

STORAGE NAME: h1419s1.frc.doc
DATE: March 11, 2002

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: CS/HB 1419
RELATING TO: Convention Centers
SPONSOR(S): Fiscal Responsibility Council and Representative(s) Johnson
TIED BILL(S): None

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

- (1) TOURISM YEAS 4 NAYS 0
 - (2) FISCAL RESPONSIBILITY COUNCIL YEAS 19 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill provides that one-half of the sales tax collections generated by the use and operations of eligible convention centers will be remitted back to the unit of local government owning the convention center. Tax proceeds are required to be used to encourage and provide economic development for the attraction, recruiting and retention of high-technology, manufacturing, research and development, and tourism industries and must be pursuant to a resolution adopted by the governing board of the unit of local government.

The screening of applicants and certification as an "eligible convention center" is required to be done by the Office of Tourism, Trade and Economic Development (OTTED) within the Office of the Governor. The criteria for eligibility are delineated in the newly created s. 288.1171, F.S.

Currently, seven convention centers meet the criteria set forth in the bill. The bill is estimated to reduce receipts of the General Revenue Fund by \$0.7 million in FY 2002-03; \$1.8 million in FY 2003-04; and \$3.0 million annually thereafter. Local revenues are expected to be reduced by \$0.1 million in FY 2002-03; \$0.2 million in FY 2003-04; and \$0.3 million annually thereafter.

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

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

B. PRESENT SITUATION:

Distribution of Sales Tax Proceeds

Chapter 212, F.S., imposes a state sales and use tax of 6 percent on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, and motor vehicles. Tax collections are deposited by the Department of Revenue (DOR) in the General Revenue Fund of the state and into a variety of trust funds benefiting state agencies and local governments.

Section 212.20, F.S., governs the distribution by DOR of tax revenues collected under the provisions of Chapter 212, F.S. Paragraph (6) of that section requires DOR to distribute funds to certain qualified sports facilities.

Sales Tax Distributions to Sports Facilities – Capped Number, Payment, & Length of Time

Pursuant to s. 212.20(6)(d)7. b. – d., F.S., 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. 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(6)(d), 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 for Certification for Eligibility for Tax Distribution

Relationship with local government; independent analysis; dedication of resources

Criteria are set forth in Chapter 288, F.S., for certification for each of the above listed types of facilities. Criteria for all 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 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.

Prohibition of additional certification; review, recertification, sanction requirements

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 initial certification requirements are not met. 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.

Required DOR Audit

For all facilities certified by OTTED, DOR is required to audit in order 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 are determined to have been expended outside the requirements of the law.

OTTED to Screen & Certify: Sports Foundation Screens & OTTED Certifies

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.

Definition of Local Government

Section 218.369, F.S., for the purposes of specific provisions in Chapter 218, F.S., defines the term "unit of local government," as:

"...a county, municipality, special district, local agency, authority, or consolidated city-county government or any other local governmental body or public body corporate and politic authorized or created by general or special law and granted the power to issue general obligation or revenue bonds; and the words "general obligation or revenue bonds" shall be interpreted to include within their scope general obligation bonds, revenue bonds, special assessment bonds, limited revenue bonds, special obligation bonds, debentures, and other similar instruments, but not bond anticipation notes."

Convention Centers

Currently, s. 212.20, F.S., does not allocate funds to be distributed to units of local government certified by OTTED as owning, operating, and managing a convention center.

At this time, there are seven convention centers in the state that contain more than 75,000 square feet in exhibit space: Orange County Convention Center (1,103,538 sq. ft.); Miami Beach Convention Center (502,848 sq. ft.); Broward County Convention Center (200,000 sq. ft.); Tampa Convention Center (200,000 sq. ft.); Coconut Grove Convention Center (150,000 sq. ft.); Lakeland Center (82,582 sq. ft.); and Prime F. Osborn III Convention Center in Jacksonville (78,500 sq. ft.). Of those, only four are publicly owned, operated and managed: Orange County Convention Center, Tampa Convention Center, Coconut Grove Convention Center, and Lakeland Center.

Office of Tourism, Trade and Economic Development (OTTED)

The Florida Sports Foundation reviews all applications and makes recommendations for certification to OTTED for all sports related distributions of funds in s. 212.20(6)(d)7., F.S. OTTED then makes the final decision on certification.

At present, there are several incentive programs available to attract, recruit, and retain businesses to the state. The majority of the programs are coordinated and administered by OTTED and Enterprise Florida, Inc. As the state's economic development organization, Enterprise Florida, Inc., is responsible for the retention and recruitment of businesses to Florida.

The Qualified Targeted Industry (QTI) Tax Refund Program encourages quality job growth in targeted high, value-added businesses. Approved businesses receive refunds on taxes (corporate income, sales, ad valorem, and certain other taxes) for creating new jobs in specified industry categories. The High Impact Business Performance Incentive (HIPI) Grant is an incentive used to attract and grow high impact facilities. These incentive programs apply to high technology and manufacturing businesses but not necessarily tourism-related businesses.

C. EFFECT OF PROPOSED CHANGES:

The bill allows one-half of the sales tax collections generated directly by the use and operations of an eligible convention center to be remitted to the unit of local government owning the convention center. These tax proceeds are required to be used to encourage and provide economic development for the attraction, recruiting and retention of high-technology, manufacturing, research and development, and tourism industries and must be pursuant to a resolution adopted by the governing board of the unit of local government.

The screening of applicants and certification as an “eligible convention center” is required to be done by the Office of Tourism, Trade and Economic Development (OTTED) within the Office of the Governor. The criteria for eligibility are delineated in the newly created s. 288.1171, F.S.

Currently, seven convention centers meet the criteria set forth in the bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 creates s. 212.20(6)(d)7.e., F.S., to require DOR to distribute monthly to qualified local governments one-half of the sales tax collections reported on the convention centers sales and use tax return as being generated by the use and operations of eligible convention centers certified pursuant to s. 288.1171, F.S. The distributions may not exceed \$3 million per state fiscal year for each eligible local government. Such distributions are required to begin 60 days following certification by OTTED and may not continue for longer than 30 years. Distributions can only be used to “encourage and provide economic development for the attraction, recruiting, and retention of high-technology, manufacturing, research and development, and tourism industries as designated by the unit of local government by resolution of its governing body.”

Section 2 creates s. 288.1171, F.S., to provide procedures and criteria for certifying applicants for state funding under s. 212.20(6)(d)7.e., F.S. OTTED is designated as the state agency for screening local government applicants that own convention centers to determine eligibility for certification and receipt of state funds.

OTTED is required to adopt rules for the receipt and processing of the applications.

Criteria for certification are as follows:

- Convention center is owned by a unit of local government as defined in s. 218.369, F.S.;
- Center contains more than 75,000 square feet of exhibit space;
- Unit of local government, in which the center is located, has certified by resolution after a public hearing that the application serves a public purpose; and
- Center is located in a county that is levying a tourist development tax pursuant to s. 125.0104, F.S. (47 of the state’s 67 counties levy this tax)

Previously certified applicants who have received funding are ineligible for an additional certification.

Funds distributed to a unit of local government must be used pursuant to s. 212.20(6)(d)7.e., F.S., and for those purposes set forth in a resolution adopted by the governing board of that local governmental unit. The DOR may audit to verify distributions have been expended appropriately.

Section 3 provides that the act will take effect October 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill is estimated to reduce receipts of the General Revenue Fund by \$0.7 million in FY 2002-03; \$1.8 million in FY 2003-04; and \$3.0 million annually thereafter.

2. Expenditures:

Indeterminate at this time. However, there will be some cost to OTTED for rule promulgation, review of applications, and certification. Information obtained from OTTED indicated that there would be a "significant" impact but noted that the impact was indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local revenues associated with revenue sharing and the Local Government Half-cent Sales Tax Clearing Trust Fund are expected to be reduced by \$0.1 million in FY 2002-03; \$0.2 million in FY 2003-04; and \$0.3 million annually thereafter.

An eligible local government may receive up to 50% of the state sales tax paid by its eligible convention center. Expenditures currently used for recruitment or retention of industries to the local government's area would be augmented, thus bringing the possibility for additional revenue to the area.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is a potential positive impact on high technology, manufacturing, research and development, and tourism industry sectors that are recruited and encouraged to stay in an area through the revenues remitted to the local governments.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

This bill grants rule-making authority to OTTED to adopt rules regarding the receipt and processing of applications for funding.

C. OTHER COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 13, 2002, the Committee on Tourism reported the bill favorably with one amendment. The amendment does the following:

1. Removes the requirement that a unit of local government must "operate and manage" an eligible convention center in order to be qualified for certification for a sales tax remittance. The requirement for ownership is retained. This change opens the process to Duval County/Jacksonville for the Prime F. Osborne III Center, Miami Beach/Miami-Dade County for the Miami Beach Convention Center, and Broward County for the Greater Fort Lauderdale/Broward County Convention Center.
2. Clarifies that certification is of the unit of local government and not the eligible convention center.
3. Replaces the term "funds" with the term "proceeds" to clarify that interest and penalties are included.
4. Defines "convention center."
5. States that the proceeds to be considered in determining the amount of the disbursement to the local government are only those generated by the eligible convention center and remitted on the center's sales and use tax return.
6. Clarifies that the monthly disbursement is based on the taxes received and collected the previous month.
7. Requires that the initial disbursement of funds begin 60 days after DOR receives "notification" by OTTED of the local government certification.
8. Limits the maximum amount that a unit of local government can receive to up to \$3 million per state fiscal year for a maximum of 30 years.
9. Tightens the use of proceeds language in s. 288.1170, F.S., to conform to that in s. 212.20(6)(d)7.e., F.S.
10. Requires OTTED to notify DOR of certifications.
11. Provides that DOR may audit to verify that the use of distributions are in compliance with requirement of the ss. 212.20(6)(d)7.e. and 288.1170, F.S. Provides for recovery.
12. States that failure to use proceeds as required by s. 288.1170, F.S., is grounds for revoking certification.
13. Changes the effective date from upon becoming law to October 1, 2002.
14. The amendment is estimated to reduce receipts of the General Revenue Fund by \$0.7 million in FY 2002-03; \$1.8 million in FY 2003-04; and \$3.0 million annually thereafter. Local revenues are expected to be reduced by \$0.1 million in FY 2002-03; \$0.2 million in FY 2003-04; and \$0.3 million annually thereafter.

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On March 8, 2002, the Fiscal Responsibility Council adopted one technical amendment and approved the bill as a council substitute. This technical corrected a statutory citation.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Staff Director:

Judy C. McDonald

Judy C. McDonald

AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Staff Director:

Joe McVaney

David Coburn