

By Senator Gelber

35-01845A-09

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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.; revising the authority of  
4           the Department of Revenue to distribute certain tax  
5           proceeds to include distributions to performing arts  
6           centers; creating s. 288.163, F.S.; designating the  
7           Office of Tourism, Trade, and Economic Development as  
8           the state agency for screening applicants for  
9           performing arts center funding; providing a  
10          definition; requiring the office to adopt funding  
11          application rules; specifying certification duties of  
12          the office; specifying uses of certain funds;  
13          requiring the office to notify the department of  
14          certifications; authorizing the department to conduct  
15          audits to verify expenditures; authorizing the  
16          department to recover certain funds under certain  
17          circumstances; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

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21           Section 1. Paragraph (d) of subsection (6) of section  
22           212.20, Florida Statutes, is amended to read:

23           212.20 Funds collected, disposition; additional powers of  
24           department; operational expense; refund of taxes adjudicated  
25           unconstitutionally collected.—

26           (6) Distribution of all proceeds under this chapter and s.  
27           202.18(1)(b) and (2)(b) shall be as follows:

28           (d) The proceeds of all other taxes and fees imposed  
29           pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)

35-01845A-09

20092308\_\_

30 and (2) (b) shall be distributed as follows:

31 1. In any fiscal year, the greater of \$500 million, minus  
32 an amount equal to 4.6 percent of the proceeds of the taxes  
33 collected pursuant to chapter 201, or 5 percent of all other  
34 taxes and fees imposed pursuant to this chapter or remitted  
35 pursuant to s. 202.18(1) (b) and (2) (b) shall be deposited in  
36 monthly installments into the General Revenue Fund.

37 2. Two-tenths of one percent shall be transferred to the  
38 Ecosystem Management and Restoration Trust Fund to be used for  
39 water quality improvement and water restoration projects.

40 3. After the distribution under subparagraphs 1. and 2.,  
41 8.814 percent of the amount remitted by a sales tax dealer  
42 located within a participating county pursuant to s. 218.61  
43 shall be transferred into the Local Government Half-cent Sales  
44 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to  
45 be transferred pursuant to this subparagraph to the Local  
46 Government Half-cent Sales Tax Clearing Trust Fund shall be  
47 reduced by 0.1 percent, and the department shall distribute this  
48 amount to the Public Employees Relations Commission Trust Fund  
49 less \$5,000 each month, which shall be added to the amount  
50 calculated in subparagraph 4. and distributed accordingly.

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

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

35-01845A-09

20092308\_\_

59           6. After the distributions under subparagraphs 1., 2., 3.,  
60 and 4., 1.3409 percent of the available proceeds pursuant to  
61 this paragraph shall be transferred monthly to the Revenue  
62 Sharing Trust Fund for Municipalities pursuant to s. 218.215. If  
63 the total revenue to be distributed pursuant to this  
64 subparagraph is at least as great as the amount due from the  
65 Revenue Sharing Trust Fund for Municipalities and the former  
66 Municipal Financial Assistance Trust Fund in state fiscal year  
67 1999-2000, no municipality shall receive less than the amount  
68 due from the Revenue Sharing Trust Fund for Municipalities and  
69 the former Municipal Financial Assistance Trust Fund in state  
70 fiscal year 1999-2000. If the total proceeds to be distributed  
71 are less than the amount received in combination from the  
72 Revenue Sharing Trust Fund for Municipalities and the former  
73 Municipal Financial Assistance Trust Fund in state fiscal year  
74 1999-2000, each municipality shall receive an amount  
75 proportionate to the amount it was due in state fiscal year  
76 1999-2000.

77           7. Of the remaining proceeds:

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

35-01845A-09

20092308\_\_

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

100 b. (I) The department shall distribute \$166,667 monthly  
101 pursuant to s. 288.1162 to each applicant that has been  
102 certified as a "facility for a new professional sports  
103 franchise" or a "facility for a retained professional sports  
104 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
105 distributed monthly by the department to each applicant that has  
106 been certified as a "facility for a retained spring training  
107 franchise" pursuant to s. 288.1162; however, not more than  
108 \$416,670 may be distributed monthly in the aggregate to all  
109 certified facilities for a retained spring training franchise.  
110 Distributions shall begin 60 days following such certification  
111 and shall continue for not more than 30 years. Nothing contained  
112 in this paragraph shall be construed to allow an applicant  
113 certified pursuant to s. 288.1162 to receive more in  
114 distributions than actually expended by the applicant for the  
115 public purposes provided for in s. 288.1162(6); or

116 (II) The department shall distribute \$166,667 monthly

35-01845A-09

20092308\_\_

117 pursuant to s. 288.163 to each applicant that has been certified  
118 as a performing arts center pursuant to s. 288.1163.  
119 Distributions shall begin 60 days after such certification and  
120 shall continue for not more than 30 years. Nothing contained in  
121 this paragraph shall be construed to allow 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).

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

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

140 8. All other proceeds shall remain with the General Revenue  
141 Fund.

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

144 288.163 Performing arts centers, certification; duties.—  
145 (1) The Office of Tourism, Trade, and Economic Development

35-01845A-09

20092308\_\_

146 shall serve as the state agency for screening applicants for  
147 state funding pursuant to s. 212.20(6)(d)7.b.(II) and for  
148 certifying an applicant as a performing arts center that is  
149 eligible for funding pursuant to s. 212.20(6)(d)7.b.(II).

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

156 (3) The Office of Tourism, Trade, and Economic Development  
157 shall adopt rules for the receipt and processing of applications  
158 for funding pursuant to s. 212.20(6)(d)7.b.(II).

159 (4) Before certifying an applicant as a performing arts  
160 center eligible for funding pursuant to s. 212.20(6)(d)7.b.(II),  
161 the Office of Tourism, Trade, and Economic Development must:

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

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

172 (c) Determine that the applicant has an independent  
173 analysis or study, verified by the Office of Tourism, Trade, and  
174 Economic Development, which demonstrates that the amount of the

35-01845A-09

20092308

175 revenues generated by the taxes imposed under chapter 212 with  
176 respect to the use and operation of the performing arts center  
177 will equal or exceed \$2 million annually.

178 (d) Determine that the municipality or county in which the  
179 performing arts center is located has certified by resolution  
180 after a public hearing that the application serves a public  
181 purpose.

182 (5) An applicant certified as a performing arts center and  
183 certified for funding pursuant to s. 212.20(6)(d)7.b.(II) may  
184 use funds provided pursuant to that sub-sub-subparagraph only  
185 for the public purpose of:

186 (a) Paying for the acquisition, construction,  
187 reconstruction, renovation, capital improvement, or maintenance  
188 of the performing arts center or any ancillary facilities, such  
189 as parking structures, meeting rooms, and retail and concession  
190 space.

191 (b) Paying or pledging for the payment of debt service on,  
192 or funding debt service reserve funds, arbitrage rebate  
193 obligations, or other amounts payable with respect to, bonds or  
194 other indebtedness issued for the acquisition, construction,  
195 reconstruction, renovation, or capital improvement of the  
196 facility for a performing arts center or ancillary facilities.

197 (c) Reimbursing costs for the refinance of bonds or other  
198 indebtedness, including the payment of any interest and  
199 prepayment premium or penalty thereon, issued for the  
200 acquisition, construction, reconstruction, renovation, or  
201 capital improvement of the performing arts center or ancillary  
202 facilities.

203 (6) The Office of Tourism, Trade, and Economic Development

35-01845A-09

20092308\_\_

204 shall notify the Department of Revenue of any facility certified  
205 as a performing arts center that is eligible for funding  
206 pursuant to s. 212.20(6)(d)7.b.(II).

207 (7) The Department of Revenue may conduct audits as  
208 provided in s. 213.34 to verify that the distributions made  
209 under this section have been expended as required in this  
210 section. If the department determines that the distributions  
211 made under this section have not been expended as required by  
212 this section, it may pursue recovery of the funds under the laws  
213 and rules governing the assessment of taxes.

214 Section 3. This act shall take effect July 1, 2009.