

House Bill No. 1361

An act relating to the Performing Arts Center Authority, Broward County; codifying, reenacting, amending, and repealing special acts relating to the authority; providing that the authority is a public body, corporate and politic; providing purposes; providing membership and organization; providing definitions; providing for the method and manner of the appointment of the authority and terms of the authority's membership; providing for reimbursement of members' expenses; providing for removal of members; providing for the organization, powers, functions, financing, privileges, duties, and responsibilities of the authority; providing for competitive bidding in certain instances; authorizing the acquisition of certain property acquired by eminent domain; providing for budget approval by the Broward County Commission and the Fort Lauderdale City Commission; providing for the issuance of revenue bonds by the authority to carry out the purposes of this act; providing for sources of revenues for paying for the construction of facilities, the administrative expenses of the authority, and said revenue bonds; authorizing appropriations by the county, the city, and other governmental units in Broward County for operation and maintenance of said facilities; providing for public or private subscriptions; providing for the issuance of a license to sell alcoholic beverages for on-premise consumption; providing severability; providing an effective date.

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

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Performing Arts Center Authority. It is the intent of the Legislature in enacting this law to provide a single comprehensive special act charter for the performing arts center authority, including all current legislative authority granted to the Performing Arts Center Authority by its several legislative enactments and additional authority granted by this act. It is the further intent of the Legislature that this act preserve all of the authority's powers in addition to any authority contained in chapter 189, Florida Statutes, as amended from time to time.

Section 2. Chapters 84-396, 85-389, 92-268, and 93-371, Laws of Florida, are codified, reenacted, amended, and repealed as herein provided.

Section 3. The Performing Arts Center Authority is re-created and reenacted to read:

Section 1. Performing Arts Center Authority.—There is hereby created and established the Performing Arts Center Authority, hereinafter referred to as the "authority," an independent special district and a public body, politic and corporate, in Broward County, for the purpose of planning, promoting, developing, constructing, acquiring, owning, reconstructing, extending, enlarging, repairing, remodeling, improving, relocating, equipping,

maintaining, and operating facilities for holding any type of cultural, tourism, or promotional event, civic, recreational, or similar event or activity. Such purpose is hereby deemed to be a public purpose the fulfillment of which is an urgent public necessity.

Section 2. Membership and organization.—

(1) The authority shall consist of 13 members, each serving a term of 4 years, except for the initial appointees, of whom six shall serve terms of 2 years, and seven shall serve terms of 4 years, as hereinafter provided. The members shall, insofar as practical, be representatives of civic, cultural, recreational, business, and social interests. Five members of the authority shall be selected by the Board of County Commissioners of Broward County, and of the five members selected by the board of county commissioners, at least one member of the five selected shall be a minority person as defined in section 288.703(3), Florida Statutes. Two members shall be selected by the Commission of the City of Fort Lauderdale, one member shall be selected by the Downtown Development Authority, one member shall be selected by the Broward County School Board, and four members shall be selected by the Broward Performing Arts Foundation, at least one of whom shall be a minority person as defined in section 288.703(3), Florida Statutes.

(2) The initial appointments to the authority shall be made as soon as practicable after this act takes effect. The results of all appointments and removals shall be immediately certified to the authority.

(3) All members of the authority at the time of their appointment and during the term of their membership shall be permanent residents of Broward County. The members shall not receive any compensation for their services, except that they may be reimbursed for actual, necessary expenses that they incur in the performance of their duties under this act. Each member, unless removed as provided in this act, shall serve until his or her successor is appointed and qualified. A member appointed by a governmental unit may be removed by that governmental unit for just cause by a majority vote of the governmental unit. A vacancy shall be filled for the member's unexpired term as soon as practicable after the vacancy occurs by the governmental unit that appointed the member. Before entering upon the duties of office, each member shall take an oath to faithfully discharge the duties of his or her office, shall take any other oath required by law, and shall file a signed copy of such oath with the Clerk of the Circuit Court of Broward County. A majority of the membership of the authority shall constitute a quorum. A vacancy on the authority shall not impair the rights of a quorum to exercise all the rights and perform all the duties of the authority.

(4) The authority shall organize as soon as practicable after the effective date of this act. The authority shall by majority vote elect a chair and such other officers as the authority provides for in its bylaws. The authority may create such other offices as it deems necessary to accomplish the purpose of this act. The authority may, by two-thirds vote of its membership, create an executive committee. The executive committee shall have four members who shall be appointed by the authority and who shall be chosen from among two members selected by the county, one member selected by the foundation,

and one member selected by the city, for a total executive committee membership of four persons. The authority may delegate by resolution any power, task, action, or other undertaking which the authority may itself perform. An executive committee shall automatically dissolve upon the completion of the activity delegated, unless earlier dissolved by a majority vote of the authority.

Section 3. Definitions.—As used in this act, the term:

(1) “Authority” means the Performing Arts Center Authority created by this act.

(2) “Cost” or “costs,” as applied to facilities, means the cost of acquisition and construction of such facilities, including the cost of all land, property, property rights, easements, franchises, labor, insurance, materials, furnishings, and equipment required to carry out the purposes of this act, and includes and reserves therefor prior to and during construction and for a reasonable period of time thereafter: costs of plans and specifications; estimates of costs and revenues; costs of engineering, architectural, and special consultant services; costs of legal services, including those rendered for the issuance, validation, and sale of revenue bonds; all expenses necessary or incident to determining the feasibility or practicability of such acquisition and construction; administrative expenses; and such other expenses as may be necessary or incident to the acquisition and construction of the financing herein authorized.

(3) “County” means the County of Broward.

(4) “DDA” means the Downtown Development Authority of the City of Fort Lauderdale.

(5) “Facilities” means facilities or sites for holding any type of cultural, tourism, or promotional event, or civic, recreational, or similar event or activity, and includes property, auditoriums, theaters, music halls, buildings, structures, utilities, parks, parking areas, roadways, and all other facilities and properties reasonably necessary or desirable to carry out the purposes of this act.

(6) “Governmental unit” means the County of Broward, or a municipality or special district, improvement or otherwise, that is within the boundaries of Broward County, or an agency or instrumentality of such county, municipality, or special district. The term shall apply only to the portions of any governmental unit that are within the boundaries of Broward County.

Section 4. General powers.—The authority may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) Adopt and use an official seal.

(3) Sue and be sued in the name of the Performing Arts Center Authority.

(4) Plan, develop, purchase, lease, or otherwise acquire, demolish, construct, reconstruct, improve, extend, enlarge, relocate, equip, repair, maintain, operate, and manage facilities.

(5) Make a comprehensive land use plan for the overall orderly development of facilities, develop detailed architectural and engineering plans for specific facilities, and obtain necessary feasibility and other reports and studies.

(6) Acquire by lease, grant, purchase, gift, or devise from any source, including a governmental unit, any real or personal property, or any estate or interest therein, that is necessary, desirable, or convenient for the purpose of this act; lease or rent all or any part of such property; and exercise its powers and authority with respect to that property. A governmental unit may sell or lease property to the authority for nominal consideration. Without limiting any power or authority of the County of Broward or the municipalities in Broward County, the county and municipalities in the county, within their respective territorial jurisdictions and by the methods provided by chapter 73 or chapter 74, Florida Statutes, may acquire real property by eminent domain and, as herein provided and with the agreement of the authority, transfer that property to the authority to be used for the purposes of this act. The expenditure of moneys by counties or municipalities for such purpose is hereby declared to be a public purpose. Title to real property so acquired may be held in fee simple, absolute and unqualified in any way or any lesser interest therein. Nothing in this act shall be construed to allow acquisition of real property by eminent domain for purposes or uses other than as herein provided.

(7) Lease, rent, or contract for the operation or management of any part of any of the facilities of the authority.

(8) Fix and collect rates, rentals, fees, charges, or ticket surcharges for the use of any facilities of the authority.

(9) Contract for the operation of concessions on or in any of the facilities of the authority or, at its discretion, operate such concessions as it deems desirable.

(10) Advertise and promote within or without the state any of the facilities and activities of the authority.

(11) Employ an executive director, other necessary staff employees, and such consulting services, engineers, architects, special consultants, superintendents, managers, construction and financial experts, attorneys, employees, and agents as the authority deems necessary and fix their compensation. Any treasurer of the authority, prior to entering upon his or her duties as such officer, and any other officer or employee so required by the authority shall provide a surety bond in an amount to be determined by the authority conditioned upon the faithful performance of the duties of his or her office or employment. Such bond shall be executed by a surety company authorized to do business in the state and shall be approved by the authority.

(12) Cooperate with and contract with the government of the United States or the state or any agency, instrumentality, or political subdivision of either, or with any municipality, district, corporation, partnership, association, person, or individual in providing for or relating to the authority in carrying out the provisions and purposes of this act.

Section 5. Bid procedures.—All contracts for constructing, demolishing, improving, extending, enlarging, relocating, repairing, or equipping of facilities of the authority in the amount of \$7,500 or more shall be awarded by the authority to the best qualified bidder, as determined by the authority, after consideration of all relevant factors including the purposes and provisions of this act and the competitiveness of all bids received. The authority shall, at least 30 days prior to the award of such contract, publish one time in a newspaper of general circulation in Broward County a notice requesting bids on such contract. The authority may for any reason reject all bids and request new bids in the same manner as bids were first requested. This section does not apply to the purchase, lease, or acquisition of a site.

Section 6. Fiscal powers.—

(1) The expenditure of all moneys collected or received for the purposes authorized by this act shall be subject to an annual review by the Broward County Commission and the Fort Lauderdale City Commission. The authority shall prepare a budget for each fiscal year pursuant to the provisions of chapter 129, Florida Statutes, and a forecast of estimated income and expenditures for the next fiscal year. The budget shall be adopted, adopted as amended, or rejected by the Performing Arts Center Authority subject to the general provisions of chapter 129, Florida Statutes, and shall be subject to approval by the Broward County Commission and the Fort Lauderdale City Commission.

(2) The Broward County Commission and the Fort Lauderdale City Commission shall retain, employ, and compensate independent certified public accountants to audit the records or books of account of the authority at least once yearly and at such other times as either such commission deems necessary.

Section 7. Bonding provisions.—

(1) For the purpose of providing funds to finance equipping, furnishing, and constructing facilities, the Performing Arts Center Authority may issue revenue bonds.

(2) Any bonds authorized by this act may be issued and sold at one time or from time to time, and shall bear such date or dates, be in such denomination or denominations, be payable at such place, bear interest at a rate allowed by general law, and mature at such stated time or times not exceeding 40 years after their date of issuance, with or without the right of prior redemption by the authority, all as may be determined by resolution or resolutions of the authority, which resolution or resolutions may prescribe the manner and terms of redemption of any bonds which the authority makes redeemable. The bonds shall be issued in registered form, as to both principal and interest, and shall be signed by the proper officials of the

authority or such other designee authorized by the authority, on its behalf, and impressed with the corporate seal of the authority or a printed facsimile. The bonds may be sold at public or private sale or as determined by the authority at such price and terms as are deemed to be in the best interest of the authority.

(3) The revenues pledged against such bonds by the authority may include the ticket surcharge, other projected revenues of the authority, the local option tourist development tax as authorized in section 125.0104, Florida Statutes, or any other source of revenue which the Board of County Commissioners of Broward County or the Commission of the City of Fort Lauderdale deems appropriate. Revenue bonds sold under the provisions of this act shall conform with the general provisions for revenue bonds as defined under chapter 159, Florida Statutes.

(4) The Board of County Commissioners of Broward County or the City of Fort Lauderdale City Commission shall not have the power to pledge the full faith and credit and ad valorem taxing power of Broward County or the City of Fort Lauderdale for the payment of the principal or interest on such bonds.

(5) Without limiting any other provisions of this act, the revenues available to the authority as set forth in this act, if not previously pledged to revenue bonds issued or to be used pursuant to this act or otherwise committed, may be used to otherwise finance or pay for the construction of facilities or the administrative expenses of the authority or otherwise in carrying out the purposes and provisions of this act.

Section 8. Other revenues.—The County of Broward, the City of Fort Lauderdale, and any other governmental unit may appropriate additional funds for use by the authority for maintenance of facilities and payment of employees' salaries, operating expenses, planning expenses, or other necessary expenditures. Such expenditures are declared to be for a valid, necessary public purpose.

Section 9. Public or private subscription.—The authority may solicit, encourage, promote, and accept any public or private subscriptions and donations of moneys, other property, and assets for use in furthering the purposes of this act.

Section 10. Special licenses.—In addition to any licenses that may be issued under the provisions of the Beverage Law of the state, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation is hereby authorized to issue to qualified applicants consisting of the Performing Arts Center Authority or its designee a special license or special licenses for use within the confines of the Performing Arts Center complex. Any such license issued pursuant to this act shall permit the licensee to sell alcoholic beverages only for consumption on the premises of the facilities.

Section 4. Chapters 84-396, 85-389, 92-268, and 93-371, Laws of Florida, are repealed.

Section 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor June 3, 2005.

Filed in Office Secretary of State June 3, 2005.