

STORAGE NAME: H0519s1a.ted

DATE: April 10, 1999

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
ANALYSIS**

BILL #: CS/HB 519

RELATING TO: Professional Sports Franchise Facilities

SPONSOR(S): Committee on Tourism and Representative Charles Sembler

COMPANION BILL(S): Compare SB 1940

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TOURISM YEAS 8 NAYS 1
- (2) FINANCE AND TAXATION YEAS 13 NAYS 0
- (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 6 NAYS 0
- (4)
- (5)

I. SUMMARY:

Committee Substitute for House Bill 519 amends s. 125.0104 (2)(b), F.S., 1998 Supplement, providing a definition for a "retained spring training franchise." "Retained spring training franchise" is defined as a spring training franchise that had a location in this state on or before December 31, 1998, and that has continuously remained at that location for at least the 10 years preceding that date.

The bill also amends s. 125.0104 (3)(l) and (n), F.S., 1998 Supplement, to provide that the additional local option tourist development taxes presently authorized to pay the debt service on bonds to finance the construction, reconstruction, or renovation of a professional sports franchise facility or a convention center and to pay for the planning and design costs incurred prior to the issuance of the bonds, may also be used to pay the debt service on bonds to finance the acquisition, construction, or renovation of a "retained spring training franchise facility" and to pay the planning and design costs incurred prior to the issuance of the bonds. In order for a local government to be able to assess the first professional sports franchise facility/convention center 1 percent levy, the initial local option tourist development tax of 1 to 2 percent and the subsequent authorized local option tourist development tax of 1 percent must have been levied pursuant to s. 125.0104, F.S., 1998 Supplement. In order to access the second 1 percent levy authorized under s. 125.0104(3)(n), F.S., 1998 Supplement, the governing board must have already authorized the levy under s. 125.0104(3)(l), F.S., 1998 Supplement.

As of June 1998, 42 counties assessed the initial local option tourist development tax levy of 1 to 2 percent. Of those counties, 24 counties levied the additional local option tourist tax of 1 percent. Half of these counties, 12, levied the initial professional sports franchise facility tax/convention center tax of 1 percent. As of June 1998, only three counties levied the additional professional sports franchise facility tax of 1 percent.

Of the 20 professional spring training franchise facilities located in Florida, nine meet the criteria of a "retained spring training franchise" as defined in the bill. Five of the nine are located in counties that already have levied the 1 percent under the first professional sports franchise/convention center levy. The remaining four are located in counties that have not levied the 1 percent but still have it available to them. Only one "retained spring training franchise" facility is privately-owned by the franchise ownership and only one local government governing board would, therefore, directly benefit from including the "acquisition" of such a facility to the language in s. 125.0104 (3)(l), F.S., 1998 Supplement.

Of the five retained spring training franchise facilities located in areas levying the first professional sports 1 percent tax authorized, all are in counties that could potentially levy the second authorized professional sports franchise tax and use the funds for retained spring training franchise facilities now provided for in the bill. Others will become eligible for funding as they meet the definition contained in the bill and as the respective local governing bodies levy the first percent under s. 125.0104(3)(l), F.S., 1998 Supplement.

[Note: See part VI. Amendment or Committee Substitute Changes for effects of an amendment adopted by the Committee on Transportation & Economic Development Appropriations.]

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The initial concept for levying a local option tourist development tax or "bed tax" was to generate a dedicated source of funds to advertise and otherwise promote the growth of tourism in a specific area in order to fill more hotel and motel beds. The majority of substantive amendments to the original tourist-related tax statutes have been directed at the percentage of taxation and authorized uses of tax revenues.

The primary base on which these taxes are levied is the transient rental trade. A transient rental transaction is described in s. 212.0305, F.S., and s. 125.0104, F.S., 1998 Supplement, as "any payment made by any person to rent, lease, or use for a period of six months or less any living quarters or accommodations in a hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, tourist or trailer camp, mobile home park, recreational vehicle park, or condominium."

Counties are authorized to levy five separate taxes on transient rental transactions. Depending on the particular tax, the levy may be authorized by vote of the governing body or by referendum. Tax rates vary by county depending on a county's eligibility to levy particular taxes; however, the absolute maximum tax rate is 6 percent.

Current law, s. 125.0104 (3)(c), F.S., 1998 Supplement, provides for a local option tourist development tax at a rate of 1 or 2 percent. As of June 1998, 42 counties levied the tax and all at the 2 percent rate. In addition to any 1 or 2 percent tourist development tax, s. 125.0104 (3)(d), F.S., 1998 Supplement, provides for an additional 1 percent tourist development tax by the extraordinary vote of the governing board of the county or by referendum approval by the registered electors within the county or subcounty special district. Of the 38 counties eligible to levy the tax, 24 are levying the additional tax as of June 1998.

If a local government has levied the local option tourist development tax of 1 to 2 percent and has levied the additional 1 percent tourist development tax, the local government is eligible to levy a professional sports franchise facility/convention center tax as provided in s. 125.0104 (3) (l), F.S., 1998 Supplement, by a majority vote of the governing board of the county. However, since the proceeds are only to be used to pay debt service on bonds issued to finance the construction, reconstruction, or renovation of a professional franchise facility or a convention center and to pay the planning and design costs incurred prior to the issuance of those bonds, the number of counties able to participate is limited. As of June 1998, 12 counties levied this tax.

Finally, s. 125.0104 (3)(n), F.S., 1998 Supplement, provides for an additional professional sports franchise facility tax of 1 percent to be imposed by a majority plus one vote of the membership of the governing board of the county. The 1 percent additional professional sports franchise facility tax is available to pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a new professional sports franchise as defined in s. 288.1162, F.S. Eleven counties are eligible to levy this tax. Only three counties levied the tax as of June 1998.

B. EFFECT OF PROPOSED CHANGES:

The Committee Substitute for House Bill 519 amends s. 125.0104 (2)(b), F.S., 1998 Supplement, providing a definition for "retained spring training franchise." "Retained spring training franchise" is defined as a spring training franchise that had a location in this state on or before December 31, 1998, and that has continuously remained at that location for at least the 10 years preceding that date.

The bill amends s. 125.0104(3)(l) and (n), F.S., 1998 Supplement, to provide that the additional local option tourist development taxes presently authorized to pay the debt service on bonds to finance the construction, reconstruction, or renovation of a professional sports franchise facility or a convention center and to pay the planning and design costs incurred prior to the issuance of such bonds may be used to finance the acquisition, construction, reconstruction, or renovation of a "retained spring training franchise" facility and to pay the planning and design costs incurred prior to the issuance of such bonds.

Of the 20 professional spring training franchise facilities located in Florida, nine meet the criteria of a "retained spring training franchise" as defined in the bill. Only one "retained spring training franchise" facility is privately-owned by the franchise ownership and only one local government governing board would, therefore, directly benefit from the amending of s. 125.0104 (3)(l), F.S., 1998 Supplement, to include "acquisition" as one of the permitted uses of the initial professional sports franchise/convention center 1 percent levy. Others meeting the definition of retained spring training franchise and located in areas not currently levying the 1 percent would be

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eligible regarding construction, reconstruction or renovation and payment of planning and design costs incurred prior to issuance of bonds.

Of the nine professional spring training franchise facilities in Florida that meet the criteria as a "retained spring training franchise," five currently levy the first professional sports franchise/convention center 1 percent tax. As CS/HB 519 amends s. 125.0104 (3)(n), F.S., 1998 Supplement, which provides for the additional professional sports franchise 1 percent levy, the bill expands the availability of the additional professional sports franchise 1 percent levy to these five "retained spring training franchise" facilities or others as they meet the requirements of the definition and the required levy of the first 1 percent levy under s. 125.0104(3)(l), F.S., 1998 Supplement.

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?

No.

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?

Yes. The bill provides that the additional local option tourist development taxes presently authorized to finance the construction, reconstruction, or renovation of a professional sports franchise facility may also be used to finance the acquisition, construction, reconstruction, or renovation of a "retained spring training franchise facility."

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:

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(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends s. 125.0104, F.S., 1998 Supplement

E. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 125.0104 (2)(b), F.S., 1998 Supplement, providing a definition for "retained spring training franchise." Amends paragraphs (l) and (n) of subsection (3) of s. 125.0104, F.S., 1998 Supplement, providing that the additional local option tourist development taxes presently authorized to pay the debt service on bonds to finance the construction, reconstruction, or renovation of a professional sports franchise facility and to pay the planning and design costs incurred prior to the issuance of the bonds may also be used to finance the acquisition, construction, reconstruction, or renovation of a retained spring training franchise facility as well as the planning and design costs incurred prior to the issuance of such bonds. Makes a technical change to paragraph (d) of subsection (5) of s. 125.0104, F.S., 1998 Supplement.

Section 2 provides an effective date of July 1, 1999 for the bill.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

A local government would be able to impose local option tourist development taxes for the purpose of paying debt service to finance the acquisition, renovation, reconstruction, or construction of facilities for the retention of a retained spring training franchise facility and to pay the planning and design costs incurred prior to the issuance of such bonds.

3. Long Run Effects Other Than Normal Growth:

The long-term effects of retaining or losing a professional sports franchise are indeterminate.

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

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

The economic benefits of a retained spring training franchise facility will vary from host community to host community. The Florida Sports Foundation conducted a study of a host community that is currently seeking to acquire a spring training franchise facility and retain the spring training franchise. The Foundation conservatively estimates that the host community's spring training franchise facility generates approximately \$25 million in economic activity.

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

The provisions of this bill could be utilized by a host community to increase its competitive advantage in retaining a spring training franchise, classified as a "retained spring training franchise."

D. **FISCAL COMMENTS:**

None.

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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Tourism adopted three amendments and incorporated these amendments into the Committee Substitute for House Bill 519. The differences between the original bill and the committee substitute are as follows:

1. Committee Substitute for House Bill 519 removed two sections from the bill relating to s. 288.1162, F.S., and s. 212.20(6)(f), F.S., 1998 Supplement. By doing this, the only funding provisions left in the legislation were s. 125.0104(3)(l) and (n), F.S., 1998 Supplement. The original bill, House Bill 519, amended s. 288.1162, F.S., to create and define a classification to be certified by OTTED as a "retained spring training franchise." Once certified by criteria outlined by this section by OTTED, the "retained spring training franchise" was then eligible to receive general revenue funds of \$41,667 per month or \$500,000 annually for 15 years for a total of \$15 million as authorized and distributed pursuant to s. 212.20(6)(f), F.S., 1998 Supplement. House Bill 519 also amended s. 212.20, F.S.(6)(f), 1998 Supplement, to incorporate this new franchise classification for the distribution of general revenue.
2. The second amendment was a technical, conforming amendment.

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3. Since the term "retained spring training franchise" is used in s. 125.0104 (3)(1) and (n), F.S., 1998 Supplement, but not defined, a definition for the term was added to s. 125.0104 (2)(b), F.S., 1998 Supplement.

On April 9, 1999, the House Committee on Transportation & Economic Development Appropriations adopted one amendment. The amendment added an appropriation of \$3.75 million in fiscal year 1999-2000 and \$3.75 million in fiscal year 2000-2001. The Office of Tourism, Trade, and Economic Development shall verify certain conditions prior to distribution of this appropriation to a unit of local government for the acquisition, construction, reconstruction, or renovation of a privately owned retained spring training franchise facility.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

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Judy McDonald

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

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