

By Senator Campbell

32-1883-05

See HB 1361

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

1 alcoholic beverages for on-premise consumption;
2 providing severability; providing an effective
3 date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Pursuant to section 189.429, Florida
8 Statutes, this act constitutes the codification of all special
9 acts relating to the Performing Arts Center Authority. It is
10 the intent of the Legislature in enacting this law to provide
11 a single comprehensive special act charter for the performing
12 arts center authority, including all current legislative
13 authority granted to the Performing Arts Center Authority by
14 its several legislative enactments and additional authority
15 granted by this act. It is the further intent of the
16 Legislature that this act preserve all of the authority's
17 powers in addition to any authority contained in chapter 189,
18 Florida Statutes, as amended from time to time.

19 Section 2. Chapters 84-396, 85-389, 92-268, and
20 93-371, Laws of Florida, are codified, reenacted, amended, and
21 repealed as herein provided.

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

24 Section 1. Performing Arts Center Authority.--There is
25 hereby created and established the Performing Arts Center
26 Authority, hereinafter referred to as the "authority," a
27 public body, politic and corporate, in Broward County, for the
28 purpose of planning, promoting, developing, constructing,
29 acquiring, owning, reconstructing, extending, enlarging,
30 repairing, remodeling, improving, relocating, equipping,
31 maintaining, and operating facilities for holding any type of

1 cultural, tourism, or promotional event, civic, recreational,
2 or similar event or activity. Such purpose is hereby deemed to
3 be a public purpose the fulfillment of which is an urgent
4 public necessity.

5 Section 2. Membership and organization.--

6 (1) The authority shall consist of 13 members, each
7 serving a term of 4 years, except for the initial appointees,
8 of whom six shall serve terms of 2 years, and seven shall
9 serve terms of 4 years, as hereinafter provided. The members
10 shall, insofar as practical, be representatives of civic,
11 cultural, recreational, business, and social interests. Five
12 members of the authority shall be selected by the Board of
13 County Commissioners of Broward County, and of the five
14 members selected by the board of county commissioners, at
15 least one member of the five selected shall be a minority
16 person as defined in section 288.703(3), Florida Statutes. Two
17 members shall be selected by the Commission of the City of
18 Fort Lauderdale, one member shall be selected by the Downtown
19 Development Authority, one member shall be selected by the
20 Broward County School Board, and four members shall be
21 selected by the Broward Performing Arts Foundation, at least
22 one of whom shall be a minority person as defined in section
23 288.703(3), Florida Statutes.

24 (2) The initial appointments to the authority shall be
25 made as soon as practicable after this act takes effect. The
26 results of all appointments and removals shall be immediately
27 certified to the authority.

28 (3) All members of the authority at the time of their
29 appointment and during the term of their membership shall be
30 permanent residents of Broward County. The members shall not
31 receive any compensation for their services, except that they

1 may be reimbursed for actual, necessary expenses that they
2 incur in the performance of their duties under this act. Each
3 member, unless removed as provided in this act, shall serve
4 until his or her successor is appointed and qualified. A
5 member appointed by a governmental unit may be removed by that
6 governmental unit for just cause by a majority vote of the
7 governmental unit. A vacancy shall be filled for the member's
8 unexpired term as soon as practicable after the vacancy occurs
9 by the governmental unit that appointed the member. Before
10 entering upon the duties of office, each member shall take an
11 oath to faithfully discharge the duties of his or her office,
12 shall take any other oath required by law, and shall file a
13 signed copy of such oath with the Clerk of the Circuit Court
14 of Broward County. A majority of the membership of the
15 authority shall constitute a quorum. A vacancy on the
16 authority shall not impair the rights of a quorum to exercise
17 all the rights and perform all the duties of the authority.

18 (4) The authority shall organize as soon as
19 practicable after the effective date of this act. The
20 authority shall by majority vote elect a chair and such other
21 officers as the authority provides for in its bylaws. The
22 authority may create such other offices as it deems necessary
23 to accomplish the purpose of this act. The authority may, by
24 two-thirds vote of its membership, create an executive
25 committee. The executive committee shall have four members who
26 shall be appointed by the authority and who shall be chosen
27 from among two members selected by the county, one member
28 selected by the foundation, and one member selected by the
29 city, for a total executive committee membership of four
30 persons. The authority may delegate by resolution any power,
31 task, action, or other undertaking that the authority may

1 itself perform. An executive committee shall automatically
2 dissolve upon the completion of the activity delegated, unless
3 earlier dissolved by a majority vote of the authority.

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

6 (1) "Authority" means the Performing Arts Center
7 Authority created by this act.

8 (2) "Cost" or "costs," as applied to facilities, means
9 the cost of acquisition and construction of such facilities,
10 including the cost of all land, property, property rights,
11 easements, franchises, labor, insurance, materials,
12 furnishings, and equipment required to carry out the purposes
13 of this act, and includes and reserves therefor prior to and
14 during construction and for a reasonable period of time
15 thereafter: costs of plans and specifications; estimates of
16 costs and revenues; costs of engineering, architectural, and
17 special consultant services; costs of legal services,
18 including those rendered for the issuance, validation, and
19 sale of revenue bonds; all expenses necessary or incident to
20 determining the feasibility or practicability of such
21 acquisition and construction; administrative expenses; and
22 such other expenses as may be necessary or incident to the
23 acquisition and construction of the financing herein
24 authorized.

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

26 (4) "DDA" means the Downtown Development Authority of
27 the City of Fort Lauderdale.

28 (5) "Facilities" means facilities or sites for holding
29 any type of cultural, tourism, or promotional event, or civic,
30 recreational, or similar event or activity, and includes
31 property, auditoriums, theaters, music halls, buildings,

1 structures, utilities, parks, parking areas, roadways, and all
2 other facilities and properties reasonably necessary or
3 desirable to carry out the purposes of this act.

4 (6) "Governmental unit" means the County of Broward,
5 or a municipality or special district, improvement or
6 otherwise, that is within the boundaries of Broward County, or
7 an agency or instrumentality of such county, municipality, or
8 special district. The term shall apply only to the portions of
9 any governmental unit that are within the boundaries of
10 Broward County.

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

12 (1) Adopt bylaws for the regulation of its affairs and
13 the conduct of its business.

14 (2) Adopt and use an official seal.

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

17 (4) Plan, develop, purchase, lease, or otherwise
18 acquire, demolish, construct, reconstruct, improve, extend,
19 enlarge, relocate, equip, repair, maintain, operate, and
20 manage facilities.

21 (5) Make a comprehensive land use plan for the overall
22 orderly development of facilities, develop detailed
23 architectural and engineering plans for specific facilities,
24 and obtain necessary feasibility and other reports and
25 studies.

26 (6) Acquire by lease, grant, purchase, gift, or devise
27 from any source, including a governmental unit, any real or
28 personal property, or any estate or interest therein, that is
29 necessary, desirable, or convenient for the purpose of this
30 act; lease or rent all or any part of such property; and
31 exercise its powers and authority with respect to that

1 property. A governmental unit may sell or lease property to
2 the authority for nominal consideration. Without limiting any
3 power or authority of the County of Broward or the
4 municipalities in Broward County, the county and
5 municipalities in the county, within their respective
6 territorial jurisdictions and by the methods provided by
7 chapter 73 or chapter 74, Florida Statutes, may acquire real
8 property by eminent domain and, as herein provided and with
9 the agreement of the authority, transfer that property to the
10 authority to be used for the purposes of this act. The
11 expenditure of moneys by counties or municipalities for such
12 purpose is hereby declared to be a public purpose. Title to
13 real property so acquired may be held in fee simple, absolute
14 and unqualified in any way or any lesser interest therein.
15 Nothing in this act shall be construed to allow acquisition of
16 real property by eminent domain for purposes or uses other
17 than as herein provided.

18 (7) Lease, rent, or contract for the operation or
19 management of any part of any of the facilities of the
20 authority.

21 (8) Fix and collect rates, rentals, fees, charges, or
22 ticket surcharges for the use of any facilities of the
23 authority.

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

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

29 (11) Employ an executive director, other necessary
30 staff employees, and such consulting services, engineers,
31 architects, special consultants, superintendents, managers,

1 construction and financial experts, attorneys, employees, and
2 agents as the authority deems necessary and fix their
3 compensation. Any treasurer of the authority, prior to
4 entering upon his or her duties as such officer, and any other
5 officer or employee so required by the authority shall provide
6 a surety bond in an amount to be determined by the authority
7 conditioned upon the faithful performance of the duties of his
8 or her office or employment. Such bond shall be executed by a
9 surety company authorized to do business in the state and
10 shall be approved by the authority.

11 (12) Cooperate with and contract with the government
12 of the United States or the state or any agency,
13 instrumentality, or political subdivision of either, or with
14 any municipality, district, corporation, partnership,
15 association, person, or individual in providing for or
16 relating to the authority in carrying out the provisions and
17 purposes of this act.

18 Section 5. Bid procedures.--All contracts for
19 constructing, demolishing, improving, extending, enlarging,
20 relocating, repairing, or equipping of facilities of the
21 authority in the amount of \$7,500 or more shall be awarded by
22 the authority to the best qualified bidder, as determined by
23 the authority, after consideration of all relevant factors
24 including the purposes and provisions of this act and the
25 competitiveness of all bids received. The authority shall, at
26 least 30 days prior to the award of such contract, publish one
27 time in a newspaper of general circulation in Broward County a
28 notice requesting bids on such contract. The authority may for
29 any reason reject all bids and request new bids in the same
30 manner as bids were first requested. This section does not
31 apply to the purchase, lease, or acquisition of a site.

1 Section 6. Fiscal powers.--

2 (1) The expenditure of all moneys collected or
3 received for the purposes authorized by this act shall be
4 subject to an annual review by the Broward County Commission
5 and the Fort Lauderdale City Commission. The authority shall
6 prepare a budget for each fiscal year pursuant to the
7 provisions of chapter 129, Florida Statutes, and a forecast of
8 estimated income and expenditures for the next fiscal year.
9 The budget shall be adopted, adopted as amended, or rejected
10 by the Performing Arts Center Authority subject to the general
11 provisions of chapter 129, Florida Statutes, and shall be
12 subject to approval by the Broward County Commission and the
13 Fort Lauderdale City Commission.

14 (2) The Broward County Commission and the Fort
15 Lauderdale City Commission shall retain, employ, and
16 compensate independent certified public accountants to audit
17 the records or books of account of the authority at least once
18 yearly and at such other times as either such commission deems
19 necessary.

20 Section 7. Bonding provisions.--

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

24 (2) Any bonds authorized by this act may be issued and
25 sold at one time or from time to time, and shall bear such
26 date or dates, be in such denomination or denominations, be
27 payable at such place, bear interest at a rate allowed by
28 general law, and mature at such stated time or times not
29 exceeding 40 years after their date of issuance, with or
30 without the right of prior redemption by the authority, all as
31 may be determined by resolution or resolutions of the

1 authority, which resolution or resolutions may prescribe the
2 manner and terms of redemption of any bonds that the authority
3 makes redeemable. The bonds shall be issued in registered
4 form, as to both principal and interest, and shall be signed
5 by the proper officials of the authority or such other
6 designee authorized by the authority, on its behalf, and
7 impressed with the corporate seal of the authority or a
8 printed facsimile. The bonds may be sold at public or private
9 sale or as determined by the authority at such price and terms
10 as are deemed to be in the best interest of the authority.

11 (3) The revenues pledged against such bonds by the
12 authority may include the ticket surcharge, other projected
13 revenues of the authority, the local option tourist
14 development tax as authorized in section 125.0104, Florida
15 Statutes, or any other source of revenue which the Board of
16 County Commissioners of Broward County or the Commission of
17 the City of Fort Lauderdale deems appropriate. Revenue bonds
18 sold under the provisions of this act shall conform with the
19 general provisions for revenue bonds as defined under chapter
20 159, Florida Statutes.

21 (4) The Board of County Commissioners of Broward
22 County or the City of Fort Lauderdale City Commission shall
23 not have the power to pledge the full faith and credit and ad
24 valorem taxing power of Broward County or the City of Fort
25 Lauderdale for the payment of the principal or interest on
26 such bonds.

27 (5) Without limiting any other provisions of this act,
28 the revenues available to the authority as set forth in this
29 act, if not previously pledged to revenue bonds issued or to
30 be used pursuant to this act or otherwise committed, may be
31 used to otherwise finance or pay for the construction of

1 facilities or the administrative expenses of the authority or
2 otherwise in carrying out the purposes and provisions of this
3 act.

4 Section 8. Other revenues.--The County of Broward, the
5 City of Fort Lauderdale, and any other governmental unit may
6 appropriate additional funds for use by the authority for
7 maintenance of facilities and payment of employees' salaries,
8 operating expenses, planning expenses, or other necessary
9 expenditures. Such expenditures are declared to be for a
10 valid, necessary public purpose.

11 Section 9. Public or private subscription.--The
12 authority may solicit, encourage, promote, and accept any
13 public or private subscriptions and donations of moneys, other
14 property, and assets for use in furthering the purposes of
15 this act.

16 Section 10. Special licenses.--In addition to any
17 licenses that may be issued under the provisions of the
18 Beverage Law of the state, the Division of Alcoholic Beverages
19 and Tobacco of the Department of Business and Professional
20 Regulation is hereby authorized to issue to qualified
21 applicants consisting of the Performing Arts Center Authority
22 or its designee a special license or special licenses for use
23 within the confines of the Performing Arts Center complex. Any
24 such license issued pursuant to this act shall permit the
25 licensee to sell alcoholic beverages only for consumption on
26 the premises of the facilities.

27 Section 4. Chapters 84-396, 85-389, 92-268, and
28 93-371, Laws of Florida, are repealed.

29 Section 5. If any provision of this act or the
30 application thereof to any person or circumstance is held
31 invalid, the invalidity shall not affect other provisions or

1 applications of the act which can be given effect without the
2 invalid provision or application, and to this end the
3 provisions of this act are declared severable.

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

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