

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Tourism Committee</u>	<u>8 Y, 0 N, w/CS</u>	<u>Langston</u>	<u>McDonald</u>
2) <u>Finance & Tax Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Transportation & Economic Development Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Current law requires the Department of Revenue to distribute a specified amount of tax revenues to no more than 8 applicants certified as facilities for new or retained professional sports franchises and at least 5 certified as facilities for retained spring training franchises. The Governor's Office of Tourism, Trade and Economic Development certifies applicants based upon statutory criteria. An applicant can be a unit of local government or a private entity.

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 not 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.

The bill provides for certification of up to three additional applicants as "facilities for retained spring training franchises." Applications must be received by October 1, 2005 and certifications made by January 1, 2006. The bill uses the same mechanism used for the one time funding of 5 facilities in 2001. The aggregate amount of funding for certified applicants for new facilities is up to \$41,667 per facility per month for a total aggregate monthly maximum of \$125,001. Additional selection criteria were added, including a prohibition against consideration of an application for those teams that have more than 4 years remaining on an existing lease. The bill amends s. 212.20, F.S., to increase the aggregate distribution of sales and use tax distributions to all certified facilities for a retained spring training franchise to \$333,336 to accommodate the 3 additional certifications. It is also amended to ensure that both the amount and duration of distribution established in the certification cannot be altered.

The addition of a ninth certification for a new or retained professional sports franchise facility will have a recurring negative fiscal impact to General Revenue of (\$2) million beginning in FY 06-07 and continuing for 30 years. The addition of three certifications for retained spring training franchise facilities will have a maximum negative impact of (\$165,788) in FY 05-06 and a maximum recurring negative impact of (\$1.5) million annually beginning in FY 06-07 and continuing for up to 30 years. See "Fiscal Comments."

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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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 and for facilities for retained spring training 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 and \$1.5 million for additional certifications for applicants for facilities for retained spring training franchises. 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

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;
- 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 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.

Facilities for Retained Spring Training Franchise - Certification

Chapter 2000-186, LOF, 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 delineated 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.

⁴ See s. 288.1162, 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

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 applicants certified by OTTED as “facilities for new or retained professional sports franchises” and to distribute up to \$41,667 monthly to applicants certified by OTTED as “facilities for retained spring training franchises.” However, not more than \$208,335 can be distributed monthly in the aggregate to all applicants certified as “facilities for retained spring training franchises.” All distributions to certified applicants for new and retained professional sports franchise facilities and for retained spring training franchise facilities begin 60 days after certification and continue for no more than 30 years.

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 s. 212.20, F.S., 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

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.

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(5), F.S., to provide for certification and funding of no more than three additional applicants for facilities for retained spring training franchises. Applications must be received by October 1, 2005, and any certifications must be made by January 1, 2006. The bill uses the same mechanism used for the one-time funding of 5 facilities in 2001. The funding for facilities to be certified is up to \$41,667 per facility per month for a total aggregate amount for the new certified applicants not to exceed \$125,001 per month. Additional criteria for selection were added including a prohibition against consideration of an application for those franchises that have greater than 4 years remaining on an existing lease. The bill amends s. 212.20(6)(d)7.b., F.S., to increase the aggregate distribution of sales and use tax distributions to all certified facilities for a retained spring training franchise to \$333,336 to accommodate the 3 additional certifications and to remove language that permits changes in the amount of distribution and length of distribution after certification and without any review by OTTED. This final change provides that the amount of distribution and the time frame for distribution is that which is specified in the certification.

The bill amends s. 288.1162(4), F.S., to add an additional certification requirement for the applicant for a facility for a new professional sports franchise as described in subsection (9). In order to become certified, the applicant must have a verified copy of a binding agreement showing the franchise will pay for any cost overruns.

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 not it would have qualified under existing definitions for “new professional sports franchise” 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 s. 288.1162(9), F.S., 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 s. 212.20(6)(d)7.b., F.S.; relating to distribution of funds to applicants certified as facilities for new, retained, or retained spring training franchises; increases distribution for facilities for retained spring training; removes language providing ability to increase amount or duration of funding after certification.

Section 2: Amends ss. 288.1162(4), (5), (7) and (9), F.S., relating to professional sports franchises; spring training franchises; duties; provides additional certification criteria for certain applicant for facility for new or retained professional sports franchise; provides certification of additional facilities for retained spring training facilities; provides procedures and criteria for certifying applicants for retained spring training facilities; conforms language; expands the number of slots for applicants for facilities for new and retained professional sports franchises; provides exceptions for certification disqualification; provides limitation on length of payment.

Section 3: 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 4: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:	<u>FY 05-06</u>	<u>FY 06-07</u>	<u>FY 07-08</u>
General Revenue	(\$165,788)	(\$3.5 M)	(\$3.5 M)

See “Fiscal Comments.”

2. Expenditures:

Minimal. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:	<u>FY 05-06</u>	<u>FY 06-07</u>	<u>FY 07-08</u>
Local Revenue	\$165,788	\$3.5 M	\$3.5 M

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. The actual amount of the distribution and the duration of the distribution for the three retained spring franchise facility certifications will not be known until the certification is approved by OTTED. As with the previous such certifications, the amount and duration could vary. Therefore, the maximum amount of monthly distribution was used to estimate the General Revenue impacts. Since certifications have to be completed by January 1, 2006 and distributions occur 60 days after DOR is notified by OTTED, the assumption was made that distributions would begin March 1, 2006 for purposes of estimating FY 05-06 impacts.

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:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2005, the Tourism Committee unanimously passed HB 1287 with a committee substitute. The committee substitute differs from the original bill in the following ways:

- An incorrect statutory reference to s. 228.1162, Florida Statutes, was changed to s. 288.1162, Florida Statutes.
- Certification of three applicants for “facilities for retained spring training franchises”, including time limits for application and certification, and the elements of the certification process, was added to s. 288.1162(5)(c), F.S.
- Distribution of funds in s. 212.20(6)(d)7.b., F.S., was changed to reflect the increase in the number of retained spring training franchise facilities. The sub-subparagraph was also amended to remove language that allows changes in the amount and duration of distributions after certification.
- An additional certification criterion was added for applicants for “new or retained professional sports franchises”. The change requires that the applicant must have a verified copy of a bind agreement that the franchise will pay for all cost overruns. The criterion is specific to an applicant for a certain franchise.