

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: Commerce and Consumer Services Committee

BILL: SB 350

SPONSOR: Senator Constantine

SUBJECT: Economic Development Incentives

DATE: March 14, 2006

REVISED: 3/15/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barrett	Cooper	CM	Fav/1 amendment
2.			CA	
3.			GE	
4.			TA	
5.			RC	
6.				

Please see last section for Summary of Amendments

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

I. Summary:

This bill provides that 50 percent of the sales tax collections generated by the use and operations of an eligible convention center will be distributed to the unit of local government owning the eligible convention center. Funds must be used by the local government for economic development or to assist the convention center in attracting new business. Distributions may not exceed \$1 million per fiscal year for each unit of local government and may not exceed \$5 million in total per fiscal year.

The criteria for certification are delineated in newly created s. 288.1171, F.S. The Governor's Office of Tourism, Trade, and Economic Development (OTTED) is responsible for screening applicants and certifying eligible convention centers.

The provisions in this bill will expire on June 30, 2009.

This bill amends s. 212.20, F.S., and creates s. 288.1171, F.S.

II. Present Situation:

Economic Development Incentives

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 (EFI). EFI 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 EFI to work with local economic development entities to maximize the state and local return-on-investment to create jobs for Floridians.

Examples of Business Development Incentives

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 EFI:

- 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 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 Performance Incentive (HIPI) Grant is an incentive used to attract and grow high-impact facilities.³ To qualify, a business must make a cumulative investment in the state of

¹ Section 288.106, F.S.

² Section 288.106(1)(o), F.S.

at least \$100 million and create at least 100 new full-time equivalent jobs in the state. If the business is a research and development facility, it must make a cumulative investment of at least \$75 million and create at least 75 new full-time equivalent jobs. The investment and employment targets must be achieved within three years after the date the business is certified as a qualified high-impact business.⁴ The QTI and HIPI programs apply to high technology and manufacturing businesses but not necessarily to tourism-related businesses.

Distribution of Sales Tax Collections

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. For example, facilities designated for new or retained professional sports franchises receive funding distributions from DOR after certification by OTTED.⁵ OTTED grants or denies certification using criteria set out in s. 288.1162, F.S. Other examples include facilities for retained spring training franchises,⁶ certified under s. 288.1162, F.S., the Professional Golf Hall of Fame facility,⁷ certified under s. 288.1168, F.S., and the International Game Fish Association World Center facility,⁸ certified under 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 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.

Convention Centers

There are ten 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.);
- Tampa Convention Center (200,000 sq. ft.);
- Broward County Convention Center (199,526 sq. ft.);
- Coconut Grove Convention Center, Miami (150,000 sq. ft.);
- Palm Beach County Convention Center (100,000 sq. ft.);
- Lakeland Center (100,000 sq. ft.);
- Prime F. Osborn III Convention Center, Jacksonville (78,500 sq. ft.);

³ Section 288.108, F.S.

⁴ *Id.* at (2)(a).

⁵ Section 212.20(6)(d)7.b., F.S.

⁶ Section 212.20(6)(d)7.b., F.S.

⁷ Section 212.20(6)(d)7.c., F.S.

⁸ Section 212.20(6)(d)7.d., F.S.

- Expo Center, Orlando (65,200 sq. ft.); and
- Ocean Center, Volusia (60,000).⁹

Local Option Tourist Development Taxes

Section 125.0104, F.S., authorizes counties to levy five separate tourist development taxes on transient rental transactions: The Tourist Development Tax, the Additional Tourist Development Tax, the Professional Sports Franchise Facility Tax, the Additional Professional Sports Franchise Facility Tax, and the High Tourism Impact Tax. (See TABLE 1) Depending on the particular tax, the levy may be authorized by vote of the governing body or referendum approval. Tax rates vary by county depending on a county’s eligibility to levy particular taxes. The maximum tax rate for most counties is 3 or 4 percent; however, the maximum rate is 6 percent for several counties. Generally, the revenues may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance; however, the authorized uses vary according to the particular levy.

TAX	AUTHORIZED LEVY (%)	# OF COUNTIES AUTHORIZED TO LEVY TAX	# OF COUNTIES LEVYING TAX
TOURIST DEVELOPMENT			
Original Tax (s. 125.0104(3)(b), F.S.)	1 or 2%	67	57
Additional Tax (s. 125.0104(3)(d), F.S.)	1%	45	37
Professional Sports Franchise Facility Tax (s. 125.0104(3)(l), F.S.)	up to 1%	67	21
Additional Professional Sports Franchise Facility Tax (s. 125.0104(3)(n), F.S.)	1%	15	7
High Tourism Impact Tax (s. 125.0104(3)(m), F.S.)	1%	Monroe, Orange & Osceola	Orange & Osceola

(Source: Legislative Committee on Intergovernmental Relations, March 2006)

⁹ Revenue Estimating Conference, January 27, 2006.

III. Effect of Proposed Changes:

Section 1 amends s. 212.20(6)(d), F.S., to require the Department of Revenue (DOR) to distribute monthly to qualified local governments, 50 percent of the sales tax collections generated by the use and operations of eligible convention centers. The eligible convention centers must be certified by OTTED pursuant to new s. 288.1171, F.S., which is created in section 2 of this bill.

Distributions may not exceed \$1 million per fiscal year for each eligible local government and total distributions to all units of local governments may not exceed \$5 million each fiscal year. If eligible collections exceed \$5 million, DOR will make distributions based on an apportionment factor provided in this section.

The sales taxes available for distribution under this section must be generated from the following convention center standard services provided by center staff: parking; admission; ticket sales; space and equipment rentals; exhibit supply sales and rentals; sales of gifts; and food, utilities, security, decorating, business, advertising, communication, and locksmith services. Distributions are required to begin 60 days following certification. Distributions may only be used to encourage and provide economic development as designated by the unit of local government by resolution of its governing body. For purposes of this section, economic development includes the attraction, recruitment, and retention of corporate headquarters and of high-technology, manufacturing, research and development, entertainment, and tourism industries. Distributions may also be used to assist an eligible convention center in attracting new business and events.

This exemption will be repealed June 30, 2009.

Section 2 creates s. 288.1171, F.S., which states that OTTED must adopt rules to screen applicants and certify those meeting the criteria as an “eligible convention center.” The eligibility criteria for each convention center include that:

- it must be owned by a unit of local government;
- it must contain more than 60,000 square feet of exhibit space;
- its application for funding must be certified by resolution as serving a public purpose; and
- it must be located in a county levying a local option tourist development tax under s. 125.0104, F.S.¹⁰

OTTED must notify DOR of the certification of each eligible convention center. DOR will begin distribution of funds 60 days after receiving notification of certification. Previously certified applicants are not eligible for additional certifications.

Funds distributed to a local government owning an eligible convention center must be used for economic development as designated in a resolution adopted by the governing body of the local government. For purposes of this section, economic development includes the attraction, recruitment, and retention of corporate headquarters, and of high-tech, manufacturing, research

¹⁰ All of the convention centers with at least 60,000 square feet are located in counties that levy at least one local option tourist development tax.

and development, entertainment, and tourism industries. Funds may also be used by the local government to assist the eligible convention center in attracting new business and events.

The Auditor General may conduct an audit to verify the expenditure of the distributions and may pursue recovery of funds if the funds are not expended in accordance with this bill's requirements. Failure to use the funds as provided in the bill is grounds for revoking certification.

This section provides that s. 288.1171, F.S., is repealed on June 30, 2009.

Section 3 provides that this act shall take effect on July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This bill will result in lost revenue to the state; however, any state revenues lost will be redistributed to the local governments that own the convention centers. This bill provides that the maximum amount of sales tax revenues that could be distributed is \$5 million per fiscal year, for three years. On March 3, 2006, the Revenue Estimating Conference estimated the sales tax revenues collected at eligible convention centers would be \$4.1 million in fiscal year 2006-07 and \$5.4 million in fiscal year 2007-08.

B. Private Sector Impact:

None.

C. Government Sector Impact:

OTTED may incur administrative costs associated with the certification of eligible convention centers. DOR may incur administrative costs associated with implementation of the sales tax distribution to the eligible convention centers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

Barcode # 524386 by Commerce and Consumer Services:

This is a technical amendment that removes an unnecessary and redundant audit provision in subsection (8) of this bill. The local governments receiving distributions as authorized by this bill are currently subject to an audit under the provisions of s. 215.97, F.S., the Florida Single Audit Act.

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