

By Senator Braynon

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1 A bill to be entitled
2 An act relating to performing arts centers; amending
3 s. 212.20, F.S.; providing an alternative requirement
4 for the Department of Revenue to distribute certain
5 sales tax proceeds to certain performing arts centers
6 rather than to certain sports franchise facilities
7 under certain circumstances; providing for
8 construction; providing a limitation; creating s.
9 288.163, F.S.; providing definitions; requiring the
10 Office of Tourism, Trade, and Economic Development to
11 screen applicants and approve or deny applications for
12 certification as performing arts centers for funding
13 purposes; requiring the office to establish certain
14 procedures and guidelines; providing criteria for the
15 certification of performing arts centers; specifying
16 ineligibility of certain applicants for additional
17 certification; limiting the number of facilities
18 certified by the office; specifying public purpose
19 uses of certain funds; requiring the office to notify
20 the department of performing arts center
21 certifications; authorizing the department to conduct
22 audits to verify certain expenditures; authorizing the
23 department to pursue recovery of certain funds under
24 certain circumstances; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Paragraph (d) of subsection (6) of section
29 212.20, Florida Statutes, is amended to read:

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30 212.20 Funds collected, disposition; additional powers of
31 department; operational expense; refund of taxes adjudicated
32 unconstitutionally collected.—

33 (6) Distribution of all proceeds under this chapter and s.
34 202.18(1)(b) and (2)(b) shall be as follows:

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

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

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

54 3. After the distribution under subparagraphs 1. and 2.,
55 0.095 percent shall be transferred to the Local Government Half-
56 cent Sales Tax Clearing Trust Fund and distributed pursuant to
57 s. 218.65.

58 4. After the distributions under subparagraphs 1., 2., and

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59 3., 2.0440 percent of the available proceeds shall be
60 transferred monthly to the Revenue Sharing Trust Fund for
61 Counties pursuant to s. 218.215.

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

79 6. Of the remaining proceeds:

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

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

102 b.(I) The department shall distribute \$166,667 monthly
103 pursuant to s. 288.1162 to each applicant certified as a
104 facility for a new or retained professional sports franchise
105 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
106 monthly by the department to each certified applicant as defined
107 in s. 288.11621 for a facility for a spring training franchise.
108 However, not more than \$416,670 may be distributed monthly in
109 the aggregate to all certified applicants for facilities for
110 spring training franchises. Distributions begin 60 days after
111 such certification and continue for not more than 30 years,
112 except as otherwise provided in s. 288.11621. A certified
113 applicant identified in this sub-sub-subparagraph ~~sub-~~
114 ~~subparagraph~~ may not receive more in distributions than expended
115 by the applicant for the public purposes provided for in s.
116 288.1162(5) or s. 288.11621(3); or

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117 (II) The department shall distribute the amount certified
118 under s. 288.163, not to exceed equal monthly installments of
119 \$166,667 per applicant, among each of the applicants certified
120 as a performing arts center under s. 288.163. Distributions
121 shall begin 60 days after such certification or July 1, 2012,
122 whichever occurs later, and shall continue for not more than 30
123 years. This sub-sub-subparagraph does not authorize an applicant
124 certified under s. 288.163 to receive distributions that exceed
125 the amounts actually expended by the applicant for the public
126 purposes provided for in s. 288.163.

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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146 288.163 Performing arts centers; certification; duties.-

147 (1) As used in this section, the term:

148 (a) "Office" means the Office of Tourism, Trade, and
149 Economic Development.

150 (b) "Performing arts center" means a facility that consists
151 of one or more theaters, each having 3,500 or fewer seats; that
152 presents live theater, live opera, live ballet, or other
153 performance events; and that is owned and operated by a unit of
154 local government.

155 (c) "Unit of local government" has the same meaning as
156 provided in s. 218.369.

157 (2) The office shall screen applicants and approve or deny
158 applications for certification as a performing arts center for
159 state funding provided under s. 212.20(6)(d)6.b.(II). The office
160 shall establish procedures and guidelines for receiving and
161 processing applications for certification as a performing arts
162 center.

163 (3) In order for the office to certify an applicant as a
164 performing arts center eligible for funding under s.
165 212.20(6)(d)6.b.(II), the applicant must provide the office
166 with:

167 (a) Proof that a unit of local government is responsible
168 for the construction, maintenance, or operation of the
169 performing arts center, or holds title to or a leasehold
170 interest in the property on which the performing arts center is
171 located, and that the applicant is or will be the owner, tenant,
172 or operator of the performing arts center.

173 (b) Projections that demonstrate that the performing arts
174 center will attract a paid attendance of more than 150,000

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175 annually.

176 (c) An independent analysis or study that demonstrates that
177 the effect on the economy of the local community as a result of
178 the construction or renovation and the operation of the
179 performing arts center, as well as revenues projected to be
180 generated by the taxes imposed under chapter 212 with respect to
181 the use and operation of the performing arts center and events
182 and activities on center premises, will exceed \$60 million over
183 30 years.

184 (d) A demonstration that the applicant has provided, is
185 capable of providing, or has financial or other commitments to
186 provide more than one-half of the costs incurred or related to
187 the improvement and development of the facility.

188 (e) A resolution adopted, after a public hearing, by the
189 unit of local government within whose geographic boundary the
190 performing arts center is located which certifies that funding
191 under s. 212.20(6)(d)6.b.(II) for the performing arts center
192 serves a public purpose.

193 (4) The office must deny any additional application for
194 certification from any applicant previously certified under this
195 section.

196 (5) (a) Beginning with the 2012-2013 fiscal year, the office
197 may certify no more than two facilities as performing arts
198 centers eligible for funding under s. 212.20(6)(d)6.b.(II).

199 (b) Beginning with the 2015-2016 fiscal year, the office
200 may certify no more than eight facilities as performing arts
201 centers eligible for funding under s. 212.20(6)(d)6.b.(II).

202 (6) An applicant certified as a performing arts center and
203 certified for funding must use funds provided under s.

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204 212.20(6)(d)6.b.(II) exclusively for the public purposes of:

205 (a) Paying for the acquisition, construction,
206 reconstruction, renovation, capital improvement, or maintenance
207 of the performing arts center or any ancillary facilities,
208 including, but not limited to, parking structures, meeting
209 rooms, and retail and concession space.

210 (b) Paying or pledging for the payment of debt service on,
211 or funding debt service reserve funds, arbitrage rebate
212 obligations, or other amounts payable with respect to, bonds or
213 other indebtedness issued on or after January 1, 2009, for the
214 acquisition, construction, reconstruction, renovation, or
215 capital improvement of the performing arts center or any
216 ancillary facilities.

217 (c) Reimbursing costs for refinancing bonds or other
218 indebtedness, including the payment of any interest and
219 prepayment premium or penalty on such indebtedness, issued for
220 the acquisition, construction, reconstruction, renovation, or
221 capital improvement of the performing arts center or any
222 ancillary facilities.

223 (7) The office shall notify the Department of Revenue of
224 any facility certified by the office as a performing arts center
225 that is eligible for funding under s. 212.20(6)(d)6.b.(II).

226 (8) The Department of Revenue may conduct audits as
227 provided in s. 213.34 to verify that the distributions made
228 under this section are expended as required in this section. If
229 the department determines that the distributions made under this
230 section are not expended as required by this section, the
231 department may pursue recovery of the funds under the laws and
232 rules governing the assessment of taxes.

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Section 3. This act shall take effect July 1, 2011.