

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 165 Professional Sports Franchise Facilities

**SPONSOR(S):** Gonzalez and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 306

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	12 Y, 4 N, As CS	Pewitt	Langston
2) Economic Affairs Committee	10 Y, 7 N, As CS	Collins	Creamer
3) Appropriations Committee			

### SUMMARY ANALYSIS

CS/HB 165 authorizes a new distribution of state sales tax to a “professional sports franchise renovation facility.” The Department of Economic Opportunity (DEO) is charged with reviewing and certifying an applicant for this designation. Among the requirements for certification, the facility must be owned by a local government or a local government must hold title to the land on which the facility sits, and the renovation must cost at least \$300 million, of which at least half must be paid for by private sources. Upon certification, for a period not more than 30 years, the Department of Revenue will distribute to the applicant \$250,000 monthly (\$3 million annually) from state sales tax revenue for the purposes of renovating a facility. Previously certified new or retained professional sports franchise facilities under s. 288.1162, F.S. are eligible for certification under the professional sports franchise renovation facility designation, meaning a single facility could be eligible to receive a maximum of \$5 million annually in state sales tax revenue.

In addition, the bill creates a new allowable use of the additional 1 percent professional sports franchise tourist development tax. A local government which levies this tax would be allowed to use it to pay for debt service on bonds issued to renovate a professional sports franchise facility if the renovation would cost at least \$300 million, at least half of which must be paid for by private sources, and if the facility is publicly owned or sits on publicly owned land. Such tax levy must be approved by a majority plus one vote of the board of county commissioners and majority vote in a referendum. The bill also expands the eligibility to levy this tax to include counties which levy the charter county convention development tax (i.e., Miami-Dade County), which are currently prohibited from doing so.

The Revenue Estimating Conference met on February 22, 2013, and estimated that the bill would have a negative impact on general revenues of \$2.5 million in fiscal year 2013-2014, and a \$3 million negative impact on general revenues on a recurring basis.

The bill provides an effective date of July 1, 2013.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Professional Sports in Florida

Currently, there are nine major professional sports teams based in Florida covering each of the major professional sports leagues; the National Football League (NFL), Major League Baseball (MLB), National Basketball Association (NBA), and National Hockey League (NHL). The oldest major professional sports franchise in the state is the Miami Dolphins (NFL). The Dolphins franchise began play in 1966. The newest major professional sports team in the state is the Tampa Bay Rays (MLB) baseball franchise. The Rays franchise began play in 1998. The Miami Marlins (MLB), Tampa Bay Buccaneers (NFL), Jacksonville Jaguars (NFL), Orlando Magic (NBA), Miami Heat (NBA), Tampa Bay Lightning (NHL), and Florida Panthers (NHL) are all based within the state as well. MLB's Spring Training Grapefruit League is also based in Florida, with 15 teams claiming the state as their second home for preseason training and exhibition games.<sup>1</sup>

##### State Incentives for Professional Sports Teams

Section 288.1162, F.S., provides the procedure by which professional sports franchises in Florida may be certified to receive state funding for the purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. Local governments, non-profit, and for-profit entities may apply to the program.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants for state funding. Applicants qualifying as new professional sports franchises may not have been based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously based at that location. The number of certified professional sports franchises, both new and retained, is limited to eight.

For both new and retained franchises, DEO must verify that:

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located;
- The applicant has a verified copy of a signed agreement to use the facility with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise;
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location;
- The applicant has projections demonstrating a paid attendance of over 300,000 annually;
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the franchise's facility will generate \$2 million annually;
- The city or county where the franchise's facility is located has certified by resolution after a public hearing that the application serves a public purpose; and
- The applicant has demonstrated that it will provide financial or other commitments of more than one-half of the costs incurred for the improvement or development of the franchise's facility.

Any applicant certified pursuant to this section may receive monthly payments from the state of \$166,667 for not more than 30 years, for an annual payment totaling \$2,000,004. The Department of Revenue disburses the payments, which are taken out of sales tax revenues.

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<sup>1</sup> Department of Economic Opportunity, *Professional Sports Franchises* (January 8, 2013).

Payments may only be used for the purpose of paying for the acquisition, construction, reconstruction, or renovation of the facility; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. The state may only pursue recovery of funds if the Auditor General finds that the distributions were not expended as required by statute.

No facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by DEO before any funds were disbursed under s. 212.20(6)(d), F.S.

As of March 13, 2013, there were eight certified professional sports franchise facilities in Florida. The facilities and the payment distribution for each, as provided by the Department of Revenue, are listed below:

Facility Name	Certified Entity	Franchise	First Payment	Total to Date
<b>Sun Life Stadium</b>	Dolphin Stadium/South Florida Stadium Corp.	Florida Marlins	06/94	\$39,500,079
<b>Everbank Field</b>	City of Jacksonville	Jacksonville Jaguars	06/94	\$37,666,742
<b>Tropicana Field</b>	City of St. Petersburg	Tampa Bay Rays	06/95	\$35,500,071
<b>Tampa Bay Times Forum</b>	Tampa Sports Authority	Tampa Bay Lightning	09/95	\$35,166,737
<b>BB&amp;T Center</b>	Broward County	Florida Panthers	08/96	\$33,333,400
<b>Raymond James Stadium</b>	Hillsborough County	Tampa Bay Buccaneers	01/97	\$32,500,065
<b>American Airlines Arena</b>	BPL, LTD	Miami Heat	03/98	\$30,000,060
<b>Amway Center</b>	City of Orlando	Orlando Magic	02/08	\$10,333,354

#### Local Incentives for Professional Sports Teams

##### *Half-Cent Sales Tax Rebate*

Part VI of Chapter 218, Florida Statutes, creates a revenue sharing program called the local government half-cent sales tax. Section 212.20(6)(d)2., F.S. provides that 8.814% of net state sales tax proceeds collected in each county be deposited into the Local Government Half-Cent Sales Tax Clearing Trust Fund. The funds are then distributed to the counties based on a formula accounting for the populations of incorporated and unincorporated areas of the county.

Revenues from this program must be expended on countywide or municipality-wide programs or tax relief. Subject to a majority vote of the county commission and a majority vote of the city commissions of municipalities making up at least 50% of the county population, up to \$2 million annually may be used to fund an certified new or retained professional sports franchise, a spring training franchise certified under 288.11621, F.S., or a motorsport entertainment complex certified under 288.1171, F.S. All restrictions and certification requirements from those sections apply to the use of half-cent sales tax revenues, except the cap of 8 certifications and the prohibition on multiple certifications for one applicant.

As of March 3, 2013, no local governments have opted to provide funding under this section.

##### *Transient Rentals Taxes*

Section 125.0104, F.S., authorizes the levy of five separate local option taxes on rental charges subject to the transient rentals tax (commonly known as the “bed tax”) under s. 212.03, F.S., to be used in various ways to promote tourism within the county. The authorized uses of each local option tax vary according to the particular levy, and are not utilized by all counties.<sup>2</sup>

- **Tourist Development Tax** - may be levied at the rate of 1 or 2 percent. Currently, 62 counties levy this tax at 2 percent; all 67 counties are eligible to levy this tax.
- **Additional Tourist Development Tax** – may be levied at an additional 1 percent. Currently 45 of the 57 counties eligible to levy this tax do so.
- **High Tourism Impact Tax** - may be levied at an additional 1 percent. Five counties are eligible to levy this tax (Broward, Monroe, Orange, Osceola, and Walton). Of these five counties, Monroe, Orange, and Osceola levy this additional tax.
- **Professional Sports Franchise Facility Tax** - may be levied up to an additional 1 percent by any county. Currently 36 counties levy this tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities, and convention centers, and to promote and advertise tourism.
- **Additional Professional Sports Franchise Facility Tax** - no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax. Out of 36 eligible counties, 20 levy an additional professional sports franchise facility tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and to promote and advertise tourism. Facilities funded under this provision must be publicly owned. Miami-Dade and Volusia counties may not levy the additional 1 percent professional sports franchise facility tax because they levy convention development taxes pursuant to section 212.0305(4), F.S.

Generally, the revenues from these levies may be used for capital construction, maintenance, and promotion of tourist-related facilities, tourism promotion, and beach and shoreline maintenance. Tourist-related facilities include convention centers, sports stadiums and arenas, coliseums, auditoriums, aquariums, and museums that are publically owned and operated within the area that the tax is levied. Tax revenues may also be used to promote zoos in some circumstances.

Only Duval County meets the requirements to levy a 2 percent consolidated county convention development tax, which can be used for many of the same purposes as the tourist development taxes. Miami-Dade County is the only county meeting the requirements to levy the 3 percent charter county convention development tax. These funds are primarily dedicated to the funding of two particular projects, but may be used on other projects similar to those approved under the tourist development tax provisions once those specific projects are completed. Volusia County is the only county authorized to levy three separate special district convention development taxes. The combined effect of the three separate taxing districts is a countywide tax of 3 percent. Proceeds from the tax may be used to promote and advertise tourism and to fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.<sup>3</sup>

## **Proposed Changes**

### **State Incentives**

The bill creates a new designation for a “professional sports franchise renovation facility” under section 288.1162, F.S. The Department of Economic Opportunity would be required to verify that:

- A public entity is responsible for construction, management, or operation of the facility, or holds title to the land where the facility is located.
- The applicant has a signed agreement with a professional sports franchise to use the facility for at least 20 years.

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<sup>2</sup> Office of Economic and Demographic Research, 2012 Local Government Financial Information Handbook; (October 2012). Can be found at: <http://edr.state.fl.us/Content/local-government/reports/lgfih12.pdf> (last visited on March 13, 2013)

<sup>3</sup> 212.0305, F.S.

- The applicant has an independent analysis which projects that the renovated facility will generate at least \$3 million annually in sales tax revenues.
- The county or municipality where the facility is located has certified by resolution that the application serves a public purpose.
- The applicant has demonstrated that the total cost of the renovation will exceed \$300 million, of which at least 50% will be paid by private sources.
- The applicant has been a league-authorized location for a professional sports franchise for at least 20 years.
- The applicant has signed an agreement to pay to the state an amount equal to the proceeds from the sale of bonds generated by pledging the funds received under s. 212.20, F.S. as debt service. That payment is due no later than one year after the last distribution is received.

Only one applicant may be certified as a professional sports franchise renovation facility. The Department of Revenue will distribute \$250,000 monthly (\$3 million annually) to such certified applicant out of sales tax revenues for a period of up to 30 years.

### Local Incentives

The bill also amends section 125.0104, F.S. to allow the additional professional sports franchise facility tax to be used to pay for debt service on bonds issued to finance the renovation of a professional sports facility which is publicly owned, or which sits on publicly owned land, so long as the renovation will cost at least \$300 million, of which at least half will be paid for by private sources. In order to levy this tax, the board of county commissioners must approve it by a majority plus one vote, and it must be approved by a majority vote by referendum. It further amends this section to allow counties which levy the charter county convention development tax (i.e. Miami-Dade County) to levy the additional professional sports franchise facility tax.

#### B. SECTION DIRECTORY:

**Section 1:** Amends section 125.0104, F.S., by providing a new approved use for the additional professional sports franchise facility tax, and by allowing Miami-Dade County to levy such tax.

**Section 2:** Amends section 212.20, F.S., by requiring the Department of Revenue to distribute \$250,000 monthly from sales tax revenues to a certified professional sports franchise renovation facility.

**Section 3:** Amends section 288.1162, F.S., by creating certification requirements for a new designation as a "professional sports franchise renovation facility."

**Section 4:** Amends section 218.62, F.S., by updating a cross-reference.

**Section 5:** Amends section 288.11621, F.S., by updating a cross-reference.

**Section 6:** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The Revenue Estimating Conference met on February 22, 2013, and estimated that the bill would have a negative impact on general revenues of \$2.5 million in fiscal year 2013-2014, and a \$3 million negative impact on general revenues on a recurring basis.

##### 2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference estimated that there would be a positive, indeterminate impact on local government revenues.

2. Expenditures:

Any impact on expenditures would be subject to an ordinance approved by a supermajority vote of the county commission, and would be funded by the additional professional sports franchise facility tax.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The provisions of the bill may encourage stadiums (which may be privately owned) to undertake a major renovation, which could have positive impacts on the construction sector. Additionally, such renovations could have a positive impact on ticket sales and other sales associated with sporting and other events.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 8, 2013, the bill was amended in a meeting of the Finance & Tax Subcommittee. The amendments included raising the minimum required cost of renovation from \$250 million to \$300 million, requiring a referendum in order to levy the additional professional sports franchise facility tourist development tax for the purposes of this bill, and clarifying some language which was drafted incorrectly. The analysis has been updated to reflect these changes.

On April 3, 2013 the bill was amended in a meeting of the Economic Affairs Committee. The amendments included clarifying that the referendum required by the bill be worded to address the proposed use of tax

revenues, and requiring that the applicant has signed an agreement to pay back to the state an amount equal to the proceeds from the sale of bonds generated by pledging the funds received under s. 212.20, F.S. as debt service. The analysis has been updated to reflect these changes.