

STORAGE NAME: h1145s1.tu
DATE: March 27, 1997

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

BILL #: CS/HB 1145

RELATING TO: Professional Sports Franchise Facilities

SPONSOR(S): The Committee on Tourism and 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 YEAS 7 NAYS 0
- (2) FINANCE AND TAXATION
- (3)
- (4)
- (5)

I. SUMMARY:

Committee Substitute for 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 General Revenue Fund disbursements 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 an additional certification. 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. The number of facilities which may be certified is kept at eight by the bill and a cap of nine is established for the number of professional sports franchises which may be related to those facilities.

The provision of current law which requires an applicant to project that \$2 million in annual sales tax revenues will be generated through the use and operation of the facility is revised by the bill to require that \$2 million of such funds will be projected for each franchise. Additionally, the bill requires that an applicant which has been certified for one franchise and is an applicant for certification for another franchise must be under contract with the Department of Labor and Employment Security to execute certain hiring practices at the certified facility under the WAGES Program. However, this requirement also provides that certain labor market variables may factor into determining the degree to which the applicant must hire WAGES Program employees.

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 disbursed 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 applicants representing nine franchises 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.

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(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 Lightning -- \$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:

Committee Substitute for 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 General Revenue Fund disbursements 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 an additional certification. 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. The number of facilities which may be certified is kept at eight

by the bill and a cap of nine is established for the number of professional sports franchises which may be related to those facilities.

The provision of current law which requires an applicant to project that \$2 million in annual sales tax revenues will be generated through the use and operation of the facility is revised by the bill to require that \$2 million of such funds will be projected for each franchise. Additionally, the bill requires that an applicant which has been certified for one franchise and is an applicant for certification for another franchise must be under contract with the Department of Labor and Employment Security to execute certain hiring practices at the certified facility under the WAGES Program.

The WAGES requirement also provides that certain actions by the applicant and certain labor market variables may factor into determining the degree to which the applicant must hire WAGES Program employees. The elements enumerated in the bill include, the applicant's good faith efforts, workforce availability, suitable jobs, and the facility's minimum employment standards. Additionally, the bill provides that the applicant may renegotiate the contract in the event that economic conditions or the nature of the applicant's business prevent it from hiring the required number of WAGES employees.

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. The qualifying criteria in s. 288.1162, F.S., 1996 Supplement, for "new professional sports franchise" facilities requires the applicant to demonstrate a projected generation of \$2 million in sales tax revenues related to the use and operation of the facility per franchise; however, annual funds disbursements under current statutes are not dependent upon whether these projections have actually been met or annually maintained.

As noted in the current situation and as allowed by this bill, only eight applicants/facilities representing no more than nine franchises may be certified to receive funding under s. 212.20, F.S., 1996 Supplement. Six applicants and franchises have achieved that status. There are two other professional sports franchises which meet the date criteria for being considered "new" under the current law, one franchise which would meet the date criteria under the provisions of this bill, and three spring training franchises which could vie for designations. Consequently, by limiting the franchise number to nine, this bill would effectively only provides spaces for three of the potentially six franchises which could seek certification.

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 disbursed 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 applicants representing nine franchises are certified.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

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. Lower Taxes:

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:

<u>Revenues</u>	<u>1997/98</u>	<u>1998/99</u>
General Revenue Fund*	Unknown	Unknown

*Applicants are required to project annual sales tax revenues of at least \$2 M per franchise, however, even if such collections were subsequently audited and found not to meet the projections, the current statutes do not provide for a suspension of distributions. See FISCAL COMMENTS and COMMENTS sections of this analysis for comments on projections.

<u>Expenditures</u>		
General Revenue Fund**	\$2 M	\$2 M

**Per applicant certified.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

<u>General Revenue Fund</u>	<u>1997/98</u>	<u>1998/99</u>
See "Recurring Effects".	(\$2 M)	(\$2 M)

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 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. The funds generated by the facility, however, 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:

The Committee on Tourism adopted six amendments and incorporated these into the Committee Substitute for House Bill 1145. Three of the six amendments were technical conforming amendments. The other three provided the following substantive changes to the bill:

A sports facility which has been certified for two different franchises must show \$2 million in annual sales tax revenues generated through the use and operation of the facility for each franchise.

The number of facilities which may be certified is kept at eight, and the number of professional sports franchises associated with these eight certified facilities is limited to nine.

The applicant which has been certified for one franchise and is an applicant for certification for another franchise is required to be under contract with the Department of Labor and Employment Security to execute certain hiring practices at the certified facility under the WAGES Program.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

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