

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 864

SPONSOR: Commerce and Economic Opportunities Committee and Senator Bronson

SUBJECT: Sports Industry Economic Development Projects

DATE: March 15, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Birholz	Maclure	CM	Favorable/CS
2.	_____	_____	CA	_____
3.	_____	_____	FT	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This committee substitute creates a tax reimbursement program for certified sports industry economic development projects. An amateur sports business may apply to the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) to be certified as a “certified sports industry economic development project,” which is described as an amateur sports business that develops, operates, attracts, and retains multiyear amateur sporting events that generate new sales tax revenues for the state.

Before certifying an applicant, OTTED must determine that the applicant has:

- completed an independent analysis demonstrating that the proposed amateur sports project will generate a minimum of \$1 million annually in new sales tax revenues over a multiyear period;
- received commitments for amateur sports activities which demonstrate that the proposed amateur sports project will bring to this state on a multiyear basis new 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 costs incurred in or related to the development of the proposed amateur sports project.

Each certified sports industry economic development project must enter into a written agreement with OTTED. Compliance with the terms of the agreement is required in order to receive a sales tax reimbursement each year. The agreement must include information such as employment and job creation data, sales tax generation and reimbursement estimates, and proposed project budget, financing, and cost estimates.

Upon certification, each project will be eligible for a monthly distribution of its sales tax reimbursement in the amount determined by its agreement with OTTED. The amount will be based on new sales tax revenues generated by increased business and tourism activity directly attributable to the project. The reimbursements will be 50 percent of the amount of eligible new sales tax generated by the project. Annual payment amounts shall be no less than \$500,000 and no more than \$2 million, unless OTTED reduces payments below \$500,000 pursuant to its authority under this committee substitute. The total amount of sales tax reimbursement for all fiscal years estimated for each project shall not exceed 50 percent of the cost of the project. Moreover, the number of certified projects shall not exceed three until June 30, 2006, after which only one new project may be certified by OTTED each year.

A certified project may use a sales tax reimbursement for any 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.

Initial certification for a sales tax reimbursement is valid for 120 months. Subsequent to the initial certification period, the certified project is eligible for two periods of recertification, each of which is valid for 60 months. This committee substitute also provides for the decertification of a project under certain circumstances.

Each year, OTTED must report to the Legislature on the new economic impact generated by certified projects, the amount of reimbursements to those projects, and the growth of the state's amateur sports industry.

This committee substitute substantially amends the following sections of the Florida Statutes: 212.20, 213.053, and 288.1229. This committee substitute creates section 288.113, Florida Statutes.

## **II. Present Situation:**

Section 288.1229, F.S., authorizes the creation of a direct-support organization to assist the Governor's Office of Tourism, Trade, and Economic Development (OTTED) in three main areas:

- the promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida;
- the promotion of amateur athletic participation for the citizens of Florida; and
- the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions.

OTTED's direct-support organization for these purposes is the Florida Sports Foundation (foundation). The foundation board members consist of 15 members appointed by the Governor and up to 15 members appointed by the existing foundation board of directors. Funding for foundation activities is provided primarily from the private sector and from the professional sports license tag program under s. 320.08058(9), F.S. The license tag program provides approximately \$1.1 million annually which channels matching grant funds through the foundation to regional sports organizations and professional sports franchise host committees in local communities.

Among the foundation's duties as the state's official sports promotion office is the administration of two sports grants programs. The Major Sports Grant Program is designed to assist communities in attracting events, such as the Super Bowl, that create an economic impact of \$50 million or more for the state. The Regional Sports Grant Program is intended to help local communities and sports commissions/authorities attract sporting events that create less than \$50 million of economic impact for their areas. In Fiscal Year 1999-2000, the foundation awarded a total of \$672,000 to 31 major and regional sports grant events. The economic impact of these events was estimated to be more than \$111 million.<sup>1</sup>

OTTED also uses the foundation to carry out the applicant screening duties required under ss. 288.1162, 288.1168, and 288.1169, F.S. The foundation submits the applications to OTTED, which certifies the eligibility of the applicant under the law.

Section 288.1162, F.S., requires OTTED to screen facilities applying for state funding and certify the eligibility of an applicant under one of three categories: "facility for a new professional sports franchise," "facility for a retained professional sports franchise," or "facility for a retained spring training franchise." Current law caps the number of professional sports franchise facilities eligible for certification at eight and requires OTTED to certify at least five retained spring training franchises. To date, there are seven certified professional sports franchise facilities (six "new" facilities, one "retained" facility) and five certified spring training franchise facilities. The Legislature authorized the same type of funding mechanism for the Professional Golf Hall of Fame facility in 1993 (s. 288.1168, F.S.) and for the International Game Fish Association World Center facility (s. 288.1169, F.S.) in 1996.

Certification criteria generally include such things as relationship with and support of a unit of local government, projections for paid attendance, an independent analysis demonstrating that the amount of tax revenues projected to be generated will exceed any money received from the state, 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 a facility. Section 288.1162, F.S., also prohibits a previously certified applicant that has received funding based on its certification from being eligible for an additional certification. Sections 288.1168 and 288.1169, F.S., contain requirements for recertification by OTTED every 10 years, as well as mechanisms for imposing monetary sanctions for failure to meet all certification requirements.

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<sup>1</sup> For state government reporting purposes, the foundation uses an economic development impact model to generate this estimate.

Section 212.20, F.S., authorizes \$166,667 of general sales tax revenues to be distributed monthly (for up to 300 months) to a certified professional golf hall of fame. This same section authorizes \$83,333 of general sales tax revenues to be distributed monthly to the certified International Game Fish Association facility for up to 168 months. The monthly distribution for each applicant that has been certified as a “facility for a new professional sports franchise” or a “facility for a retained professional sports franchise” pursuant to s. 288.1162, F.S., is \$166,667, while up to \$41,667 is distributed monthly to each applicant that has been certified as a “retained spring training franchise facility.”<sup>2</sup> Distributions to these facilities are to continue for not more than 30 years. Section 213.053, F.S., sets forth confidentiality and information sharing requirements for the Department of Revenue with regard to tax administration matters, including payment information related to ch. 212, F.S., and OTTED.

### III. Effect of Proposed Changes:

This committee substitute creates a tax reimbursement program for certified sports industry economic development projects. An amateur sports business may apply to the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) to be certified as a “certified sports industry economic development project,” which is described as an amateur sports business that develops, operates, attracts, and retains multiyear amateur sporting events that generate new sales tax revenues for the state.

**Section 1.** Section 212.20, F.S., governs the distribution by the Department of Revenue of funds collected under the provisions of ch. 212, F.S. If the amendments to s. 212.20, F.S., made by ch. 2000-260, L.O.F., are not repealed, that section will also govern distributions of the taxes collected under the new telecommunications tax statutes enacted in 2000. Section 1 of this committee substitute amends s. 212.20(6)(e), F.S., as it will read if the telecommunications tax amendments are repealed.

This section amends s. 212.20(6)(e)7., F.S., to require that, beginning 12 months after notice by OTTED to the Department of Revenue that an applicant has been certified as a certified sports industry economic development project pursuant to s. 288.113, F.S., a monthly sales tax reimbursement payment, in the amount set forth in the notice by OTTED, be distributed to the applicant until the certification expires or notice is received by the department 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 is identical to Section 1 of this committee substitute except that Section 2 amends s. 212.20(6)(e), F.S., as it will read if the telecommunications tax amendments are not repealed.

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<sup>2</sup> No more than \$208,335 may be distributed monthly in the aggregate to all certified retained spring training franchise facilities.

**Section 3.** This section amends s. 213.053(7)(k), F.S., to extend the Department of Revenue's information sharing with OTTED to include the sales tax reimbursement program authorized by s. 288.113, F.S., as created by this committee substitute.

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

### **Definitions**

Subsection (2) defines "certified sports industry economic development project," or "project," as "any amateur sports business that develops, operates, attracts, and retains multiyear sporting events that generate new sales taxes for the state, has submitted a properly completed application to OTTED, and has subsequently been certified by that office as a certified sports industry economic development project." This subsection also defines "sales tax reimbursement" as the monthly amount to be distributed to a certified sports industry economic development project.

### **Amateur Sports Business Eligibility**

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

This subsection also provides that the number of projects certified by OTTED cannot exceed three until June 30, 2006, after which only one new project may be certified by OTTED each year.

### **Sales Tax Reimbursement and Eligible Amount**

Subsection (4) provides that, upon certification, each project will be eligible for a monthly distribution of its sales tax reimbursement in the amount determined by its sales tax reimbursement agreement with OTTED. The amount will be based on new sales tax revenues generated by increased business and tourism activity directly attributable to the project as determined using the "sports economic impact model." The reimbursements will be 50 percent of the amount of eligible new sales tax generated by the project. The annualized amount of the monthly distribution will be calculated by OTTED and specified in the applicant's sales tax reimbursement agreement. Annual payment amounts shall be no less than \$500,000 and no more than \$2 million, unless OTTED reduces payments below \$500,000 under its authority to decertify a project. The total amount of sales tax reimbursement for all fiscal years estimated for each project shall not exceed 50 percent of the cost of the project, as determined by OTTED in the certification process.

### **Authorized Uses of Sales Tax Reimbursement Payments**

Subsection (5) provides that a certified project may receive a sales tax reimbursement for any 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, Decertification, and Recertification Procedures**

Subsection (6) requires OTTED to establish a process for project certification. Before certifying an applicant, OTTED must determine that the applicant has:

- completed a valid independent analysis or study which demonstrates that the proposed amateur sports industry economic development project will generate a minimum of \$1 million annually in new sales tax revenues over a multiyear period;
- received commitments for amateur sports activities which demonstrate that the proposed amateur sports economic development project will bring to this 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.

OTTED, upon determining that criteria for certification are met, must send the applicant a letter of certification that stipulates the terms of the reimbursement agreement and the penalties for failing to comply with those terms. OTTED must deny an application for certification if it determines that the proposed project does not meet the criteria. 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 a standardized certification application form, which must include, but is not 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 may distribute, and must process, all applications.

Initial certification for reimbursement is valid for 120 months with eligibility for two additional periods of recertification for 60 months each. The applicant must request recertification 12 months before the expiration of the certificate, and the certification period is limited to 240 months. This subsection also provides that any project that has previously been certified and has received a reimbursement under that certification is ineligible for additional certification.

OTTED must recertify, before the end of the first 10-year period, that a project is operational and is meeting the minimum projections for sales tax revenues as required at the time of the original certification. If the project is not recertified during this 10-year review period as meeting the minimum projections, funding shall be adjusted until certification criteria are met.

This subsection also mandates that, if the 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 the taxes collected times 50 percent. The reduction must remain in effect until the tax revenues generated by the project in a 12-month period equal or exceed \$1 million.

At the discretion of OTTED, a project may be decertified if for two consecutive years the amount of tax revenues collected falls below a minimum of \$1 million per year. OTTED may also decertify a project if the business can no longer maintain its economic activities in the state. If the project is no longer in existence, or is no longer viable, as determined by the project's sales tax reimbursement agreement with OTTED, or if the project has the certificate for purposes other than those authorized by this section and ch. 212, F.S., OTTED shall notify the Department of Revenue to suspend payment for a period of six months until the project is either in compliance with the sales tax reimbursement agreement or is determined to be "in default." However, it is unclear whether the determination that a project is "in default" will result in decertification.

OTTED is required to notify the Department of Revenue of all certifications, recertifications, and decertifications of projects and of the sales tax reimbursement distribution amount each project is entitled to receive. OTTED is also 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 Terms**

Subsection (7) requires that as a condition for reimbursement, a project must enter into a written agreement with OTTED. The agreement must include, at a minimum:

- the total number of full-time-equivalent jobs created in or transferred to the 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, and a schedule or plan for when such jobs will be in place;
- the maximum amount of new sales taxes estimated to be generated as a result of the project, the maximum amount of sales tax reimbursement that the project is eligible to receive, and the maximum amount of sales tax reimbursement that the project is requesting; and
- the budgets, financing, projections, and cost estimates for the sports activities and projects for which reimbursement is sought.

Compliance with the terms and conditions of the agreement is required for receiving a 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 costs, amortized over a period of years not to exceed 20 years. Reimbursements may be provided through direct payment or other means of payment to the certified project, as determined in the sales tax reimbursement agreement with OTTED and with the approval of the Department of Revenue.

**Administration**

Subsection (8) authorizes OTTED to verify information provided to appropriate agencies (including the Department of Revenue, the Agency for Workforce Innovation, and local governments and authorities) in any claim for sales tax reimbursement. This information may include data regarding employment, wage levels, or the payment of taxes under ch. 212, F.S. The Department of Revenue is authorized to 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 and Reported to the Legislature**

Subsection (9) requires that, beginning January 1, 2003, OTTED maintain records based on information provided on taxpayer applications for certified sports industry economic development projects that receive sales tax reimbursements. This subsection also specifies that the records maintained by OTTED must include a statement of the percentage of the overall new economic impact generated by projects and the amount of funds annually reimbursed to those projects. In addition, OTTED must maintain data showing the annual growth in Florida-based amateur sports industry businesses and the number of persons employed and wages paid by such businesses. OTTED must submit an annual report to the Legislature on the information gathered pursuant to this subsection no later than December 1 of each year.

**Section 5.** This section amends s. 288.1229, F.S., to add the attraction of amateur sports industry 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.** This section provides for a July 1, 2001, effective date.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.



## V. Economic Impact and Fiscal Note:

### A. Tax/Fee Issues:

The Revenue Impact Conference has yet to review this committee substitute. However, there are certain provisions in this committee substitute that allow for some broad fiscal conclusions to be drawn. The applicable provisions include:

- Section 1 of the committee substitute, which amends s. 212.20(6)(e)7., F.S., to require that, beginning 12 months after notice by the Governor's Office of Tourism, Trade, and Economic Development (OTTED), a monthly sales tax reimbursement payment be distributed to the applicant;
- Subsection (3) of s. 288.113, F.S., which is created by the committee substitute and which provides that the number of projects certified by OTTED cannot exceed three until June 30, 2006, after which only one new project may be certified by OTTED each year;
- Subsection (4) of s. 288.113, F.S., which provides that annual payment amounts shall be no less than \$500,000 and no more than \$2 million, unless OTTED reduces payments below \$500,000 under its authority to decertify a project; and
- Subsection (6) of s. 288.113, F.S., which provides that initial certification for reimbursement is valid for 120 months with eligibility for two additional periods of recertification for 60 months each.

Based on these provisions, it can be concluded that:

- in FY 2001-02, there would not be sales tax reimbursements even if projects are certified because reimbursements cannot commence until 12 months after certification;
- in subsequent years, until June 30, 2006, the annual amount of sales tax reimbursements could range from nothing (zero projects certified) to a maximum of \$6 million (three projects certified at \$2 million each); and
- after June 30, 2006, the annual amount of sales tax reimbursements could range from nothing (zero projects certified) to a maximum of \$6 million (three projects certified at \$2 million each) plus an additional \$2 million in each subsequent year, if one additional project per year is certified.

It also should be noted that, although the precise impact is uncertain, additional revenues could be gained by the state if a new multiyear sports economic development project generates sales tax dollars that otherwise would not have been collected.

### B. Private Sector Impact:

There may be a positive economic impact due to multiplier effects on private businesses surrounding a new sports economic development project hosting multiyear events in Florida.

## C. Government Sector Impact:

### **Local Government**

Although the precise impact is uncertain, additional revenues could be gained by local governments if a new multiyear sports economic development project generates local sales tax dollars that otherwise would not have been collected. This committee substitute also authorizes the Governor's Office of Tourism, Trade, and Economic Development (OTTED) to verify information provided to appropriate agencies, including local governments and authorities, in any claim for sales tax reimbursement.

### **State Government**

This committee substitute requires OTTED to perform many additional duties, including promulgating rules; developing an application; developing and implementing a screening and certification process; developing sales tax reimbursement agreements; implementing monitoring, recertification, and decertification processes; maintaining sports industry data; and reporting annually to the Legislature. However, according to the Florida Sports Foundation, the foundation would be performing most of these duties through its contract with OTTED.

This committee substitute also requires the Department of Revenue to process sales tax distribution payments to certified projects and authorizes the department to audit to verify that the distributions have been expended as required by the committee substitute. According to the department, the operational impact on the department will depend on how many projects are certified and how much assistance OTTED requests from the department.

This committee substitute could also impact the Agency for Workforce Innovation (AWI) since the committee substitute authorizes OTTED to verify information provided to appropriate agencies, including AWI, in any claim for sales tax reimbursement.

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

None.

## **VIII. Amendments:**

None.