

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: CS/SB 2476

SPONSOR: Commerce and Consumer Services Committee and Senators Lynn and King

SUBJECT: NASCAR Hall of Fame Facility

DATE: April 26, 2005 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|-----------|-------------------------|
| 1. | <u>Barrett</u> | <u>Cooper</u> | <u>CM</u> | Fav/CS |
| 2. | <u>Keating</u> | <u>Johansen</u> | <u>GE</u> | Fav/2 amendments |
| 3. | _____ | _____ | <u>TA</u> | _____ |
| 4. | _____ | _____ | <u>WM</u> | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This committee substitute provides for a \$100,000 monthly distribution of sales tax revenue to the local government or private sector group that owns the facility certified as the NASCAR Hall of Fame, for up to 300 months (25 years), for a total of up to \$30 million dollars in distributions. The funds must be used for construction, reconstruction, renovation, or operation of the facility.

This committee substitute requires the Office of Tourism, Trade and Economic Development (OTTED) to certify one facility as the NASCAR Hall of Fame, and provides the evaluation criteria that the applicant must meet in order to be certified. OTTED must re-certify the facility every 10 years, contingent on the facility continuing to meet the certification requirements.

This committee substitute also provides for creation of the NASCAR specialty license plate, contingent upon the City of Daytona Beach’s designation as the NASCAR Hall of Fame site. Proceeds from license plate sales will be distributed to the DOR to offset sales tax distributions to the facility.

This committee substitute substantially amends sections 212.20, 320.08056, and 320.08058 of the Florida Statutes and creates section 288.1170 of the Florida Statutes.

II. Present Situation:

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.

Incentives for Sports and Tourism Facilities

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 economic sectors.

Since 1993, facilities designated as new professional sports franchises or facilities for a retained professional sports franchise receive funding distributions from the DOR after certification by OTTED.¹ Other examples include facilities for retained spring training franchises;² the Professional Golf Hall of Fame facility;³ and the International Game Fish Association World Center facility.⁴ Recipients receive a fixed monthly distribution of sales tax revenues set by statute for a fixed number of years:

- A facility for a new/retained professional sports franchise: \$166,667 monthly (\$2 million annually) for no more than 30 years, totaling a maximum of \$60 million;
- A facility for a retained spring training franchise: up to \$41,667 monthly (\$500,000 annually) for not more than 30 years, totaling a maximum of \$15 million;
- The Professional Golf Hall of Fame: \$167,667 monthly (\$2.012 million annually) for up to 25 years, totaling a maximum of \$50 million; and
- The International Game Fish Association World Center facility: \$83,333 monthly (\$1 million annually) for up to 14 years, totaling a maximum of \$14 million.

The criteria used by OTTED for certification include ownership of the property on which the facility is located,⁵ a declaration by the local government that the project serves a public purpose,⁶ projections for paid attendance, projections for sales tax revenues generated⁷, and demonstration of the financial capability 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.

¹ Section 212.20(6)(d)7.b., F.S., using criteria set out in s. 288.1162(4), F.S.

² Section 212.20(6)(d)7.b., F.S., using criteria set out in s. 288.1162(5), F.S.

³ Section 212.20(6)(d)7.c., F.S., using criteria set out in s. 288.1168(2), F.S.

⁴ Section 212.20(6)(d)7.d., F.S., using criteria set out in s. 288.1169(2), F.S.

⁵ Except for the International Game Fish Association World Center facility.

⁶ Except for facilities for retained Spring Training Franchises.

⁷ Section 288.1162, (4)(e), F.S., requires facilities for professional sports franchises to project they will generate \$2 million in sales tax revenue per year; s. 288.1168 (2)(e), F.S., requires the Professional Golf Hall of Fame to demonstrate they will generate \$2 million in sales tax revenue per year; s. 288.1169 (2)(e), F.S., requires the International Game Fish Association World Center to demonstrate they will generate at least \$1 million in sales tax revenue per year. However, spring training facilities are not required by statute to demonstrate a specified dollar amount of annual sales tax generated.

Specialty License Plates

Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization or organization in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

Section 320.08053, F.S., provides an organization seeking authorization to establish a specialty license plate must submit the following:

- A request for the particular license plate with a description of the proposed plate in specific terms, including a sample plate that conforms to the specifications set by the DHSMV.
- The results of a scientific sample survey of Florida motor vehicle owners that indicates at least 30,000 motor vehicle owners intend to purchase the proposed specialty license plate at the increased costs.
- An application fee, not to exceed \$60,000, to defray the DHSMV's cost for reviewing the application and developing the specialty license plate, if authorized.
- A marketing strategy outlining both the short and long term marketing plans and a financial analysis outlining the anticipated revenue and the planned expenditures of the requested specialty license plate.

The required documentation and fees must be submitted at least 90 days before the convening of the next regular session of the Florida Legislature. If a specialty license plate is approved by law, the organization must submit a proposed art design for the specialty plate to the DHSMV no later than 60 days after the act becomes a law. If the specialty license plate is not approved by the Legislature, then the application fee will be refunded to the requesting organization. The word "Florida" must appear in the same location on each specialty license plate in such a size and location that is clearly identifiable on the license plate.

Section 320.08056, F.S., specifies that the DHSMV is responsible for developing the specialty license plates and must begin production and distribution within one year after approval of the specialty license plate by the Legislature. Specialty license plates must bear the design required by law for the appropriate specialty plate, and the designs and colors must be approved by the DHSMV. In addition, the specialty license plate must bear the imprint of numerals from 1 to 999, inclusive, capital letters "A" through "Z", or a combination thereof.

The DHSMV is authorized to annually retain the first proceeds derived from the annual use fees collected in an amount sufficient to defray each specialty plates pro rata share of the DHSMV's costs directly related to the specialty license plate program.

The DHSMV must discontinue the issuance of an approved specialty plate if the number of valid specialty license plates falls below 1,000 plates for at least 12 consecutive months. The DHSMV is authorized to discontinue the issuance and distribution of specialty plates if the organization no longer exists or if the organization has stopped providing services authorized to be funded.

Annual use fees or any interest earned from those fees may not be used for commercial or for-profit activities, or for general administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).

Section 320.08058, F.S., lists the approved specialty license plates and specifies funding requirements.

Section 320.08062, F.S., requires all organizations receiving annual use fee proceeds from the DHSMV to be responsible for ensuring proceeds are used in accordance with ss. 320.08056 and 320.08058, F.S. Each organization is either subject to an audit or is required to annually attest, under penalties of perjury, that such proceeds were used correctly

III. Effect of Proposed Changes:

Section 1 amends s. 212.20(6)(d), F.S., to provide for a distribution of sales tax to the NASCAR Hall of Fame Facility. The distribution will be \$100,000 per month, for up to 300 months (25 years). This amounts to \$1.2 million in distributions per year, and \$30 million over the course of 25 years. The distributions will begin 30 days after the Office of Tourism, Trade, and Economic Development (OTTED) notifies the Department of Revenue (DOR) that the facility has been certified.

Section 2 creates s. 288.1170, F.S., to require OTTED to certify one facility as the NASCAR Hall of Fame, and to provide evaluation criteria for such certification. Before certifying the NASCAR Hall of Fame facility, OTTED must determine that:

- The NASCAR Hall of Fame facility is the only one in the United States;
- The applicant is a unit of local government or a private sector group that has contracted to build the facility on land owned by a local government;
- The municipality or county where the facility is located has certified by resolution that the application serves a public purpose;
- There are projections that the NASCAR Hall of Fame facility will attract at least 350,000 attendees per year;
- There is a study or analysis approved by the DOR that reports the facility will generate at least \$1.2 million annually;
- The applicant has provided, or is capable of providing more than half of the costs incurred in or related to the improvement and development of the facility; and
- The application is signed by an executive of the applicant and a notarized.

OTTED must recertify the facility every 10 years, as long as the facility remains open and continues to meet the requirements set forth in this committee substitute.

This section also specifies that the applicant may only use the sales tax distributions for construction, reconstruction, renovation, or operation of the NASCAR Hall of Fame, or to pay debt service that was accrued for the purpose of construction, reconstruction, renovation, or operation of the facility.

This section provides that OTTED must notify the applicant and the DOR of the certification via official letter. The applicant will have 5 years from the date of certification to open the NASCAR Hall of Fame facility, and notify OTTED of the opening. The DOR will not begin distribution of funds until 30 days after they have been notified by OTTED that the facility is open to the public.

This section also provides that the DOR may audit to verify that the distributions have been expended as required by this committee substitute.

Section 3 amends s. 320.08056, F.S., to provide a \$25 annual use fee for the NASCAR specialty license plate.

Section 4 amends s. 320.08058, F.S., to create subsection (57) to provide requirements for the NASCAR specialty license plate. The Department of Highway Safety and Motor Vehicles (HSMV) will develop the NASCAR license plate. The word "Florida" must appear on the plate. The NASCAR Hall of Fame may submit a sample plate for consideration.

This section provides that the license plate fees collected will be distributed to the DOR to offset the sales tax distributions of \$1.2 million that the facility will receive. Fees distribute to the DOR in excess of the sales tax distribution will be retained and used to offset future distributions.

Section 5 provides that the authorization of the NASCAR specialty plate is subject to the City of Daytona Beach being designated as the site for the NASCAR Hall of Fame facility; if the city is not designated, the authorization of the specialty plate will be rescinded.

Section 6 provides that the funds generated by the sale of the NASCAR license plate will be deposited with the DOR and held in trust until the NASCAR Hall of Fame has been certified by OTTED. If the facility is not certified, the funds will be used to support auto racing in Florida.

Section 7 provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The state will see a negative impact to General Revenue as a result of the sales tax distributions to the NASCAR Hall of Fame Facility. The impact will be a recurring \$1.2 million, and will be realized after the facility is certified and open to the public.

However, the license plate fees collected from the NASCAR plates will be distributed to the DOR to offset the sales tax distributions. In order for the license plate fees to completely offset the sales tax distributions 50,000 plates must be sold.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Tourism, Trade, and Economic Development may incur administrative costs relating to the evaluation of applications.

VI. Technical Deficiencies:

The bill provides that the license plate fees collected will be distributed to the DOR to offset the sales tax distributions of \$1.2 million that the facility will receive. However, the bill does not specify what the DOR will do with the NASCAR license plate revenues. The bill should be amended to specify that the license plate revenues distributed to the DOR are to be deposited into the General Revenue Fund.

VII. Related Issues:

None.

VIII. Summary of Amendments:

Barcode 661132 by Government Efficiency Appropriations:

The amendment clarifies that distributions to the Department of Revenue of the proceeds from the NASCAR specialty license plate are to be deposited into the General Revenue Fund.

Barcode 961494 by Government Efficiency Appropriations:

The amendment clarifies that until the NASCAR Hall of Fame has been certified by OTTED, the funds generated from the NASCAR specialty license plate shall be deposited into the General Revenue Fund.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
