

By Senator Altman

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1 A bill to be entitled
2 An act relating to performing arts center funding;
3 amending s. 212.20, F.S.; providing an alternative
4 requirement for the Department of Revenue to
5 distribute certain sales tax proceeds to certain
6 performing arts centers under certain circumstances
7 rather than to certain sports franchise facilities;
8 providing construction; providing a limitation;
9 creating s. 288.163, F.S.; designating the Office of
10 Tourism, Trade, and Economic Development as the state
11 agency for screening and certifying applicants for
12 performing arts center funding; providing a
13 definition; requiring the office to adopt funding
14 application rules; specifying certification
15 requirements for the office; specifying public purpose
16 uses of certain funds; requiring the office to notify
17 the department of performing arts center
18 certifications; authorizing the department to conduct
19 audits to verify certain expenditures; authorizing the
20 department to recover certain funds under certain
21 circumstances; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Paragraph (d) of subsection (6) of section
26 212.20, Florida Statutes, is amended to read:

27 212.20 Funds collected, disposition; additional powers of
28 department; operational expense; refund of taxes adjudicated
29 unconstitutionally collected.—

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30 (6) Distribution of all proceeds under this chapter and s.
31 202.18(1) (b) and (2) (b) shall be as follows:

32 (d) The proceeds of all other taxes and fees imposed
33 pursuant to this chapter or remitted pursuant to s. 202.18(1) (b)
34 and (2) (b) shall be distributed as follows:

35 1. In any fiscal year, the greater of \$500 million, minus
36 an amount equal to 4.6 percent of the proceeds of the taxes
37 collected pursuant to chapter 201, or 5.2 percent of all other
38 taxes and fees imposed pursuant to this chapter or remitted
39 pursuant to s. 202.18(1) (b) and (2) (b) shall be deposited in
40 monthly installments into the General Revenue Fund.

41 2. After the distribution under subparagraph 1., 8.814
42 percent of the amount remitted by a sales tax dealer located
43 within a participating county pursuant to s. 218.61 shall be
44 transferred into the Local Government Half-cent Sales Tax
45 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
46 transferred shall be reduced by 0.1 percent, and the department
47 shall distribute this amount to the Public Employees Relations
48 Commission Trust Fund less \$5,000 each month, which shall be
49 added to the amount calculated in subparagraph 3. and
50 distributed accordingly.

51 3. After the distribution under subparagraphs 1. and 2.,
52 0.095 percent shall be transferred to the Local Government Half-
53 cent Sales Tax Clearing Trust Fund and distributed pursuant to
54 s. 218.65.

55 4. After the distributions under subparagraphs 1., 2., and
56 3., 2.0440 percent of the available proceeds shall be
57 transferred monthly to the Revenue Sharing Trust Fund for
58 Counties pursuant to s. 218.215.

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59 5. After the distributions under subparagraphs 1., 2., and
60 3., 1.3409 percent of the available proceeds shall be
61 transferred monthly to the Revenue Sharing Trust Fund for
62 Municipalities pursuant to s. 218.215. If the total revenue to
63 be distributed pursuant to this subparagraph is at least as
64 great as the amount due from the Revenue Sharing Trust Fund for
65 Municipalities and the former Municipal Financial Assistance
66 Trust Fund in state fiscal year 1999-2000, no municipality shall
67 receive less than the amount due from the Revenue Sharing Trust
68 Fund for Municipalities and the former Municipal Financial
69 Assistance Trust Fund in state fiscal year 1999-2000. If the
70 total proceeds to be distributed are less than the amount
71 received in combination from the Revenue Sharing Trust Fund for
72 Municipalities and the former Municipal Financial Assistance
73 Trust Fund in state fiscal year 1999-2000, each municipality
74 shall receive an amount proportionate to the amount it was due
75 in state fiscal year 1999-2000.

76 6. Of the remaining proceeds:

77 a. In each fiscal year, the sum of \$29,915,500 shall be
78 divided into as many equal parts as there are counties in the
79 state, and one part shall be distributed to each county. The
80 distribution among the several counties must begin each fiscal
81 year on or before January 5th and continue monthly for a total
82 of 4 months. If a local or special law required that any moneys
83 accruing to a county in fiscal year 1999-2000 under the then-
84 existing provisions of s. 550.135 be paid directly to the
85 district school board, special district, or a municipal
86 government, such payment must continue until the local or
87 special law is amended or repealed. The state covenants with

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88 holders of bonds or other instruments of indebtedness issued by
89 local governments, special districts, or district school boards
90 before July 1, 2000, that it is not the intent of this
91 subparagraph to adversely affect the rights of those holders or
92 relieve local governments, special districts, or district school
93 boards of the duty to meet their obligations as a result of
94 previous pledges or assignments or trusts entered into which
95 obligated funds received from the distribution to county
96 governments under then-existing s. 550.135. This distribution
97 specifically is in lieu of funds distributed under s. 550.135
98 before July 1, 2000.

99 b. (I) The department shall distribute \$166,667 monthly
100 pursuant to s. 288.1162 to each applicant that has been
101 certified as a "facility for a new professional sports
102 franchise" or a "facility for a retained professional sports
103 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
104 distributed monthly by the department to each applicant that has
105 been certified as a "facility for a retained spring training
106 franchise" pursuant to s. 288.1162; however, not more than
107 \$416,670 may be distributed monthly in the aggregate to all
108 certified facilities for a retained spring training franchise.
109 Distributions must begin 60 days following such certification
110 and shall continue for not more than 30 years. This sub-sub-
111 subparagraph ~~paragraph~~ may not be construed to allow an
112 applicant certified pursuant to s. 288.1162 to receive more in
113 distributions than actually expended by the applicant for the
114 public purposes provided for in s. 288.1162(6); or

115 (II) The department shall distribute the amount certified
116 pursuant to s. 288.163(4)(c) in equal monthly installments of

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117 not more than \$166,667 each to each applicant that has been
118 certified as a performing arts center pursuant to s. 288.163.
119 Distributions shall begin 60 days after such certification and
120 shall continue for not more than 30 years. Nothing in this sub-
121 sub-subparagraph shall be construed to authorize an applicant
122 certified pursuant to s. 288.163 to receive more in
123 distributions than actually expended by the applicant for the
124 public purposes provided for in s. 288.163(5). In no case shall
125 distributions under this sub-sub-subparagraph begin before July
126 1, 2012.

127 c. Beginning 30 days after notice by the Office of Tourism,
128 Trade, and Economic Development to the Department of Revenue
129 that an applicant has been certified as the professional golf
130 hall of fame pursuant to s. 288.1168 and is open to the public,
131 \$166,667 shall be distributed monthly, for up to 300 months, to
132 the applicant.

133 d. Beginning 30 days after notice by the Office of Tourism,
134 Trade, and Economic Development to the Department of Revenue
135 that the applicant has been certified as the International Game
136 Fish Association World Center facility pursuant to s. 288.1169,
137 and the facility is open to the public, \$83,333 shall be
138 distributed monthly, for up to 168 months, to the applicant.
139 This distribution is subject to reduction pursuant to s.
140 288.1169. A lump sum payment of \$999,996 shall be made, after
141 certification and before July 1, 2000.

142 7. All other proceeds must remain in the General Revenue
143 Fund.

144 Section 2. Section 288.163, Florida Statutes, is created to
145 read:

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288.163 Performing arts centers; certification; duties.—

(1) The Office of Tourism, Trade, and Economic Development shall serve as the state agency for screening applicants for state funding pursuant to s. 212.20(6)(d)6.b.(II) and for certifying an applicant as a performing arts center that is eligible for funding pursuant to s. 212.20(6)(d)6.b.(II).

(2) As used in this section, the term "performing arts center" means a facility at which live theater, live opera, live ballet, or other live cultural events are held and that is publicly owned and operated or owned and operated by a not-for-profit organization and is open to the public.

(3) The Office of Tourism, Trade, and Economic Development shall adopt rules for receiving and processing applications for funding pursuant to s. 212.20(6)(d)6.b.(II).

(4) Before certifying an applicant as a performing arts center eligible for funding pursuant to s. 212.20(6)(d)6.b.(II), the Office of Tourism, Trade, and Economic Development must determine that:

(a) A unit of local government or a not-for-profit organization is responsible for the construction, maintenance, or operation of the performing arts center or holds title to or a leasehold interest in the property on which the performing arts center is located and that the applicant is or will be the owner, tenant, or operator of the performing arts center.

(b) The applicant has projections, verified by the Office of Tourism, Trade, and Economic Development, which demonstrate that the performing arts center will attract a paid attendance of more than 150,000 annually.

(c) The applicant has an independent analysis or study,

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175 verified by the Office of Tourism, Trade, and Economic
176 Development, which presents calculations that the amount of the
177 revenues projected to be generated by the taxes imposed under
178 chapter 212 with respect to the use and operation of the
179 performing arts center and events will equal or exceed \$250,000
180 annually. Based upon a verification of the analysis or study by
181 the office, the office shall certify the annual distribution for
182 which the applicant is eligible, which distribution shall not
183 exceed 75 percent of the annual revenues projected to be
184 generated by the taxes imposed under chapter 212, or \$2 million,
185 whichever is less. Only revenues collected after July 1, 2010,
186 shall be counted toward the revenue projection under this
187 paragraph.

188 (d) The municipality or county in which the performing arts
189 center is located has certified by resolution after a public
190 hearing that funding under s. 212.20(6)(d)6.b.(II) for the
191 performing arts center serves a public purpose.

192 (5) An applicant certified as a performing arts center and
193 certified for funding pursuant to s. 212.20(6)(d)6.b.(II) may
194 use funds provided pursuant to that sub-sub-subparagraph solely
195 for the public purposes of:

196 (a) Paying for the acquisition, construction,
197 reconstruction, renovation, capital improvement, or maintenance
198 of the performing arts center or any ancillary facilities,
199 including, but not limited to, parking structures, meeting
200 rooms, and retail and concession space.

201 (b) Paying or pledging for the payment of debt service on,
202 or funding debt service reserve funds, arbitrage rebate
203 obligations, or other amounts payable with respect to, bonds or

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204 other indebtedness issued for the acquisition, construction,
205 reconstruction, renovation, or capital improvement of the
206 performing arts center or any ancillary facilities.

207 (c) Reimbursing costs for refinancing bonds or other
208 indebtedness, including the payment of any interest and
209 prepayment premium or penalty on such indebtedness, issued for
210 the acquisition, construction, reconstruction, renovation, or
211 capital improvement of the performing arts center or any
212 ancillary facilities.

213 (6) The Office of Tourism, Trade, and Economic Development
214 shall notify the Department of Revenue of any facility certified
215 by the office as a performing arts center that is eligible for
216 funding pursuant to s. 212.20(6)(d)6.b.(II).

217 (7) The Department of Revenue may conduct audits as
218 provided in s. 213.34 to verify that the distributions made
219 under this section have been expended as required in this
220 section. If the department determines that the distributions
221 made under this section have not been expended as required by
222 this section, the department may pursue recovery of the funds
223 under the laws and rules governing the assessment of taxes.

224 Section 3. This act shall take effect July 1, 2010.