HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 61 w/CS Economic Development Incentives
SPONSOR(S): McInvale, Antone, & Kallinger
TIED BILLS: None **IDEN./SIM. BILLS:** SB 518(S); SB 216(S)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Tourism (Sub)	5 Y, 0 N	McDonald	Billmeier
2) Commerce	18 Y, 0 N w/CS	McDonald	Billmeier
3) Finanace & Tax			
4) Transportation & Econ. Dev. Apps. (Sub)			
5) Appropriations			

SUMMARY ANALYSIS

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, recruitment and retention of corporate headquarters and of high-technology, manufacturing, research and development, entertainment, 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 within the Office of the Governor. The criteria for eligibility are delineated in the newly created s. 288.1171, F.S. Currently, eight convention centers meet the criteria set forth in the bill.

The bill provides for additional facilities for retained spring training franchises to be funded beginning July 1, 2004. Applications must be received by October 1 of each year and any certifications made by January 1 of the following year. The bill uses the same mechanism used for the one time funding of 5 facilities in 2001, but allows for considerations for applications on an annual basis, if warranted. No more than 5 facilities can be certified in any application cycle. The aggregate amount of funding for facilities to be certified in any application cycle is $41,667 per facility per month for a total maximum of $208,335 per month. Additional criteria for selection were added including a prohibition against consideration of an application for those teams that have greater than 4 years remaining on an existing lease. The bill amends s. 212.20 to increase the aggregate distribution of sales and use tax distributions to all certified facilities for a retained spring training franchise to $416,667 to accommodate the 5 additional certifications.

On March 1, 2004, the Revenue Estimating Conference met and estimated that the fiscal impact of the provisions relating to convention centers in HB 61 upon General Revenue is ($2.0) million for FY 04-05 and ($2.6) million for FY 05-06. The estimated fiscal impact upon local government is $2.0 million for FY 04-05 and $2.6 million for FY 05-06. The Revenue Estimating Conference has not met and estimated the fiscal impact of the provisions relating to facilities for retained spring training franchises. If the maximum number of 5 facilities were certified and they each received the maximum of $41,667 per month, then the General Revenue impact would be ($1.25) million in FY 04-05 and ($2.5) million in FY 05-06. The estimated fiscal impact on local governments receiving the certification would be $1.25 million in FY 04-05 and $2.5 million in FY 05-06.

The bill takes effect July 1, 2004.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[x]
2. Lower taxes?	Yes[]	No[]	N/A[x]
3. Expand individual freedom?	Yes[]	No[]	N/A[x]
4. Increase personal responsibility?	Yes[]	No[]	N/A[x]
5. Empower families?	Yes[]	No[]	N/A[x]

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

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Distribution of Sales Tax Proceeds

Chapter 212, F.S., imposes a state sales and use tax of 6% 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. Subsection (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. The law caps the number of new and retained professional sports franchise facilities eligible for funding at eight and requires that at least five facilities for retained spring training franchises be certified. No other sports-related businesses or facilities are entitled to distributions from DOR of tax revenues collected pursuant to Chapter 212, F.S.

Criteria for Certification for Tax Distribution Eligibility

The criteria generally include such things as relationship with and support of a local unit of government, projections of 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 or development of the facility. Other requirements include reviews, recertification, sanctions, audits, and a prohibition of additional certifications for the same facility.

Facilities for Retained Spring Training Franchises

Chapter 2000-186, Laws of Florida, created a one-time funding opportunity for at least 5 facilities for retained spring training franchises. Applications for consideration for certification were required to be submitted to the Office of Tourism, Trade, and Economic Development (OTTED) by October 1, 2000 with certifications being given by January 1, 2001. OTTED was required to competitively evaluate applications. If the number exceeded 5 and the aggregate funding request exceeded $208,335 per month, OTTED was required to rank the applications according to criteria delineate in s. 288.1162(5)(c), F.S. OTTED could not certify partial funding to any applicant certified as a facility for a retained spring training franchise.

Prior to certifying, OTTED was required to determine that a unit of local government was responsible for the acquisition, construction, management or operation of the retained spring training franchise facility or held title to the property on which the facility was located; the applicant had a verified copy of a signed agreement with a retained spring training franchise for the use of the facility for a term of at least 15 years; the applicant had a financial commitment of 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility; the applicant had valid projections demonstrating that the facility would attract paid attendance of at least 50,000 annually; and, that the facility was located in a county levying a tourist development tax pursuant to s.125.0104, F.S.

Funds could not be expended to subsidize privately owned and maintained facilities for use by the retained spring training franchise. Funds could be used to relocate an existing retained spring training franchise to another unit of local government within the state if the local government from which it was relocating agreed to the move. Other than the use of funds for an agreed to relocation, funds could only be used to pay for acquisition, construction, reconstruction, or renovation of a facility or to pay or pledge for the payment of debt service on a facility or for the reimbursement or refinancing of bonds issued.

The Department of Revenue was instructed to distribute sales tax proceeds to any applicant certified under s. 288.1162(5), F.S., as a "facility for a retained spring training franchise." A certified applicant could receive up to $41,667 monthly for up to 30 years. However, not more than $208,335 could be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise.

OTTED certified the following:

• Lakeland	Detroit Tigers	$ 7 million	15 years
• Dunedin	Toronto Blue Jays	$10 million	20 years
• Indian River	Los Angeles Dodgers	$15 million	30 years
• Osceola County	Houston Astros	$ 7.5 million	15 years
• Clearwater	Philadelphia	$15 million	30 years

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 an eligible convention center.

At this time, there are eight convention centers in the state that contain in excess of 75,000 square feet in exhibition space and are owned by a unit of local government: Orange County Convention Center (2,053,820 sq. ft.); Miami Beach Convention Center (502,848 sq. ft.); Broward County Convention Center (199,526 sq. ft.); Tampa Convention Center (200,000 sq. ft.); Coconut Grove Expo Center (150,000 sq. ft.); Lakeland Center (100,000 sq. ft.); Palm Beach County Convention Center (100,000 sq. ft.); and Prime F. Osborn III Convention Center in Jacksonville (78,500 sq. ft.). Lee Civic Center is owned by a unit of local government and currently has 75,000 sq. ft. of space.[1] The Lee Civic Center, however, is operated by a Fair Association and does not collect nor remit taxes.[2]

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[1] According to *TradeShow Week Major Hall Directory*, August 2003.
[2] Conversation on March 2, 2004 with Ms. Alta Mosley of the Lee Civic 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 and recruit businesses to the state and to retain businesses in 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 both the retention and recruitment of businesses.

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, 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.

Change in Law to Certify Convention Centers for Sales Tax Distributions

The bill tracks many of the procedures, requirements, and limitations as described above for other facilities certified by OTTED for convention centers.

The bill creates s. 212.20(6)(d)7.e., F.S., to require the Department of Revenue (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. Distributions cannot exceed $3 million per state fiscal year for each eligible local government. Such distributions are required to begin 60 days following certification 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 corporate headquarters and of high-technology, manufacturing, research and development, entertainment, and tourism industries as designated by the unit of local government by resolution of its governing body.

Pursuant to s. 288.1171, F.S., created by the bill, the screening of applicants and certification as an "eligible convention center" is required to be done by OTTED. The criteria for eligibility include that the center is owned by a unit of local government, contains more than 75,000 square feet of exhibit space, has been certified by resolution as serving a public purpose, and is located in a county levying a local option tourist development tax under s. 125.0104, F.S. Previously certified applicants are ineligible for additional certifications.

Finally, funds distributed to a local government as set forth in this bill are required to be used for the purposes set forth in a resolution adopted by the governing board of the local government. The Department of Revenue may audit to verify the expenditure of the distributions.

Change in Law to Certify Additional Facilities for Retained Spring Training Franchises

The bill provides for additional facilities for retained spring training franchises to be funded beginning July 1, 2004. Applications must be received by October 1 of each year and any certifications made by January 1 of the following year. The bill uses the same mechanism used for the one time funding of 5 facilities in 2001, but allows for considerations for applications on an annual basis, if warranted. No more than 5 facilities can be certified in any application cycle. The aggregate amount of funding for facilities to be certified in any application cycle is $41,667 per facility per month for a total maximum of $208,335 per month. Additional criteria for selection were added including a prohibition against consideration of an application for those teams that have greater than 4 years remaining on an existing lease. The bill amends s. 212.20 to increase the aggregate distribution of sales and use tax distributions to all certified facilities for a retained spring training franchise to $416,667 to accommodate the 5 additional certifications.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.20(6)(d)7., F.S., as amended by s. 92 of ch. 2003-402, Laws of Florida, to increase the total aggregate funding available to certified facilities for retained spring training franchises and to add sub subparagraph e., providing requirements for monthly distribution of one-half of the sales tax collections reported on certain convention centers to qualified local governments and setting limitations on distributions.

Section 2. Amends s. 288.1162, F.S., providing for certification of additional facilities for retained spring training facilities; providing procedures and criteria for certifying applicants; conforming language.

Section 3. Creates s. 288.1171, F.S., providing procedures and criteria for certifying applicants for state funding under s. 212.20(6)(d)7.e., F.S.

Section 4. Provides that the bill will take effect on July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See "Fiscal Comments."

2. Expenditures:

   The Office of Tourism, Trade and Economic Development (OTTED) estimates the nonrecurring cost for staff time to promulgate rules and develop applications for the provisions relating convention centers will be $9,500 for FY 04-05. Recurring costs for staff time for application distribution, application review, facility certification, and notification of the Department of Revenue are estimated to be $2,500.

   At this time, OTTED has not provided any information concerning costs associated with the provisions relating to certification of facilities for retained spring training franchises.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See "Fiscal Comments."

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

There is a potential positive impact on local businesses in areas where retained spring training franchises will remain versus relocating to another state or venue within the state.

D. FISCAL COMMENTS:

On March 1, 2004, the Revenue Estimating Conference met and estimated that the fiscal impact of the provisions relating to convention centers in HB 61 upon General Revenue is ($2.0) million for FY 04-05 and ($2.6) million for FY 05-06. The estimated fiscal impact upon local government is $2.0 million for FY 04-05 and $2.6 million for FY 05-06. The Revenue Estimating Conference has not met and estimated the fiscal impact of the provisions relating to facilities for retained spring training franchises. If the maximum number of 5 facilities were certified and they each received the maximum of $41,667 per month, then the General Revenue impact would be ($1.25) million in FY 04-05 and ($2.5) million in FY 05-06. The estimated fiscal impact on local governments receiving the certification would be $1.25 million in FY 04-05 and $2.5 million in FY 05-06.

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 and state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require municipalities or counties to expend funds, does not reduce their authority to raise revenue, and does not reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 10, 2004, the Committee on Commerce adopted the amendment recommended by the Subcommittee on Tourism and adopted two other amendments related to incentives for certified facilities for retained spring training facilities. All of these changes described below indicate the changes between the original bill and the committee substitute passed by the Commerce Committee:

- increases the aggregate distribution of sales tax distributions to all certified facilities for retained spring training franchises to $416,667 to accommodate the additional certifications provided in changes to s. 288.1162(5), F.S.;
- amends s. 288.1162(5), F.S., to do the following:
    1. allow for additional facilities to be funded beginning July 1, 2004,
    2. requires OTTED to take applications by October 1 of each year and provide certifications, if any, by January 1 of following year,
    3. allows no more than 5 facilities to be certified during any application cycle,
    4. provides that aggregate amount of funding for certified facilities in any application cycle is $41,667 per month per facility or $208,335 per month;

5. uses criteria used in initial certification of 5 facilities except that criteria is added relating to acquisition and renovation of facilities and a prohibits consideration of an application for those teams that have greater than 4 years remaining on an existing lease;

- amends s. 288.1162(7), F.S., to conform language to changes in subsection (5); and
- amends s. 212.20, F.S., to limit the total distribution to any one eligible unit of local government for an eligible convention center to $2 million each fiscal year for up to 30 years; limit the total distribution for all units of local government eligible to receive funds for certified convention centers to $10 million in any fiscal year; and further define proceeds to include all applicable sales taxes collected by a certified convention center for parking, admission, ticket sales, food services, electrical or like services, space rentals, equipment rentals, and security services.

On March 8, 2004, the Subcommittee on Tourism recommended an amendment for adoption by the Commerce Committee. The amendment does the following:

- limits the total distribution to any one eligible unit of local government to $2 million each fiscal year for up to 30 years,
- limits the total distribution for all units of local government to $10 million in any fiscal year, and
- further defines proceeds to include all applicable sales taxes collected by a certified convention center for parking, admission, ticket sales, food services, electrical or like services, space rentals, equipment rentals, and security services.