

**STORAGE NAME:** h1611s1.ccc.doc  
**DATE:** March 5, 2002

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

**BILL #:** CS/HB 1611  
**RELATING TO:** Agriculture Education and Promotion Facilities  
**SPONSOR(S):** Council for Competitive Commerce and Representative 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 YEAS 12 NAYS 0
  - (4)
  - (5)
- 

I. SUMMARY:

CS/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 agriculture education and promotion facilities. An "agriculture education and promotion facility" is defined as an exhibition hall, arena, civic center, exposition center or other capital project or facility which can be used for exhibitions, demonstrations, trade shows, classrooms, civic events and other purposes that promote and educate persons about agriculture, horticulture, equestrian and other state resources.

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 3 applicants, the department is required to rank the applications according to criteria developed by the department with priority given to specific criteria provided in subsection (5) of the bill.

Applications are required to be submitted by October 1 of each year with facility funding provided by January 1 of each year. Funding of certified applicants is limited to legislative appropriations; however, the department is prohibited from certifying funding for less than the amount requested by an applicant.

The bill limits fund use to paying for the planning, design, permitting, construction, or renovation of an agriculture education and promotion facility; to pay or pledge for the payment of debt service on; or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for planning, design, permitting, construction, or renovation of such facility or for reimbursement of such costs or refinancing of bonds issued for such purposes.

**Fiscal Impact:** The funding for facilities certified under this bill is dependent upon legislative appropriation for such purposes. If facilities are funded, the department estimates that the total operating cost to implement the legislation for FY 2002-03 is \$69,749 from the General Revenue Fund.

**See Section VI for the differences between CS/HB 1611 and the original bill as filed.**

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 "agriculture education and promotion facilities."

B. PRESENT SITUATION:

**Chapter 288, Part I**

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.

Certification Requirements for Sports Facilities

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 was used in the original HB 1611 but altered to fit the types of facilities to be funded. The process used in CS/HB 1611 is similar to provisions in the spring training selection process.

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.

#### **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."

#### **Department of Agriculture & Consumer Services, Division of Marketing and Development**

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:**

CS/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 agriculture education and promotion facilities. An “agriculture education and promotion facility” is defined as an exhibition hall, arena, civic center, exposition center or other capital project or facility which can be used for exhibitions, demonstrations, trade shows, classrooms, civic events and other purposes that promote and educate persons about agriculture, horticulture, equestrian and other state resources.

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 3 applicants, the department is required to rank the applications according to criteria developed by the department with priority given to specific criteria provided in subsection (5) of the bill.

Each year applications are required to be submitted by October 1 with facility funding provided by January 1. Funding of certified applicants is limited to legislative appropriations; however, the department is prohibited from certifying funding for less than the amount requested by an applicant.

The bill limits fund use to paying for the planning, design, permitting, construction, or renovation of an agriculture education and promotion facility; to pay or pledge for the payment of debt service on; or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for planning, design, permitting, construction, or renovation of such facility or for reimbursement of such costs or refinancing of bonds issued for such purposes.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1:** Creates s. 288.1175, F.S., establishing requirements for screening and certifying applicants for designation as agriculture education and promotion facilities.

Subsection (1) requires the department to serve as the state agency for screening an applicant for state funding and certifying as a qualified “agriculture education and promotion 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. applicant is a unit of local government as defined in s. 218.369, F.S., or a fair association as defined in s. 616.001(9), F.S., and is responsible for the planning, design, permitting, construction, renovation, management, and operation or holds title to the property on which the facility is to be developed and located;
2. verified projections that the facility will serve more than 25,000 visitors 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 proposed facility serves a public purpose; and
4. applicant has demonstrated ability to provide more than 40 percent of costs incurred or related to the planning, design, permitting, construction, or renovation of the facility.

Subsection (5) requires the department to evaluate applications on a competitive basis for funding; 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 3 applicants.

Specified ranking criteria includes: use of facility, with greater weight given to new construction; amount of local match; net increase of total civic center, arena or exhibition space within applying unit of local government; location of facility, with priority given to facilities located in a brownfield, a rural enterprise zone, a redevelopment area, agriculturally depressed area, or a county that has lost its agricultural land to environmental restoration projects; location of a facility with respect to an IFAS facility; historic record in promoting agriculture and educating public about agriculture; and, projection of paid attendance.

Subsection (6) prohibits expenditure of funds for privately owned and maintained facilities, except for facilities owned by fair associations as defined in s. 616.001(9), F.S.

Subsection (7) limits fund use to paying for planning, design, permitting, construction, or renovation of an agriculture education and promotion facility or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for the allowable uses of such funds or for reimbursement of such costs or refinancing of bonds issued for such purposes.

Subsection (8) provides timeframes for submission of applications and for funding to begin for such facilities; states that funding of facilities is subject to legislative appropriations; 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>
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None. (See fiscal comments section D. below.)

2. Expenditures:

**General Revenue**

**Non-Recurring Costs:**

OCO – (1) Professional Pkg			
@ \$1,500	\$1,500	-0-	-0-

	<u>FY 02-03</u>	<u>FY 03-04</u>	<u>FY 04-05</u>
One Time Expenses			
Lap Top Computer (Auditing facilities in the field.)	<u>\$1,800</u>	<u>-0-</u>	<u>-0-</u>
Total Non-Recurring	\$3,300	-0-	-0-
<b>Recurring Costs:</b>			
a. Positions (Located in Leon Co.)			
Salaries and Benefits			
(1) FTE Constr. Proj. Admin. (PG-22)	\$48,760	\$50,223	\$51,730
b. Expenses			
(1) Professional Exp Pkg. @ \$9,915	\$ 9,915	\$ 9,915	\$ 9,915
Travel (local gov't facilities)	<u>\$ 7,774</u>	<u>\$ 7,774</u>	<u>\$ 7,774</u>
Total Non-Recurring	<u>\$66,449</u>	<u>\$67,912</u>	<u>\$69,419</u>
<b>Total Operating Costs GR</b>	\$69,749	\$67,912	\$69,419

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the Department of Agriculture and Consumer Services, one position 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.) The department also stated in its fiscal analysis that if section 18 of HB 1681 remains intact and becomes law, the fiscal impact placed on this legislation would be negated.

Any cost to the department for implementation would be dependent upon legislative appropriation for certification of facilities pursuant to CS/HB 1611.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/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:

CS/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:

CS/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 (for one budget cycle; for a set number of years, etc.).

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

**Committee on Tourism**

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.

### **Council for Competitive Commerce**

On March 4, 2002, the Council for Competitive Commerce unanimously passed the legislation as a Council Substitute for House Bill 1611. The language incorporated into the council substitute was that of the traveling amendment adopted by the Committee on Tourism.

### **VII. SIGNATURES:**

#### **COMMITTEE ON TOURISM:**

Prepared by:

Judy C. McDonald

Staff Director:

Judy C. McDonald

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AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Staff Director:

Marsha Belcher

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Lynn Dixon

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AS FURTHER REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Council Director:

Judy C. McDonald

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Matthew Carter

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