

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

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Paragraph (d) of subsection (6) of section
 25 212.20, Florida Statutes, is amended to read:
 26 212.20 Funds collected, disposition; additional powers of
 27 department; operational expense; refund of taxes adjudicated
 28 unconstitutionally collected.—

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

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

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

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

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

54 4. After the distributions under subparagraphs 1., 2., and
 55 3., 2.0440 percent of the available proceeds shall be

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56 transferred monthly to the Revenue Sharing Trust Fund for
57 Counties pursuant to s. 218.215.

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

75 6. Of the remaining proceeds:

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

84 district school board, special district, or a municipal
 85 government, such payment must continue until the local or
 86 special law is amended or repealed. The state covenants with
 87 holders of bonds or other instruments of indebtedness issued by
 88 local governments, special districts, or district school boards
 89 before July 1, 2000, that it is not the intent of this
 90 subparagraph to adversely affect the rights of those holders or
 91 relieve local governments, special districts, or district school
 92 boards of the duty to meet their obligations as a result of
 93 previous pledges or assignments or trusts entered into which
 94 obligated funds received from the distribution to county
 95 governments under then-existing s. 550.135. This distribution
 96 specifically is in lieu of funds distributed under s. 550.135
 97 before July 1, 2000.

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

112 distributions than actually expended by the applicant for the
113 public purposes provided for in s. 288.1162(6); or
114 (II) The department shall distribute the amount certified
115 pursuant to s. 288.163(4)(c) in equal monthly installments of
116 not more than \$166,667 each to each applicant that has been
117 certified as a performing arts center pursuant to s. 288.163.
118 Distributions shall begin 60 days after such certification and
119 shall continue for not more than 30 years. Nothing in this sub-
120 sub-subparagraph shall be construed to authorize an applicant
121 certified pursuant to s. 288.163 to receive more in
122 distributions than actually expended by the applicant for the
123 public purposes provided for in s. 288.163(5). In no case shall
124 distributions under this sub-sub-subparagraph begin before July
125 1, 2012.

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

132 d. Beginning 30 days after notice by the Office of
133 Tourism, Trade, and Economic Development to the Department of
134 Revenue that the applicant has been certified as the
135 International Game Fish Association World Center facility
136 pursuant to s. 288.1169, and the facility is open to the public,
137 \$83,333 shall be distributed monthly, for up to 168 months, to
138 the applicant. This distribution is subject to reduction

139 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be
 140 made, after certification and before July 1, 2000.

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

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

145 288.163 Performing arts centers; certification; duties.-

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

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

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

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

163 (a) A unit of local government or a not-for-profit
 164 organization is responsible for the construction, maintenance,
 165 or operation of the performing arts center or holds title to or
 166 a leasehold interest in the property on which the performing

167 arts center is located and that the applicant is or will be the
 168 owner, tenant, or operator of the performing arts center.

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

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

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

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

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

200 (b) Paying or pledging for the payment of debt service on,
 201 or funding debt service reserve funds, arbitrage rebate
 202 obligations, or other amounts payable with respect to, bonds or
 203 other indebtedness issued for the acquisition, construction,
 204 reconstruction, renovation, or capital improvement of the
 205 performing arts center or any ancillary facilities.

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

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

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

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