



BROWARD
CENTER
— for the —
PERFORMING ARTS

COUNTY ADMINISTRATOR

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October 18, 2011

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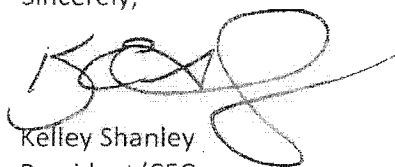
Commissioner Lois Wexler
Broward County Commission
115 S. Andrews Ave., Room 421
Fort Lauderdale, FL 33301

Dear Commissioner Wexler:

In response to your request for information from the Performing Arts Center Authority, I have attached some additional background information as well as the Enabling Act which established the Authority as an independent special district with a public purpose.

Please let me know if you require any additional information.

Sincerely,



Kelley Shanley
President/CEO

Attachments

cc: Mayor Suzanne Gunzburger
Vice Mayor John E. Rodstrom Jr.
Commissioner Dale V.C. Holness
Commissioner Kristen Jacobs
Commissioner Chip LaMarca
Commissioner Ilene Lieberman
Commissioner Stacy Ritter
Commissioner Barbara Sharief
Bertha Henry, Broward County Administrator

Performing Arts Center Authority: Background/History

In an effort to address the changing needs of an expanding South Florida community and invigorate the Fort Lauderdale's downtown business district, a consortium of civic leaders, private citizens, and government entities came together in the mid-1980s to secure the funding necessary to build the world-class theater complex that was to become the Broward Center for the Performing Arts.

The partners wisely sought to codify their relationship, not only for the purpose of building the Center, but also to ensure that it was managed properly and that the specific goals that they articulated in making this community investment were fully realized. The Florida State legislature established the Performing Arts Center Authority (PACA) in 1984 as a public body with a public purpose. The Performing Arts Center Authority was established as an independent special district and public body that oversees the Broward Center for the Performing Arts. This legislative act created an enduring partnership that would ensure effective governance of the Broward Center and stewardship of this valuable community asset.

Membership

Section 2-1 of the Enabling Act establishes the membership of the Authority consisting of thirteen members appointed by the five partners in the Authority as follows: five (5) members selected by the Board of County Commissioners of Broward County, two (2) members selected by the Commission of the City of Fort Lauderdale, one (1) member selected by the Downtown Development Authority, one (1) member selected by the Broward County School Board, and four (4) members selected by the Broward Performing Arts Foundation, Inc.

Mission

The members of the Authority worked together to establish a clear mission for the Broward Center and have served effectively to ensure that the activities of the Broward Center fulfill that mission.

Mission Statement: The Broward Center has as its mission to be a leader in promoting artistic offerings to our increasingly diverse community with an emphasis on fostering a cooperative spirit to positively impact the local economy and community.

Eligibility for TDT funding

Although PACA is clearly eligible to receive funding from TDT revenues, in more than 25 years, PACA has never requested support from this source.

The Enabling Act provides for the use of TDT funds in Section 7-3:

- *"The revenues pledged against such bonds by the authority may include... the local option tourist development tax as authorized in section 125.0104, Florida Statutes."*

The Enabling Act defines facilities for which the funding may be used in Section 3-5:

- *"'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."*

The County attorney also provided an opinion on January 5, 2009 as to whether TDT revenue could be utilized by the PACA. He refers to the TDT Statute in forming his opinion.

- *"...PACA would fall within the definition of an auditorium and, thus, TDT revenue may be used to construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote PACA."*

How the PACA is different from other entities seeking funding from the County:

- Established as a public body with a public purpose.
- As one of the partner entities of the PACA, Broward County appoints 5 of the 13 Board Members of the Authority (greater representation than any other partner).
- Broward County approves the budget of the PACA.
- PACA is considered ineligible for “Major Cultural Institution (MCI) Grants” which are awarded to Broward County cultural organizations through the Cultural Division. Organizations like Museum of Art and Museum of Discovery and Science are both MCIs.
- County auditor serves on the PACA Finance Committee.
- Broward Center drives tourism with a full time staff person dedicated to marketing outside the region; it has a significant direct and indirect impact on hospitality, dining, retail and transportation sectors.
- *Broward* Center – the only cultural facility which is named for Broward County.
- Greater economic impact than all other cultural institutions combined.
- Greater impact on tourism – 60,000 of the 85,000 room nights generated by Cultural Tourism Program grants.

Performing Arts Center Authority: Timeline

1. In 1984, Florida legislature establishes the Performing Arts Center Authority to oversee construction of a multi-theater complex in downtown Fort Lauderdale. The successful partnership between Broward County, the City of Fort Lauderdale, the Downtown Development Authority and Broward County Public Schools, with invaluable support from the State of Florida, would create a cultural and economic engine for the region.
2. The Broward Performing Arts Foundation is established in 1985 to receive and maintain funds for the promoting, fostering, sponsoring and developing of the Performing Arts Center Authority of Broward County, Florida, either directly or by contributions to organizations which qualify as tax-exempt. The Foundation provided the required matching private funding to build the Broward Center for the Performing Arts and has established an endowment to sustain the Center's facilities, arts education programs and innovative and diverse programming opportunities.
3. In 1993, Florida legislature increases the size of the Authority to 13 members to include appointees from the Broward Performing Arts Foundation. Broward County maintains the greatest number of appointees -- 5 out of 13.
4. A groundbreaking ceremony is held in May 1988 to initiate the building phase.
5. The doors officially open on February 26, 1991 with the first national tour of Andrew Lloyd Webber's *Phantom of the Opera*.
6. In September 1991, the first school day performance takes place in the Amaturo Theater, officially designated as an outside resource classroom for Broward students. This is the start of Broward Center's award-winning partnership with Broward Public Schools -- the Student Achievements in the Art (SEAS) program -- which would become an award-winning model for arts-in-education programs around the country.
7. In 1993, Broward Center is named a member of the "Performing Arts Centers and Schools: Partners in Education Program" of the John F. Kennedy for the Performing Arts in partnership with the Broward County Public Schools and Broward Cultural Division.
8. The *Vision for the 21st Century Campaign*, totaling \$13 million, is launched in 1996 to eliminate the Broward Center's mortgage and to build an endowment.
9. Broward Center Education Department receives the 1997 Kennedy Center Alliance for Arts Education Network Award.
10. In 1998, the Broward Center begins a collaboration with local merchants and cultural attractions that would become the Riverwalk Arts & Entertainment District.
11. In 2000, the Arts Access initiative is introduced to develop South Florida's regional talent. Since then more than 50 local groups have participated in this incubator for South Florida's emerging artists and multi-cultural organizations.
12. In 2001, the tenth anniversary of the Broward Center is marked by retiring the entire building mortgage, 11 years ahead of schedule.

13. In 2002, *Lion King* makes its South Florida debut in the Au-Rene Theater, returning again for an extended run in 2007.
14. In 2004, the Broward Center makes its inaugural debut among the top 10 in the Top 50 Theaters in the World as ranked by *Pollstar*.
15. In 2006, the Ministry of Culture of Brazil names the Broward Center the South Florida "Point of Culture," one of only three U.S. organizations and the only performing arts center to earn this designation.
16. In 2007, the Board of County Commissioners of Broward County names the Broward Center the "Cultural Embassy" of Broward County for its efforts to directly link cultural activity with the region's economic development.
17. Broward County proclaims January 23, 2007 as Broward Center for the Performing Arts Appreciation Day.
18. The Broward Center earns ranking as the #4 venue in the world for ticket sales by *Venues Today* in 2007.
19. In 2008, Broward Center welcomes its 2 millionth student.
20. In 2009, the Broward Alliance -- the public-private partnership whose aim is to foster economic development of Broward County -- awards the Broward Center its third annual "Educational Excellence Builds Business" Partnership Award.
21. In April 2009, *Jersey Boys* sets the national tour's record for attendance during its extended run in the Au-Rene Theater.
22. In 2010, students from Ghana, West Africa participate in a distance learning workshop with links to Broward students at three public school sites and students and cast members of *The Color Purple* in the Abdo New River Room.
23. In 2011, Broward Center celebrates its 20th anniversary including 20 years of the SEAS partnership.
24. In 2011, contributions by volunteers top 1.5 million hours of service to our theaters since opening
25. Cumulative performances (under management) – over 10,000.
26. Cumulative attendance (under management) – over 10 million...and growing!

From Broward Alliance Economic Sourcebook (2007)

The Broward Center for the Performing Arts opened its doors in 1991 on the northern bank of the New River, the site of Fort Lauderdale's first trading post. Since then, the Broward Center has remained true to the historic site's legacy of serving as a community gathering place and spurring economic development while also pioneering new national models for integrating the arts into people's lives. Designed by award-winning architect Benjamin C. Thompson, the Broward Center is considered an architectural jewel at the cultural heart of Broward County.

Since its opening more than seventeen years ago, the Broward Center has been a catalyst for major downtown revitalization efforts and an important element in Broward County's development as one of Florida's leading creative economies. The Broward Center continues to fulfill its mission -- "to be a leader in promoting artistic offerings to our increasingly diverse community with an emphasis on fostering a cooperative spirit to positively impact the local economy and community" -- in a variety of ways. The Center itself, along with the venues it manages and the innovative community and educational programs it has introduced, help to define the unique cultural identity of Broward County and advance shared economic goals.

The Broward Center is a large, multi-venue arts and entertainment complex featuring the beautiful 2,700-seat Au-Rene Theater, the intimate 590-seat Amaturio Theater and the flexible 250-400-seat Abdo New River Room. Internationally recognized as one of the nation's most visited theaters, the Broward Center is ranked high among its peers in terms of ticket sales according to leading industry trade publication surveys with a #4 ranking by *Venues Today* 2007 and a consistent place in the top ten in *Pollstar*.

Hosting operas, ballets, concerts, plays, films, lectures and numerous community workshops and educational events, the Broward Center has defined itself through unique and successful collaborations with partners in the arts, community, government and business.

The Center works hand-in-hand with several renowned cultural organizations including the Symphony of the Americas, Florida Grand Opera, Miami City Ballet, Concert Association of Florida, and Gold Coast Jazz among others. National tours of major Broadway productions are presented in partnership with Broadway Across America-Fort Lauderdale bringing top titles like *The Lion King*, *Wicked*, *Phantom of the Opera*, *Jersey Boys*, *Hairspray* and *Avenue Q* to South Florida audiences. Through the Arts Access program, the Broward Center provides support and guidance to dozens of local cultural organizations which helps them to achieve commercial stability. The Center provides the infrastructure -- from marketing expertise to ticketing services to data analysis -- that often helps these groups become sustainable,

The Center's mission includes a strong focus on integrating the arts into education. A long-standing partnership with the School Board of Broward County has created an award-winning model for other communities through the Student Enrichment in the Arts (SEAS) program. SEAS activities are designed to advance specific educational goals tied into state standards, helping to stimulate and develop our future workforce.

The Broward Center partners with Nova Southeastern University to manage and provide programming for the 500-seat Rose and Alfred Miniaci Performing Arts Center on the main campus in Davie. The Center also manages and programs the historic 1,191-seat Parker Playhouse in downtown Fort Lauderdale, which is enjoying a renaissance under Broward Center management with Broadway and Off Broadway plays and musicals along with top names in comedy, today's indie-artists and a range of musical performances from gospel to folk to flamenco. Broward Center is also working closely with the City of Miramar in the development of the new Miramar Cultural Center/ArtsPark, a state-of the art

performance venue, set to open in late 2008 with an 800-seat theater, classrooms, conference facilities, art galleries and a botanical garden, an anchor of the new Miramar Town Center.

In 1998, the Broward Center began a collaboration with neighboring merchants and cultural attractions along the New River that would become the Riverwalk Arts and Entertainment District. Designed to promote cultural tourism to Fort Lauderdale and to the Riverwalk district in particular, this destination marketing organization features the Broward Center, The Museum of Art | Fort Lauderdale, Florida Grand Opera, Concert Association of Florida, Fort Lauderdale Historical Society and Historic Stranahan House Museum. More than 1 million ticketed visitors annually attend programming at the combined Arts & Entertainment District partner venues with more than 1000 individual events take place within downtown attractions creating a vibrant, international atmosphere year-round. These events are presented by more than 600 diverse artists and entertainers representing more than 30 countries each year.

In 2006, the Center was named one of the first “Brazilian Points of Culture” outside of Brazil by the Minister of Culture for its commitment to promoting Brazilian culture abroad, the first performing arts center to be honored with this designation. And in 2007, the Broward Center was officially designated the cultural embassy of Broward County by the Board of County Commissioners for its ongoing efforts to align culture, commerce, and community in significant ways that lead to economic growth.

A wide range of performances across genres highlight the cultural contributions of many in our community by bringing their art forms to our stages. From Brazil, Mexico and Jamaica, from Japan and China to India, South Africa and Australia, performances showcase the talent and traditions of the global community that has taken shape in Broward. Rooted in the concept of the cultural embassy is that the arts build and sustain bridges between people of different backgrounds. Importantly, this activity is not undertaken solely for arts sake but to promote community building, cross-cultural education, economic development, and to establish a sense of “place” --- authentic, vibrant and multicultural.

Recently, the Broward Center was awarded a grant from the Broward County Cultural Division to work collectively with the Cities of Lauderhill and Lauderdale Lakes on the development of a cultural plan for the State Road 7 Cultural Corridor. The goal is to create a coordinated strategy to build and market the diverse range of cultural attractions existing and planned for the corridor and ensure that the full potential for the arts to contribute to key economic outcomes is explored.

The Broward Center continues to rise to the challenge of keeping pace with the rapid growth and changing face of Broward County, one of the nation's most exciting and dynamic communities.

Current event information for the Broward Center for the Performing Arts and its affiliated venues can be found on these websites:

- www.browardcenter.org
- www.parkerplayhouse.com
- www.miniacipac.com
- www.miramarculturalcenter.org
- www.riverwalkae.com

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.

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.

January 5 2009

Our Files: 09-033.01; 09-095 &
09-199

MEMORANDUM

TO: Michael Geoghegan, Director
Finance and Administrative Services Department


FROM: Jeffrey J. Newton
County Attorney

**RE: Use of Tourist Development Tax Revenue for Operations Costs at the
Performing Arts Center Authority**

You asked this office whether Tourist Development Tax ("TDT") revenue may be used towards operations costs at the Performing Arts Center Authority ("PACA").

Section 125.0104, Florida Statutes, as may be amended from time to time, known as the Local Option Tourist Development Act, authorizes the County to impose a tax on short-term rentals. Subsection (5) of the statute enumerates the specific uses and purposes that may be funded by TDT revenue. Pursuant to Subsection 125.0104(5)(a)1, Florida Statutes:

- (a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:
 - 1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more publicly owned and operated convention centers, sports stadium, sports arenas, coliseums, **or auditoriums**, or museums that are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public. . .(emphasis added)

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Michael Geoghegan
January 5, 2009
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While the term "auditorium," as it is used in Subsection 125.0104(5), Florida Statutes, is not defined, numerous dictionary definitions of the term indicate it is the area of a public building where the audience sits, or a hall or building for public gatherings. It seems PACA would fall within the definition of an auditorium and, thus, TDT revenue may be used to construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote PACA.

If you have any questions, please contact me.

JJN:PAB:slw