

STORAGE NAME: H0751

DATE: March 13, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TOURISM
ANALYSIS**

BILL #: HB 751

RELATING TO: Florida Sports Authority Act

SPONSOR(S): Representative Rojas

TIED BILL(S):

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

- (1) TOURISM
 - (2) REGULATED SERVICES
 - (3) COMMUNITY AFFAIRS
 - (4) GOVERNMENTAL OPERATIONS
 - (5) FINANCE & TAXATION
 - (6) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
-

I. SUMMARY:

The bill, entitled the "Florida Sports Authority Law", creates the Florida Sports Authority (Authority), a public corporation established within the Office of the Secretary of State, for the purpose of promoting athletic contests, pari-mutuel wagering events, spectator sporting events, trade shows, and other expositions. As an adjunct to creating facilities, the Authority is empowered to take statewide action to construct, acquire, operate, and maintain stadiums and other related facilities including improvements for the use and operation of the State University System. The bill also provides for the authority to operate a Florida Sports Hall of Fame.

In addition, the Authority can exercise its power to relocate roads and condemn property by exercising eminent domain and is exempt from land-use plans, zoning restrictions, and building codes. With approval by the Public Service Commission, the Authority can regulate the installation, construction, maintenance, repair, and relocation of tracks, pipes, conduits, cables and other public utility facilities.

The bill provides for the appointment of the 12-member Authority and for its powers and duties. The Authority has no stock holders nor equity holders. All bond proceeds, revenues or other cash received must be applied for specific purposes in accordance with the provisions of the act and related to bond resolutions for the security of the bondholders. The bill provides for a funding mechanism by authorizing the Authority to issue bonds or notes in principal amounts to provide sufficient funds for any of its corporate purpose, including the payment, funding or refunding of the principal of or interest on redemption premiums on any bonds or notes, whether or not, the bonds, notes or interest to be funded or refunded have or have not become due. The bill also provides for the Authority to purchase bonds or notes. The bonds or notes are *general obligation bonds* payable out of any revenues or funds from the Authority. The bill also provides for the state to guarantee the bonds.

The bill provides for an annual budget, the recordation of the budget in minutes, an annual audit contract, and an annual report. Exemptions are provided for real estate tax, admission and amusement tax, excise tax, and license or pari-mutuel fees of any kind to be assessed by the state or any county or municipality or any body having power to collect taxes or license fees. The bill provides for public bids; but, the Authority also holds broad authority to invest its funds and to contract with any person or firm, seemingly outside the requirements of the state purchasing requirements.

There are several constitutional concerns identified by executive agencies regarding the bill as well as general concerns affecting both the state and local communities [See "IV. Comments" Section of the Analysis].

The fiscal impact of this bill is not able to be determined at this time.

II. SUBSTANTIVE ANALYSIS:

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A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

House Bill 751 provides tax exemptions for properties owned and operated by the Florida Sports Authority under certain circumstances. These exemptions include real estate tax, admission and amusement tax and excise tax. Additionally, exemptions include license or pari-mutuel fees. These exemptions apply to the state and any county or municipality or any body having power to collect taxes or license fees. Under certain circumstances local option tourist development taxes and any luxury tax (specifically, City of Miami, Miami-Dade County) will be impacted by developments of the Florida Sports Authority. The bill brings into question, what the impact will have on all levels of government and any revenues currently collected or that would otherwise be collected if the Authority were not building, acquiring, renovating, leasing, etc. properties. The tax revenues received by state and local governments might be reduced and, if reduced, there is a question of how revenues will be recouped by the governmental entities. This recoupment possibly could lead to the need to raise other taxes or lower services in some way.

B. PRESENT SITUATION:

Chapter 550, F.S., governs pari-mutuel wagering and Chapter 288, F.S., provides for the promotion and development of the sports industry in the state. Section 125.0104(3), F.S., relating to the local option tourist development tax, provides under certain statutorily dictated circumstances for the levy of up to 2 percent for professional sports franchise facilities and retained spring training franchise facilities for the payment of the debt service on bonds issued to finance the construction, reconstruction, or renovation of such facilities and to pay the planning and design costs incurred prior to the issuance of such bonds. While not necessarily directly impacting these sections of law, House Bill 751 will effect how these types of events, facilities, and marketing functions are regulated and administered. Detailed below is a synopsis of how the Florida Sports Foundation, franchise facilities, Sports Hall of Fame and Museum of Florida Sports History, and pari-mutuels function.

The Florida Sports Foundation

The Florida Sports Foundation (Foundation) is a statutorily created entity which performs a number of functions designed to promote sporting activities within Florida. Section 288.1229, F.S., authorizes the creation of a direct support organization within the Governor's Office of Tourism, Trade, and Economic Development (OTTED) for the purpose of promoting and developing the sports industry and related industries in the state. The Foundation board members consist of fifteen members appointed by the Governor and up to fifteen members appointed by the existing board of directors. Funding for Foundation

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activities is provided primarily from the private sector and from the professional sports license tag program under s. 320.08058(9), F.S. The license tag program provides approximately \$1.1 million annually which channels matching grant funds through the Foundation to regional sports organizations and professional sports franchise host committees in local communities. Approximately \$350,000 annually is appropriated from General Revenue for amateur sports. Finally, the administration of the funds collected from the sale of the Olympic license plates under s. 320.08058, F.S., is transferred to the Foundation. Of the amount collected from the Olympic license plates, 50% goes to the US Olympic Committee and 50% goes to fund the state amateur games, known as the Sunshine State Games.

In its role as the states official promotional office, the Foundation serves as the primary source of information on sports and sporting opportunities in the state. The organization produces several Florida sports guides and conducts workshops and conferences designed to increase the knowledge of, and interest in, sports as a viable revenue producer for the state. In addition, to channeling grant funds to local and regional sports organizations and local governments, the Foundation has been very active in assisting these entities in promoting their venues to not only professional, but also major amateur competitions. In the area of amateur sports such as golf and fishing, the Foundation has been active in helping to create state championship programs. Other duties of the Foundation include the promotion of physical fitness and amateur sports for the citizens of Florida, the promotion of Florida as a host for national and international amateur sports competitions, and the administration of the Sunshine State Games. The Foundation is responsible for the Sunshine State Games, programs to encourage participation in Florida's youth in Olympic sports and competitions, Seniors State Games, and support for Florida bid-cities or communities seeking to host the summer Olympic or Pan American Games.

Franchise Facilities

Funding from Sales Tax:

Chapter 88-226, Laws of Florida, established a funding mechanism for state support of the construction of new professional sports franchise facilities within Florida. Currently, the Florida Sports Foundation (Foundation) carries out the screening responsibility for OTTED and certifies the eligibility of the applicant's professional sports franchise under the category of either "new," "retained," or "new spring training." An applicant may only have one certification per facility. The statutory cap on potentially eligible applicants is eight.

Once an applicant's facility is certified as one of these types of professional sports franchise facilities it is eligible to receive funding from the General Revenue Fund under s. 212.20(5)(f)5., F.S. These 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.

Funding from Local Option Tourist Development Tax (Bed Tax):

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

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tourism in a specific area in order to fill more hotel and motel. A transient rental transaction is described in ss. 212.0305, F.S., and 125.0104, F.S., 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., provides for a local option tourist development tax at a rate of 1 or 2 percent. 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.

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 sports franchise facility, the acquisition, construction, reconstruction, or renovation of a retained spring training franchise facility, or the construction, reconstruction, or renovation of 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.

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.

Sports Hall of Fame and Museum of Florida Sports History

The Florida Sports Hall of Fame and Museum of Florida Sports History, founded in 1958 by the Florida Sports Writers Association, is owned and operated by the Hall of Fame Foundation, Inc. and is a recognized 501(c)(3) not-for-profit organization. The Florida Sports Hall of Fame and Museum of Florida Sports History was designated by state law in 1988 (Chapter 88-415, L.O.F.) as Florida's official facility to honor sports achievement and to preserve the accomplishments of individuals, teams, and organizations within the state. This is done through the induction into the Hall of Fame. The Florida Sports Hall of Fame and Museum of Florida Sports History also collects, displays and preserves objects and documentary materials relative to sports accomplishments and careers in Florida. In addition, it makes collections available to the public through exhibits and education in an attempt to increase the knowledge and appreciation of the growing diversity of sports in Florida at all levels.

Pari-Mutuel

Section 7, Article X of the Florida Constitution allows pari-mutuel pools authorized by law. Chapter 550, F.S., provides for the licensing, operation, regulation and taxation of pari-mutuel wagering. Pari-mutuel wagering is a system of betting where all the money wagered is combined in a single pool from which the house keeps a share and the winners share the remainder. In this manner, bettors wager against one another as opposed to the house. Pari-mutuel wagering is a way to gamble and is not limited by the activity for which wagers are accepted. However, when pari-mutuel wagering is mentioned, it is generally understood to mean wagering on horseracing, dogracing or jai alai games and these groups collectively make up Florida's pari-mutuel industry.

Florida's pari-mutuel industry has historically been a highly regulated industry. The state has traditionally enforced a wide range of regulatory controls over the daily operations of pari-mutuel permit holders. This complicated set of laws and regulations has been primarily designed to protect the gaming public, to protect the state's flow of tax revenues and to help ensure a healthy and viable pari-mutuel industry. Any person meeting the prescribed qualifications may obtain a permit to conduct pari-mutuel wagering, but no pari-mutuel wagering activity may take place until approved in a local option election. Minors, when accompanied by one or both parents or by a legal guardian, may attend pari-mutuel performances. Persons under the age of 18 are prohibited, however, from placing a wager on any pari-mutuel performance.

Many believe that pari-mutuel sports are in the midst of a long-term decline in popularity. Over the past decade, there has been a steady decline in attendance and wagering habits for horseracing, dogracing, and jai alai games. All facets of the pari-mutuel industry are affected by the decline. This seems to be a national trend which resulted in lower state revenues from pari-mutuel activities.

In 1998, the Legislature funded, and directed the Department of State to undertake a comprehensive study of the feasibility of state ownership of Hialeah Park (Chapter 98-190, L.O.F.) The feasibility study indicated that the highest and best use of the property would be a combination of commercial and residential development. This was based upon that horseracing is an industry in decline. Of the three horse racing pari-mutuel facilities in Dade County, Hialeah is the weakest and is unable to compete with others; business performance has been poor and expenses are out of line with revenues; and the track has had a negative income for the past eight years. Notwithstanding the above, the report recommends that the City of Hialeah and/or the State of Florida purchase Hialeah Park and its pari-mutuel permit. The recommendation stems from the importance the authors place on the historical context and the desirability of maintaining open spaces within the city.

Currently, Florida has five thoroughbred racing facilities: Calder Race Course, Inc.; Gulfstream Park; Hialeah, Inc.; Tampa Bay Downs, Inc.; and Tropical Park, Inc.

C. EFFECT OF PROPOSED CHANGES:

The bill, entitled the "Florida Sports Authority Law", creates the Florida Sports Authority, established within the Office of the Secretary of State, for purpose of promoting athletic contests, pari-mutuel wagering events, spectator sporting events, trade shows, and other expositions. The Authority is empowered to take statewide action to construct, acquire, operate, and maintain stadiums and other related facilities including improvements for the use and operation of the State University System. The bill also provides for the authority to

operate a Florida Sports Hall of Fame. Also, the Authority is given the power to construct and relocate roads and condemn property by exercising eminent domain. With approval by the Public Service Commission, the Authority can regulate the installation, construction, maintenance, repair, and relocation of tracks, pipes, conduits, cables and other public utility facilities.

The bill provides for the appointment of the 12-member Authority and for its powers and duties. The Authority has no stock holders nor equity holders. All bond proceeds, revenues or other cash received must be applied for specific purposes in accordance with the provisions of the act and related to bond resolutions for the security of the bondholders. The bill provides for a funding mechanism by authorizing the Authority to issue bonds or notes in principal amounts to provide sufficient funds for any of its corporate purpose, including the payment, funding or refunding of the principal of or interest on redemption premiums on any bonds or notes, whether or not, the bonds, notes or interest to be funded or refunded have or have not become due. The bill also provides for the Authority to purchase bonds or notes. The bonds or notes are *general obligation bonds* payable out of any revenues or funds from the Authority. The bill also provides for the state to guarantee the bonds.

The bill provides for an annual budget, the recordation of the budget in minutes, an annual audit contract, and an annual report. Under certain circumstances, exemptions are provided for real estate tax, admission and amusement tax, excise tax, and license or pari-mutuel fees of any kind to be assessed by the state or any county or municipality or any body having power to collect taxes or license fees. The bill provides for public bids; but, the Authority also holds broad authority to invest its funds and to contract with any person or firm, seemingly outside the requirements of the state purchasing requirements.

The bill states in legislative findings and declarations that the Legislature has determined that in order to accomplish its goals and purposes, it is necessary and desirable to authorize the Authority to immediately acquire and operate any pari-mutuel wagering facility and its contiguous properties and auxiliary facilities. Further, the bill provides for the Authority to apply for and obtain a pari-mutuel wagering permit and for the acquisition, operation, maintenance, repair, reconstruction, and improvement of a pari-mutuel wagering facility. The Authority shall not acquire a pari-mutuel facility until a feasibility study is conducted by a private independent consulting firm satisfactory to the Legislature to ensure repayment of indebtedness.

The Authority has two initial projects required by the legislation: a major league sports facility for 56,517 attendees and a pari-mutuel wagering facility. While not directly naming any race track, the qualifications outlined in the bill appear to target a particular property as a priority (Hialeah).

The fiscal impact of the bill is not able to be determined at this time.

Finally, there are several constitutional issues identified by executive agencies as well as general concerns affecting the state and local communities. There are also concerns with mandates. [See Fiscal Impact on Local Government, Constitutional Issues, and General Comments sections]. For more detailed information on the bill, refer to the section by section analysis.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates the short title for the Florida Sports Authority Act.

Section 2. Provides the legislative intent for the creation of the Florida Sports Authority.

Section 3. Provides definitions.

Section 4. Creates the Florida Sports Authority within the Office of the Secretary of State. The Authority consists of 12 members: the Treasurer, Secretary of State, President of the Sports Authority, three members appointed by the Governor with the advice and consent of the Senate, three members appointed by the President of the Senate, and three members appointed by the Speaker of the House. Members serve without compensation. Provides for the dissolution of the Authority by act of the Legislature, providing the Authority has no outstanding debts or obligation. Upon dissolution of the Authority, all property, funds, and assets of the Authority shall be vested in the State. Provides for minutes of each meeting to be delivered to the Governor and secretary of the Authority.

Section 5. Establishes the powers of the Authority. Provides that the Authority has the power to sue and be sued; have an official seal; make and alter bylaws; maintain an office in the state; acquire, hold, use, and dispose of its income, revenues, funds and moneys; acquire, lease as lessee or lessor, rent, use and dispose of real or personal property for its purposes; borrow money and issue its negotiable bonds or notes and secure the same by a mortgage on its property; enter into any credit agreement; provide for and secure the payment of its bonds and notes; provide for the rights of the holders; make and enter into contracts, leases, and agreements for the use of occupancy; make surveys, maps, plans for, and estimates of the cost of its projects; establish, acquire, construct, lease the right to construct, rehabilitate, repair, improve, own, operate, and maintain its projects, and let, award, and enter into construction contracts, purchase orders, and other contracts; fix and revise from time to time and charge and collect rents, tolls, fees, and charges for the use, occupancy, or services of its projects or for admission thereto and for the grant of concessions; establish and enforce rules for the use of operation of its projects or activities; acquire by purchase or by the power of eminent domain (except with respect to the state) any land and other property which may be determined necessary for a project for the relocation or reconstruction of any highway owned, other than those authorized by the Legislature or a local government or municipality; appoint and employ a president and additional officers; perform acts authorized; procure insurance against losses; create a not-for-profit corporation to carry out its powers; to determine the location, type, and character of any project; to hold and conduct pari-mutuel wagering events; provide whatever is necessary to facilitate the public's use of its facilities; invest moneys of the Authority; purchase bonds or notes of the Authority; and to contract for and accept gifts or grants or loans.

Section 6. Provides for submission of the Authority's annual operating budget. The proposed annual budget of the Authority and the capital budgets for all projects of the authority must be submitted to the State Treasurer and the Legislature prior to submission to the members of the Authority. The budget will be adopted as part of the minutes.

Section 7. Requires an operational and financial audit. The State Treasurer, in consultation with the Authority, is required to contract for conducting of independent operations and financial audit of the Authority and to prescribe any supporting documentation to be provided under the terms of the contract. Recommendations regarding a reasonable operations and maintenance budget must be part of the contract.

The Authority, State Treasurer, the Budget Committee of the Senate, and the Fiscal Responsibility Council of the House of Representatives are to receive copies of the audit.

Section 8. Authorizes types of projects for the Authority. Either alone or in conjunction with others, the Authority is authorized to establish, develop, construct, operate, acquire, own, manage, promote, maintain, repair, reconstruct, restore, improve, and otherwise effectuate, either directly or indirectly through lessees, licensees, or agents, a project consisting of major or minor league baseball stadiums, exposition centers, hotels, office complexes, pari-mutuel facilities, professional league franchises, complementary facilities, state university system sports facilities, and convention halls. The Authority is also authorized to assume existing leasehold obligations, make loans or payments in aid of infrastructure construction and site development, provide funding for public institution facilities, make capital contributions, lease, sell or dispose of any real or personal property.

Section 9. Provides for use of revenues. Provides that revenues derived from the operation or ownership of any facility, including pari-mutuel wagering events to be applied, in accordance with resolutions or the issuance of bonds or notes of the Authority, for the purposes and the order specified: cost of operation and maintenance of any facility; principal, sinking fund installments and redemption premiums; cost of repairs and improvements in accordance with resolutions; repayment of obligations to the state; the balance remaining after the above shall be placed in the General Revenue Fund provided that an amount shall be appropriated from that amount to cover the debt service on outstanding bonds issued on projects; any revenues other than funds derived from the *operation or ownership* of a baseball stadium or office complex located on the site of a baseball stadium and subject to resolution or relating to the issuance of bonds or notes will first be used for purposes agreed by the State Treasurer, to any other project of the Authority or deposited in the General Revenue Fund; and any revenues other than funds derived from the *leasing* of a baseball stadium or office complex located on the site of a baseball stadium and subject to resolution or relating to the issuance of bonds or notes will first be used for the cost of operation and maintenance of the stadium, payments made on the bonded indebtedness incurred by the Authority, any balance to be deposited in the General Revenue Fund.

Section 10. Provides for the Authority to operate a Florida Sports Hall of Fame.

Section 11. Requires consultation with local officials. The Authority must consult with local officials on any project authorized by the Authority in order to minimize any conflict with a master plan.

Section 12. Authorizes application for pari-mutuel permits. The Authority is authorized, empowered, and licensed to apply to the Department of Business and Professional Regulation to conduct pari-mutuel events. The Authority is to determine the amount of admission for the events and all related matters.

Section 13. Sets for distribution of revenues. Provides for distribution of the moneys deposited in pari-mutuel pools to winners in accordance with Chapter 550, F.S. Prohibits any admission or amusement tax, excise tax, license or pari-mutuel fee of any kind to be assessed on the Authority by the state or any county or municipality or any body having power to collect license fees or taxes.

Section 14. Establishes employee licensure requirements for pari-mutuel wagering events and provides for disciplinary actions for persons involved in such events. Requires each employee of the Authority engaged in conducting pari-mutuel wagering events to obtain the

appropriate license from the Department of Business and Professional Regulation. The department, after a hearing may suspend any member of the Authority upon approval of the Governor may suspend the license of any employee of the Authority for violating pari-mutuel law or any rule of the department.

Section 15. Grants authority, under certain circumstances, to the Florida Sports Authority for public highway relocation, entry onto certain properties, and regulation of public utility facilities. Provides for the Authority, if the Authority finds it necessary, to relocate public highways. Provides for the authority to enter lands, waters, or premises for the purpose of making surveys, soundings, drillings, and examinations. Also provides for the Authority to regulate the installation, construction, maintenance, repair, and relocation of tracks, pipes, conduits, cables and other public utility facilities with approval by the Public Service Commission.

Section 16. Gives power to the Authority to exercise eminent domain. Circumstances for exercising the power of eminent domain, compensation, and required procedures for the Authority's exercise of eminent domain are described.

Section 17. Authorizes the Authority to issue bonds and notes and sets forth terms related to those bonds and notes. Provides for the Authority to issue bonds or notes in principal amounts to provide sufficient funds for any of its corporate purpose, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds or notes whether or not the bonds, notes or interest to be funded or refunded have or have not become due. The bonds or notes are general obligations paid from the revenues or funds of the Authority. Provides for the state to guarantee the bonds. Provides for the Authority to purchase bonds or notes.

Section 18. Provides for covenants to secure payment for bonds and notes issued by the Authority. The Authority is given the power in any resolution authorizing or relating to the issuance of bonds or notes in order to secure payment, to constitute covenants and contracts with holders of those bonds or notes. The pledges and covenants are delineated in the section.

Section 19. Provides for the Authority to pledge revenues, funds, or other property.

Section 20. Removes personal liability for bonds and notes. Provides that neither the members of the Authority nor any person executing bonds or notes pursuant to the act are liable personally.

Section 21. Authorizes the Authority to establish reserves, funds, or accounts to accomplish the purposes of the Authority or to comply with agreements or resolutions.

Section 22. Authorizes the establishment of a debt service reserve fund, sets forth limitation on issuance of bonds, provides for requirements regarding the accumulation of moneys, states that neither the state nor any of its political subdivisions are liable for the bonds or notes of the Authority, and provides that the Authority's initial projects are a major league baseball stadium and a pari-mutuel wagering facility.

The Authority is authorized to establish a debt service reserve fund and to pay into the reserve any monies appropriated by the Legislature. The monies held in the reserve are to be used solely for the payment on the principal of the bonds of the Authority secured by the reserve fund; the purchase or retirement of bonds; payment of interest, or payment of redemption premium required. Money in the fund cannot be withdrawn if it causes the fund

to decrease less than the maximum debt service required to service outstanding bonds except for paying principal of, interest on, premium on, and the retirement of the bonds.

Prohibits the Authority from issuing bonds if the maximum debt service reserve is not sufficient to cover bonds outstanding and secured by the reserve fund as well as those bonds considered for issuance. The prohibition does not apply if, at the time of issuance of the bonds, the Authority deposits an amount which will increase the reserve fund to a level that will not be less than the maximum debt service for outstanding bonds as well as the bonds to be issued. The level of money in the debt service reserve fund, however, can go below the maximum debt service reserve for the purpose of paying principal of, interest on, and premium, if any, on, the retirement of secured bonds by the reserve fund maturing or becoming due, and for the payment of which other moneys are not available.

The chair of the Authority annually on or before March 1, shall deliver to the Governor, the chair's certificate stating the amount required to restore debt service reserve fund and the amount certified shall be appropriated, with approval of the Legislature, and paid to the Authority to be deposited in the debt service reserve fund prior to the end of the first calendar month of the next succeeding fiscal year.

Provides that the bonds or notes are not deemed to be in any way debt or liability, indebtedness, or a pledge of faith of the state other than the Authority.

Delineates that the term "initial project" of the Authority encompasses a major league baseball stadium seating approximately 56,517 persons, and any minor league stadiums, and any pari-mutuel wagering facility. Any roadways, facilities, and appurtenances related to those facilities are considered part of the "initial project."

Section 23. Delineates right of state to require redemption of bonds before maturity.

Provides for the state, through order of the Governor upon an act of the Legislature, has the right to require the Authority to redeem, pay, or cause to be paid at or prior to maturity, in whole or in part any of the bonds issued by the Authority.

Section 24. Requires the establishment of the Sports Authority Fund. The State Treasurer is to establish the Sports Authority Fund and to pay into the fund amounts from the General Revenue Fund as necessary, to pay principal and interest on bonds or notes of the Authority issued pursuant to this act and to pay any amounts due from the Authority in connection with the bonds or notes. All payments from the General Revenue Fund are dependent upon an appropriation by the Legislature. The State Treasurer and the Authority are authorized to enter into agreements to secure the payment of bonds or notes issued and interest and providing for the investment of money in the fund. Agreements are subject to approval by the presiding officers of both houses of the Legislature. No other agreements are allowed.

Section 25. Provides additional powers to the Authority relating to bonds and notes. In addition to the Authority's powers to sell bonds and notes, the Authority is granted power to issue bonds and notes payable from amounts in the Sports Authority Fund to provide sufficient funds to refund outstanding bonds or notes issued for any complex; establish funds for reserves; provide payments for costs or expenses; finance or refinance a capital program for major repairs, reconstruction and improvements; finance or refinance state university or higher education facilities; and, finance or refinance feasibility studies. These bonds are *special obligation bonds*.

Section 26. Provides the Authority with control of local government luxury tax (City of Miami, Miami-Dade County) proceeds under certain circumstances. Provides that when the Authority constructs, purchases, or leases a convention hall in a municipality or county which levies a luxury tax and the Authority is responsible for the supervision of the operation of the hall, the proceeds of the luxury tax will be transferred to the Authority. Luxury tax proceeds will be used to pay debt service on the bonds and fund the operating deficit and capital expenditures for the convention center project.

Section 27. Guarantees that the state will not limit nor alter rights or powers of the Authority. Requires the state to pledge, covenant, and agree with the holders of bonds or notes that the state will not limit or alter the rights or powers vesting in the Authority to acquire, construct, maintain, improve, repair and operate a project that would jeopardize the interests of its holders or to fulfill the terms of the contract.

Section 28. Authorizes bonds and notes issued under this act as legal investment or security for public deposits. Provides that the state, all public officers, governmental units, banks, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies, and other persons carrying on a banking business, may legally invest in any sinking fund, moneys, or other funds belonging to them or within their control in any bonds or notes issued which are authorized security for any and all public deposits.

Section 29. Provides for the lease or conveyance of land by the state or governmental subdivisions to the Authority. Authorizes all counties, municipalities, governmental subdivisions, all authorities, and all public departments to lease, lend, grant or convey to the Authority, upon its request, any real property or interest therein which may be necessary to effectuate the purpose of the authority, including public highways and other real property already devoted to public use.

Section 30. Provides for tax exemption of Authority's property under certain circumstances and provides for mechanism to pay local governments money in lieu of tax to assist in defraying loss of tax revenues.

Provides that all projects and other property of the Authority are declared public property and are exempt from all taxes and special assessment of the state. If there is an undue loss of future tax revenues by reason of the acquisition of real property by the Authority, the Authority shall make annual payments in lieu of taxes to the municipality where the property is located in a fraction of the amount that would have been raised. The numerator is the amount of real property taxes assessed in the tax year and the denominator is the total amount to be raised by real property taxation in the municipality. Taxes shall be paid each year until the status is converted from taxable to exempt status by reason of acquisition of the Authority.

The Authority can enter into agreement with any county or municipality to pay any additional amounts to compensate for any loss of tax revenues by reason of the acquisition of real property. Every county and municipality is empowered to enter into such agreements with the Authority to accept payments.

Section 31. Requires an annual report to be submitted to the Governor and the Legislature. The report, to be submitted to the Governor and Legislature on or before the last day of February each year, is to include the Authority's activities for the preceding year and a complete operating and financial statement. Requires the Authority to have a CPA

prepare an annual audit of its books and accounts, a copy of which is to be filed with the Comptroller.

Section 32. All officers, departments, boards, agencies, divisions, and commissions of the state are authorized to render any services to the Authority. The cost and expense of such services shall be met by the Authority.

Section 33. Provides for the Authority to enter into contracts and agreements to perform its duties and requires the Authority to adopt rules and procedures regarding contracts and agreements. No contract on behalf of the Authority shall be entered into for the performance of any work, hiring of equipment or vehicles over \$500,000 unless there is a public bid.

Section 34. Establishes bid requirements for the Authority. Provides for purchases, contracts, or agreements over \$500,000 after June 30, 2000 shall be made, negotiated or awarded after public advertisements for bids and awarded to the bidder whose bid is advantageous, taking in to consideration, price and other factor. Any bid rejected will be considered no in the public interest. Purchases, contracts, or agreements less than or equal to \$500,000 after June 30, 2000 are not subject to the bid process. Commencing January 1, 2001, the Governor, in consultation with the State Treasurer, shall no later than March 1 of each odd-numbered year, adjust the threshold amount in direct proportion to the rise and fall in the consumer price index for all urban consumers in the Miami-Dade areas as reported by the US Department of Labor. The Governor, no later than June 1 of each odd-numbered year, notify the authority of the adjustment which will become effective July 1 of each odd-numbered year.

Section 35. Authorizes establishment of set-aside contract goals and procedures. Provides for the Authority to establish, prior to initiating a project, small business, minority business, and women business set-aside contract goals and procedures in accordance with applicable law.

Section 36. Under certain circumstances, provides exemption from bid procedures. Provides that any purchase, contract, or agreement for which the cost or contract price exceeds the amount specified, or after June 30, 2001, the amount calculated by the Governor may be negotiable, or awarded without advertisement for bid as described in sections 37 and 38.

Section 37. Authorizes exemptions from bid process based on subject matter. Provides an exemption from the bid process when the subject matter consists of professional services; perishable items; specialized equipment; services supplied by a public utility; styled or seasonal items; quality athletic contests (including pari-mutuel events) and trade shows, expositions, and concerts; lease of office machinery, building or real property; and sale of licensing or advertising rights.

Section 38. Authorizes exemptions from bid process based on certain circumstances that are delineated. Provides additional exemptions from the bid process to include standardization of equipment; single source of supply service; safety or protection of Authority property; more favorable terms can be obtained from a primary source of supply; bid prices are not reasonable; the purchase is made from a state or federal government; or purchases are made through the Department of Management Services.

Section 39. Requires the Authority to specify, by resolution passed by a majority vote, the circumstances which permit it to makes an award without public advertisement.

Section 40. Provides that nothing shall prevent the Authority from having any work performed by its own employees.

Section 41. Provides legislative intent that in the event of any conflict or inconsistency in the provisions of this act and any other acts pertaining to matters contained in the act, the act and the rules adopted shall be enforced, and other acts and rules adopted thereunder shall be of no force or effect.

Section 42. Partial Invalidity. Provides that if any part of the Act is invalid, such judgement shall be limited to the operation which is directly involved in the controversy in which the judgment has been rendered.

Section 43. Provides that the act shall be construed liberally to effectuate the legislative intent and that all powers granted shall be broadly interpreted to effectuate such intend and purposes and not as a limitation of powers.

Section 44. Provides legislative findings and declarations regarding pari-mutuel wagering facilities and the acquisition of a facility by the Authority. The section provides that the following are the findings and declarations of the Legislature: the general welfare of the people of the state will be promoted by the advancement of pari-mutuel wagering facilities and that it is vital to state government that the revenues derived from pari-mutuel wagering in the state be continued; that ownership and operation of pari-mutuel events by a state agency would protect against a loss of revenue to the state and assure the financial stability of such facilities and availability of capital to repair, reconstruct, and restore damaged or destroyed facilities. Further the advancement and retention of such facilities and related activities in the state will provide increased recreational opportunities for the people of the state, but also benefit people in the form of increased commerce and employment. Finally, in order to accomplish such goals, the Authority should immediately acquire and operate any pari-mutuel wagering facility and its contiguous properties and auxiliary facilities.

Section 45. Authorizes the acquisition, improvement, repair, reconstruction, operation of any pari-mutuel wagering facility after certain circumstances are met including a feasibility study. Provides for the Authority to acquire, restore, and improve as additional projects any pari-mutuel wagering facility and any contiguous properties including, pavilions, stands, clubhouses, training tracks, fairgrounds, and other exposition facilities, together with all buildings structures, roads, parking areas, recreation areas, restaurants, transportation facilities, systems, equipment furnishings. If bonds or notes issued to finance any other complex are outstanding, none of the revenues of any other complex shall be used for any of the foregoing or to pay principal or interest on any bonds or notes issued to finance an additional project.

The Authority shall not acquire such facility until a feasibility study conducted by a private, independent consulting firm satisfactory to the Legislature has been completed and demonstrates that the reconstructed facility will generate sufficient revenues to ensure repayment of indebtedness incurred to finance its acquisition and reconstruction and that it will not have a materially adverse effect on the operations and financial condition of any other complex.

Section 46. Provides for permitting of and conducting of parimutuel wagering events by the Authority; delineates responsibilities of the Department of Business and Professional Regulation; and provides for sanctioning of Authority members and personnel for violation

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of pari-mutuel wagering laws. The Authority is authorized, licensed, and empowered to apply to the Department of Business and Professional Regulation (DBPR) for a permit to conduct pari-mutuel wagering events for stake, purse, or reward and to provide a place on the grounds for wagering by patrons, and to receive charges and collect all revenues, receipts, and other moneys from the ownership and operation provided that only the Authority through its employees conducts the events. The Authority is prohibited from placing any other person, firm, or corporation in control of such events.

Pari-mutuel events and wagering are to be conducted by the Authority in compliance with the standards and rules prescribed by DBPR. Permits are to be on forms prescribed by DBPR. DBPR is required to review and act on any application within 30 days after filing. If DBPR acts favorably upon an application, the permit shall be in substitution and supersede the permit issued to the facility and remain in effect as long as any bonds or notes of the Authority issued remain outstanding.

In granting a permit to the Authority, DBPR shall not limit the number of facilities permitted and the permit shall specify the dates allotted to the authority for conducting events. DBPR shall allot annually to the Authority not less than 50 thoroughbred or standardbred racing days or 100 performances at any other facility.

No hearing, referendum, or other election or preceding and no payment, surety, or cash bond is required to conduct pari-mutual events or wagering.

The Authority determines the admission fee and all matters relating to the collection of fees; all moneys held by the Authority for payment of outstanding ticket not claimed by persons will be paid to the Authority upon expiration; no admission or amusement tax, excise tax, or license or pari-mutuel fee will be assessed or collected from the Authority by the state, municipality or any other body; pari-mutuel events and wagering held at such a facility shall not be considered unlawful; each employee of the Authority engaged in wagering events shall obtain the appropriate license from DBPR. DBPR, after a hearing, may suspend any member of the Authority, upon approval of the Governor, or any employee of the Authority for any violation of law governing pari-mutuel wagering.

Section 47. Provides for an effective date of December 31, 2000.

FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

E. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There may be a positive or negative fiscal impact on revenues depending on whether the Authority is able to raise sufficient revenues to satisfy debt service.

2. Expenditures:

There may be a fiscal impact on expenditures if the state is required to appropriate funds to cover the debt service on the bonds. There may a negative impact if resources are required to set up and provide initial funding for staffing of the Authority.

There may be a negative impact on revenues of the state because of the exemptions provided for real estate tax, admission and amusement tax, excise tax, and license or pari-mutuel fees of any kind to be assessed by the state or any county or municipality or any body having power to collect taxes or license fees. The extent of the impact is not possible to assess at this time.

F. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There may be an impact on a municipality or county, if the Authority constructs, purchases, or leases a convention hall in municipality or a county which levies a luxury tax. The bill authorizes that if the Authority is responsible for the supervision or the operation of the hall, the proceeds of the luxury tax will be transferred to the Authority. Luxury tax proceeds will be used to pay debt service on the bonds and fund the operating deficit and capital expenditures for the convention center project. Only if there is a surplus after debt service will the proceeds be returned to the local community.

There may be a negative impact on revenues because the bill provides exemptions provided for real estate tax, admission and amusement tax, excise tax, and license or pari-mutuel fees of any kind to be assessed by the state or any county or municipality or any body having power to collect taxes or license fees. The bill does, however, provide a mechanism for helping the local government to recoup, at least in part, such tax losses.

2. Expenditures:

None.

G. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

H. FISCAL COMMENTS:

The fiscal impact of this bill is unknown. In accordance with procedures to be established by the State Treasurer and the Authority, the proposed annual budget of the authority is to be submitted to the State Treasurer and the Legislature. As stated above, the impact of tax exemptions is also not able to be determined at this time.

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

I. APPLICABILITY OF THE MANDATES PROVISION:

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

J. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill will reduce the authority of some counties or municipalities to raise revenue.

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

This bill does reduce the percentage of a state tax shared with counties or municipalities.

III. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Pursuant to Article IV, section 6 of the Florida Constitution, an agency head shall have direct supervision of the department. According to the Department of State, if the Authority is placed in the Department of State, the Governor should not appoint the chair of the Authority. In addition, the department stated that it is inappropriate for the Governor to veto actions of the Authority, since the Secretary of State is the agency head and is constitutionally authorized to exercise direct supervision over all aspects of the department.

The Department of State added that while the department is not an agency with expertise in the area of state bonds, pursuant to the constitution, without a vote of the electors, only revenue bonds solely from funds derived from non-tax sources may be authorized in this circumstance. The department added further that with the constitutional limit on the outstanding principal of all state bonds, it would seem prudent that these bonds be issued in the more traditional route through the Division of Bond Finance.

Further, the Department of State added that the bill purports to waive dual office holding. The prohibition against holding more than one office in state, county, or municipal government is established by the state constitution and cannot be waived by the Legislature.

B. RULE-MAKING AUTHORITY:

The bill does not provide the Department of State nor the Florida Sports Authority with specific rule-making authority.

Rulemaking provisions are provided in the bill relating to contracting which refers to adopting standing rules. Additionally, under the powers and duties of the Authority, broad, general rulemaking authorization is given. The language does not appear to follow guidelines for rulemaking authorization.

C. OTHER COMMENTS:

The bill contains some minor technical errors but also contains some more substantive issues such as the appointment scheme of the membership of the Authority and the removal of these members, responsibility for preparation of the budget of the Authority, the suspension of a member of the Authority by the Department of Business and Professional Regulation, and the failure of the exemption from personal liability provision to take into consideration gross neglect or a purposeful act. These are in addition to issues outlined by the executive agency comments reported below.

The Committee staff requested comments on the legislation from various state agencies with an interest in provisions of the legislation. The following is a condensed version of

comments received from the departments. As of this date, the comments of the Department of Business and Professional Regulation have not been received.

The Department of Community Affairs, in its analysis of the legislation, stated that Section (5) provides that the Authority may determine the location, type, and character of any project, notwithstanding any land use plan, zoning regulation, building code, or similar regulation adopted by the state, any municipality, county, or other political subdivision of the state. This provision allows the Authority to develop a project without complying with state or local growth management laws and regulations. This would exempt such development from requirements of the State Comprehensive Plan, Strategic Regional Policy Plans, Local Government Comprehensive Plans, Developments of Regional Impact, and Areas of Critical State Concern. This would undermine the ability of the state and local government to plan and manage land development for such purposes as ensuring compatibility of land uses and adequacy of infrastructure, maintaining adequate transportation, protecting natural resources, and mitigating hazards. The term "land-use" plan is confusing. It could be construed by some to mean an entire comprehensive plan or only its future use element. The department offered the term "local comprehensive plan".

Further, the Department of Community Affairs stated that section (11) provides that any project authorized or acquired by the Authority shall be developed only after consultation with local officials and after giving consideration to local objections, problems, and suggestions in order to minimize conflict with the master plan, zoning ordinances, and other development regulations of the municipality or municipalities in which the project is to be situated. The department stated that while this section provides for some degree of coordination with municipalities, it does not require the project to comply with state or local laws affecting land development. Allowing a state authority to only "minimize" conflict with, but not comply with, local plans and regulations would have the effect of undermining the effectiveness of the state's growth management laws, regulations, and programs. Consultation is required only with municipalities or other political subdivisions. Situations in which the facility would be located in an unincorporated area does not apply. Further, the department added that the term, "master plan" is not clear. Ports have master plans and some local governments, such as Miami-Dade, refer to their local comprehensive plans as master plans. The department offered the term "local comprehensive plan" in lieu of "master plan".

The Department of Transportation, in its analysis, stated that the Florida Sports Authority, as an adjunct to creating facilities, is given the authority to construct new roads and relocate existing roads. However, the Authority may only relocate existing roads after consultation with and approval of the department. The Authority is empowered to acquire or condemn property, including existing roads, needed for its projects, except with respect to property owned by the state. Because the bill authorizes the authority to promote its facilities and events (section 8, page 12), the department stated that these provisions could be construed to authorize the Authority to erect billboards in areas not commercially or industrially zoned, resulting in a violation of the 1972 agreement between the state and the US Secretary of Transportation regarding control of outdoor advertising. Such a violation may subject the state to penalties equal to 10% of the federal transportation funding each year of noncompliance.

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The Department of Revenue stated that the bill will have no fiscal impact on the Department of Revenue regarding administration.

The Department of State, in its analysis, commented that if the state wishes to obtain the Hialeah Park site for historical and open space purposes as recommended in the feasibility study, it would become more logical to purchase the property for that purpose. The Department of State added that it is difficult to justify the sale of bonds to be paid by the revenues collected for a facility that has had a negative revenue for the past eight years, with the expectancy that the situation will continue in the future. Further, the department added that the Department of State is not the best fit for the Authority. The Department of State recommended the Division of State Lands or the Department of Management Services as having greater experience in managing state properties.

To the extent a primary function of the Authority is to issue bonds for sports facilities, the Division of Bond Finance may be a better choice. Further, the Department of State added that while the department is not an agency with expertise in the area of state bonds, pursuant to the constitution, without a vote of the electors, only revenue bonds solely from funds derived from non-tax sources may be authorized in this circumstance. The department added further that with the constitutional limit on the outstanding principal of all state bonds, it would seem prudent that these bonds be issued in the more traditional route through the Division of Bond Finance.

IV. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

V. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Staff Director:

Monique H. Cheek

Judy C. McDonald