HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1287 Professional Sports Franchises
SPONSOR(S): Lopez-Cantera and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Tourism Committee		Langston	McDonald
2) Finance & Tax Committee			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

Current law requires the Department of Revenue (department) to distribute a specified amount of tax revenues to applicants certified as professional sports franchise facilities by the Office of Tourism, Trade, and Economic Development (OTTED) within the Office of the Governor as meeting specific requirements outlined in s. 288.1162, F.S. An applicant can be a unit of local government or a private entity. Requirements for certification include such things as relationship with and support of a local unit of government, projections of paid attendance, analysis of sales tax revenue generation, demonstration of ability to provide or having financial or other commitments to provide more than one-half of the costs incurred or related to the acquisition, construction, reconstruction, or renovation of such facilities, and, depending upon whether it is a "new" or "retained" professional sports franchise facility, a commitment by the franchise to use the facility for a minimum of 10 or 20 years. The law caps the number of new and retained professional sports franchise facilities eligible for funding at eight. Additionally, the certification of a facility would end if the franchise that qualified the facility for certification left and any remaining franchise does not qualify as a "new professional sports franchise," "retained professional sports franchise," or "retained spring training franchise." The type of franchise would have to be the same as that for which the original certification was made.

The department distributes $166,667 monthly to the applicant that has been certified as the "facility for a new or retained professional sports franchise" for no more than 30 years. Currently, there are seven receiving the distribution of $2 million per year. Funds distributed by the department can only be used for public purposes delineated in s. 288.1162, F.S.

This bill creates a ninth certification slot for an applicant for a "facility for a new or retained professional sports franchise". The bill permits a facility to remain qualified for certification if the professional sport franchise, upon which the facility's original certification was based, leaves for another facility when: (1) the facility served as the home for two professional sports franchises; and (2) the franchise used as the basis for the original certification is used as the basis for the certification of a new facility. The sports franchise remaining at the original facility is deemed to be the franchise which formed the basis of the original certification, regardless of whether or nor it would have qualified under existing definitions of new or retained professional sports franchise. The length of disbursement and amount of money for the facility that remains certified are to remain as if no changes had occurred. The franchise for which the certification had originally been made is considered to be a franchise that has not been the subject of a previous certification. The applicant that uses that franchise is not bound by any earlier funding constraints outlined in law; however, disbursements cannot begin until July 1, 2006.

Allowing one additional applicant to be certified by OTTED as a facility for a new professional sports franchise or a facility for a retained professional sports franchise will have a recurring negative fiscal impact to General Revenue of $2 million beginning in FY 06-07 and continuing for 30 years.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government- The bill increases responsibilities for OTTED & DOR relating to the certification and distribution processes related to facilities for new professional sports franchises.

Ensure Lower Taxes – The bill requires an annual distribution from sales tax revenues of $2 million for an additional certification slot for a facility for a new professional sports franchise. 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.[1]

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."[2] An applicant can be a unit of local government or it can be 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, and has continuously remained at that location, and has never been located at a previously certified facility."[3]

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

- 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;

[1] See Ch 91-274, LOF.

[2] 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).

[3] 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 of 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 on May 24, 1993.[4] 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.

Currently, the certification of a facility would end if the franchise that qualified the facility for certification left and any remaining franchise does not qualify as a "new professional sports franchise," "retained professional sports franchise," or "retained spring training franchise." The type of franchise would have to be the same as that for which the original certification was made.

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.[5]

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.[6] 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

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[4] See s. 288.1162, F.S.

[5] 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.

[6] 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.

under this section for additional renovations and improvements to the facility for the franchise without additional certification.

Memorandum of Understanding Provided to Legislature

On March 8, 2005, a "Memorandum of Understanding & Project Overview" of a new Baseball facility was prepared for the Florida State Legislature. The parties to the agreement include Miami-Dade County, the City of Miami, and the Florida Marlins. The Memorandum of Understanding provides the general terms and conditions with respect to the design, development, construction and operations of a Major League Baseball facility and related parking facilities. The ballpark plans include a retractable roof, natural grass, and approximately 38,000 seats.

The local and state government funding provisions are listed below:

Local Government Participation

Ballpark	$360,000,000
Parking Garage	$32,000,000
Land & Infrastructure	$28,000,000
TOTAL PROJECT COSTS	*$420,000,000*
Team Pledge	
Team Rent (County Debt)	$162,000,000
Team Contribution	$30,000,000
County Pledge	
PST (Sports Tax)	$48,000,000
CDT (includes $60 million City debt issuance per inter local)	$90,000,000
City Pledge	
TDT	$28,000,000
Parking Revenues	$32,000,000
TOTAL FUNDS	$390,000,000
Funding Gap(State Funding)	$30,000,000

EFFECT OF PROPOSED CHANGES

The bill amends s. 288.1162(7), F.S., to increase from eight to nine the number of applicants that may be certified by OTTED as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise."

The bill also amends s. 288.1162(9), F.S., to permit a facility to remain qualified for certification if the professional sports franchise, upon which the facility's original certification was based, leaves for another facility when:

- the facility served as the home for two professional sports franchises; and,
- the franchise used as the basis for the original certification is used as the basis for the certification of a new facility.

The sports franchise remaining at the original facility is deemed to be the franchise which formed the basis of the original certification, regardless of whether or nor it would have qualified under existing definitions of new or retained professional sports franchise.

The length of disbursement and amount of money for the facility that remains certified are to remain as if no changes had occurred. The franchise for which the certification had originally been made is considered to be a franchise that has not been the subject of a previous certification. The applicant that uses that franchise is not bound by any earlier funding constraints outlined in law; however, disbursements cannot begin until July 1, 2006.

In fact, the bill provides that any applicant that is certified after the effective date of the act cannot receive disbursements until July 1, 2006. The effective date of the bill is upon becoming a law.

The only possible application of the changes proposed in the law is for the current situation of the Marlins and Dolphins at Pro Player Stadium (Dolphin Stadium). The bill would allow another applicant to be certified as a facility for the Florida Marlins and to receive revenue disbursements for that certification without having to wait for disbursements to begin after the completion of the disbursements for the first certification, or to have disbursements be offset by the disbursements of the first certification. The current applicant certified as a "facility for a new professional franchise" for the Marlins would retain its current disbursements but the Miami Dolphins, rather than the Marlins, would be considered the "new professional sports franchise" that serves as the basis for the certification.

C. SECTION DIRECTORY:

Section 1: Amends ss. 288.1162 (7) and (9), F.S., relating to professional sports franchises; spring training franchises; duties; expands the number of slots; provides exceptions for certification disqualification; provides limitation on length of payment.

Section 2: Provides notwithstanding any other provision of law, an applicant that is certified after the effective date of this act by OTTED as a facility for a new professional sports franchise or a facility for a retained professional sports franchise may not receive disbursements until July 1, 2006.

Section 3: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

General Revenue	FY 05-06	FY 06-07	FY 07-08
	-0-	($2 million)	($2 million)

See "Fiscal Comments."

2. Expenditures:

Minimal. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:	FY 05-06	FY 06-07	FY 07-08
Local Revenue	-0-	$2 million	$2 million

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

At this time the exact impact on the private sector is not able to be determined.

D. FISCAL COMMENTS:

Allowing one additional applicant to be certified by OTTED as a facility for a new professional sports franchise or a facility for a retained professional sports franchise will have a recurring negative fiscal impact to General Revenue of $2 million beginning in FY 06/07 and continuing for 30 years for a total General Revenue loss of $60 million. It will have an impact on OTTED and the Florida Sports Foundation with regard to the application review and certification process for the new certification slot created by the bill. Information has been requested from OTTED but has not been provided at this time.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On line 67 of the bill, there is an incorrect statutory reference: s. 228.1162, Florida Statutes, should be s. 288.1162, Florida Statutes.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES