STORAGE NAME: h1439s1a.ted
DATE: April 18, 2000

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

BILL #: CS/HB 1439

RELATING TO: Spring Training Facilities

SPONSOR(S): Committee on Tourism and Representative Sembler

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) TOURISM (EDC) YEAS 7 NAYS 0
(2) FINANCE AND TAXATION (FRC) YEAS 13 NAYS 0
(3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 9 NAYS 1
(4)
(5)

I. SUMMARY:

The bill amends s. 212.20, F.S., to require the Department of Revenue to distribute sales tax proceeds to any applicant certified under s. 288.1162, F.S., as a "facility for a retained spring training franchise". A certified applicant can receive up to $41,667 monthly for up to 30 years. However, not more than $208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise.

Prior to certifying, the Office of Tourism, Trade, and Economic Development (OTTED) must determine that a unit of local government is responsible for the acquisition, construction, management or operation of the retained spring training franchise facility or holds title to the property on which the facility is located; the applicant has a verified copy of a signed agreement with a retained spring training franchise for the use of the facility for a term of at least 15 years; the applicant has a financial commitment of 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility; the applicant has valid projections demonstrating that the facility will attract paid attendance of at least 50,000 annually; and, that the facility is located in a county levying a tourist development tax pursuant to s.125.0104, F.S.

The bill requires OTTED to competitively evaluate applications for funding a facility for a retained spring training franchise. Applications must be submitted by October 1, 2000, with certifications to be made by January 1, 2001. If the number of applicants exceeds five and the aggregate funding request of all applications exceeds $208,335 per month, OTTED is required to rank the applications according to the intended use of the funds; the length of time that the existing franchise has been located in the state; the remaining time on the lease for the facility used by the franchise; the duration of the future-use agreement with the franchise; the size and amount of dollars involved in the local match; the net increase of total active recreation space owned by the applying unit of government following the acquisition of land for the facility; the location of the facility in a brownfield, enterprise zone, community redevelopment area, or other revitalization area included in an Urban Infill Redevelopment Plan; and the projections on paid attendance and the proposed effects on the economy of the local community.

The bill requires that funds not be expended to subsidize privately owned and maintained facilities for use by the retained spring training franchise or to relocate an existing retained spring training franchise to another unit of local government within the state. Funds may only be used to pay for acquisition, construction, reconstruction, or renovation of a facility or to pay or pledge for the payment of debt service on a facility or for the reimbursement or refinancing of bonds issued. OTTED shall certify at least five facilities for retained spring training franchises. OTTED may not certify partial funding to any applicant certified as a facility for a retained spring training franchise.

The fiscal impact of the bill is a maximum of $2.5 million annually for up to 30 years or a total maximum impact of $75 million.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes [] No [] N/A [x]
2. Lower Taxes Yes [] No [] N/A [x]
3. Individual Freedom Yes [] No [] N/A [x]
4. Personal Responsibility Yes [] No [] N/A [x]
5. Family Empowerment Yes [] No [] N/A [x]

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Franchise Facilities

Chapter 88-226, L.O.F., 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. In 1996, CH 96-320, L.O.F., amended the sports franchise facilities law to replace reference to the Department of Commerce with the Office of Tourism, Trade, and Economic Development (OTTED), to raise the cap on potentially eligible applicants from six to eight, and to roll back the eligibility dates to effectively include two additional franchises that were currently existing in the state.

Current law, s. 288.1162, F.S., states that OTTED in the Office of the Governor shall serve as the state agency for screening applicants for state funding pursuant to s. 212.20, F.S., and for certifying applicant franchise facilities for funding. Section 288.1229, F.S., authorizes the creation of a direct-support organization to assist OTTED in two primary areas, one of which is in the promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida. As part of this assistance, OTTED uses the direct support organization, the Florida Sports Foundation (FSF), to carry out the applicant screening duties required under s. 288.1162, F.S. 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." In addition to current law capping the number of potentially eligible applicants at eight, the law also states that an applicant can only have one certification per facility.

Once an applicant's facility is certified by OTTED as a "new", "retained", or "new spring training" professional sports franchise facility, it is eligible to receive funding from the General Revenue Fund under s. 212.20(6)(f)5., F.S. 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 distributed 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 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.

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 Tropicana Field;
Miami Heat....................................$60,000 for the American Airlines Arena.

The following franchise has applied for and received certification to receive funds as a "retained" professional sports franchise facility:

Tampa Bay Buccaneers................$60,000,000 for Raymond James Stadium.

A "new spring training franchise" is described as one that was not based in the state prior to July 1, 1990. To date, no local government or organization has applied for certification to receive funds as a "new" spring training franchise facility. There are currently 20 professional spring training franchise facilities in Florida. Of those franchise teams, all but three have been in Florida for 29 years or longer: Toronto Blue Jays (24 yrs), Florida Marlins (8 yrs.), and Tampa Bay Devil Rays (3 yrs.). The spring training teams and their locations follow:

<u>American League</u>

***Baltimore Orioles* - Ft. Lauderdale Stadium
Boston Red Soxs - City of Palms Park Ft. Myers
***Cleveland Indians* - Chain of Lakes Park Winter Haven
***Detroit Tigers* - Joker Marchant Stadium
***Kansas City Royals* - Baseball City Stadium Davenport
Minnesota Twins - Hammond Stadium at Lee County Sports Complex in Ft. Myers
**New York Yankees* - Legends Field Tampa

<u>National League</u>

**Atlanta Braves* - Disney's Wide World of Sports Complex Lake Buena Vista
Cincinnati Reds - Ed Smith Stadium Sarasota
Florida Marlins - Space Coast Stadium Melbourne
***Houston Astros* - Osceola County Stadium in Kissimmee
****Los Angeles Dodgers* - Dodgertown Vero Beach
Montreal Expos - Roger Dean Stadium Jupiter

American League	National League
Tampa Bay Devil Rays - Florida Power Park, Home of Al Lang Field, St. Petersburg	***Philadelphia Phillies* - Jack Russell Memorial Stadium, Clearwater
***Texas Rangers* - Charlotte County Stadium Port Charlotte	*Pittsburgh Pirates* - McKechnie Field Bradenton
***Toronto Blue Jays* - Dunedin Stadium at Grant Field, Dunedin	**St. Louis Cardinals* - Roger Dean Stadium, Jupiter
	***New York Mets* - Thomas J. White Stadium in Port St. Lucie

*These teams are located in new facilities. The facility which the Atlanta Braves team uses is owned by Walt Disney World.
******These teams have leases that will expire this year or within five years.
***The Los Angeles Dodgers is the only team that owns its own facility.

Local Option Tourist Development Tax

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., provides for a local option tourist development tax at a rate of 1 or 2 percent. As of July 1, 1999, all of the 46 counties leving the tax are at the 2 percent rate. In addition to any 1 or 2 percent tourist development tax, s. 125.0104 (3)(d), F.S., 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. Only counties that have levied the 1 or 2 percent for three years are eligible. Of the 38 counties eligible to levy the tax, 24 were levying the additional tax as of July 1, 1999.

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., 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 July 1, 1999, 13 counties levied this tax.

Finally, s. 125.0104 (3)(n), F.S., 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. Twelve counties are eligible to levy this tax. Only three counties (Broward, Duval and Hillsborough) levied the tax as of July 1, 1999.

C. EFFECT OF PROPOSED CHANGES:

The bill amends s. 212.20(6)(f), F.S., to authorize the Department of Revenue (DOR) to distribute up to $41,667 monthly in sales tax proceeds to each of at least five qualified applicants certified as a facility for a "retained" spring training franchise. This replaces the authority to distribute sales proceeds to applicants certified as "new" spring training franchise facilities for which no applicants have been qualified. This new distribution is limited to a monthly distribution of $208,335 in the aggregate to all certified recipients for an annual maximum of $2.5 million. Distributions to an individual franchise is limited to 30 years.

The bill amends s. 288.1162, F.S., to provide that OTTED shall serve as the state agency for screening and certifying applicants for a facility for a retained spring training franchise. This replaces the screening and selection mechanism for applicants for certification as new spring training franchise facilities. The bill defines "facility for a retained spring training franchise" as a facility used by a spring training franchise that was built before July 1, 1990. Prior to certifying, OTTED must determine that:

- A unit of local government, as defined in s. 218.369, F.S., is responsible for the acquisition, construction, management, or operation of the facility or holds title to the property on which the facility is located;

- The applicant has a verified copy of a signed agreement with a retained spring training franchise for the use of the facility for a term of at least 15 years;

- The applicant has a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility for a retained spring training franchise. The agreement can be contingent upon the awarding of funds under this section and other conditions precedent to use by the spring training franchise;

- The applicant has valid projections demonstrating that the facility will attract paid attendance of at least 50,000 annually; and,

- The facility is located in a county that is levying a tourist development tax pursuant to s.125.0104, F.S. (This varies from the statutory requirement for "new" spring training franchise language which required a local government to be levying at the rate of 4 percent, including one percent for sports franchises.)

Upon qualifying for review, OTTED is required to evaluate the applications which must be submitted by October 1, 2000. If more than five applications are received, and the aggregate funding requests exceed $208,335 per month, OTTED must rank the applications using the following criteria, with priority given in descending order:

- The intended use of the funds with priority given to the construction of a new facility;

- The length of time the existing franchise has been located in the state, with priority given to retained franchises that have been in the same location the longest;

- For those leasing a facility from a unit of local government, the remaining time on the lease for facilities used by the franchise, with priority given to the shortest time period remaining on the lease;

- The duration of the future-use agreement with the franchise, with priority given to the future-use agreement having the longest duration;
- The size and amount of dollars involved in the local match, with priority given to the largest percentage of local match proposed;
- The net increase of total active recreation space owned by the applying unit of government following the acquisition of land for the facility, with priority given to the largest percentage increase of total active recreation space;
- The location of the facility in a brownfield, enterprise zone, community redevelopment area, or other area of targeted development or revitalization included in an Urban Infill Redevelopment Plan; and,
- The projections on paid attendance attracted by the facility and the proposed effects on the economy of the local community.

The bill provides that funds may not be expended to subsidize privately owned and maintained facilities for use by the spring training franchise or to relocate an existing spring training franchise to another unit of local government within the state. Funds may only be used to pay for acquisition, construction, reconstruction, or renovation of a facility or to pay or pledge for payment of debt service on a facility or for the reimbursement or refinancing of bonds issued to acquire, construct, reconstruct, or renovate a facility.

OTTED is required to certify at least five facilities for retained spring training franchises. Partial funding to any certified applicant is prohibited.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends the language of s. 212.20(6)(f), F.S., to authorize the Department of Revenue (DOR) to distribute up to $41,667 monthly in sales tax proceeds to each of at least five qualified applicants certified as a facility for a “retained” spring training franchise. This replaces the authority to distribute sales tax proceeds to applicants certified as “new” spring training franchise facilities, for which no applicants have been qualified. This new distribution is limited to a monthly distribution of $208,335 in the aggregate to all certified recipients with an annual cap of $2.5 million. Distributions to an individual franchise is limited to 30 years.

Section 2. The bill amends s. 288.1162, F.S., to require OTTED to serve as the state agency for screening and certifying applicants for a facility for a retained spring training franchise. This replaces the screening and selection mechanism for applicants certified as new spring training franchise facilities. The bill defines “facility for a retained spring training franchise” as a facility used by a spring training franchise that was built before July 1, 1990. Prior to certifying, OTTED must determine that:

- A unit of local government is responsible for the acquisition, construction, management, or operation of the facility or holds title to the property on which the facility is located;
- The applicant has a verified copy of a signed agreement with a retained spring training franchise for the use of the facility for a term of at least 15 years;

- The applicant has a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility. The agreement can be contingent upon the awarding of funds under this section and other conditions precedent to use by the spring training franchise;

- The applicant has valid projections demonstrating that the facility will attract paid attendance of at least 50,000 annually; and,

- The facility is located in a county that is levying a tourist development tax pursuant to s.125.0104, F.S.

Upon qualifying for review, OTTED must evaluate the applications submitted by October 1, 2000. If more than five applications are received, and the aggregate funding requests exceed $208,335 per month, OTTED must rank the applications using the following criteria, with priority given in descending order:

- Intended use of the funds with priority given to the construction of a new facility;

- Length of time that the existing franchise has been in the state, with priority given to those that have been in the same location the longest;

- For those leasing a facility from local government, the remaining time on the lease for facilities used by the franchises, with priority given to the shortest time period remaining on the leases;

- Duration of the future-use agreement with the franchise, with priority given to the future-use agreement having the longest duration;

- Size and amount of dollars involved in the local match, with priority given to the largest percentage of local match proposed;

- Net increase of total active recreation space owned by the applying unit of government following the acquisition of land for the facility, with priority given to the largest percentage increase of total active recreation space;

- Location of the facility in a brownfield, enterprise zone, community redevelopment area, or other area of targeted development or revitalization included in an Urban Infill Redevelopment Plan; and,

- Projections on paid attendance attracted by the facility and the proposed effects on the economy of the local community.

Funds may not be used to subsidize privately owned and maintained facilities for use by the franchise or to relocate an existing franchise to another unit of local government in the state. Funds may only be used to pay for acquisition, construction, reconstruction, or renovation of a facility or to pay or pledge to pay debt service on a facility or for the reimbursement or refinancing of bonds issued to acquire, construct, reconstruct, or renovate a facility.

At least five facilities are required to be certified by OTTED. Partial funding to any certified applicant is prohibited.

Section 3. Provides that the bill takes effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 00-01	FY 01-02
General Revenue	($0.4M)	($2.5M)

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The economic benefits of a retained spring training franchise facility will vary from host community to host community. In 1991, the Florida Sports Foundation estimated that the 18 spring training facilities statewide generate $305 million in economic activity. Currently, there are 20 facilities statewide and it is estimated that the aggregate impact has increased since then.

A recent study measured the economic impact of nine major league spring training operations in West Central Florida. The study found the annual impact to be $142.8 million.

D. FISCAL COMMENTS:

Up to $208,335 per month, $2.5 million annually, or $75 million over 30 years in sales tax revenue could be used to finance the acquisition, construction, reconstruction, or renovation of retained spring training franchise facilities in the state.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties of 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 or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Section 288.1162(2), F.S., provides that OTTED shall develop rules for the receipt and processing of applications for funding pursuant to s. 212.20, F.S.

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

House Bill 1439 was heard by the Tourism Committee on March 21, 2000, and reported unanimously favorable as a committee substitute. The committee substitute conformed the bill to its Senate companion as it was amended. Described below are four technical problems in HB 1439 that were corrected by CS/HB 1439. Committee Substitute for House Bill 1439 did the following:

- Restored the Department of Revenue's authority to distribute sales tax proceeds to a "qualified retained professional sports franchise";

HB 1439 repealed the statutory provisions authorizing DOR to distribute sales tax proceeds to a qualified "retained professional sports franchise facility" which may have jeopardized the contract the state has with the Tampa Bay Buccaneers organization to receive such tax proceeds. Currently, the Buccaneers are entitled, by their certification, to receive a distribution of $2 million a year for 27 more years. The sponsor of the bill indicated that it was not his intention to delete DOR's authority to distribute sales tax proceeds to qualified retained professional sports franchises. Additionally, the restoration of this language made section 1 of the bill consistent with related provisions in section 2 of the bill which amended s. 288.1162, F.S.

- Changed references to s. 212.20(5)(f), F.S., a nonexistent provision in law, to s. 212.20(6)(f);
- Deleted a reference to a "new" spring training franchise facility which was left in the bill; and**,**
- Corrected a scrivener's error which misprinted current law.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:	Staff Director:
Monique H. Cheek	Judy C. McDonald

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:	Staff Director:
Lynne Overton	Alan Johansen

AS FURTHER REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

Prepared by:	Staff Director:
Kurt Hamon	Eliza Hawkins