

STORAGE NAME: h0345.fpr.doc

DATE: April 2, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
FISCAL POLICY AND RESOURCES
ANALYSIS**

BILL #: CS/HB 345

RELATING TO: Targeted Sports Business Economic Development

SPONSOR(S): Committee on Local Government & Veterans Affairs, Representatives Johnson and others

TIED BILL(S): None.

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

- (1) TOURISM YEAS 6 NAYS 0
 - (2) LOCAL GOVERNMENT & VETERANS AFFAIRS YEAS 9 NAYS 0
 - (3) FISCAL POLICY AND RESOURCES
 - (4) COUNCIL FOR COMPETITIVE COMMERCE
 - (5)
-

I. SUMMARY:

This bill authorizes the Department of Revenue (DOR), 12 months after the Office of Tourism, Trade, and Economic Development (OTTED) has certified an applicant as a certified sports industry economic development project (project) pursuant to the bill's provisions, to issue a sales tax reimbursement based upon total project cost and newly generated annual sales taxes. The project is to receive 50 percent of the new sales tax revenues it generates. The total sales tax reimbursement cannot exceed 50 percent of the cost of the project, amortized over 20 years. The annual amount cannot be less than \$500,000 or more than \$2,000,000. The amount and duration of the sales tax reimbursement is based upon a sales tax reimbursement agreement (agreement) between the project and OTTED. Certification is valid for 120 months and may be renewed up to two times for 60 months each, with a total certification not to exceed 240 months.

Before being certified, the applicant must prove to OTTED that it has completed an independent analysis demonstrating that the project will generate a minimum of \$1 million annually in new sales tax revenues over a multi-year period; has commitments for amateur sports activities demonstrating that on a multi-year basis the proposed project will bring to the state new amateur sports business activities that will generate a minimum of \$1 million in new sales tax revenues annually; has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the cost incurred in or related to the development of the proposed project. The bill provides for recertification and decertification procedures; adoption of rules by OTTED; performance of an audit by DOR; maintenance of annual records of projects; and, an annual report to the Legislature by OTTED.

There is a cap of three projects until June 30, 2006. Thereafter, only one new amateur sports economic development project may be certified by OTTED each year. No sales tax reimbursement is authorized for a project until 12 months after OTTED has certified an applicant as a certified project. Therefore, there would be no impact the first year. The Revenue Estimating Conference adopted a recurring fiscal impact of (\$3.8 million) for fiscal years 2001-02 and 2002-03.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

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

B. PRESENT SITUATION:

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 requires DOR to distribute funds to any "certified sports industry economic development project" certified by OTTED pursuant to the bill. DOR is required to distribute up to 50 percent, but not exceeding \$2 million, of the newly generated sales tax revenue monthly, pro rata, to the applicant in an amount and for a duration as agreed to in a written sales tax reimbursement agreement between the project and OTTED. An amateur sports business economic impact is the amount of new sales tax revenues generated by a project as estimated by the Sports Economic Impact Model used by OTTED.

The bill establishes a sales tax reimbursement program for certified sports industry economic development projects, including: a statement of legislative findings and declarations supporting the recruitment of these projects because of their importance to the state; eligibility, certification, recertification, and decertification requirements and procedures; reimbursement amounts and procedures; and, requirements for program administration.

An amateur sports business may apply to OTTED to be certified as a “certified sports industry economic development project” which is defined as an amateur sports business that develops, operates, attracts, and retains multiyear amateur sporting events that generate new sales tax revenues for the state, that has submitted a properly completed application to OTTED, and that has subsequently been certified by that office as a certified sports industry economic development project (project). Upon certification, the project is entitled to distributions of new sales taxes generated by increased new business or tourism activity directly attributable to the project. The amount of the monthly reimbursement payment is established by using a model to project the total estimated amount of new sales tax revenue the project will generate. In essence, the project is to receive 50 percent of the new sales tax revenues it is expected to generate. The total cannot exceed 50 percent of the cost of the project amortized over 20 years. The annual amount can be no less than \$500,000 and no more than \$2,000,000. OTTED is required to notify DOR of the initial certification and reimbursement amount and any changes to the certification status and amount to be paid to a project. Purposes for which the funds are to be used are delineated in the bill.

OTTED is required to establish certification, recertification, and decertification procedures, and is required to develop a standardized certification application form that must include information about job creation, proposed budgets, contracts for events, and project financing. An applicant must provide an independent analysis showing it will generate at least \$1 million annually in new sales tax revenues over a multiyear period. It must have commitments for amateur sports activities demonstrating that the proposed sports industry economic development project will bring new amateur sports business activities to the state on a multiyear basis that will generate the minimum \$1 million in new sales tax revenues annually. Additionally, the proposed project must be able to provide at least 50 percent of its development costs. The applicant amateur sports business is required to enter into a written agreement with OTTED that provides the terms of the certification. Compliance with the agreement is a condition precedent for receiving payments under the bill.

Initial certification of a project is for 120 months with two possible recertifications for 60 months each. If upon review after the ten-year certification, the project is not generating sales tax revenues as projected, its distributions will be reduced until it meets the certification criteria.

Any reduction in distributions will remain in effect until the project generates \$1 million in sales tax revenues in a 12-month period. If the project fails to generate new sales tax revenues of \$1 million for two consecutive years, OTTED has the discretion to decertify the project. OTTED may also decertify a project that is not able to maintain economic development activities in Florida. DOR may suspend payments for six months until the project is either in compliance or is determined to be in default.

OTTED is authorized to verify information provided in applications, including information concerning payment of taxes, to DOR. To facilitate the monitoring and auditing process, OTTED is authorized to request assistance from DOR, the Agency for Workforce Innovation, or any local government or entity regarding a project’s compliance with statutory requirements.

OTTED is granted rulemaking authority to carry out provisions of the bill. DOR is authorized to audit to verify that distributions have been expended as required by the bill.

Finally, the bill adds the attraction of amateur sports economic development projects to the responsibilities of the direct support organization (Florida Sports Foundation) created to assist OTTED with professional and amateur sports responsibilities in the state.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. This section provides that if s. 35 of chapter 2000-260, L.O.F., is repealed by s. 58 of said chapter, paragraph (e) of subsection (6) of s. 212.20, F.S., is amended to add a new sub-subparagraph e to subparagraph 7 to require that beginning 12 months after notice by OTTED that an applicant has been certified as a certified sports industry economic development project, a monthly sales tax reimbursement payment in the amount set forth in the notice by OTTED shall be distributed to the applicant until the certification expires or notice is received from OTTED of a change in the applicant's certification status or in the certified monthly payment amount. The amount of the monthly sales tax reimbursement distribution shall be adjusted beginning 30 days after notice by OTTED that the applicant is to receive a reduced or increased sales tax reimbursement payment.

Section 2. This section provides that if s. 35 of chapter 2000-260, L.O.F., is not repealed by s. 58 of said chapter, paragraph (e) of subsection (6) of s. 212.20, F.S., is amended to add a new sub-subparagraph e to subparagraph 7 to require that beginning 12 months after notice by OTTED that an applicant has been certified as a certified sports industry economic development project, a monthly sales tax reimbursement payment in the amount set forth in the notice by OTTED shall be distributed to the applicant until the certification expires or notice is received from OTTED of a change in the applicant's certification status or in the certified monthly payment amount. The amount of the monthly sales tax reimbursement distribution shall be adjusted beginning 30 days after notice by OTTED that the applicant is to receive a reduced or increased sales tax reimbursement payment.

Section 3. Amends s. 213.053(7)(k), F.S., to extend DOR information sharing with OTTED to include the sales tax reimbursement program authorized by s. 288.113, F.S.

Section 4. Creates s. 288.113, F.S., to establish a tax reimbursement program for "certified sports industry economic development projects."

Findings and Declarations; Definitions

Subsection (1) provides legislative findings and declarations declaring the value of "certified sports industry economic development projects" in providing high-quality employment opportunities for the residents of the state, increasing tourism, and enhancing the economic foundation of the state.

Subsection (2) defines "certified sports industry economic development project" and "sales tax reimbursement". A "certified sports industry economic development project" or "project" is any amateur sports business that develops, operates, attracts, and retains multiyear amateur sporting events that generate new sales taxes for the state, that has submitted a properly completed application to OTTED, and that has subsequently been certified by that office as a certified sports industry economic development project. A "sales tax reimbursement" is that percentage of new sales taxes that are generated by a project and collected by the state which OTTED, using the Sports Economic Impact Model, estimated to be returned to the project as a reimbursement under the terms of the sales tax reimbursement agreement.

Application Eligibility

Subsection (3) specifies that any amateur sports business that develops, operates, attracts, and retains multiyear amateur sporting events that generate new sales taxes for the state may apply for certification in order to receive a sales tax reimbursement on new sales tax revenue generated by increased new business and tourism activity directly attributable to the proposed amateur sports industry economic development project. The number of certified sports economic development

projects shall not exceed three until June 30, 2006, and thereafter only one new certified sports industry economic development project may be certified by OTTED each year.

Tax Reimbursement and Authorized Amount

Subsection (4) provides that the eligible amount of a sales tax reimbursement to a project is up to 50 percent of the amount of eligible new sales tax revenue generated by the project. This is certified by OTTED. The total amount of sales tax reimbursements for all fiscal years estimated for each project may not exceed 50 percent of the cost of the project. Sales tax reimbursements per project shall not be less than \$500,000 nor more than \$2 million in a single fiscal year.

Subsection (5) provides that after entering into a sales tax reimbursement agreement, a project may receive a sales tax reimbursement for any or all of the following:

Developing and implementing any component of the project's sports events and activities;

Constructing, reconstructing, renovating, furnishing, equipping, or operating the project's facilities or events;

Pledging payments or debt service on, or funding, debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds for the project's activities and facilities; and,

Paying the cost of relocating the project's corporate headquarters into the state.

Certification, Recertification, and Decertification

Subsection (6) requires OTTED to establish a process for certifying a proposed amateur sports industry economic development project to receive a sales tax reimbursement of a percentage of new sales tax revenues that have been generated and remitted to the state as a result of the project. Before certifying an applicant, OTTED must determine that the applicant has:

Completed a verified independent analysis or study which demonstrates that the proposed amateur sports economic development project will generate a minimum of \$1 million annually in new sales tax revenues over a multiyear period;

Commitments for amateur sports activities which demonstrate that the proposed amateur sports economic development project will bring to the state on a multiyear basis new proposed amateur sports economic development project activities that will generate a minimum of \$1 million in new sales tax revenues annually; and,

Demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the cost incurred in or related to the development of the proposed amateur sports industry economic development project activity.

The subsection requires OTTED, upon determining that criteria for certification are met, to send the applicant a letter of certification that stipulates the terms of the sales tax reimbursement agreement and the penalties for failing to comply with those terms. OTTED is required to deny an application for certification if it determines that the proposed project does not meet the criteria.

A project that has previously been certified and has received a reimbursement under that certification is prohibited from receiving an additional certification.

OTTED is required to develop a standardized certification application form for amateur sports businesses. The application must include, but not be limited to, relevant information on employment and job creation, proposed budgets, contracts for multiyear events and projects, project financing, and other information requested by OTTED. OTTED must distribute and process all applications.

The subsection requires initial certification for reimbursement to be valid for ten years with eligibility for two additional periods of recertification for five years each. An applicant must request recertification 12 months before the expiration of the certification. The total certification period is limited to 20 years.

OTTED is required to recertify, before the end of the first 10-year period, that the project is operational and is meeting the minimum projections for sales tax revenues as required at the time of the original certification. Funding must be adjusted until certification criteria are met, if the project is not recertified as meeting minimum projections during the ten-year review. The amount of sales tax reimbursement distributed to the project must be reduced to the amount of the taxes collected times 50 percent, if the project fails to generate annual sales tax revenues pursuant to its sales tax reimbursement agreement with OTTED. At the discretion of OTTED, a project may be decertified if for two consecutive years the amount of sales tax revenues collected falls below a minimum of \$1 million per year. A reduction must remain in effect until the sales tax revenues generated by the project in a 12-month period equal or exceed \$1 million.

OTTED may decertify a project if the business can no longer maintain its economic activities in the state. DOR is authorized to suspend payment for a period of 6 months until the project is either in compliance with the sales tax reimbursement agreement or is determined to be in default when the project is no longer in existence, or is no longer viable, as determined by the sales tax reimbursement agreement with OTTED, or the project has the certification for purposes other than authorized. Any person who knowingly falsifies an application for purposes other than those authorized commits a felony of the third degree.

OTTED is required to develop rules for the receipt and processing of an application for funding pursuant to s. 212.20, F.S.

Sales Tax Reimbursement Agreement

Subsection (7) requires, as a condition for sales tax reimbursement, that a project enter into a written agreement with OTTED. The sales tax reimbursement agreement must include, at a minimum, the total number of full-time equivalent jobs created in or transferred to this state as a direct result of the project; the average wage paid for those jobs; the criteria that will apply to measuring the achievement of these terms during the effective period of the agreement; the time schedule or plan for when jobs will be in place and operative in the state; the maximum amount of new sales tax revenue estimated to be generated as a result of the project; the maximum amount of sales tax reimbursement that the project is eligible to receive; the maximum amount of sales tax reimbursement that the project is requesting; and, the budgets, projections, and cost estimates for the amateur sports activities and projects for which a sales tax reimbursement is sought.

The subsection requires compliance with the terms and conditions of the sales tax reimbursement agreement as a condition precedent for receiving a sales tax reimbursement each year. Failure to comply will result in an immediate review by OTTED of the activities of the project. The sales tax reimbursement may not exceed 50 percent of the total project cost, amortized over a period of years not to exceed 20. The sales tax reimbursement may be provided through direct payment or other means of payment to the certified sports industry economic development project, as determined in the sales tax reimbursement agreement with approval of DOR.

Administration

Subsection (8) authorizes OTTED to verify information provided in any claim for sales tax reimbursement including information regarding employment, wage levels or the payment of taxes to any agency, including DOR, the Agency for Workforce Innovation, or any local government. OTTED is authorized to request the assistance of those agencies in monitoring the compliance of the projects with this section. DOR may audit as provided in s. 213.34, F.S., to verify that the distributions have been expended as required.

Information to be Gathered by OTTED; Report to Legislature

Subsection (9) requires that, beginning January 1, 2003, OTTED maintain records based on information provided on taxpayer applications for project reimbursements. Records must include a statement of the percentage of the overall new economic impact generated by projects and the amount of funds annually reimbursed to projects. OTTED is required to maintain data showing the annual growth in Florida-based amateur sports industry companies and the number of persons employed and wages paid by such companies. An annual report to the Legislature on the information gathered pursuant to this subsection must be submitted no later than December 1 of each year.

Section 5. Amends subsection (6) of s. 288.1229, F.S., to add the attraction of amateur sports economic development projects to the responsibilities of the direct support organization (Florida Sports Foundation) created to assist OTTED with professional and amateur sports responsibilities in the state.

Section 6. Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference adopted a recurring fiscal impact of (\$3.8 million) for fiscal years 2001-02 and 2002-03.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Amateur sports businesses certified as sports industry economic development projects will receive sales tax reimbursements. There may be a positive economic impact due to multiplier effects on private businesses surrounding a new amateur sports business hosting multiyear events in Florida. The amount is indeterminate.

D. FISCAL COMMENTS:

The bill may create additional sales tax collections if it results in the establishment of new multiyear sports economic development projects that would not otherwise have been established. There may be a slight positive fiscal impact on local government revenues resulting from additional local sales tax dollars generated by an amateur sports economic development project that otherwise would not have been collected.

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:

The bill does not reduce the authority of counties or municipalities to raise revenue.

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

The bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill appears to provide sufficient statutory rulemaking authority for OTTED.

C. OTHER COMMENTS:

By allowing organizations to service debt with the sales tax reimbursement, future repeal of this bill would be difficult while such debt obligations were in place.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 15, 2001, the Committee on Local Government & Veterans Affairs, considered HB 345, adopted one strike-everything amendment, and passed the bill as a committee substitute. CS/HB 345 differs from the original HB 345 as follows:

- Adds language to provide for the possibility that sections of the bill amending s. 212.20, F.S., might change if the Legislature does not take action before June 30, 2001, to prevent the repeal of ch. 2000-260, L.O.F., regarding telecommunications taxes.
- Clarifies, in certain sections of the bill, that the Department of Revenue is the entity to which the Governor's Office of Tourism, Trade, and Economic Development (OTTED) must give notice of project certifications, decertifications, recertifications, and sales tax reimbursement distribution adjustments.
- Specifies, in certain sections of the bill, that certification as a certified sports industry economic development project is obtained pursuant to s. 288.113, F.S.
- Clarifies the definition of "certified sports industry economic development project" and amends related language accordingly.
- Clarifies project certification criteria regarding the provision of one-half of the cost incurred in or related to the development of the project.
- Changes, in certain sections of the bill, the unit of measurement for the duration of the certification period from "years" to "months" in order to be consistent with the provision for monthly sales tax reimbursement distributions.
- Corrects an incorrect cross-reference to s. 212.20, F.S.
- Clarifies that, if a project fails to generate annual tax revenues pursuant to its agreement with OTTED, the amount of revenues distributed to the project must be reduced to the amount of taxes collected times 50 percent.
- Changes references to the Department of Labor and Employment Security to the Agency for Workforce Innovation.

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- Changes the date by which OTTED must begin maintaining certain sports industry records from January 1, 2001, to January 1, 2003.

Specifies that the attraction of "amateur" sports industry economic development projects will be added to the responsibilities of the direct-support organization created to assist OTTED with professional and amateur sports responsibilities in the state.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Monique Cheek

Staff Director:

Judy C. McDonald

AS REVISED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Thomas L. Hamby, Jr.

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Joan Highsmith-Smith

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

Prepared by:

Adam Shamy

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Greg Turbeville