

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

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24   Be It Enacted by the Legislature of the State of Florida:

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

28           212.20 Funds collected, disposition; additional powers of

29 department; operational expense; refund of taxes adjudicated  
 30 unconstitutionally collected.—

31 (6) Distribution of all proceeds under this chapter and s.  
 32 202.18(1)(b) and (2)(b) shall be as follows:

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

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

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

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

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

57 3., 2.0440 percent of the available proceeds shall be  
 58 transferred monthly to the Revenue Sharing Trust Fund for  
 59 Counties pursuant to s. 218.215.

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

77 6. 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 must begin each fiscal  
 82 year on or before January 5th and continue monthly for a total  
 83 of 4 months. If a local or special law required that any moneys  
 84 accruing to a county in fiscal year 1999-2000 under the then-

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

100 b. 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 must begin 60 days following such certification  
111 and shall continue for not more than 30 years. This paragraph  
112 may not be construed to allow an applicant certified pursuant to

113 s. 288.1162 to receive more in distributions than actually  
 114 expended by the applicant for the public purposes provided for  
 115 in s. 288.1162(6).

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

122 d. Beginning 30 days after notice by the Office of  
 123 Tourism, Trade, and Economic Development to the Department of  
 124 Revenue that the applicant has been certified as the  
 125 International Game Fish Association World Center facility  
 126 pursuant to s. 288.1169, and the facility is open to the public,  
 127 \$83,333 shall be distributed monthly, for up to 168 months, to  
 128 the applicant. This distribution is subject to reduction  
 129 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be  
 130 made, after certification and before July 1, 2000.

131 e. The department shall distribute \$1 annually to each  
 132 applicant that has been certified as a performing arts center  
 133 under s. 288.163. The distribution shall be made 60 days after  
 134 such certification and shall continue for not more than 30  
 135 years. This sub-subparagraph may not be construed to authorize  
 136 an applicant certified under s. 288.163 to receive more in  
 137 distributions than actually expended by the applicant for the  
 138 public purposes provided for in s. 288.163(6). Distributions  
 139 under this sub-subparagraph may not begin before July 1, 2012.

140 7. All other proceeds must remain in the General Revenue

141 Fund.

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

144 288.163 Performing arts centers; certification; duties.—

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

146 (a) "Office" means the Office of Tourism, Trade, and  
 147 Economic Development.

148 (b) "Performing arts center" means a facility consisting  
 149 of one or more theaters, each of which has no more than 3,500  
 150 seats, that presents live theater, live opera, live ballet, or  
 151 other performance events and that is owned by a public entity or  
 152 a not-for-profit organization and operated by a public entity or  
 153 a not-for-profit organization.

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

160 (3) In order for the office to certify an applicant as a  
 161 performing arts center eligible for funding under s.  
 162 212.20(6)(d)6.e., the applicant must provide the office with:

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

169 center.

170 (b) Projections that demonstrate that the performing arts  
171 center will attract a paid attendance of more than 150,000  
172 annually.

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

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

185 (e) A resolution adopted, after a public hearing, by the  
186 municipality or county in which the performing arts center is  
187 located that certifies that funding under s. 212.20(6)(d)6.e.  
188 for the performing arts center serves a public purpose.

189 (4) The office must deny any additional application for  
190 certification from any applicant previously certified under this  
191 section.

192 (5) (a) Beginning with the 2012-2013 fiscal year, the  
193 office may certify no more than two facilities as performing  
194 arts centers eligible for funding under s. 212.20(6)(d)6.e.

195 (b) Beginning with the 2015-2016 fiscal year, the office  
196 may certify no more than eight facilities as performing arts

197 centers eligible for funding under s. 212.20(6)(d)6.e.

198 (6) An applicant certified as a performing arts center and  
 199 certified for funding under s. 212.20(6)(d)6.e. may use funds  
 200 provided under that sub-subparagraph solely for the public  
 201 purposes of:

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

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

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

220 (7) The office shall notify the Department of Revenue of  
 221 any facility certified by the office as a performing arts center  
 222 that is eligible for funding under s. 212.20(6)(d)6.e.

223 (8) The Department of Revenue may conduct audits as  
 224 provided in s. 213.34 to verify that the distributions made

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225 | under this section have been expended as required in this  
226 | section. If the department determines that the distributions  
227 | made under this section have not been expended as required by  
228 | this section, the department may pursue recovery of the funds  
229 | under the laws and rules governing the assessment of taxes.

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