HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 887 NASCAR Hall of Fame Facility
SPONSOR(S): Patterson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2476

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

The bill provides for the use of General Revenue funds generated from state sales tax to construct and operate the NASCAR Hall of Fame facility in Florida. The Governor's Office of Tourism, Trade, and Economic Development (OTTED) is authorized to screen applicants and certify one applicant to be the NASCAR Hall of Fame facility.

OTTED must make certain determinations before the applicant is eligible to receive state assistance. These determinations include such things as: the NASCAR Hall of Fame facility would be the only facility in the United States recognized by NASCAR, Inc.; the applicant is a unit of local government or a private group contracted to construct or operate the facility on land owned by a unit of local government; the unit of government in which the facility is located has certified by resolution after a public hearing that the application serves a public purpose; existing projections show that the facility will attract a paid attendance of more than 500,000 annually; an independent analysis or study that demonstrates that the project will generate $3 million or more annually from sales tax revenues related to the use and operation of the facility; and, the applicant has submitted an agreement to provide $2 million annually in national and international media promotion of the facility, state, and tourism in the state through NASCAR, Inc., or its affiliates.

OTTED has the responsibility for insuring that the annual advertising requirements are met by the facility and for recertifying the facility every 10 years regarding projections for attendance, advertising, and General Revenue funds generated from sales tax.

The Department of Revenue may audit to verify that the distributions under s. 213.34, F.S., are expended as required.

Upon certification that the facility is open to the public, the bill requires a monthly distribution of $250,000 from General Revenue for up to 300 months ($3 million annually for up to 25 years totaling up to $75 million). The estimated negative fiscal impact on General Revenue is ($3.0) million on a recurring basis for 25 years.

See "Fiscal Comments".

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 and the Department of Revenue for the certification created by the bill. See details below.

Ensure Lower Taxes – The bill requires an annual distribution from sales tax revenues of $3 million annually for 25 years to the certified applicant. See details below.

B. EFFECT OF PROPOSED CHANGES:

Background:

Distribution of Sales Tax Proceeds

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 qualified sports facilities.

Sales Tax Distributions to Sports Facilities – Capped Number, Payment & Lengths of Time

The Department of Revenue distributes tax revenues to professional sports franchise facilities and retained spring training franchise facilities that are certified by the Governor's Office of Tourism, Trade, and Economic Development (OTTED) as meeting requirements set forth in s. 288.1162, F.S., to the Professional Golf Hall of Fame facility as certified pursuant to s. 288.1168, F.S., 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.[1] The law caps the number of new and retained professional sports franchise facilities eligible for funding at eight and requires that at least five facilities for retained spring training franchises be certified. No other sports-related businesses or facilities are entitled to distributions from DOR of tax revenues collected pursuant to Chapter 212, F.S.

A professional sports franchise facility receives $166,667 monthly for up to 30 years while a retained spring training franchise facility can receive up to $41,667 monthly for up to 30 years. The Professional Golf Hall of Fame Facility (Golf Hall of Fame) receives $166,667 monthly for up to 25 years, and the International Game Fish Association World Center (IGFA) facility receives $83,333 monthly for up to 14 years. Both the Golf Hall of Fame and IGFA facilities were not eligible to receive funds until they were certified by OTTED as being open to the public.[2]

[1] See s. 212.20(6)((d)7.b.-d., F.S.

[2] Statutory language creating the certification for a Professional Golf Hall of Fame was in 1993; however, the facility was not certified as being open to the public until February 1998. The first distribution of revenues did not occur until March 1998. The statutory language for certification of the IGFA was added in 1996; however, the facility was not certified as being open to the public until February 2000. The first distribution of revenues did not occur until March 2000.

Criteria for Certification for Tax Distribution Eligibility

The criteria vary depending upon the type of sports facility that is certified. Generally, criteria will include such things as relationship with and support of a local unit of government, projections of paid attendance, and demonstration of being able to provide or having financial or other commitments to provide more than one-half of the costs incurred or related to the facility or its operation. Other requirements include such things as reviews, recertification, sanctions, and audits.

Designation of a NASCAR Hall of Fame:

There are a number of independent racing halls of fame in existence in the United States, but none are officially affiliated with NASCAR, Inc.

Request for Proposal

On January 3, 2005, NASCAR, Inc., invited five cities to present proposals for the development of a NASCAR Hall of Fame facility honoring NASCAR icons and create a memorial to the drivers, crew members, team owners, and other important figures who have impacted the sport. The deadline for submitting the completed request for proposal is May 31, 2005. The cities receiving the request for proposal were Daytona Beach, Charlotte, Atlanta, Talladega, Richmond and Kansas City, KS, and the state of Michigan.

The request for proposal is intentionally vague with no specific requirements for size, shape, or cost. However, these are the more specific proposal requirements: desirable location, permanent funding effort, a corporate entity/ management structure describing the formal relationship between NASCAR, Inc., and the city, marketing plan, and design/development team.

Daytona Beach

NASCAR's current headquarters are located in Daytona Beach. The city is the home of the Daytona International Speedway which hosts the Daytona 500, attracting the largest audience in motorsports, and other major racing events throughout the year.

Daytona USA is a 60,000 square-foot interactive multi-million-dollar motorsports tourist attraction located at the speedway.

Effects of Proposed Changes:

The bill provides for the use of General Revenue funds generated from the state sales tax to develop and operate the NASCAR Hall of Fame facility in Florida. The amount of the distribution authorized once the applicant has been certified as the NASCAR Hall of Fame facility pursuant to s. 288.1170, F.S., and is open to the public, is $250,000 per month for 25 years for a total of $75 million.

The bill authorizes OTTED to certify one applicant to be the NASCAR Hall of Fame facility. The conditions for certification for this facility are very similar to those required of the Professional Golf Hall of Fame facility. See the similarities and differences listed below between the Professional Golf Hall of Fame and the proposed facility for the NASCAR Hall of Fame as outlined in this bill.

Same Criteria for Professional Golf Hall of Fame and proposed NASCAR Hall of Fame

- Only facility of its kind in the United States recognized by specific organization.
- Operated by local government or if private sector contracted to construct or operate, then the land must be owned by local government.
- Municipality or County has certified by resolution after public hearing declaring public purpose.
- Must provide $2 million annually in national and international media promotion of the facility, Florida, and tourism in Florida. Also provides that failure on the part of the organization to

provide the required annual advertising shall result in the termination of funding as provided in s. 212.20, F.S. In lieu of termination of funds, the facility can increase advertising funding to $2.5 million annually.

- Application is signed by an official senior executive of the applicant and is notarized.
- Funds may be used for the public purpose of paying for the construction, reconstruction, renovation, or operation of the facility, or to pay or pledge for 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 construction, reconstruction, or renovation of the facility or for the reimbursement of such costs or the refinancing of bonds issued for such purpose.
- OTTED shall notify the applicant and the executive director of the Department of Revenue by official letter regarding the certification of the applicant. The applicant shall then have 5 years from such certification to open the facility to the public.
- The Department of Revenue is authorized to audit the distribution and expenditure of these funds.
- Every ten years, OTTED must recertify that the facility is open and meeting the minimum projections for attendance or sales tax revenue. If the facility is not recertified as meeting the minimum projections, advertising must be increased from $2 million annually to $2.5 million in lieu of reduction of any funds provided by s. 212.20, F.S. The additional 500,000 must be allocated for generic Florida advertising as determined by OTTED. If the facility is not open to the public or is no longer in use as the only hall of fame in the United States recognized by the specific organization,*(PGA Tour Inc, or NASCAR)* the entire $2.5 million for advertising must be used for Florida advertising as determined by OTTED.

Differences in Criteria for Professional Golf Hall of Fame and proposed NASCAR Hall of Fame

Professional Golf Hall of Fame	***NASCAR Hall of Fame***
Must show a projected paid attendance of more than *300,000* annually.	*500,000 annually*
There is an independent analysis or study approved by OTTED that demonstrates that the project will generate more than *$2 million annually* in sales or use taxes on the use and operation of the facility (under chapter 212).	*$3 million annually*
The applicant has financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility.	*No requirement.*
Beginning 30 days after notice by OTTED to the Department of Revenue that the certified facility is open to the public, the bill requires a monthly distribution to the applicant of $*166,667 from general revenue for 300 months ($2 million annually up to 25 years for a total of $50 million).*	*$250,000 monthly for 300 months* *($3 million annually up to 25 years for a total of $75 million).*

C. SECTION DIRECTORY:

Section 1 amends s. 212.20(6)(d), F.S., providing for distribution of revenue to NASCAR Hall of Fame facility.

Section 2 creates s. 288.1170, F.S, authorizing OTTED to conduct initial application review for NASCAR Hall of Fame facility; establishing certification criteria and process; specifying use of funds and criteria for receipt; providing for an audit; requiring recertification; providing consequences for specified conditions.

Section 3 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   General Revenue: reduction of ($3) million annually per year for 25 years.
   (upon certification and open to the public)

   See "Fiscal Comments."

2. Expenditures:

   See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Local Government Revenue: $3 million recurring positive impact per year.

   (upon certification and open to the public)

   See "Fiscal Comments."

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments."

D. FISCAL COMMENTS:

From the date of certification, the facility has 5 years to open to the public and notify OTTED. The Department of Revenue will begin distribution 30 days after OTTED certifies that the facility is open to the public. It is uncertain which fiscal year the funds will be distributed due to certification, completion of the facility, and when it will become open to the public. When applicable criteria are met, the distribution of $250,000 for up to 300 months is to begin *(totaling $75 million)*. There is an annual negative impact of $3 million to General Revenue once certified. The new facility is supposed to generate at least $3 million annually in sales tax revenues.

The bill increases OTTED's responsibilities related to the certification and recertification process. OTTED has been contacted regarding providing information on costs to be incurred by the certification. No information has been provided.

The bill increases Department of Revenue's duties related to the distribution and auditing of funds to the facility.

To the extent the facility lures additional out-of-state visitors who would not otherwise visit the area where the facility is located, the facility will have a positive impact on the local economy. However, the facility will compete for entertainment dollars that could otherwise be spent on entities that are not the beneficiaries of state funding.

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:

According to Department of Revenue, there are implementation and administration concerns:

- The applicant is required by first sentence of paragraph (2)(f) s.288.1170, F.S., it appears that the applicant must agree to fund the advertising. However, subsection (6) of the proposed Section 288.1170, F.S., provides that if the facility is not recertified as meeting the minimum projections, NASCAR, Inc., is required to increase its required advertising contribution by $500,000 annually in lieu of a reduction of funds distributed under Section 212.20, F.S. This requirement appears to directly contradict the requirement of paragraph (2)(f).

- It is unclear under paragraph (2)(f) of proposed s. 288.1170, F.S., who the party or parties to the required agreement must be.

- In paragraph (2)(f) of proposed s. 288.1170, F.S., clarification is needed on what percentage of the $2 million in advertising is reasonable as well as what constitutes generic advertising. Generic advertising and reasonable percentage are not defined.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The sponsor of the bill will offer a strike-all amendment to address the concerns cited above.