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**DATE:** April 19, 2001

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE  
COUNCIL FOR SMARTER GOVERNMENT  
ANALYSIS**

**BILL #:** CS/HB 1189  
**RELATING TO:** Brownfield Redevelopment Incentives  
**SPONSOR(S):** Council for Smarter Government, Representative Diaz-Balart & other  
**TIED BILL(S):** None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 7 NAYS 1
  - (2) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 10 NAYS 1
  - (3) FISCAL POLICY AND RESOURCES YEAS 8 NAYS 4
  - (4) COUNCIL FOR SMARTER GOVERNMENT YEAS 7 NAYS 5
  - (5)
- 

I. SUMMARY:

CS/HB 1189 creates a sales tax increment rebate program for qualifying counties that construct, renovate, or expand a significant new facility on a qualifying brownfield site. To be eligible, the site must be within the boundaries of local government that has a resident population of 300,000 or more and has been declared in a state of financial emergency during any of the seven fiscal years preceding the date on which construction of a significant new facility commences. The City of Miami is the only local government currently meeting this requirement. A qualifying significant new facility must be owned by a county, or a city within the county, and leased to, licensed to, or be operated by a private, for-profit entity for the purpose of operating a professional sports franchise for a period of not less than 30 years. The facility must have a projected cost of construction, reconstruction, renovation, expansion, or rehabilitation of the facility and acquisition and remediation of the qualifying site of not less than \$300 million, of which not less than \$50 million will be contributed by the private lessee, licensee, or operator. To qualify, it must be proposed in a report to the eligible county by a qualified economist that the facility will have an annual economic impact of not less than \$100 million over the term of the lease, license, or operation and will create not less than 1,500 jobs over such term. The bill addresses authorized uses of sales tax increment rebate funds. The amount of the sales tax increment rebate, to be computed annually, must equal the difference between 100 percent of the sales taxes generated by games played by the professional sports team at the qualifying site and 100 percent of the taxes imposed in 2000 from games played by the team at its regular season home games.

The bill addresses minority participation in the planning, design, construction, building, maintenance and operation of the significant new facility. The bill addresses the future sale or relocation of the professional sports franchise, and requires a partial rebate to the state under certain circumstances. The bill also provides that if a county sells or otherwise conveys the significant new facility or the property on which it is located to a private entity, the county must repay the amount received in tax increment rebates to the state. Finally, the bill expands the responsibilities of the South Florida Regional Planning Council.

The Estimating Conference has not addressed CS/HB 1189, but has estimated a total annualized fiscal impact of -\$5.8 million for SB 2168, which has similar provisions regarding the annual amount of any tax increment rebate.

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:

**Brownfields**

In 1997, the Legislature passed the Brownfields Redevelopment Act (Act) to provide incentives for the private sector to redevelop abandoned, idled, or under-used industrial and commercial properties where expansion or redevelopment is complicated by real or perceived environmental contamination. (See ss. 376.77-376.85, F.S.) Key objectives of the brownfields initiatives are community economic enhancement through increased capital investment, an increased tax base and tax revenue, job creation, better utilization of community resources, improving the quality of life, and improving the environment. Brownfield sites are "sites that are generally abandoned, idled, or under-used industrial and commercial properties where expansion or redevelopment is complicated by actual or perceived environmental contamination." The Act provided the framework for Florida's Brownfields Program to facilitate redevelopment of these sites while also providing for environmental cleanup and protection of the public health and the environment.

Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee, or use an existing advisory committee, to improve public participation and receive public comments on rehabilitation and redevelopment of the brownfield area. Local governments are also encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas (s. 376.80, F.S.).

Section 376.82, F.S., provides that any person who has not caused or contributed to the contamination of a brownfield site after July 1, 1997, is eligible to participate in the brownfield rehabilitation program. Certain specified sties are not eligible. Immunity and liability protection for further future remediation is provided under certain circumstances, and additional liability protection for lenders is provided. This provision does not impair third party rights for damages.

Section 376.84, F.S., provides allowable financial incentives and local incentives for redevelopment for designated brownfield areas. These include, but are not be limited to:

- Tax increment financing through community redevelopment agencies pursuant to part III of chapter 163, F.S.
- Enterprise zone tax exemptions for businesses pursuant to chapters 196 and 290, F.S.

- Safe neighborhood improvement districts as provided in ss. 163.501-163.523, F.S.
- Waiver, reduction, or limitation by line of business with respect to occupational license taxes pursuant to chapter 205, F.S.
- Tax exemption for historic properties as provided in s. 196.1997, F.S.
- Residential electricity exemption of up to the first 500 kilowatts of use may be exempted from the municipal public service tax pursuant to s. 166.231, F.S.
- Minority business enterprise programs as provided in s. 287.0943, F.S.
- Electric and gas tax exemption as provided in s. 166.231(6), F.S.
- Economic development tax abatement as provided in s. 196.1995, F.S.
- Grants, including community development block grants.
- Pledging of revenues to secure bonds.
- Low-interest revolving loans and zero-interest loan pools.
- Local grant programs for facade, storefront, signage, and other business improvements.
- Governmental coordination of loan programs with lenders, such as microloans, business reserve fund loans, letter of credit enhancements, gap financing, land lease and sublease loans, and private equity.
- Payment schedules over time for payment of fees, within criteria, and marginal cost pricing.

Regulatory incentives may include, but not be limited to:

- Cities' absorption of developers' concurrency needs.
- Developers' performance of certain analyses.
- Exemptions and lessening of state and local review requirements.
- Water and sewer regulatory incentives.
- Waiver of transportation impact fees and permit fees.
- Zoning incentives to reduce review requirements for redevelopment changes in use and occupancy; establishment of code criteria for specific uses; and institution of credits for previous use within the area.
- Flexibility in parking standards and buffer zone standards.
- Environmental management through specific code criteria and conditions allowed by current law.

- Maintenance standards and activities by ordinance and otherwise, and increased security and crime prevention measures available through special assessments.
- Traffic-calming measures.
- Historic preservation ordinances, loan programs, and review and permitting procedures.
- One-stop permitting and streamlined development and permitting process.
- Technical assistance incentives may include, but not be limited to:
  - Expedited development applications.
  - Formal and informal information on business incentives and financial programs.
  - Site design assistance.
  - Marketing and promotion of projects or areas.

Section 376.86, F.S., provides for a Brownfield Areas Loan Guarantee Council to review, approve, or deny certain partnership agreements with local governments, financial institutions, and others associated with the redevelopment of brownfields for limited guarantees of loans or loss reserves. The council may enter into an investment agreement with DEP and the State Board of Administration concerning the investment of the earnings accrued and collected upon the investment of the balance of funds maintained in the Nonmandatory Land Reclamation Trust Fund. Not more than \$5 million of the investment earnings earned on the investment of the minimum balance of the Nonmandatory Land Reclamation Trust Fund may be at risk at any time on loan guarantees or loan loss reserves. Of the \$5 million, 15 percent must be reserved for the investment agreements involving predominantly minority-owned businesses. The investment earnings may not be used to guarantee any loan guaranty or loan loss reserve agreement for a period longer than five years.

Section 376.875, F.S., creates the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund to be administered by the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor for the purpose of funding low-interest loans for the purchase of outstanding, unresolved contractor liens, tax certificates, or other liens or claims on brownfield sites designated as part of a brownfield area by a local government.

In 1998, the Brownfields Redevelopment Act was amended to address several glitches that had been identified since the passage of the 1997 act in addition to other changes intended to enhance the usage and success of the program (ch. 98-75, L.O.F.). In order to provide additional economic incentives for brownfields redevelopment, the Legislature created a tax credit against either the intangible personal property tax or corporate income tax for taxpayers that voluntarily participate in the cleanup of a designated brownfield site. A tax credit of 35 percent is allowed for the costs of voluntary cleanup activity that is integral to site rehabilitation, with a maximum of \$250,000 per site per year. The total amount of the tax credits is \$2 million annually. Chapter 62-788, F.A.C., the Voluntary Cleanup Tax Credit Rule was adopted with an effective date of March 31, 1999.

The Voluntary Cleanup Tax Credit program has issued a total of \$148,666.38 in tax credits since inception of the program in 1998. Six applications were received by DEP in December 2000 for processing. The six applications claimed a total of \$224,351.70 in tax credits. The applications will undergo a review with a final tax credit determination made by March 1, 2001. This year, the first

brownfields tax credit application was received for processing. Previously, all applications received and processed were for tax credits for site cleanups at drycleaning-solvent-contaminated sites. The real property owners undertook the cleanup.

In the interim preceding the 2000 legislative session, a series of workshops were organized by a state senator to determine what legislative measures would be needed to continue or improve brownfield rehabilitation efforts. As a result, the 2000 Florida Legislature amended the Act to create additional regulatory and financial incentives and provided a mechanism for a comprehensive marketing plan for redevelopment of designated brownfield areas.

Financial and economic incentives administered by the Office of Tourism, Trade, and Economic Development (OTTED) include the Brownfield Redevelopment Bonus Refund (a tax refund, job creation incentive); a revolving loan fund that provides assistance in the funding of low-interest loans; and a limited state loan guaranty. In an effort to further job creation, a change to the Brownfield Redevelopment Bonus Refund incentive was passed. This change expanded the definition of "eligible business" as defined in section 288.107(1), F.S., to include "...other business that can demonstrate a fixed capital investment of at least \$2 million in mixed-use business activities...and which pays wages that are at least 80 percent of the average of all private sector wages in the county in which the business is located." This change increases the types of business that are eligible for a "bonus refund"; therefore, it provides greater potential for job creation in designated brownfield areas. The creation of 1,298 direct jobs and 1,546 indirect jobs can be attributed to the Brownfield Redevelopment Bonus Refund. Additionally, the inducement of \$41,014,000 in new capital investments is attributable to the Brownfield Redevelopment Bonus Refund. The jobs and capital investments referred to above are provided by four businesses within designated brownfield areas.

The number of designated brownfield areas increased from a total of twenty-five in 1999 to thirty-nine in 2000. These designated areas encompass over 66,100 acres of contaminated and uncontaminated properties including residential and viable business properties. The largest of the new designated areas for Year 2000 includes 18 square miles within the City of Jacksonville.

#### Federal Brownfields Economic Redevelopment Initiative

##### *Brownfields Assessment and Demonstration Pilots*

Over the last four years, seventeen communities within Florida have received EPA designations as national or regional Brownfields Assessment and Demonstration Pilots (Pilots). The Pilots, each funded at up to \$200,000 over two years, test redevelopment models, direct special efforts toward removing regulatory barriers without sacrificing protection, and facilitate and coordinate site assessment, environmental cleanup, and redevelopment efforts at the federal, state, and local levels. The City of Opa-Locka is the latest to receive a pilot grant.

##### *Brownfields Showcase Communities*

In 1998, sixteen communities around the nation were selected as Brownfields Showcase Communities. In EPA Region 4, the Eastward Ho! Brownfields Partnership, which encompasses the eastern portions of Palm Beach, Broward and Miami-Dade Counties, was selected to receive this designation. EPA, to continue the project in 2000, awarded supplemental funding.

##### *Targeted Brownfields Site Assessment Projects*

Through a Cooperative Agreement with the EPA, the DEP has been conducting Targeted Brownfields Site Assessments (TBSA) for local governments at properties with known or suspected

contamination. The TBSA funding of up to \$50,000 is allocated to each selected local government. The purpose of the TBSA is to assist state and local governments and tribes, especially those without EPA Brownfields Assessment Demonstration Pilots, in reducing the uncertainties associated with contamination at brownfields.

This year the Cities of Tampa and Opa-Locka and the North Florida Education Development Corporation in Quincy were selected for Phase I and II TBSAs. The Cities of Fort Myers, North Miami Beach, Ocala and Sarasota received TBSAs commitments in 1999.

#### *Brownfields Job Training and Development Demonstration Pilots*

The Brownfields Job Training and Development Demonstration Pilots also provide federal funding for brownfield projects within communities. The job training and development pilots provide up to \$200,000 over two years. Two cities in Florida received this designation in 1998. The EPA selected Career Options of Pinellas, Inc. for a Brownfields Job Training and Development Demonstration Pilot in the amount of \$141,364. The EPA also selected Miami-Dade Community College for a Brownfields Job Training and Development Demonstration Pilot in the amount of \$200,000. Miami-Dade Community College will concentrate its workforce development efforts in the City of Miami and Dade County, both of which are Brownfields Assessment and Demonstration Pilots. The job training and development pilot will target Miami's distressed Wynwood and Model City neighborhoods.

#### *Brownfields Economic Development Initiative (BEDI) Grant*

Two communities in Florida, Miami-Dade County and the City of St. Petersburg, are using the Department of Housing and Urban Development's BEDI to redevelop and leverage private sector investment in community revitalization projects. These grants are intended to leverage millions in economic development loan guarantees and in private and public investment to return brownfields back to productive use. Community Development Block Grant entitlement communities and non-entitlement communities are eligible to receive loan guarantees.

#### *Brownfields Cleanup Revolving Loan Fund Demonstration Pilots*

The EPA provides financial assistance to an eligible entity (e.g., a municipality) to establish its own revolving loan fund that will be used to make loans for authorized purposes (i.e., brownfields cleanups). A revolving loan fund charges interest on the loans, generally at a low interest rate, and uses the loan repayments to make new loans for authorized purposes.

Hillsborough County was the latest to receive a revolving loan fund. The loan was awarded in May 2000. The City of St. Petersburg was the first to receive funding from EPA for a revolving loan fund in 1997. Three additional Florida pilots -- the City of Jacksonville, and Escambia and Miami-Dade Counties -- were awarded funding in Fiscal Year 1999.

### **Sales Tax Reimbursement Programs**

Section 212.20, F.S., describes how tax revenues collected pursuant to Chapter 212, F.S., are to be distributed. Pursuant to s. 212.20(6)(e), F.S., the Department of Revenue (DOR) distributes tax revenues to professional sports franchise facilities that are certified by the Office of Tourism, Trade, and Economic Development (OTTED) as meeting requirements set forth in s. 288.1162, F.S., to the Professional Golf Hall of Fame facility as certified pursuant to s. 288.1168, F.S., and to the International Game Fish Association World Center facility as certified pursuant to s. 288.1169, F.S. Each recipient receives a fixed monthly distribution that is set by statute. No other sports-related

businesses or facilities are entitled to distributions from DOR of tax revenues collected pursuant to Chapter 212, F.S.

The amounts listed below are the monthly payments currently authorized by law:

\$166,667.....	New professional sports franchise facility*
\$166,667.....	Retained professional sports franchise facility*
\$ 41,667(up to).....	Retained spring training franchise facility*
\$166,667.....	Professional Golf Hall of Fame facility**
\$ 83,333.....	International Game Fish Association World Center facility***

\* Monthly payment is for not more than 30 years.

\*\* Monthly payment is for up to 25 years.

\*\*\* Monthly payment is for up to 14 years; however, a lump sum payment of \$999,996 was made after certification and before July 1, 2000 (equating the payments to 15 years).

The law caps the number of new and retained professional sports franchise facilities eligible for funding at eight. Currently, there are six new professional sports franchise facilities and one retained professional sports franchise facility that have been certified and are receiving money. The remaining certification can only be for one specific facility. Section 288.1162, F.S., requires that at least five facilities for retained spring training franchises be certified by OTTED. OTTED cannot certify funding for less than the requested amount to any applicant certified as a facility for a retained spring training franchise. Both ss. 212.20(20)(6)(e), and 288.1162, F.S., however, cap the total monthly distribution in the aggregate to all facilities for a retained spring training franchise at \$208,335.

Criteria are set forth in Chapter 288, F.S., for certification for each of the above listed types of facilities. Criteria for all facilities include such things as relationship with and support of a local unit of government, projections for paid attendance, and demonstration of being able to provide or having financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility. As a condition of certification for all facilities, but the retained spring training franchise facility, there must be an independent analysis demonstrating that the amount of revenues projected to be generated by the respective facilities will exceed any money received from the state. Only the Professional Golf Hall of Fame facility and the International Game Fish Association World facility have certification requirements for dedication of specific funding amounts for promotion of the facility and promotion of Florida tourism.

For facilities for professional, retained professional and retained spring training franchises, s. 288.1662, F.S., prohibits an applicant previously certified under any provisions of the section and receiving funding from being eligible for an additional certification. There are no requirements for review and recertification by OTTED or requirements for reduction in funding or decertification by OTTED if a facility is not meeting initial certification requirements. Sections 288.1168 and 288.1169, F.S., relating to the Professional Golf Hall of Fame facility and the International Game Fish Association World facility, contain requirements for recertification by OTTED every 10 years as well as mechanisms for imposing monetary sanctions for failure to meet all certification requirements or abatement of funding until certification requirements are met.

For all applicants certified by OTTED, DOR is required to audit to verify that the distributions under the various governing sections have been expended as required by those sections; however, only s. 288.1162, F.S., states that DOR may pursue recovery of funds if they have been determined to have been expended outside the requirements of the law.

Sections 288.1162, 288.1168, and 288.1169, F.S., require OTTED to serve as the state agency for screening applicants for state funding pursuant to s. 212.20, F.S., and for certifying applicant 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, to carry out the applicant screening duties required under ss. 288.1162, 288.1168, and 288.1169, F.S. The Florida Sports Foundation submits the applications to OTTED which certifies the eligibility of the applicants under the law.

**C. EFFECT OF PROPOSED CHANGES:**

This bill creates a sales tax increment rebate program for qualifying counties that construct, renovate, or expand a significant new facility on a qualifying brownfield site. To be eligible, the site must be within the boundaries of local government that has a resident population of 300,000 or more and has been declared in a state of financial emergency during any of the seven fiscal years preceding the date on which construction of a significant new facility commences. A qualifying significant new facility must be owned by a county, or a city within the county, and leased to, licensed to, or be operated by a private, for-profit entity for the purpose of operating a professional sports franchise for a period of not less than 30 years. The facility must have a projected cost of construction, reconstruction, renovation, expansion, or rehabilitation of the facility and acquisition and remediation of the qualifying site of not less than \$300 million, of which not less than \$50 million will be contributed by the private lessee, licensee, or operator. To qualify, it must be proposed in a report to the eligible county by a qualified economist, that the facility will have an annual economic impact of not less than \$100 million over the term of the lease, license, or operation and will create not less than 1,500 jobs over such term. The bill authorizes an eligible county to use its sales rebate funds for the public purpose of paying for, or pledging as security for, or paying debt service on bonds or other obligations issued to finance the cost of an eligible project. The amount of the sales tax increment rebate, to be computed annually, must equal the difference between 100 percent of the sales taxes generated by games played by the professional sports team at the qualifying site and 100 percent of the taxes imposed in 2000 from games played by the team at its regular season home games.

The bill addresses minority participation in the planning, design, construction, building, maintenance and operation of the significant new facility. The bill also addresses the future sale or relocation of the professional sports franchise, and requires a partial rebate to the state under certain circumstances. The bill also provides that if a county sells or otherwise conveys the significant new facility or the property on which it is located to a private entity, the county must repay the amount received in tax increment rebates to the state. Finally, the bill expands the responsibilities of the South Florida Regional Planning Council.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Section 376.84, F.S., is amended to revise legislative intent relating to Brownfield redevelopment economic incentives, to state legislative recognition that in communities impacted by local government financial emergencies, local government resources are strained and incentives to encourage the development, use, redevelopment, or reuse by local government of brownfield areas are particularly needed.

Subsection (1) is amended to add to the allowable financial incentives for redevelopment, sales tax increment rebates established for an eligible county with a significant new facility on a qualifying site.



A new subsection (4) is added to provide that the governing board of an eligible county which constructs, reconstructs, renovates, expands, or rehabilitates, either directly or indirectly through turnkey or other contractual arrangements, a significant new facility on a qualifying site shall be entitled to receive sales tax increment rebates pursuant to s. 212.20, F.S., in the manner provided in the subsection. Paragraph (b) of new subsection (4) provides the following definitions:

- "Eligible county" means a county which constructs, reconstructs, renovates, expands, or rehabilitates, either directly or through turnkey or similar contractual arrangements, a significant new facility on a qualifying site.
- "Qualifying site" means a site located in a brownfield area designated under s. 376.80, F.S., that is owned by an eligible county and is within the boundaries of a local government impacted by a financial emergency.
- "Local government impacted by a financial emergency" means a county or municipality that has a resident population of 300,000 or more and has been declared in a state of financial emergency pursuant to part V of chapter 218, F.S., during any of the 7 fiscal years preceding the date on which construction of a significant new facility commences.
- "Significant new facility" means a real property improvement on a qualifying site that meets the following requirements:
  - It is owned by a county, or a city in the county, and leased to, licensed to, or to be operated by a private, for-profit entity for the purpose of operating a professional sports franchise there from for a period of not less than 30 years after the date the eligible county submits the notice required by paragraph (c). The lease, license, or operating agreement must specify that in the event of relocation or sale of the professional sports franchise, the portion of the sale that represents profit attributable to an increase in value because of the sales tax increment rebate, as determined by an independent appraiser selected by the Governor and the for-profit entity, must be remitted to the state. The paragraph provides that in determining which portion of the proceeds of the sale represent profit, the appraiser must deduct all capital invested by the seller or sellers in the professional sports franchise on or prior to the date of sale -- including prior to the date the business began operating at the significant new facility -- all debt existing on the date of sale that is not assumed by the buyer, and a cost of money factor with respect to the invested capital that the appraiser determines a nationally recognized investment banking firm would have required in 2001 for an equity capital investment in the sports and recreation industry. The appraiser must also consider the impact of the significant new facility on the amount of profit, and the portion thereof attributable to the sales tax rebate may not be in excess of the percentage of the total cost of the significant new facility represented by the sales tax rebate. The paragraph provides that a sale of the professional sports franchise shall occur upon a sale or all or substantially all of the assets of or equity in the franchise. In the event of a sale of less than all or substantially all of the equity in the private for-profit entity, the seller thereof shall have the state's profit allocation determined as of the date of sale and then pay the state the portion represented by the percentage of equity being sold, in which event the buyer shall take free of this obligation to the state, and future profit allocations will take prior payments into account.
  - It has an actual cost for construction, reconstruction, renovation, expansion, or rehabilitation of the facility and acquisition and remediation of the qualifying site of not less than \$300 million, of which not less than \$50 million, over the term of the lease, license, or operation, will be contributed by the private lessee, licensee, or operator, which contribution may be in

the form of payments in lieu of taxes, ground lease rent, license fees, rents and other charges, including without limitation, annual payments pledged to finance the construction of the facility.

- It has been proposed, in a report submitted to the eligible county by a qualified economist, that the facility will have an annual economic impact of not less than \$100 million over the term of the lease, license, or operation and will create not less than 1,500 jobs over such term.
- "Cost," with respect to the qualifying site and significant new facility, shall have the same meaning as provided by s. 190.003(7), F.S.
- "Department" means the Department of Revenue.

Paragraph (c) of new subsection (4) provides for the governing authority of an eligible county to notify the department in writing of its eligibility to receive the sales tax rebate, along with:

- Evidence that the significant new facility shall be located on a qualifying site.
- Copies, certified by the clerk of the eligible county as true and correct copies, of fully executed construction contracts or other contractual arrangements evidencing that the actual cost of the construction, reconstruction, renovation, expansion, or rehabilitation of the significant new facility and acquisition and the remediation of the qualifying site on which it is located exceeds \$300 million, of which not less than \$50 million will be contributed by the private lessee, licensee, or operator in the manner described in subparagraph (4)(b).
- The fully executed agreement evidencing that the facility has been leased to, licensed to, or is to be operated by a private, for-profit entity for a period of not less than 30 years after the date of the notice.

Paragraph (d) of new subsection (4) requires the department to certify an eligible county within 90 days after its receipt of the notice. The subsection grants the department the authority to adopt rules to implement the provisions of this subsection.

Paragraph (e) of subsection (4) authorizes an eligible county to use funds only for the public purpose of paying for, or pledging as security for or paying debt service on bonds or other obligations issued to finance the costs of acquisition, site preparation, infrastructure development, construction, reconstruction, renovation, expansion, or rehabilitation of the qualifying site and significant new facility to be located thereon, or for the costs of infrastructure and other improvements outside the boundaries of the qualifying site but which are necessary or helpful to the development or operation of the significant new facility, or for reimbursement of any such costs, and for the costs incurred by it to remediate the qualifying site. The subsection further requires an eligible county to actively accept and solicit African-American and other minority participation in the planning, design, construction, building, maintenance, and operation of the significant new facility.

Paragraph (e) also provides that in the event that in any fiscal year sales tax increment rebate funds provided are in excess of the amount necessary in that year to pay costs related to the significant new facility and qualifying site and to pay debt service on bonds or other obligations related only to the cost of the bond for construction or the facility issued to finance or refinance all or any part of such costs, such excess funds must be applied toward or set aside for the redemption or repayment of any such bonds.

Paragraph ((f) of subsection (4) requires the amount of the sales tax rebate pursuant to s. 212.20(6)(e)7.e. to be provided to an eligible county certified pursuant to this section to be computed annually and to be equal to the difference between 100 percent of the taxes imposed under chapter 212 generated each year from games played by the professional sports team at the qualifying site and 100 percent of the taxes imposed under chapter 212, F.S., that are generated in 2000 from games played by the professional sports franchise team at the facility in which the team plays its regular season home games.

Paragraph (g) of subsection (4) declares that the state does hereby covenant with the holders of bonds or other obligations or contractual commitments secured by or payable from the proceeds of the sales tax rebate authorized by this subsection that it will not repeal or impair, or amend in any manner which will materially and adversely affect the rights of such holders, the sales tax rebate provided by this subsection and s. 212.20, F.S. The paragraph further provides that the annual rebate amount may increase or decrease based on the rebate computation provided in paragraph (f).

Paragraph (h) of subsection (4) provides that a county shall cease to be eligible to receive the incremental sales tax increment rebate at such time as all costs relating to the bonds of the significant new facility and qualifying site and bonds or other obligations issued to finance or refinance all or any part of such costs are paid in full, but in no event later than the stated term of the license, lease, operating or management agreement between the private for-profit entity and the county.

Paragraph (i) of subsection (4) provides that if at any time a county sells or otherwise conveys the significant new facility or the real property on which it is located to a private entity, an amount equal to the total amount of all rebate proceeds provided to the county with respect to the facility shall be repaid by the county to the state.

**Section 2.** Paragraph (e) of subsection (6) of s. 212.20, F.S., is amended to add a new sub-subparagraph (6)(e)7 to require beginning 30 days after an eligible county has been certified pursuant to s. 376.84(4), a monthly sales tax reimbursement payment calculated pursuant to s. 376.84(4)(f), F.S., to the eligible county.

**Section 3.** This section provides that if section 35 of chapter 2000-260, L.O.F., is not repealed by section 58 of said chapter, then effective October 1, 2001, paragraph (e) of subsection (6) of s. 212.20, F.S., as amended by section 35 of chapter 2000-260, L.O.F., is amended to add a new sub-subparagraph (6)(e)7 to require beginning 30 days after an eligible county has been certified pursuant to s. 376.84(4), a monthly sales tax reimbursement payment calculated pursuant to s. 376.84(4)(f), F.S., to the eligible county.

**Section 4.** Section 186.5053, F.S., is created to authorize, pursuant to s. 186.505, F.S., the South Florida Regional Planning Council to undertake responsibilities delegated and prescribed by the federal and state government, and its member units of local government, as well as activities agreed to through multiparty and intergovernmental voluntary agreements.

**Section 5.** This section provides that except as otherwise provided, this act shall take effect July 1, 2001.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See "Fiscal Comments" section.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments" section.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private entities could benefit directly and indirectly from the proposed sales tax rebate program. As noted in the "Effects of Proposed Changes" section, a qualifying significant new facility must be owned by a county or a city within the county and leased to, licensed to, or be operated by a private, for-profit entity for the purpose of operating a business for a period of not less than 30 years. While the bill requires the for-profit entity to contribute not less than \$50 million, over the term of the lease, license, or operation, to the cost of the project, presumably the private entity will benefit from the financing provided by the proposed sales tax rebate. In addition, businesses in the surrounding area could benefit from the economic activity generated by the development

D. FISCAL COMMENTS:

CS/HB 1189 has not been reviewed by the Estimating Conference. SB 2168, which limits the rebate to the funds generated within the qualifying new facility by the professional sports franchise, is estimated to have a total annual fiscal impact of -\$5.8 million. CS/HB 1189 includes a similar provision regarding the annual amount of any tax increment rebate.

III. 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 spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Initially, this bill falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. As written, this bill would rebate the local option surtax

as well as the state sales tax. However, the amount of the reduction in revenue raising authority is anticipated to be insignificant, which would make the bill exempt from the mandate provision.

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

This bill does not reduce the total aggregate percent of state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The Department of Revenue is authorized to adopt rules to implement the provisions of this bill.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 18, 2001, the Council for Smarter Government considered HB 1189, adopted five substitute amendments for amendments traveling with the bill, one amendment to an amendment traveling with the bill, and seven additional amendments to the bill, and passed HB 1189 as a committee substitute. CS/HB 1189 incorporates the amendments adopted by the council, as well as the two traveling amendments adopted by the Committee on Local Government & Veterans Affairs and the three traveling amendments adopted by the Committee on Fiscal Policy & Resources for which the council did not adopt substitute amendments.

CS/HB 1189 differs from HB 1189 in several ways, including:

- Inserting the word "increment" after the word "tax" throughout the bill.
- Specifying that a "significant new facility" must be operated as a professional sports franchise.
- Limiting the amount of the sales tax increment rebate to the difference between 100 percent of the sales taxes generated by games played by the professional sports team at the qualifying site and 100 percent of the taxes imposed in 2000 from games played by the team at its regular season home games.
- Requiring an eligible county to actively accept and solicit African-American and other minority participation in the planning, design, construction, building, maintenance, and operation of the significant new facility.
- Requiring a partial rebate to the state in the event of relocation or sale of the professional sports franchise.
- Providing that if a county sells or otherwise conveys the significant new facility or the property on which it is located to a private entity, the county must repay the amount received in tax increment rebates to the state.

- Revising bonding language by stating that the rebate will increase and decrease based on the revenue received.
- Addressing the use of tax increment rebate funds when such funds are in excess of the amount necessary in that year to pay costs related to the significant new facility and qualifying site and to pay debt service on bonds or other obligations related only to the cost of the bond for construction or the facility issued to finance or refinance all or any part of such costs.
- Providing that the rebate authorized by this bill shall cease when the bonds are paid off or upon the expiration of the license, lease, or operating agreement between the county and the professional sports franchise.
- Providing that either the eligible county or a city within the county may own the significant new facility.
- Expanding the responsibilities of the South Florida Regional Planning Council.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Thomas L. Hamby, Jr.

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

Wayne S. Kiger

Wayne S. Kiger

AS FURTHER REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Kama Monroe

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AS FURTHER REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

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Thomas L. Hamby, Jr.

Don Rubottom