

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 173 CS
SPONSOR(S): McInvale and others
TIED BILLS:

Economic Development Incentives

IDEN./SIM. BILLS: SB 66, SB 156, SB 1070

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--|------------------------|-----------------------|-----------------------|
| 1) <u>Economic Development, Trade & Banking Committee</u> | <u>11 Y, 0 N, w/CS</u> | <u>Sheheane</u> | <u>Carlson</u> |
| 2) <u>Local Government Council</u> | <u>6 Y, 0 N, w/CS</u> | <u>Dominguez</u> | <u>Hamby</u> |
| 3) <u>Transportation & Economic Development Appropriations Committee</u> | <u>13 Y, 0 N, w/CS</u> | <u>McAuliffe</u> | <u>Gordon</u> |
| 4) <u>Finance & Tax Committee</u> | <u></u> | <u>Diez-Arguelles</u> | <u>Diez-Arguelles</u> |
| 5) <u>Commerce Council</u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

The bill requires the Department of Revenue (DOR) to distribute monthly, to qualified local governments, one-half of the proceeds of the sales tax collections generated by the use and operations of eligible convention centers and reported on the convention center's sales and use tax return. The eligible convention centers must be certified by the Office of Tourism Trade and Economic Development (OTTED). Distributions cannot exceed \$1 million per fiscal year for each eligible local government and are capped at \$5 million per state fiscal year. Such distributions are required to begin 60 days following certification. Distributions may only 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 to assist the eligible convention centers to attract more business and expand their offerings, including developing their own events and shows. The bill provides for the apportionment by the Department of Revenue of sales tax proceeds in the case where the fiscal year cap of \$5 million is exceeded. The bill provides for the repeal of the incentive on June 30, 2008.

The bill creates s. 288.1171, F.S., requiring OTTED to adopt rules to screen applicants and certify those meeting the criteria as an "eligible convention center." The criteria for eligibility provides that each convention center:

- must be owned by a unit of local government,
- must contain more than 60,000 square feet of exhibit space,
- must be certified by resolution as serving a public purpose, and
- must be located in a county levying a local option tourist development tax under s. 125.0104, F.S.

The bill will take effect on July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - The bill provides the Office of Tourism, Trade, and Economic Development the authority to adopt rules for the receipt and processing of applications for funding.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Economic Incentives in Florida

Several incentive programs are available to attract, recruit, and retain businesses in Florida. The majority of the programs are coordinated and administered by the Office of Tourism, Trade, and Economic Development (OTTED) and Enterprise Florida, Inc.

Enterprise Florida has overall responsibility for the retention and recruitment of businesses to the state. The Legislature has expressed its intent in s. 288.90151(2), F.S., for Enterprise Florida to work with local economic development entities to maximize the state and local return-on-investment to create jobs for Floridians.

The Qualified Targeted Industry Tax Refund Program

The Qualified Targeted Industry (QTI) Tax Refund Program is one of the state's key economic development incentives. The QTI program encourages quality job growth in targeted high-wage, value-added businesses. Approved businesses receive refunds on taxes paid (corporate income, sales, and certain other taxes) for creating new jobs in specified industry categories.¹ This program defines a "target industry business" as a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by OTTED in consultation with Enterprise Florida, Inc.:

- Future growth – Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to Florida's growing access to international markets or to replacing imports.
- Stability – The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the demand for products of this industry is not necessarily subject to decline during an economic downturn.
- High wage – The industry should pay relatively high wages compared to statewide or area averages.
- Market and resource independent – The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis.
- Industrial base diversification and strengthening – The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration

¹ Section 288.106, F.S.

should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis.

- Economic benefits – The industry should have strong positive impacts on or benefits to the state and regional economies.²

The High-Impact Business Performance Incentive Grant

The High-Impact Business Performance Incentive (HIPI) Grant is an incentive used to attract and grow high-impact facilities.³ OTTED may, in consultation with Enterprise Florida, Inc., negotiate qualified HIPI grant awards for any single qualified high-impact business. In negotiating such awards, OTTED must consider the following guidelines in conjunction with other relevant applicant impact, cost information and analysis:

- A qualified high-impact business making a cumulative investment of \$100 million and creating 100 jobs may be eligible for a total qualified HIPI grant of \$1 million to \$2 million.
- A qualified high-impact business making a cumulative investment of \$800 million and creating 800 jobs may be eligible for a qualified HIPI grant of \$10 million to \$12 million.
- A qualified high-impact business, engaged in research and development, making a cumulative investment of \$75 million and creating 75 jobs may be eligible for a total qualified HIPI grant of \$2 million to \$3 million.
- A qualified high-impact business, engaged in research and development, making a cumulative investment of \$150 million and creating 150 jobs may be eligible for a qualified HIPI grant of \$3.5 million to \$4.5 million.

Fifty percent of the HIPI grant awarded must be paid to the qualified high-impact business upon certification by the business that operations have commenced. The balance of the performance grant award is paid to the qualified high-impact business upon the business's certification that full operations have commenced and that the full investment and employment goals specified in the qualified high-impact business agreement have been met and verified by OTTED. The verification must occur not later than 60 days after the qualified high-impact business has provided the certification specified in this paragraph.

Chapter 212, F.S.

Chapter 212, F.S., governs taxes on sales, use, and other transactions. Section 212.20, F.S., governs the distribution of some of those funds collected by the Department of Revenue (DOR). Several provisions within s. 212.20, F.S., provide economic assistance to certain industries. For example, facilities designated as new professional sports franchises or facilities for a retained professional sports franchise receive funding distributions from DOR after certification by OTTED.⁴ OTTED grants or denies certification using criteria set out in s. 288.1162, F.S. Other examples include the Professional Golf Hall of Fame facility,⁵ certified pursuant to s. 288.1168, F.S., and the International Game Fish Association World Center facility,⁶ certified pursuant to s. 288.1169, F.S. Recipients receive a fixed monthly distribution of sales tax revenues set by statute for a fixed number of years.

The criteria used by OTTED for certification include items such as the relationship with and support of a local unit of government, projections for paid attendance, and demonstration of the financial capability

² Section 288.106(1)(o), F.S.

³ Section 288.108, F.S.

⁴ Section 212.20(6)(d)7.b., F.S.

⁵ Section 212.20(6)(d)7.c., F.S.

⁶ Section 212.20(6)(d)7.d., F.S.

to provide more than one-half of the costs incurred or related to the improvement or development of the facility. Other requirements generally include reviews, recertification, sanctions, audits, and a prohibition of additional certifications for the same facility.

Technology Business Promotion in Florida

Enterprise Florida is required to create programs for the attraction, development, and retention of information technology businesses to the state.⁷ Regarding the marketing of the state for information technology businesses, s. 288.911(2)(b), F.S., states that “[e]fforts to promote this state as a high-technology business leader must include identification and coordination of existing business technology resources, partnerships with economic development organizations and private sector businesses, continued retention and growth of businesses based in this state that produce high-technology products or use high-technology skills for manufacturing, and recruitment of new business in such area.”

Convention Centers in Florida

At this time, there are eleven convention centers in the state that contain at least 60,000 square feet of exhibit space:

- Orange County Convention Center (2,053,820 sq. ft.)
- Miami Beach Convention Center (502,848 sq. ft.)
- Palm Beach County Convention Center (100,000 sq. ft.)
- Broward County Convention Center (199,526 sq. ft.)
- Tampa Convention Center (200,000 sq. ft.)
- Coconut Grove Convention Center (150,000 sq. ft.)
- Lakeland Center (100,000 sq. ft.)
- Prime F. Osborn III Convention Center in Jacksonville (78,500 sq. ft.)
- Tallahassee Leon County Civic Center (78,000 sq. ft.)
- Expo Centre in Orlando (65,200)
- Ocean Center in Volusia (60,000)

The Orange County Convention Center, Tampa Convention Center, Coconut Grove Convention Center, and Lakeland Center are publicly owned and managed.⁸

Proposed Changes

The bill amends s. 212.20(6)(d)7., F.S., to require the Department of Revenue (DOR) to distribute monthly, to qualified local governments, one-half of the proceeds of the sales tax collections generated by the use and operations of eligible convention centers and reported on the convention center’s sales and use tax return. The eligible convention centers must be certified by OTTED. Distributions cannot exceed \$1 million per fiscal year for each eligible local government and are capped at \$5 million per state fiscal year. Such distributions are required to begin 60 days following certification. The bill provides for the apportionment by the Department of Revenue of sales tax proceeds in the case where the fiscal year cap of \$5 million is exceeded.

Distributions may only 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 as designated by the unit of local government

⁷ Section 288.911, F.S.

⁸ Revenue Impact Conference, February 14 meeting, Report on HB 173, *available at*

http://www.state.fl.us/edr/Conferences/Revenue_Impact/impact.htm

by resolution of its governing body and to assist the eligible convention centers to attract more business and expand their offerings, including developing their own events and shows. The bill provides for the repeal of the incentive on June 30, 2008.

The bill creates s. 288.1171, F.S., which states that the Office of Tourism, Trade, and Economic Development (OTTED) shall adopt rules to screen applicants and certify those meeting the criteria as an "eligible convention center." The criteria for eligibility for each center include that it:

- must be owned by a unit of local government,
- must contain more than 60,000 square feet of exhibit space,
- must be certified by resolution as serving a public purpose, and
- must be 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.

Funds distributed to a local government are required to be used for the economic development purposes set forth above as designated in a resolution adopted by the governing board of the local government. The bill provides authority for the Auditor General to audit to verify the expenditure of the distributions, and to seek reimbursement of unauthorized expenditures. Failure to use the funds as provided in the bill is grounds for revoking certification.

The provisions of the bill are repealed on June 30, 2008.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.20, F.S., relating to the distribution of proceeds from tax on sales, use, and other transactions; establishing provisions for monthly distributions to eligible units of local government; providing definitions; providing limits for distributions; providing for the apportionment by the Department of Revenue of sales tax proceeds in the case where the fiscal year cap is exceeded; providing a repeal date of June 30, 2008.

Section 2: Creates s. 288.1171, F.S., providing a certification process for a local government applicant owning a convention center; providing rule making authority for the receipt and processing of applications for funding to OTTED; providing definitions; establishing conditions; establishing provisions for use of funding; providing authority for audits by the Auditor General; providing a repeal date of June 30, 2008.

Section 4: Provides effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference met on February 14, 2005, and found the following impact:

| | | |
|-----------------|----------|----------|
| General Revenue | FY 05-06 | FY 06-07 |
| | -2.5 | -3.5 |

2. Expenditures:

The Auditor General will incur some expenses performing the audits as required by this bill, but the impact should not be significant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference met on February 14, 2005, and found the following impact:

| | | |
|---------------|----------|----------|
| Local Revenue | FY 05-06 | FY 06-07 |
| | 2.5 | 3.5 |

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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:

The bill provides the authority to adopt rules for the receipt and processing of applications for funding to OTTED.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

In the meeting on February 22, 2005, the Economic Development, Trade and Banking Committee adopted a strike-all amendment to the bill. The amendment:

- Changes the cap on distributions of sales taxes to any one unit of local government from \$2 million to \$1 million;
- Changes the cap on statewide distributions in any one fiscal year from \$10 million to \$5 million;
- Specifies the sources for sales tax that may be distributed to units of local government;

- Provides for the apportionment by the Department of Revenue of sales tax proceeds in the cases where the fiscal year cap of \$5 million is exceeded;
- Provides a three year sunset on the program; and
- Makes technical corrections.

On March 16, 2005, the Local Government Council adopted an amendment that removed from the bill a public records exemption.

On April 7, 2005, the Transportation and Economic Development Appropriations Committee adopted two amendments. One amendment was technical, and the other amendment provides for an audit by the Auditor General instead of the Department of Revenue.