

STORAGE NAME: h1611.ccc.doc
DATE: February 28, 2002

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS**

BILL #: HB 1611
RELATING TO: Tourist Recruitment Facilities
SPONSOR(S): Representative(s) Brummer
TIED BILL(S): None

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

- (1) TOURISM YEAS 5 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 12 NAYS 0
- (3) COUNCIL FOR COMPETITIVE COMMERCE
- (4)
- (5)

I. SUMMARY:

HB 1611 creates s. 288.1175, F.S., which designates the Department of Agriculture and Consumer Services (department) as the state agency responsible for screening and certifying applicants as tourist recruitment facilities. A "tourist recruitment facility" is defined as a convention center, exposition hall, or other capital project, which can be used for concerts, conventions, agricultural events, or exhibitions primarily by nonresidents of the applying unit of local government.

The bill sets forth general criteria the applicants must meet in order to be certified. The applications are to be evaluated on a competitive basis. If there are more than 5 applications and the aggregate funding request of all applications exceeds \$1 million, the department is required to rank the applications according to criteria adopted by rule and to certify the highest ranked proposals. Specific criteria to be included and the priority order for consideration are provided in subsection (6) of the bill. The department is prohibited from certifying funding for less than the requested amount to any applicant certified as a tourist recruitment facility.

Applications are required to be submitted by October 1, 2002. Certification by the department must be completed by January 1, 2003.

The bill limits fund use to paying costs for acquisition, construction, reconstruction, or renovation of a tourist recruitment facility; to pay or pledge for the payment of debt service on; or to fund debt service reserve funds, arbitrate (*arbitrage*) rebate obligations, or other amounts payable with respect to bonds issued for the acquisition, construction, reconstruction, or renovation of such facility or for reimbursement of such costs or refinancing of bonds issued for such purposes.

Fiscal Impact: Neither the funding source nor the amount of funding available for certification is provided in the bill. According to the department, the total operating cost to implement the legislation for FY 2002-03 is \$111,055 from the General Revenue Fund. This bill does not provide an appropriation. The strike everything amendment traveling with this bill eliminates the fiscal impact on the department.

The Tourism Committee passed the bill with a strike everything amendment which is traveling with the bill. See Section VI for details.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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"/> |

The bill creates a new responsibility for the Department of Agriculture and Consumer Services to screen and certify applicants for funding as "tourist recruitment facilities."

B. PRESENT SITUATION:

Part I of Chapter 288, F.S., contains general provisions relating to various economic development, capital improvement, and grant programs. Some of the provisions relate to Enterprise Florida and Tourism foreign offices; the Florida Commission on Tourism, VISIT FLORIDA, and grants funded through the Commission; the Office of Film and Entertainment and its advisory council; certification process and eligibility requirements for various sports-related facilities (certification is done by the Office of Tourism, Trade and Economic Development (OTTED) in the Office of the Governor); rural economic development grants; Brownfields; QTI; Quick Action Closing Fund; and stop-and-quick permitting initiatives.

Included in Part one of Chapter 288, F.S., are two provisions that relate in part to HB 1611: the definitions of "tourism promotion" and "tourist" and the requirements for certification of sports facilities to be used by OTTED.

In Chapter 288, F.S., the only definitions relating to tourism are contained in s. 288.1222, F.S., which governs these terms as they are used to govern Florida's tourism efforts by the Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation, doing business as VISIT FLORIDA. "Tourism promotion" is any marketing efforts exercised to attract domestic and international visitors from outside the state to destinations in Florida and to stimulate Florida resident tourism to areas within the state. A "tourist" is any person who participates in trade or recreation activities outside the county of his or her permanent resident or who rents or leases transient living quarters or accommodations as described in s. 125.0104(3)(a), F.S., governing local option tourist development taxes.

Criteria is set forth in Chapter 288, F.S., for certification of facilities for professional, retained professional and retained spring training franchises; the Professional Golf Hall of Fame facility; and, the International Game Fish Association World facility. 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.

The spring training facility selection process adds requirements for OTTED to use in its application evaluations which are to be done on a competitive basis. Criteria is provided to be considered if there are more than 5 applicants requesting more than an aggregate of \$208,335 per month. The criteria is placed in a priority ranking order. The criteria is outlined in detail in s. 288.1162(5)(c), F.S. Much of this criteria is used in HB 1611 but altered to fit the types of facilities to be funded. In fact, subsection (5) in its entirety seems to have used as a model for the bill.

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.

For all facilities certified by OTTED, the Department of Revenue (DOR) is required to conduct an 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.

Note that this audit by DOR is required because each of the sports facilities under Chapter 288, F.S., are funded through a remittance of sales and use tax funds. However, verification of use of funds is usually required when any state or federal funds are used for any project.

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."

The Division of Marketing and Development (division) in the Department of Agriculture and Consumer Services (department) receives community budget requests for entry into the department's budget. Each request is evaluated against established minimum project criteria and then processed for approval and inclusion in the budget. According to the department, a project involving renovation of facilities or completion of the project is considered, however, inclusion for funding is not provided for new construction. When a local project is funded by the Legislature, the division administers the disbursement of funds through contracts including verification of the grantee's compliance with the various provisions of the contract. The division inspects each of the grantee's projects for visual verification of compliance with the contract's scope of work. Projects are related to the promotion and marketing of the state's agricultural products and services, the communities involved in such production and services, and the promotion and marketing of other activities under the purview of the department.

The costs associated with these services are not addressed in statute. House Bill 1681, the department's legislative package for 2002, by the Committee on Agriculture & Consumer Services, and its companion measure CS/SB 2072, contain a provision requiring the division to review community budget request allocations administered by it to determine eligibility with respect to s. 216.052, F.S., and authorizing the division to assess and collect a fee to recoup the cost of services provided in administering each grant. The fee cannot exceed 2% of the allocation for each grant. The assessment is required to be deposited into the General Inspection Trust Fund (GITF) of the department at the beginning of each fiscal year.

The requirements and process for "community budget requests" is found in s. 216.052, F.S. A local, county, or regional governmental entity, private organization, or nonprofit organization may submit a request for a state appropriation for a program, service, or capital outlay initiative that is local or regional in scope, is intended to meet a documented need, addresses a statewide interest, is intended to produce measurable results, and has tangible community support to members of the Legislature, a state agency, or the Governor. The section sets forth requirements for local match, demonstrations of sound financial management, community partnership or involvement, and other verification and validation of the project request.

C. EFFECT OF PROPOSED CHANGES:

HB 1611 creates s. 288.1175, F.S., which designates the Department of Agriculture and Consumer Services as the state agency responsible for screening applicants for and certifying applicants meeting requirements set forth in the section as tourist recruitment facilities. A "tourist recruitment facility" is defined as a convention center, exposition hall, or other capital project, which can be used for concerts, conventions, agricultural events, or exhibitions primarily by nonresidents of the applying unit of local government.

The bill sets forth general criteria for applicants to meet in order to be certified. The applications are to be evaluated on a competitive basis. If there are more than 5 applications and the aggregate funding request of all applications exceed \$1 million, the department is required to rank the applications according to criteria adopted by rule and to certify the highest ranked proposals. Specific criteria to be included and the priority order for consideration are provided in subsection (6) of the bill. The department is prohibited from certifying funding for less than the requested amount to any applicant certified as a tourist recruitment facility.

Applications are required to be submitted by October 1, 2002. Certification by the department must be completed by January 1, 2003.

The bill limits fund use to paying for acquisition, construction, reconstruction, or renovation of a tourist recruitment facility or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage (*arbitrage*) rebate obligations, or other amounts payable with respect to bonds issued for the acquisition, construction, reconstruction, or renovation of such facility or for reimbursement of such costs or refinancing of bonds issued for such purposes.

Neither the funding source nor the amount of funding available for certification is provided in the bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates s. 288.1175, F.S., establishing requirements for screening and certifying applicants for designation as tourist recruitment facilities.

Subsection (1) requires the Department of Agriculture and Consumer Services to serve as the state agency for screening applicants for state funding and certifying them as qualified "tourist recruitment facility.

Subsection (2) requires the department to develop rules.

Subsection (3) provides definitions.

Subsection (4) sets forth qualification requirements to be met by an applicant in order to receive funding. Requirements include the following:

1. verified projections that the facility will attract more than 50,000 nonresidents annually;
2. verified independent study or analysis demonstrating revenues generated by the taxes imposed under Chapter 212, F.S., regarding the use and operation of the facility, will equal or exceed \$1 million annually;
3. municipality in which the facility is located, or county, if in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose;
4. applicant has demonstrated ability to provide more than one-half of costs incurred or related to acquisition, construction, or renovation of facility; and
5. facility is located in a county levying a tourist development tax (s. 125.0104, F.S.).

Subsection (5) prohibits a previously certified applicant that received funding from receiving additional certification.

Subsection (6) requires the department to evaluate applications on a competitive basis for funding; requires applications to be submitted by October 1, 2002, and certifications to be made by January 1, 2003; requires the department to rank applications by criteria established in rule and pursuant to a priority ordered criteria list in the subsection when there are more than 5 applicants and the aggregate funding request for all exceeds \$1 million.

Specified ranking criteria includes: use of facility, with greater weight given to new construction; amount of local match; net increase of total convention or exhibition space within applying unit of local government; location of facility, with priority given to facilities located in a brownfield, an enterprise zone, a community redevelopment area, or other area of targeted development or revitalization included in a Urban Infill Redevelopment Plan, or a farm buy-out area; and, projection of paid attendance.

Subsection (7) prohibits expenditure of funds for privately owned and maintained facilities.

Subsection (8) limits fund use to paying for acquisition, construction, reconstruction, or renovation of a tourist recruitment facility or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage (*arbitrage*) rebate obligations, or other amounts payable with respect to bonds issued for the acquisition, construction, reconstruction, or renovation of such facility or for reimbursement of such costs or refinancing of bonds issued for such purposes.

Subsection (9) prohibits the department from certifying a facility more than once and prohibits the department from certifying funding for less than the requested amount of the certified applicant.

Section 2: provides an effective date of becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	<u>FY 02-03</u>	<u>FY 03-04</u>	<u>FY 04-05</u>
None. (See fiscal comments section D. below.)			
2. <u>Expenditures:</u>			
General Revenue Fund (GR)			
Non-Recurring Costs:			
OCO – (1) Professional Pkg @ \$1,500	\$1,500	-0-	-0-
--(1) Support Staff Pkg. @ \$2,000	\$2,000	-0-	-0-
One Time Expenses Lap Top Computer (Auditing facilities in the field.)	<u>\$1,800</u>	<u>-0-</u>	<u>-0-</u>
Total Non-Recurring	\$5,300	-0-	-0-
Recurring Costs:			
a. Positions (Located in Leon Co.)			
Salaries and Benefits			
(1) FTE Constr. Proj. Admin. (PG-22)	\$48,760	\$50,223	\$51,730
(1) FTE Senior Clerk (PG-11)	\$31,287	\$32,226	\$33,193
b. Expenses			
(1) Professional Exp Pkg. @ \$9,915	\$ 9,915	\$ 9,915	\$ 9,915
(1) Support Staff Exp Pkg @ \$8,019	\$ 8,019	\$ 8,019	\$ 8,019
Travel (local gov't facilities)	<u>\$ 7,774</u>	<u>\$ 7,774</u>	<u>\$ 7,774</u>
Total Non-Recurring	<u>\$105,755</u>	<u>\$108,157</u>	<u>\$110,631</u>
Total Operating Costs GR	\$111,055	\$108,157	\$110,631

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None. (See fiscal comments in section D. below.)

2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the Department of Agriculture and Consumer Services, two positions would be needed to accomplish the duties proposed in the legislation. The duties include development of rules for receipt and processing of applications and verifying various aspects of the applications process for compliance with the qualifications for certification. (See detail of costs in A. above.) Although the estimated funding needs indicate recurring costs, the bill indicates the application period is from October 1, 2002, to January 1, 2003. This bill does not provide an appropriation.

Subsection (4) of Section 1 of the bill requires qualifying projects to generate an annual increase in sales tax collections of \$1 million; therefore, annual taxable revenues for the facilities would need to be \$16,700,000 to meet this requirement. The bill does not provide project funding to generate this increase.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 1611 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 1611 does not reduce the authority that municipalities or counties have to raise revenues.

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

HB 1611 does not reduce the percentage of state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the department to develop rules for the receipt and processing of applications for funding of projects and for selection criteria pursuant to the newly created s. 288.1175, F.S.

C. OTHER COMMENTS:

According to proponents of the legislation, since there is no formal process established for the application and selection of capital projects involving new construction of facilities, funding requests in the past for such projects have been vetoed. The legislation is to address the lack of such a process.

The bill puts no specific constraints on the length of funding (annual, for a set number of years, etc.), nor on how long a certification lasts (only for one budget cycle; for a set number of years, etc.). The bill does place a limit on when all applications must be received and that all applicants must be certified by January 1, 2003. This may mean that funding is only for 6 months. In the sports facilities law, the language in s. 288.1162, F.S., is linked to s. 212.20, F.S., which provides funding for 15 to 30 years depending upon the type of facility.

The bill provides a trigger mechanism for a ranking of applications based upon priority order criteria when there are more than five applications with a total aggregate funding request of more than \$1 million. From this language, the \$1 million appears to be a cap on funding.

The first sentence in subsection (9) and subsection (5) seem to be the same prohibition.

The definition of unit of local government and its requirements and the language in subsection (7) seem to be in conflict. Subsection (7) appears to further limit ownership and management.

There is a technical, typographical error in the bill. The word "arbitrate" should be "arbitrage".

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 20, 2002, the Committee on Tourism unanimously passed HB 1611 with a strike everything amendment. The amendment to the bill differs from the original bill in the following ways:

- The name/type of facility to be certified is changed from a "tourist recruitment facility" to an "agriculture education and promotion facility".
- "Agriculture education and promotion facility" is defined. The definition adds additional types of facilities and additional uses for the purposes of promoting agricultural resources of the state and educating residents concerning those uses. The original bill stated that a facility's uses were to be primarily for nonresidents of the community.
- The requirements for certification of this type of facility no longer includes a requirement for the facility to be located in an area levying the local option tourist development tax pursuant to s. 125.0104, F.S., nor a requirement that the amount of revenues generated by the taxes imposed under Ch. 212, F.S., with respect to the use and operation of the facility, will equal or exceed \$1 million annually.
- The unit of local government or a fair association must be the applicant for certification and is responsible for the planning, design, permitting, construction, renovation, management, and operation of the facility or holds title to the property on which the facility is to be developed and located. This language clarifies who the applicant is and adds a fair association.
- Instead of requiring the attraction of more than 50,000 nonresidents annually as a certification criteria, the facility must verify that it will serve more than 25,000 visitors annually.
- The facility must be certified by resolution of the local government that it serves a public purpose.
- As part of the certification criteria, the applicant must demonstrate an ability to provide 40%, instead of 50%, of certain costs incurred or related to the facility. Acquisition of a facility is deleted from the enumerated costs; however, planning, design, and permitting are added. Also, the language now states that the applicant can use the value of the land and any improvements to the land in determining its level of contribution.
- The prohibition for recertification of a facility if it has received money under a prior certification is removed.
- Applications are required to be submitted by October 1 of each year with facility funding to be made by January 1 of each year. The bill had required facility application by October 1, 2002, and funding by January 1, 2003. As in the original bill, the amendment prohibits the department from funding a facility for less than what is requested; however, the amendment states that funding of applicants is subject to legislative appropriation.

- The amendment removes the \$1 million aggregate funding request of more than five applicants as a trigger for competitive evaluation and ranking of applicants for certification. Instead, the amendment requires the department to competitively evaluate and rank if there are more than three applicants.
- The first two criteria for ranking remain unchanged. The areas of location to be considered in ranking a facility are expanded to include more rural and agricultural emphasis. The requirement for net increase of space is clarified. The paid attendance projection and economic impact requirement is slightly changed to accommodate the facility name change. Two new criteria are added to the ranking consideration: historic record of the applicant in promoting agriculture and educating the public about agriculture and location of the facility in respect to an IFAS facility.
- The amendment prohibits the use of funds to develop or subsidize privately owned facilities with the exception of facilities owned by a fair association. The exception was not in the original bill.
- In the amendment, the permitted use of funds received by an applicant is identical with the exception that it no longer allows funds to be used for acquisition and does allow payment for planning, design, and permitting.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Judy C. McDonald

Staff Director:

Judy C. McDonald

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Marsha Belcher

Staff Director:

Lynn Dixon

AS FURTHER REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Katherine Scott

Council Director:

Matthew Carter