

STORAGE NAME: h0823.ca

DATE: April 12, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 0823

RELATING TO: Motorsports Entertainment Complex

SPONSOR(S): Representative Sorensen

TIED BILL(S):

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

- (1) TOURISM (EDC) YEAS 9 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC)
 - (3) FINANCE & TAXATION (FRC)
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
-

I. SUMMARY:

This bill provides for the distribution of a portion of revenues from the tax on sales, use, and other transactions to a motorsports entertainment complex that has been certified by the Office of Tourism, Trade, and Economic Development (OTTED) as meeting requirements created by the bill. Thirty days after OTTED notifies the Department of Revenue (DOR) of the applicant certification, \$166,667 shall be distributed monthly for up to 360 months to the applicant (\$2 million annually over 30 years for a total of \$60 million).

The bill delineates requirements for certification of an applicant as a motorsports entertainment complex, which is defined as a closed-course racing facility, with ancillary grounds and facilities. By definition, the motorsports entertainment complex must have at least 70,000 seats, 7 scheduled days of motorsports events each calendar year, and four motorsports events each calendar year. Additionally, the complex must have paid admissions of more than 200,000, serve food, engage in tourism, and have a permanent exhibition of motorsports history, events or vehicles. In order to be certified, not only is OTTED required to determine that the complex meets the definition but it also must determine the complex meets additional criteria.

Each year OTTED must recertify that the complex generates \$2 million of sales tax revenue annually. Failure to do so results in the reduction of revenues distributed until the complex generates \$2 million or more in sales tax revenues for a 12 month period. A certified applicant may use funds for paying for construction, reconstruction, expansion, renovation of the complex and related transportation or infrastructure improvements and for paying for debt service reserve funds or other amounts relating to bonds with respect to the aforementioned. Funds may also be used for paying for advertising and promotion of the complex or the community. The Department of Revenue may audit to verify that the distributions have been expended pursuant to the section.

The Revenue Estimating Conference estimates the bill to result in a recurring loss to the General Revenue Fund of \$4 million. In FY 2000-2001, an initial loss of \$0.7 million to the General Revenue Fund is projected.

The Committee on Tourism adopted one amendment that is traveling with the bill. For details on the amendment, see the "AMENDMENTS OR COMMITTEE SUBSTITUTE"

CHANGES” section of the analysis. The amendment has the effect of limiting eligibility to complexes located in Dade County and reduces the fiscal impact by one-half.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 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 type="checkbox"/> | N/A <input checked="" 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:

B. PRESENT SITUATION:

Current law, s. 288.1162, F.S., requires the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) to carry out the applicant screening duties and certify the eligibility of an applicant professional sports franchise under the category of either “new,” “retained,” or “new spring training.”

The Legislature authorized the same type of funding mechanism and similar certification process for the Professional Golf Hall of Fame in s. 288.1168, F.S., and in s. 288.1169, F.S., for the International Game and Fish Association World Center facility (IGFA) which includes a fishing museum, Hall of Fame, historical display, and education exhibit facility.

Section 212.20 F.S., authorizes \$166,667 of general sales tax revenues to be distributed monthly to a “certified” professional golf hall of fame. This distribution is to continue for up to 300 months. The annual distribution equals \$2 million and the total distribution over 25 years will equal \$50 million. The same section authorizes \$83,333 of general sales tax revenues to be distributed monthly to the certified International Game Fish Association World Center facility for 180 months (\$1 million annually over 15 years for a total of \$15 million). Currently, the authorized distribution of general sales tax revenues for professional sports related facilities in Florida equals \$18 million annually, and the total potential pay out equals \$454 million over 30 years.

Currently, there are no general sales tax revenue distributions permitted for motorsports entertainment complexes. However, there are two motorsports entertainment complexes in the state: Daytona International Speedway (Volusia County) and the Homestead-Miami Speedway (Dade County). The Daytona International Speedway facility and property is owned by Volusia County with a small portion owned by the Volusia Racing Recreational District, a special district. The Homestead-Miami Speedway facility and property is owned by the City of Homestead. In both areas, the facilities are leased from the governmental entity to International Speedway Corporation (ISC) which operates the speedways.

The Daytona International Speedway was constructed in 1959 and is located on 480 acres. The facility has current seating of 165,059 and a 2.5 mile track with 31 degree banked turns. Events held at the Daytona international Speedway include NASCAR Winston Cup

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Series, Busch Series, Craftsman Truck Series, Grand American Road Racing, and American Motorcycle Association series.

The Homestead-Miami Speedway was constructed in 1995 and is located on 434 acres. The facility has current seating of 72,000 and a 1.5 mile tract with 6 degree banked turns. Events held at the Homestead-Miami Speedway include NASCAR Winston Cup Series, Busch Series, Craftsman Truck Series, Grand American Road Racing Series, and Championship Auto Racing Team series.

C. EFFECT OF PROPOSED CHANGES:

House Bill 823 amends s. 212.20(6)(f), F.S., to provide for the distribution of a portion of revenues from the tax on sales, use, and other transactions to a motorsports entertainment complex that has been certified by the Office of Tourism, Trade, and Economic Development (OTTED) as meeting requirements specified in s. 288.1170, F.S., created by this bill. Thirty days after OTTED notifies the Department of Revenue (DOR) of the applicant certification, \$166,667 shall be distributed monthly for up to 360 months to the applicant (\$2 million over 30 years for a total of \$60 million).

The bill creates s. 288.1170, F.S., to delineate requirements for certification of an applicant as a motorsports entertainment complex which is defined as a closed-course racing facility, with ancillary grounds and facilities. By definition, the motorsports entertainment complex must have at least 70,000 seats, 7 scheduled days of motorsports events each calendar year, and four motorsports events each calendar year. Additionally, the complex must have paid admissions of more than 200,000, serve food, engage in tourism, and have a permanent exhibition of motorsports history, events or vehicles. In order to be certified, not only is OTTED required to determine that the complex meets the definition but it also must determine the following: a unit of local government holds title to the land or title to the complex or is responsible for its construction, management and operation; the applicant has completed an independent analysis that demonstrates that the project will attract paid attendance of more than 200,000 annually and demonstrates that the amount of revenues generated by taxes imposed will meet or exceed \$2 million; the municipality or county in which the complex is located has certified by resolution after a public hearing that the applicant serves a public purpose; and, the applicant can provide more than one-half of the costs related to the facility. No complex certified under this section is eligible for any additional certification or funding under the section.

Each year OTTED must recertify that the complex generates \$2 million of sales tax revenue annually. Failure to do so results in the reduction of revenues distributed until the complex generates \$2 million or more in sales tax revenues for a 12 month period.

A certified applicant may use funds to pay for construction, reconstruction, expansion, renovation of the complex and related transportation or infrastructure improvements and for paying for debt service reserve funds or other amounts relating to bonds with respect to the aforementioned. Funds may also be used for paying for advertising and promotion of the complex or the community. The Department of Revenue may audit to verify that the distributions have been expended pursuant to the section.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 212.20(6)(f), F.S., to allow distribution of proceeds to begin 30 days after notice by OTTED to DOR that the applicant has been certified as a motorsports entertainment complex pursuant to s. 288.1170, F.S. The distribution to the applicant is to be \$166,667 monthly for up to 360 months (\$2 million annually over 30 years for a total of \$60 million).

Section 2. Creates s. 288.1170, F.S., providing definitions, certification criteria for and duties of the motorsports entertainment complex, as well as responsibilities of OTTED and the Department of Revenue.

Subsection (1) provides definitions for “applicant,” “motorsports entertainment complex,” “motorsports event,” “office,” “owner,” “sanctioning body,” and “unit of local government.” An “applicant” is defined as the “owner” of a complex. An “owner” is a person who owns or operates a complex, or a person who leases a complex or the land on which a complex is located from the Federal Government, the state, or a county, municipality, or special district, and operates the motorsports entertainment complex. A “motorsports entertainment complex” is defined as a closed course racing facility, with ancillary grounds and facilities with at least 70,000 seats, that has at least 7 scheduled days of motorsports events each calendar year and four motorsports events each calendar year, and has paid admissions of more than 200,000 annually. Additionally, the complex must serve food, engage in tourism, and have permanent exhibitions of motorsports history, events, or vehicles.

Subsection (3), which should be numbered subsection (2), adds OTTED as the state agency for screening applicants for state funding pursuant to s. 212.20(6)(f), F.S., and for certifying an applicant as a motorsports entertainment complex. OTTED is to develop and adopt rules for the receipt and processing of applications for funding pursuant to 212.20, F.S. The office shall make a determination regarding any application not later than 120 days after the application is filed.

Subsection (4), which should be noted as subsection (3), requires that prior to certifying an applicant as a motorsports entertainment complex, in addition to meeting the definitional requirements, OTTED must determine the following:

- a unit of local government holds title to the land on which the complex is located, holds title to the complex, or is responsible for the construction, management, and operation of the complex;
- four sanctioned motorsports events were held at the complex in the most recently completed calendar year;
- the applicant has an independent analysis or study, verified by the OTTED, demonstrating that the complex will attract paid attendance of more than 200,000 annually and that revenues generated with respect to the operations of the complex will be equal to or greater than \$2 million annually;
- the municipality or county, if the complex is located in an unincorporated area, has certified by resolution after a public hearing that the complex serves a public purpose; and,

- the applicant is capable of providing, or has financial or other commitments to provide, more than one half of the cost that will be incurred after certification for improvement or development which will enable the complex to retain or add motorsports events sanctioned by the sanctioning body.

Subsection (5), which should be numbered subsection (4), requires OTTED, upon determination that an applicant meets the certification requirements, to notify both the applicant and DOR of the certification. If the applicant fails to meet the certification requirements, OTTED is required to notify the applicant not later than 10 days following the determination.

Subsection (6), which should be numbered subsection (5), requires that OTTED recertify each year that the complex continues to generate \$2 million of state tax revenue annually. If the complex fails to generate \$2 million in sales tax revenues annually, the distribution of revenues will be reduced to an amount equal to \$166,667 multiplied by a fraction, the numerator of which is the actual revenues generated and the denominator of which is \$2 million. The reduction remains in effect until revenues generated by the complex in a consecutive 12-month period equal or exceed \$2 million.

Subsection (7), which should be numbered subsection (6), prohibits a complex previously certified or that has received funding under the certification from being eligible for additional certification.

Subsection (8), which should be numbered subsection (7), provides that an applicant certified as a motorsports entertainment complex may use the funds for paying for construction, reconstruction or renovation of the complex and related transportation or infrastructure improvements; paying debt service reserve funds, arbitrage, rebate obligations, or the amounts payable with respect to bonds issued for construction or renovation, expansion or for the reimbursement of cost or refinancing of bonds issued for the same purpose; and paying for programs of advertising and promotion related to the complex or the municipality or county, if the complex is located in an unincorporated area, provided such programs of advertising and promotion are designed to increase paid attendance at the complex or increase tourism in or promote the economic development of the community in which the motorsports entertainment complex is located.

Subsection (9), which should be numbered subsection (8), provides that the Department of Revenue may audit to verify that the distribution has been expended as required by this section. Also, such information is subject to confidentiality requirements of Chapter 213. If the department determines that the distributions have not been expended as required, it may pursue recovery of the funds.

Section 3. Provides for an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates the fiscal impact of this bill to be a recurring loss to the General Revenue Fund of \$4 million, based on the fact that there are only two motor sport facilities in the state. In FY 2000-2001, an initial loss of \$0.7 million to the General Revenue Fund is projected.

2. Expenditures:

DOR stated that there will be a fiscal impact on the department that is indeterminate. The Office of Tourism, Trade and Economic Development stated that there would be an impact that is indeterminate at this time but would be minimal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments that are the owners of the complex or the land would be assisted by \$2 million per year that could be bonded out to assist in construction, reconstruction, renovation and other transportation and infrastructure needs related to the complex.

2. Expenditures:

None

C. INDIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

As Florida's motorsports entertainment industry continues to develop and improve, there may be a positive economic impact on private businesses due to multiplier effects.

D. FISCAL COMMENTS:

The bill may generate additional sales tax revenues due to commercial development and capital improvements.

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 revenues.

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

This bill does not reduce the percentage of state sales tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

In Section 2 of the bill, the directives regarding rulemaking provide adequate authority for OTTED and the Department of Revenue to adopt rules to implement their specific powers or duties described.

C. OTHER COMMENTS:

Similar bills, not identical, have been introduced in the 1997, 1998, and 1999 legislative sessions.

There are two scrivener's errors in Section 2 of the bill. The first is the incorrect numbering of subsections (3) through (9) which should be numbered (2) through (8). The second error pertains to cross references in the current subsections (4) and (5) which would need to be changed when the subsections are correctly numbered.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 10, 2000, the Committee on Tourism reported the bill favorably with one amendment, which is traveling with the bill. The amendment addresses some substantive and technical concerns as well as comments from the Department of Revenue. Specifically, the amendment does the following:

Substantive and Technical

- **DEFINITIONS**--Changed the definition of "owner" to be a unit of local government that owns the land on which the complex is located or owns the complex. Changed the definition of "applicant" to correspond to the definition of "owner." Added a definition for "operator." Changed the definition of "motorsports entertainment complex" by referring to the number of 'fixed' versus 'permanent' seats and removing reference to annual number of paid attendance.
- **CERTIFICATION REQUIREMENTS**--Added a requirement stating that a motorsports entertainment complex must be located in a county defined in s. 125.011(1), F.S. Dade County is the only county meeting this requirement. Removed requirement for annual number of paid attendance.
- **ALLOWABLE USE OF FUNDS**--Clarified allowable uses to include transportation and parking necessary for and directly benefiting the motorsports complex and to include other infrastructures appurtenant to and directly benefiting the complex. Removed promotional advertising as an eligible use of funds.
- **TECHNICAL CHANGES**--Adds Automobile Racing Club of America (ARCA) as an additional sanctioning body. Corrects scrivener's errors noted in "Comments" Section.

Department of Revenue

- Adds language clarifying that the distribution of funds is subject to reduction pursuant to s. 288.1170, F.S. (*The newly created section governing the motorsports entertainment complex.*)

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- Adds language requiring OTTED to notify the department of results of annual recertification.
- Clarifies that if distributions are reduced, such reduction shall be recalculated annually until an annual recertification verifies that the revenues generated by the motorsports entertainment complex equal or exceed \$2 million annually.
- Changes the effective date from July 1, 2000 to October 1, 2000 to provide adequate lead time for implementation of the bill.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Monique H. Cheek

Staff Director:

Judy C. McDonald

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Thomas L. Hamby

Staff Director:

Joan Highsmith-Smith