STORAGE NAME: h1145.tu
DATE: March 11, 1997

HOUSE OF REPRESENTATIVES
COMMITTEE ON
TOURISM
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 1145

RELATING TO: Professional Sports Franchise Facilities

SPONSOR(S): Representatives Thrasher, Lippman, Bitner, Burroughs, Heyman, Meek, Garcia

STATUTE(S) AFFECTED: Section 288.1162, Florida Statutes, 1996 Supplement

COMPANION BILL(S): SB 1438 (S)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) TOURISM
(2)
(3)
(4)
(5)

I. SUMMARY:

House Bill 1145 amends the definition of a “new professional sports franchise” in s. 288.1162, F.S., 1996 Supplement, by moving the date eligibility criteria back 22 years, from April 1, 1987 to August 16, 1965, for applicants seeking certification to receive sales tax rebate funds for franchise facilities. The bill also amends the current statutory prohibition, under this section, against allowing a facility which has received funding under one certification to be eligible for potentially unlimited additional certifications. The provisions of this bill would allow an additional certification for an already certified facility if it is for a different sports franchise than the one related to the initial certification.

Finally, the bill raises from eight to nine the cap on the total number of applicants or facilities in the state which may be certified. This cap would not prohibit a currently certified facility from receiving funds under additional certifications for each different franchise.

Each applicant for a new or retained professional sports franchise facility, if certified, is eligible to receive $2 million annually for 30 years. The current potential amount of General Revenue which could be rebated to professional sports franchise facility applicants through this program is $16 million annually, with a total 30 year potential pay out of $480 million. This bill would raise those amounts to $18 million and $540 million, respectively, if nine applicants are certified.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 88-226, Laws of Florida, established a funding mechanism for state support of the construction of new professional sports franchise facilities within Florida. Under this act, the Department of Commerce was assigned the duties of screening applicants, developing rules for processing applications, and presenting the applications to the Legislature.

This original chapter was amended by the Legislature in 1989, 1991, 1994, and 1996. The latest version of the law, Chapter 96-320, L.O.F., or s. 288.1162, F.S., 1996 Supplement, requires the Florida Sports Foundation (FSF), a direct support organization under the Governor's Office of Tourism, Trade, and Economic Development (OTTED), to carry out the applicant screening duties. The FSF submits the applications to OTTED which certifies the eligibility of the applicant's professional sports franchise under the category of either "new," "retained," or "new spring training." Chapter 96-320, L.O.F., also raised the cap on potentially eligible applicants from six to eight and rolled the eligibility dates back to effectively include two additional franchises currently existing in Florida. An applicant may only have one certification per facility.

Once an applicant's facility is certified by OTTED as one of these types of professional sports franchise facilities it is eligible to receive funding from the General Revenue Fund. These General Revenue funds are generated from tax on sales or use of tangible personal property, admissions, rentals, and services. An applicant whose professional sports franchise is certified as "new or retained" can receive $2 million annually for 30 years ($60 million), and an applicant whose franchise is certified as a "new spring training franchise" can receive $500,000 annually for 30 years ($15 million). The current potential amount of General Revenue which could be rebated to professional sports franchise facility applicants through this program is $16 million annually, with a total 30 year potential pay out of $480 million.

The Department of Revenue is authorized to audit the distribution and expenditure of the distributed funds, subject to the confidentiality requirements of Chapter 213, F.S. The funds may only be used for the public purpose of paying for the construction, reconstruction, or renovation of the eligible facility or to pay for debt service on bonds issued to finance such expenditures.

A "new professional sports franchise" is described as one that is not based in this state prior to April 1, 1987. A "retained" franchise is described as one that has had a league-authorized location in this state on or before December 31, 1976, has continuously remained at that location, and has never been located at a facility that has been previously certified under s. 288.1162, F.S., 1996 Supplement.

For "new" or "retained" professional sports franchise facilities, OTTED must determine that:

(1) The local governmental entity is responsible for the construction, management, or operation of the facility, or holds title to the property on which the facility is located.

(2) The applicant has a verified copy of a signed agreement with a new professional sports franchise for the use of the facility for a term of at least 10 years, or with a retained franchise for at least 20 years.

(3) The applicant has a verified copy of the approval from the governing authority of the league (specified as meaning the National or American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League) in which the franchise exists authorizing the location of the new franchise in the state after April 1, 1987 or the retained franchise on or before December 1, 1976.

(4) The applicant's projections that the franchise will attract more than 300,000 annual paying attendants are valid.

(5) The applicant has an independent analysis or study, verified by OTTED, which demonstrates that the facility will generate at least $2 million annually in general sales tax revenues which relate to the use and operation of the facility.

(6) The city or county in which the facility is to be located has certified by resolution after a public hearing that the facility serves a public purpose.

(7) The applicant has a financial commitment to provide 50 percent or more of the funds required by an agreement for the use of the facility by the new or retained professional sports franchise.

The following franchises have applied for and been certified to receive funds as new professional sports franchise facilities:

Florida Panthers -- $60,000,000 for Broward County;
Florida Marlins -- $60,000,000 for Joe Robbie Stadium;
Jacksonville Jaguars -- $60,000,000 for the City of Jacksonville;
Tampa Bay Lightening -- $60,000,000 for the Tampa Sports Authority;
Tampa Bay Devil Rays -- $60,000,000 for the City of St. Petersburg;

The following franchise has applied for certification to receive funds as retained professional sports franchise facilities:

Tampa Bay Buccaneers -- $60,000,000 for Hillsborough County.

B. EFFECT OF PROPOSED CHANGES:

This bill amends the definition of a “new professional sports franchise” under s. 288.1162(3)(a) and (c), F.S., 1996 Supplement, by moving the date eligibility criteria back 22 years, from April 1, 1987 to August 16, 1965, for applicants seeking certification to receive sales tax rebate funds for franchise facilities. The bill also amends the current statutory prohibition against allowing a facility, which has received funding under one certification, to be eligible for additional certifications, under s. 288.1162(3)(h), F.S., 1996 Supplement. The provisions of this bill would allow an additional certification for an already certified facility if it is for a different sports franchise than the one related to the initial certification.

Finally, the bill raises from eight to nine the cap on the total number of applicants in the state which may be certified. This cap would not prohibit a currently certified facility from receiving funds under additional certifications for each different franchise.

These changes would effectively allow an applicant seeking certification on behalf of the Miami Dolphins to be eligible to receive funding for the Pro Players Stadium even though the Marlins have already been certified for this same facility when it was known as Joe Robbie Stadium. In this particular instance, the same facility would be eligible to receive $4 million annually without having to increase the level of economic activity required for certification under the initial certification. The economic impact qualifying criteria in s. 288.1162(4)(e), F.S., 1996 Supplement, requires the applicant to demonstrate that the *facility*, not the franchise, will generate $2 million in sales tax revenues related to the use and operation of the facility. Consequently, the Dolphins applicant could use the independent analysis or study done for the Marlins to show that the facility will meet that criteria.

As noted in the current situation, only eight applicants/facilities may be certified to receive funding through the sales tax rebates and six applicants have achieved that status. There are two other professional sports franchises which meet the date criteria for being considered "new" under the current law, and three spring training franchises which could vie for that designation. This bill raises from eight to nine the cap on the total number of applicants in the state which may be certified for funding. However, because the language speaks to the certification of the facility and not the total number of designations (including initial certifications and certifications for additional franchises at the same facility), this cap would not necessarily apply to facilities seeking additional certifications. Therefore, the bill could allow a potentially unlimited number of designated applicants for certification of a facility for each different franchise.

Each applicant for a new or retained professional sports franchise facility, if certified, is eligible to receive $2 million annually for 30 years. The current potential amount of General Revenue which could be rebated to professional sports franchise facility applicants through this program is $16 million annually, with a total 30 year potential pay out of $480 million. This bill would raise those amounts to $18 million and $540 million, respectively, if nine applicants are certified.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

Yes. A certified applicant would be eligible to receive a total of $60 million in General Revenue funds from the state.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

   No.

3. Personal Responsibility:

   a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

      No.

   b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

      No.

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      No.

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      No.

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      (1) Who evaluates the family's needs?

          N/A

      (2) Who makes the decisions?

          N/A

      (3) Are private alternatives permitted?

          N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

Section-by-section analysis not required.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Revenues	1997/98	1998/99
General Revenue Fund*	($2 M)	($2 M)

*Per applicant certified.

3. Long Run Effects Other Than Normal Growth:

   None.

4. Total Revenues and Expenditures:

Revenues	1997/98	1998/99
General Revenue Fund*	($2 M)	($2 M)

   *Per applicant certified.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   Indeterminate at this time.

3. Long Run Effects Other Than Normal Growth:

   Indeterminate at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   A professional sports franchise facility which has been certified to receive $2 million annually in sales tax rebate funds through the General Revenue Fund could be certified to receive an additional $2 million annually.

3. Effects on Competition, Private Enterprise and Employment Markets:

   The provisions of this bill could be utilized by a facility housing professional sports franchises to upgrade the amenities of the facility to enhance the competitiveness of the franchises' ability to attract fans.

D. FISCAL COMMENTS:

The applicant for these funds must certify that the facility will produce at least $2 million annually in sales tax revenues related to the operation of the facility. Since this bill provides that a facility may be the recipient of more than one certification, if the additional certification is for a different franchise, and does not tie the production of sales tax revenue to the franchise, arguably, the facility could receive double the funds without creating any additional positive economic impact.

The arguments for using public funds for professional sports franchise facilities indicate that the facilities will have a positive impact on the state's sales tax revenues. However, the funds generated by the facility may be funds displaced from other entertainment venues which are not built with public funds.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

Report No. 96-31, "Review of the Florida Sports Foundation," by the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) states that, "The State may be providing financial support to major sports facilities' construction based on overstated economic impact projections." This statement is based on the finding that facilities receiving state financial assistance have not included "substitution effects" in their economic impact projections.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON TOURISM:

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