

STORAGE NAME: h1419.tu.doc
DATE: February 11, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TOURISM
ANALYSIS**

BILL #: HB 1419
RELATING TO: Convention Centers
SPONSOR(S): Representative(s) Johnson
TIED BILL(S): None

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

- (1) TOURISM
 - (2) FISCAL RESPONSIBILITY COUNCIL
 - (3)
 - (4)
 - (5)
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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, 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. 288.1170, F.S.

Currently, only four convention centers meet the criteria as set forth in the bill. The Revenue Estimating Conference has not reviewed the bill to provide an estimate of impact on General Revenue funds. From the information received from the convention centers by the Orlando County Convention Center, the amount for the last fiscal year would have been approximately \$1.7 million. This amount, however, does not include the tax information for one center and only partial information from another.

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. The tax is also imposed on certain services, to include nonresidential telecommunication and electric services. 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 is set forth in Chapter 288, F.S., for certification for each of the above listed types of facilities. Criteria for all includes 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 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.

Required DOR Audit

For all 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 have been 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 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, operating, and managing 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, 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. 288.1170, F.S.

Currently, only four convention centers meet the criteria as 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 generated by the use and operations of eligible convention centers certified pursuant to s. 288.1170, F.S. Distributions are required to begin 60 days following certification by OTTED. Distributions can only be used to "encourage and provide economic development for the attraction, recruiting, and retention of high-technology, manufacturing, and tourism industries as designated by the unit of local government by resolution of its governing body."

Section 2 creates s. 288.1170, 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 and manage 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, operated, and managed 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.

Section 3 provides that the act will take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

A minimum of \$1.7 million in sales tax revenue will be remitted back to units of local government; however, this does not include total estimates from two of the known eligible convention centers. The Revenue Estimating Conference has not reviewed the bill to determine the impact. The Department of Revenue has been requested to review the tax receipts from eligible centers. Information has not been received at this time.

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. The Department of Revenue has been asked to report what, if any, costs will be incurred by them.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unable to determine exact amount at this time; however, an eligible local government would receive 50% of 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, and tourism industry sectors that are recruited, encouraged to stay in an area, etc., through the revenues remitted to the local governments.

D. FISCAL COMMENTS:

A minimum of \$1.7 million in sales tax revenue will be remitted back to units of local government; however, this does not include total estimates from two of the known eligible convention centers. The Revenue Estimating Conference has not reviewed the bill to determine the impact. The Department of Revenue has been requested to review the tax receipts from eligible centers. Information has not been received at this time.

Indeterminate at this time. There might some cost to OTTED for rule promulgation, review of applications, and certification. Information provided indicates a "significant" impact but shows the costs as "indeterminate". Department of Revenue has been asked regarding what, if any, costs will be incurred by them.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 1419 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:

HB 1419 does not reduce the authority that municipalities or counties have to raise revenues.

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

HB 1419 does not reduce the percentage of state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

Section 2 of the bill provides for rule-making authority for OTTED.

C. OTHER COMMENTS:

Unlike other provisions under s. 212.20(6)(d)7.b.-d., F.S., this bill does not provide a set amount of revenue to be expended per eligible entity, does not provide a time limit for the tax remittance to local government, does not limit the number of eligible applicants, and does not require an audit by DOR.

Additionally, the wording of the bill on page 5, lines 15-18, is unclear as to what is meant by "directly generated by the use and operation of such convention centers". It is not clear if this includes taxes paid by vendors.

There is a technical change needed in the bill. On page 5, line 19, the word "began" should be "begin".

Finally, the bill becomes effective upon becoming law; however, generally tax bills take effect October 1 or January 1 to allow time for necessary implementation activities by DOR and other entities involved, such as OTTED.

Comments by Department of Revenue

The Department of Revenue noted the following concerns with the legislation as written:

1. In Section 1 of the bill, the department stated that the term "funds" on page 5, lines 12 and 16 was unclear as to its meaning. It could not be determined if it referred to "proceeds" (tax, penalty and interest) or whether it included "discretionary sales surtax".
2. Since the term "convention center" is not defined, the department was unclear as to what constituted a convention center and the eligible taxes, i.e., would sales taxes generated by a

- business located within a convention center be included in determining the amount to be distributed to a unit of local government or is the distribution limited to the sales tax reported on the center's tax return?
3. The department questioned the placement of the language in s. 212.20(6)(d)7. In Section 1, the amount distributed to units of local governments is dependent on the amount collected and received by the department and generated by eligible convention centers. The placement of Section 1 with the distributions of the remaining proceeds in s. 212.20(6)(d)7., F.S., seems to indicate that "funds" are to be distributed to certified units of local governments only if there are proceeds available. While the distributions listed in that subparagraph are of a fixed amount, the distribution in Section 1 is unlimited, and it appears not to depend on the amount of any remaining proceeds.
 4. The distribution of funds in Section 1 does not indicate if it is to be made from funds received in the prior month.
 5. Section 2 does not address notification by OTTED to the department when a unit of local government has been certified. Distribution of funds are stated to begin 60 days after certification. Usually a distribution is begun 60 days after the department is notified of certification.
 6. There is no requirement for an audit to verify the use of funds distributed.
 7. Statements in Section 2 regarding the uses of the funding appear to conflict with those outlined in Section 1 of the bill. There is concern that the language in Section 2 allows for a broader potential use of funds.
 8. There is no time frame for distribution of funds. Unlike other provisions in s. 212.20(6)(d)7., the language provides for distribution in perpetuity.
 9. Distributions are to be made to units of local governments; however, certification for distribution is of convention centers. Which entity is the applicant is confusing between the language in Section 1 and Section 2.

The Department of Revenue provided suggestions for change. Some are dependent upon the answer to questions concerning the meaning of "funding", definition of "convention center", and any limitations on amount or length of funding.

Comments by Office of Tourism, Trade and Economic Development (OTTED)

OTTED noted the following concerns with the legislation as written:

1. The language does not address notification, of the certification, of the Department of Revenue by OTTED. The bill states that DOR shall begin issuing funds 60 days following certification by OTTED but it is unclear how DOR is to be aware of this certification.
2. The bill does not give DOR or OTTED the authority to audit distributions by the local governing authority to determine if the expenditures are for the required purpose. Also, the language does not allow any penalty or decertification if the local governing body is not expending the funds in an appropriate manner.
3. Disbursements have no time limit and may continue indefinitely.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Staff Director:

Judy C. McDonald

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