selected by the county, one member selected by the foundation,  
 115 and one member selected by the city, for a total executive  
 116 committee membership of four persons. The authority may delegate  
 117 by resolution any power, task, action, or other undertaking  
 118 which the authority may itself perform. An executive committee  
 119 shall automatically dissolve upon the completion of the activity  
 120 delegated, unless earlier dissolved by a majority vote of the  
 121 authority.

122 Section 3. Definitions.--As used in this act, the term:

123 (1) "Authority" means the Performing Arts Center Authority  
 124 created by this act.

125 (2) "Cost" or "costs," as applied to facilities, means the  
 126 cost of acquisition and construction of such facilities,  
 127 including the cost of all land, property, property rights,  
 128 easements, franchises, labor, insurance, materials, furnishings,  
 129 and equipment required to carry out the purposes of this act,  
 130 and includes and reserves therefor prior to and during  
 131 construction and for a reasonable period of time thereafter:  
 132 costs of plans and specifications; estimates of costs and  
 133 revenues; costs of engineering, architectural, and special  
 134 consultant services; costs of legal services, including those  
 135 rendered for the issuance, validation, and sale of revenue  
 136 bonds; all expenses necessary or incident to determining the  
 137 feasibility or practicability of such acquisition and  
 138 construction; administrative expenses; and such other expenses

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139 as may be necessary or incident to the acquisition and  
 140 construction of the financing herein authorized.

141 (3) "County" means the County of Broward.

142 (4) "DDA" means the Downtown Development Authority of the  
 143 City of Fort Lauderdale.

144 (5) "Facilities" means facilities or sites for holding any  
 145 type of cultural, tourism, or promotional event, or civic,  
 146 recreational, or similar event or activity, and includes  
 147 property, auditoriums, theaters, music halls, buildings,  
 148 structures, utilities, parks, parking areas, roadways, and all  
 149 other facilities and properties reasonably necessary or  
 150 desirable to carry out the purposes of this act.

151 (6) "Governmental unit" means the County of Broward, or a  
 152 municipality or special district, improvement or otherwise, that  
 153 is within the boundaries of Broward County, or an agency or  
 154 instrumentality of such county, municipality, or special  
 155 district. The term shall apply only to the portions of any  
 156 governmental unit that are within the boundaries of Broward  
 157 County.

158 Section 4. General powers.--The authority may:

159 (1) Adopt bylaws for the regulation of its affairs and the  
 160 conduct of its business.

161 (2) Adopt and use an official seal.

162 (3) Sue and be sued in the name of the Performing Arts  
 163 Center Authority.

164 (4) Plan, develop, purchase, lease, or otherwise acquire,  
 165 demolish, construct, reconstruct, improve, extend, enlarge,

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166 relocate, equip, repair, maintain, operate, and manage  
 167 facilities.

168 (5) Make a comprehensive land use plan for the overall  
 169 orderly development of facilities, develop detailed  
 170 architectural and engineering plans for specific facilities, and  
 171 obtain necessary feasibility and other reports and studies.

172 (6) Acquire by lease, grant, purchase, gift, or devise  
 173 from any source, including a governmental unit, any real or  
 174 personal property, or any estate or interest therein, that is  
 175 necessary, desirable, or convenient for the purpose of this act;  
 176 lease or rent all or any part of such property; and exercise its  
 177 powers and authority with respect to that property. A  
 178 governmental unit may sell or lease property to the authority  
 179 for nominal consideration. Without limiting any power or  
 180 authority of the County of Broward or the municipalities in  
 181 Broward County, the county and municipalities in the county,  
 182 within their respective territorial jurisdictions and by the  
 183 methods provided by chapter 73 or chapter 74, Florida Statutes,  
 184 may acquire real property by eminent domain and, as herein  
 185 provided and with the agreement of the authority, transfer that  
 186 property to the authority to be used for the purposes of this  
 187 act. The expenditure of moneys by counties or municipalities for  
 188 such purpose is hereby declared to be a public purpose. Title to  
 189 real property so acquired may be held in fee simple, absolute  
 190 and unqualified in any way or any lesser interest therein.  
 191 Nothing in this act shall be construed to allow acquisition of  
 192 real property by eminent domain for purposes or uses other than  
 193 as herein provided.

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194       (7) Lease, rent, or contract for the operation or  
 195 management of any part of any of the facilities of the  
 196 authority.

197       (8) Fix and collect rates, rentals, fees, charges, or  
 198 ticket surcharges for the use of any facilities of the  
 199 authority.

200       (9) Contract for the operation of concessions on or in any  
 201 of the facilities of the authority or, at its discretion,  
 202 operate such concessions as it deems desirable.

203       (10) Advertise and promote within or without the state any  
 204 of the facilities and activities of the authority.

205       (11) Employ an executive director, other necessary staff  
 206 employees, and such consulting services, engineers, architects,  
 207 special consultants, superintendents, managers, construction and  
 208 financial experts, attorneys, employees, and agents as the  
 209 authority deems necessary and fix their compensation. Any  
 210 treasurer of the authority, prior to entering upon his or her  
 211 duties as such officer, and any other officer or employee so  
 212 required by the authority shall provide a surety bond in an  
 213 amount to be determined by the authority conditioned upon the  
 214 faithful performance of the duties of his or her office or  
 215 employment. Such bond shall be executed by a surety company  
 216 authorized to do business in the state and shall be approved by  
 217 the authority.

218       (12) Cooperate with and contract with the government of  
 219 the United States or the state or any agency, instrumentality,  
 220 or political subdivision of either, or with any municipality,  
 221 district, corporation, partnership, association, person, or



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222 individual in providing for or relating to the authority in  
 223 carrying out the provisions and purposes of this act.

224 Section 5. Bid procedures.--All contracts for  
 225 constructing, demolishing, improving, extending, enlarging,  
 226 relocating, repairing, or equipping of facilities of the  
 227 authority in the amount of \$7,500 or more shall be awarded by  
 228 the authority to the best qualified bidder, as determined by the  
 229 authority, after consideration of all relevant factors including  
 230 the purposes and provisions of this act and the competitiveness  
 231 of all bids received. The authority shall, at least 30 days  
 232 prior to the award of such contract, publish one time in a  
 233 newspaper of general circulation in Broward County a notice  
 234 requesting bids on such contract. The authority may for any  
 235 reason reject all bids and request new bids in the same manner  
 236 as bids were first requested. This section does not apply to the  
 237 purchase, lease, or acquisition of a site.

238 Section 6. Fiscal powers.--

239 (1) The expenditure of all moneys collected or received  
 240 for the purposes authorized by this act shall be subject to an  
 241 annual review by the Broward County Commission and the Fort  
 242 Lauderdale City Commission. The authority shall prepare a budget  
 243 for each fiscal year pursuant to the provisions of chapter 129,  
 244 Florida Statutes, and a forecast of estimated income and  
 245 expenditures for the next fiscal year. The budget shall be  
 246 adopted, adopted as amended, or rejected by the Performing Arts  
 247 Center Authority subject to the general provisions of chapter  
 248 129, Florida Statutes, and shall be subject to approval by the

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249 Broward County Commission and the Fort Lauderdale City  
 250 Commission.

251 (2) The Broward County Commission and the Fort Lauderdale  
 252 City Commission shall retain, employ, and compensate independent  
 253 certified public accountants to audit the records or books of  
 254 account of the authority at least once yearly and at such other  
 255 times as either such commission deems necessary.

256 Section 7. Bonding provisions.--

257 (1) For the purpose of providing funds to finance  
 258 equipping, furnishing, and constructing facilities, the  
 259 Performing Arts Center Authority may issue revenue bonds.

260 (2) Any bonds authorized by this act may be issued and  
 261 sold at one time or from time to time, and shall bear such date  
 262 or dates, be in such denomination or denominations, be payable  
 263 at such place, bear interest at a rate allowed by general law,  
 264 and mature at such stated time or times not exceeding 40 years  
 265 after their date of issuance, with or without the right of prior  
 266 redemption by the authority, all as may be determined by  
 267 resolution or resolutions of the authority, which resolution or  
 268 resolutions may prescribe the manner and terms of redemption of  
 269 any bonds which the authority makes redeemable. The bonds shall  
 270 be issued in registered form, as to both principal and interest,  
 271 and shall be signed by the proper officials of the authority or  
 272 such other designee authorized by the authority, on its behalf,  
 273 and impressed with the corporate seal of the authority or a  
 274 printed facsimile. The bonds may be sold at public or private  
 275 sale or as determined by the authority at such price and terms  
 276 as are deemed to be in the best interest of the authority.

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277       (3) The revenues pledged against such bonds by the  
 278 authority may include the ticket surcharge, other projected  
 279 revenues of the authority, the local option tourist development  
 280 tax as authorized in section 125.0104, Florida Statutes, or any  
 281 other source of revenue which the Board of County Commissioners  
 282 of Broward County or the Commission of the City of Fort  
 283 Lauderdale deems appropriate. Revenue bonds sold under the  
 284 provisions of this act shall conform with the general provisions  
 285 for revenue bonds as defined under chapter 159, Florida  
 286 Statutes.

287       (4) The Board of County Commissioners of Broward County or  
 288 the City of Fort Lauderdale City Commission shall not have the  
 289 power to pledge the full faith and credit and ad valorem taxing  
 290 power of Broward County or the City of Fort Lauderdale for the  
 291 payment of the principal or interest on such bonds.

292       (5) Without limiting any other provisions of this act, the  
 293 revenues available to the authority as set forth in this act, if  
 294 not previously pledged to revenue bonds issued or to be used  
 295 pursuant to this act or otherwise committed, may be used to  
 296 otherwise finance or pay for the construction of facilities or  
 297 the administrative expenses of the authority or otherwise in  
 298 carrying out the purposes and provisions of this act.

299       Section 8. Other revenues.--The County of Broward, the  
 300 City of Fort Lauderdale, and any other governmental unit may  
 301 appropriate additional funds for use by the authority for  
 302 maintenance of facilities and payment of employees' salaries,  
 303 operating expenses, planning expenses, or other necessary

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304 expenditures. Such expenditures are declared to be for a valid,  
 305 necessary public purpose.

306 Section 9. Public or private subscription.--The authority  
 307 may solicit, encourage, promote, and accept any public or  
 308 private subscriptions and donations of moneys, other property,  
 309 and assets for use in furthering the purposes of this act.

310 Section 10. Special licenses.--In addition to any licenses  
 311 that may be issued under the provisions of the Beverage Law of  
 312 the state, the Division of Alcoholic Beverages and Tobacco of  
 313 the Department of Business and Professional Regulation is hereby  
 314 authorized to issue to qualified applicants consisting of the  
 315 Performing Arts Center Authority or its designee a special  
 316 license or special licenses for use within the confines of the  
 317 Performing Arts Center complex. Any such license issued pursuant  
 318 to this act shall permit the licensee to sell alcoholic  
 319 beverages only for consumption on the premises of the  
 320 facilities.

321 Section 4. Chapters 84-396, 85-389, 92-268, and 93-371,  
 322 Laws of Florida, are repealed.

323 Section 5. If any provision of this act or the application  
 324 thereof to any person or circumstance is held invalid, the  
 325 invalidity shall not affect other provisions or applications of  
 326 the act which can be given effect without the invalid provision  
 327 or application, and to this end the provisions of this act are  
 328 declared severable.

329 Section 6. This act shall take effect upon becoming a law.