



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

*Provide Limited Government*- The bill increases the responsibilities of the Governor's Office of Tourism, Trade, and Economic Development for the certification created by the bill. See details below.

*Ensure Lower Taxes* – The bill requires an annual distribution from sales tax revenues depending on the number of facilities undertaking additional renovations or improvements: minimum of \$1.3 million annually to a maximum of more than \$10 million annually to the certified applicant(s). See details below.

#### B. EFFECT OF PROPOSED CHANGES:

##### **History:**

In 1988, with the enactment of Ch. 88-226, LOF, a funding mechanism for state support of the construction of professional sports facilities in Florida was begun. The Department of Commerce was assigned the duties of screening applicants, developing rules for processing applications, and presenting the applications to the Legislature for approval for funding.

It was not until 1991 that the current structure for certification of facilities for professional sports franchises and for funding of \$2 million through distribution of sales tax revenues became law.<sup>1</sup>

The first facility, Joe Robbie Stadium (Marlins), was certified in July 1993 but did not begin receiving a distribution of tax revenues until June 1994. The last new or retained professional sports franchise facility to be certified was the American Airlines Arena (Miami Heat) in February 1998 with the distribution of revenue beginning in March 1998.

##### **Present Situation:**

##### *Facilities for New and Retained Professional Franchises - Certification*

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) can certify a total of eight applicants as "facilities for new or retained professional sports franchises."<sup>2</sup> An applicant can be a unit of local government or a private entity; however, local government must be responsible for the facility or own the land on which it sits. A "new professional sports franchise" means a professional sports franchise that is not based in this state prior to April 1, 1987 and a "retained professional sports franchise" means a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, has continuously remained at that location, and has never been located at a previously certified facility."<sup>3</sup>

To qualify an applicant for certification as either a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise", OTTED must determine that:

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<sup>1</sup> See Ch 91-274, LOF.

<sup>2</sup> Currently, seven applicants/facilities have been certified: Broward Co. for Home Depot Stadium (Panthers); Joe Robbie, Inc., for Pro Player Stadium (Marlins); City of Jacksonville for Alltel Stadium (Jaguars); Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning); City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays); BPL, Ltd., for American Airlines Arena (Miami Heat); and, Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers)..

<sup>3</sup> See s. 288.1162(3)(a) and (b), F.S. The Miami Dolphins is the only team in the state that does not qualify under either definition. By definition, the only team eligible under the definition of "retained professional sports franchise" is the Tampa Bay Buccaneers.

- A unit of local government is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located;
- Franchise has agreed to use the facility for 10 or 20 years depending on type of franchise;
- Governing league approves;
- Projections indicate 300,000 in paid annual attendance;
- Tax revenues generated will equal or exceed \$2 million annually;
- Local government certifies that facility serves a public purpose;
- Applicant is capable of providing more than 50% of costs incurred or related to the improvement and development of the facility; and,
- Applicant has not been previously certified and received funds for that certification.

Funds to be distributed under s. 212.20, F.S., must be used only for the public purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise 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 acquisition, construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for those purposes.

No facility can be certified more than once. No sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by OTTED before funds were distributed under s. 212.20, F.S., or the previous certification occurred between May 23 and May 25, 1993.<sup>4</sup> However, any funds distributed pursuant to s. 212.20, F.S., for the second certification shall be offset by the amount distributed to the previous certified facility. Distributions of funds for the second certification shall not be made until all amounts payable for the first certification have been distributed.

#### Funding – Tax Distribution

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 certified sports facilities.<sup>5</sup>

Specifically, s. 212.20(6)(d)7.b., F.S., requires DOR to distribute \$166,667 monthly to the applicants certified by OTTED as “facilities for new or retained professional sports franchises” pursuant to s. 288.1162, F.S. Distributions begin 60 days after certification and continue for not more than 30 years.<sup>6</sup> A certified applicant under the paragraph is not to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6), F.S. A certified applicant, however, is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

#### **Changes Proposed by Bill:**

<sup>4</sup> See s. 288.1162, F.S.

<sup>5</sup> Under this paragraph, DOR provides funding to new and retained professional sports franchise facilities and to retained spring training franchise facilities as certified under s. 288.1162, F.S.; the Professional Golf Hall of Fame facility as certified pursuant to s. 288.1168, 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 no other sports businesses or facilities are entitled to distributions from DOR of tax revenues collected pursuant to Chapter 212, F.S.

<sup>6</sup> DOR provides funding to at least five facilities for retained spring training franchises certified by OTTED. Up to \$41,667 is distributed monthly to each applicant; however, no more than \$208,335 may be distributed in the aggregate to all such facilities.

The bill increases the current maximum amount of monthly distribution for a facility for a new or retained professional sports franchise that is certified on or after January 1, 2005 to \$275,000, an increase of \$108,333 per month or \$1.3 million per year for up to 30 years. The bill also increases the existing monthly distribution of \$166,667 to \$275,000 for any previously certified facility that undertakes additional renovations and improvements pursuant to s. 288.1162, F.S., the law which governs the criteria for the original certification, the certification process, and the use of funds based upon the certification. That law, however, does not provide a mechanism for reviewing such funding requests nor for requiring the showing of the relationship of increased funding to increased sales tax generation for the previously certified facilities.

The bill refers to the certification of “new professional sports franchises” and “retained professional sports franchises”. Franchises are not certified in s. 288.1162, F.S. Applicants are certified as “facilities for new or retained professional sports franchises.”

The bill takes effect upon becoming a law.

#### C. SECTION DIRECTORY:

Section 1: Amends s. 212.20(6)(d), F.S., relating to the distribution of proceeds under Chapter 212, F.S., and s. 202.18(1)(b) and (2)(b), F.S.; increasing the amount distributed to new or retained professional sports franchises.

Section 2: Provides an effective date of upon becoming a law.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

Minimum impact on General Revenue: (\$1.3) million per fiscal year for up to 30 years above current estimates.

Maximum impact on General Revenue: (\$10.4) million per fiscal year for up to 30 years. Note that the length of time for currently certified facilities would vary depending upon the remaining years from the date of distribution of funds from the original certification.

See “Fiscal Comments” for detail.

##### 2. Expenditures:

See “Fiscal Comments”.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

Minimum impact on local government of \$3.3 million per year for up to 30 years because revenues have never been disbursed for the eighth remaining slot; however, only \$1.3 million is above what is currently set aside for the eighth slot. See comments under “Fiscal Impact on State Government”.

Maximum impact on local government of \$9.8 million per year for up to 30 years.

See “Fiscal Comments”.

##### 2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For the two private sector applicants that are currently certified as “facilities for new professional sports franchises”, there is a potential increase in disbursement of General Revenue funds of \$2.6 million per fiscal year for up to 30 years.

What impact the increased funding for the remaining certification or the increased funding for existing certifications will have on the private sector through the use of the funds is not able to be determined.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not met and estimated the fiscal impact of the provisions of the bill. It is not known when an applicant will be certified as a facility for a new or retained professional sports franchise. It is also not known when nor how many of the currently certified facilities will seek to receive money for additional renovations or improvements to their respective facilities. However, the additional tax revenue distribution for a facility for a new or retained professional sports franchise to fill the eighth slot is \$1.3 million per year above the current \$2 million per year allotted for the slot. Since there is one slot currently available for a new or retained professional sports franchise facility, it could be assumed that this would be an additional \$1.3 million reduction in General Revenue over the next 30 years. The bill, however, refers to any franchise facility that is certified after January 1, 2005. If additional slots are added, the costs for those additional slots will likewise increase to a total General Revenue reduction per slot of \$3.3 million per year for up to 30 years.

The potential maximum reduction in General Revenue per year for previously certified facilities seeking money for additional renovations is \$1.3 million per the seven certified facilities or \$9.1 million reduction per year for up to 30 years.

The additional costs, if any, for administration of the provisions of the bill by the Department of Revenue and OTTED are not known at this time.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor has prepared an amendment to address the drafting issues discussed below.

On lines 92 through 95 of the bill, reference is made to “new or retained professional sports franchises” being certified. This is contrary to the language on lines 88 through 92 of the bill as well as the certification law which triggers the release of funds.<sup>7</sup> Franchises are not certified. Applicants are certified as “facilities for a new or retained professional sports franchise.”

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<sup>7</sup> See s. 288.1162, F.S.

On lines 95 through 96, the bill refers to previously certified franchises receiving money for “additional renovations and improvement pursuant to s. 288.1162, F.S.” The cited section pertains to the original certification of these facilities and does not provide a mechanism for any role of OTTED in the receipt of money for purposes other than the original certification. There is, therefore, no requirement for a greater than 50% participation in the costs to be incurred that require the additional funds over a 30 year period; no requirement to show that sales tax revenue generation will meet or exceed the additional sales tax revenue expended, and no review of construction to determine if it is in keeping with the other requirements to make certain that the public purpose of the original certification is maintained. It is unclear how OTTED would approve distributions relating to those facilities undertaking additional renovations and improvements. Also, the word “additional” can be confusing since only two of the originally certified facilities were considered renovations and the remainder were certified as construction.<sup>8</sup> For all but two, there have not been any renovations or improvements considered for funding.

Finally, the bill does not amend s. 288.1162, F.S., to provide that there is a verified analysis or study indicating that the increased revenue distribution will be offset by sales tax collections.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

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<sup>8</sup> According to the Florida Sports Foundation, Joe Robbie (now Pro Player) and Tropicana Field, are the only two considered to be renovations and not new construction.