

Bill No. HB 615

Barcode 172868

CHAMBER ACTION

Senate

House

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Senators Garcia, Villalobos, and Diaz de la Portilla moved the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Subsection (7) of section 288.1162, Florida Statutes, is amended to read:

288.1162 Professional sports franchises; spring training franchises; duties.--

(7)(a) The Office of Tourism, Trade, and Economic Development shall notify the Department of Revenue of any facility certified as a facility for a new professional sports franchise or a facility for a retained professional sports franchise or as a facility for a retained spring training franchise. The Office of Tourism, Trade, and Economic Development shall certify no more than eight facilities as facilities for a new professional sports franchise or as facilities for a retained professional sports franchise and shall certify at least five as facilities for retained spring

Bill No. HB 615

Barcode 172868

1 training franchises, including in such total any facilities  
 2 certified by the Department of Commerce before July 1, 1996.  
 3 The office may make no more than one certification for any  
 4 facility. The office may not certify funding for less than the  
 5 requested amount to any applicant certified as a facility for  
 6 a retained spring training franchise.

7 (b) The eighth certification of an applicant under  
 8 this section as a facility for a new professional sports  
 9 franchise or a facility for a retained professional sports  
 10 franchise shall be for a franchise that is a member of the  
 11 National Basketball Association, has been located within the  
 12 state since 1987, and has not been previously certified. This  
 13 paragraph is repealed July 1, 2010.

14 Section 2. Section 288.11635, Florida Statutes, is  
 15 created to read:

16 288.11635 Professional sports franchise; additional  
 17 funding.--

18 (1) The Office of Tourism, Trade, and Economic  
 19 Development shall serve as the state agency for screening  
 20 applicants for state funding under s. 212.20(6)(d)7.c. and for  
 21 certifying an applicant as a "facility for a professional  
 22 sports franchise" which is eligible for funding under s.  
 23 212.20(6)(d)7.c.

24 (2) As used in this section, the term:

25 (a) "Force majeure event" means a flood, fire or other  
 26 casualty, war, revolution, civil commotion, act of a public  
 27 enemy, embargo, act of a government in its sovereign capacity,  
 28 or labor difficulty, including without limitation, a strike,  
 29 lockout, or any circumstance beyond the reasonable control of  
 30 a professional sports franchise affected.

31 (b) "League" has the same meaning as in s. 288.1162.

Bill No. HB 615

Barcode 172868

1       (c) "Professional sports franchise" means a franchise  
 2 in the National League or the American League of Major League  
 3 Baseball, the National Basketball Association, the National  
 4 Football League, or the National Hockey League.

5       (d) "Unit of local government" has the same meaning as  
 6 in s. 218.369.

7       (3) The Office of Tourism, Trade, and Economic  
 8 Development shall adopt rules for the receipt and processing  
 9 of applications for funding under s. 212.20(6)(d)7.c.

10       (4) Before certifying an applicant as a "facility for  
 11 a professional sports franchise" which is eligible for funding  
 12 under s. 212.20(6)(d)7.c., the Office of Tourism, Trade, and  
 13 Economic Development must find that:

14       (a) A unit of local government is responsible for the  
 15 construction, maintenance, or operation of the professional  
 16 sports franchise facility or holds title to or a leasehold  
 17 interest in the property on which the professional sports  
 18 franchise facility is located.

19       (b) The applicant has a verified copy of the approval  
 20 from the governing authority of the league in which the  
 21 professional sports franchise exists or verified evidence that  
 22 it had a league-authorized location in this state on or before  
 23 July 1, 2006.

24       (c) The applicant has projections, verified by the  
 25 Office of Tourism, Trade, and Economic Development, which  
 26 demonstrate that the professional sports franchise will  
 27 attract a paid attendance of more than 300,000 annually.

28       (d) The applicant has an independent analysis or  
 29 study, verified by the Office of Tourism, Trade, and Economic  
 30 Development, which demonstrates that the amount of the  
 31 revenues generated by the state sales tax imposed under

Bill No. HB 615

Barcode 172868

1 chapter 212 with respect to the use and operation of the  
 2 professional sports franchise facility will equal or exceed \$4  
 3 million annually, except that if the professional sports  
 4 franchise that served as an applicant's basis for  
 5 certification under this section did not serve as an  
 6 applicant's basis for certification under s. 288.1162, then  
 7 tax revenues that equal or exceed \$2 million annually must be  
 8 demonstrated.

9       (e) The municipality in which the facility for a  
 10 professional sports franchise is located, or the county if the  
 11 facility for a professional sports franchise is located in an  
 12 unincorporated area, has certified by resolution after a  
 13 public hearing that the application serves a public purpose.

14       (f) The Office of Tourism, Trade, and Economic  
 15 Development has received a signed agreement for the benefit  
 16 of, and enforceable by, the Department of Revenue from the  
 17 applicant and the owners of the professional sports franchise  
 18 which formed the basis for the applicant's certification under  
 19 this section, jointly, which agreement guarantees that each  
 20 year the applicant and the professional sports franchise  
 21 owners will reimburse the Department of Revenue the amount by  
 22 which state sales tax collections imposed with respect to the  
 23 use and operation of the certified facility during such year  
 24 are less than the amounts distributed under s.

25 212.20(6)(d)7.c. to the applicant under this section during  
 26 such year, and, if the same professional sports franchise also  
 27 formed the basis for an applicant's certification under s.  
 28 288.1162, the amount distributed under s. 212.20(6)(d)7.b., to  
 29 the applicant under s. 288.1162, during such year, unless such  
 30 state sales tax collections exceed the amounts distributed.

31 The Department of Revenue shall annually provide to the Office

Bill No. HB 615

Barcode 172868

1 of Tourism, Trade, and Economic Development total state sales  
 2 tax collections in the prior calendar year for each facility  
 3 receiving distributions pursuant to s. 212.20(6)(d)7.c. and  
 4 must provide this information no later than March 15 of each  
 5 year. Required reimbursements to the Department of Revenue  
 6 must be made no later than June 30 of each year. The  
 7 reimbursement described by this paragraph is not required if  
 8 the facility's failure to generate sufficient state sales tax  
 9 collections imposed under chapter 212 is a result of a force  
 10 majeure event.

11 (g) The Office of Tourism, Trade, and Economic  
 12 Development has received a signed agreement for the benefit  
 13 of, and enforceable by, the Department of Revenue from the  
 14 applicant and the owners of the professional sports franchise  
 15 which formed the basis for the applicant's certification under  
 16 this section, jointly, which agreement guarantees that if a  
 17 professional sports franchise certified by the Office of  
 18 Tourism, Trade, and Economic Development pursuant to this  
 19 section receiving funding pursuant to s. 212.20(6)(d)7.c.,  
 20 leaves the state before all scheduled distributions are made,  
 21 within 6 months after the professional sports franchise leaves  
 22 the state, the applicant and the owners of the professional  
 23 sports franchise must pay to the state an amount equal to all  
 24 the remaining monthly sales tax distributions scheduled to be  
 25 made pursuant to s. 212.20(6)(d)7.c. This subsection does not  
 26 in any way invalidate the agreement pursuant to paragraph  
 27 (4)(f).

28 (h) A professional sports franchise may form the basis  
 29 for only one facility certified under this section for funding  
 30 under s. 212.20(6)(d)7.c.

31 (5) An applicant certified as a facility for a

Bill No. HB 615

Barcode 172868

1 professional sports franchise which is certified for funding  
2 under s. 212.20(6)(d)7.c. may use funds provided pursuant to  
3 that sub-subparagraph only:

4       (a) For the public purpose of paying for the  
5 acquisition, construction, reconstruction, renovation, capital  
6 improvement, or maintenance of the facility for a professional  
7 sports franchise or ancillary facilities, such as parking  
8 structures; convention facilities and meeting rooms; retail  
9 and concession space; health, fitness, and training  
10 facilities; and youth and amateur sports facilities, which  
11 support the operations of any such facility;

12       (b) To pay or pledge for the payment of debt service  
13 on, or fund debt service reserve funds, arbitrage rebate  
14 obligations, or other amounts payable with respect to bonds or  
15 other indebtedness issued for the acquisition, construction,  
16 reconstruction, renovation, or capital improvement of the  
17 facility for a professional sports franchise or ancillary  
18 facilities; or

19       (c) For reimbursement of costs or the refinancing of  
20 bonds or other indebtedness, including the payment of any  
21 interest and prepayment premium or penalty thereon, issued for  
22 the acquisition, construction, reconstruction, renovation, or  
23 capital improvement of the facility for a professional sports  
24 franchise or ancillary facilities.

25       (6) The Office of Tourism, Trade, and Economic  
26 Development shall notify the Department of Revenue of any  
27 facility certified as a facility for a professional sports  
28 franchise which is eligible for funding under s.  
29 212.20(6)(d)7.c. However, the office may not certify a  
30 facility until the Legislature has approved the applicant in a  
31 separate bill adopted only for that purpose. Whenever the

Bill No. HB 615

Barcode 172868

1 office determines that an applicant, having met all necessary  
 2 conditions pursuant to this section, is eligible to be  
 3 approved by the Legislature, it shall convey that  
 4 determination to the Governor, the President of the Senate,  
 5 and the Speaker of the House of Representatives.

6       (7) The Department of Revenue may conduct audits as  
 7 provided in s. 213.34 to verify that the distributions made  
 8 under this section have been expended as required in this  
 9 section. Such information is subject to the confidentiality  
 10 requirements of chapter 213. If the Department of Revenue  
 11 determines that the distributions made under this section have  
 12 not been expended as required by this section, it may pursue  
 13 recovery of the funds under the laws and rules governing the  
 14 assessment of taxes.

15       Section 3. Paragraph (d) of subsection (6) of section  
 16 212.20, Florida Statutes, is amended to read:

17       212.20 Funds collected, disposition; additional powers  
 18 of department; operational expense; refund of taxes  
 19 adjudicated unconstitutionally collected.--

20       (6) Distribution of all proceeds under this chapter  
 21 and s. 202.18(1)(b) and (2)(b) shall be as follows:

22       (d) The proceeds of all other taxes and fees imposed  
 23 pursuant to this chapter or remitted pursuant to s.

24 202.18(1)(b) and (2)(b) shall be distributed as follows:

25       1. In any fiscal year, the greater of \$500 million,  
 26 minus an amount equal to 4.6 percent of the proceeds of the  
 27 taxes collected pursuant to chapter 201, or 5 percent of all  
 28 other taxes and fees imposed pursuant to this chapter or  
 29 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be  
 30 deposited in monthly installments into the General Revenue  
 31 Fund.

Bill No. HB 615

Barcode 172868

1           2. Two-tenths of one percent shall be transferred to  
2 the Ecosystem Management and Restoration Trust Fund to be used  
3 for water quality improvement and water restoration projects.

4           3. After the distribution under subparagraphs 1. and  
5 2., 8.814 percent of the amount remitted by a sales tax dealer  
6 located within a participating county pursuant to s. 218.61  
7 shall be transferred into the Local Government Half-cent Sales  
8 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to  
9 be transferred pursuant to this subparagraph to the Local  
10 Government Half-cent Sales Tax Clearing Trust Fund shall be  
11 reduced by 0.1 percent, and the department shall distribute  
12 this amount to the Public Employees Relations Commission Trust  
13 Fund less \$5,000 each month, which shall be added to the  
14 amount calculated in subparagraph 4. and distributed  
15 accordingly.

16           4. After the distribution under subparagraphs 1., 2.,  
17 and 3., 0.095 percent shall be transferred to the Local  
18 Government Half-cent Sales Tax Clearing Trust Fund and  
19 distributed pursuant to s. 218.65.

20           5. After the distributions under subparagraphs 1., 2.,  
21 3., and 4., 2.0440 percent of the available proceeds pursuant  
22 to this paragraph shall be transferred monthly to the Revenue  
23 Sharing Trust Fund for Counties pursuant to s. 218.215.

24           6. After the distributions under subparagraphs 1., 2.,  
25 3., and 4., 1.3409 percent of the available proceeds pursuant  
26 to this paragraph shall be transferred monthly to the Revenue  
27 Sharing Trust Fund for Municipalities pursuant to s. 218.215.  
28 If the total revenue to be distributed pursuant to this  
29 subparagraph is at least as great as the amount due from the  
30 Revenue Sharing Trust Fund for Municipalities and the former  
31 Municipal Financial Assistance Trust Fund in state fiscal year



Bill No. HB 615

Barcode 172868

1 1999-2000, no municipality shall receive less than the amount  
2 due from the Revenue Sharing Trust Fund for Municipalities and  
3 the former Municipal Financial Assistance Trust Fund in state  
4 fiscal year 1999-2000. If the total proceeds to be distributed  
5 are less than the amount received in combination from the  
6 Revenue Sharing Trust Fund for Municipalities and the former  
7 Municipal Financial Assistance Trust Fund in state fiscal year  
8 1999-2000, each municipality shall receive an amount  
9 proportionate to the amount it was due in state fiscal year  
10 1999-2000.

11           7. Of the remaining proceeds:

12           a. In each fiscal year, the sum of \$29,915,500 shall  
13 be divided into as many equal parts as there are counties in  
14 the state, and one part shall be distributed to each county.  
15 The distribution among the several counties shall begin each  
16 fiscal year on or before January 5th and shall continue  
17 monthly for a total of 4 months. If a local or special law  
18 required that any moneys accruing to a county in fiscal year  
19 1999-2000 under the then-existing provisions of s. 550.135 be  
20 paid directly to the district school board, special district,  
21 or a municipal government, such payment shall continue until  
22 such time that the local or special law is amended or  
23 repealed. The state covenants with holders of bonds or other  
24 instruments of indebtedness issued by local governments,  
25 special districts, or district school boards prior to July 1,  
26 2000, that it is not the intent of this subparagraph to  
27 adversely affect the rights of those holders or relieve local  
28 governments, special districts, or district school boards of  
29 the duty to meet their obligations as a result of previous  
30 pledges or assignments or trusts entered into which obligated  
31 funds received from the distribution to county governments

Bill No. HB 615

Barcode 172868

1 under then-existing s. 550.135. This distribution  
 2 specifically is in lieu of funds distributed under s. 550.135  
 3 prior to July 1, 2000.

4           b. The department shall distribute \$166,667 monthly  
 5 pursuant to s. 288.1162 to each applicant that has been  
 6 certified as a "facility for a new professional sports  
 7 franchise" or a "facility for a retained professional sports  
 8 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
 9 distributed monthly by the department to each applicant that  
 10 has been certified as a "facility for a retained spring  
 11 training franchise" pursuant to s. 288.1162; however, not more  
 12 than \$208,335 may be distributed monthly in the aggregate to  
 13 all certified facilities for a retained spring training  
 14 franchise. Distributions shall begin 60 days following such  
 15 certification and shall continue for not more than 30 years.  
 16 Nothing contained in this paragraph shall be construed to  
 17 allow an applicant certified pursuant to s. 288.1162 to  
 18 receive more in distributions than actually expended by the  
 19 applicant for the public purposes provided for in s.  
 20 288.1162(6). However, a certified applicant is entitled to  
 21 receive distributions up to the maximum amount allowable and  
 22 undistributed under this section for additional renovations  
 23 and improvements to the facility for the franchise without  
 24 additional certification.

25           c. The department shall distribute \$166,667 monthly  
 26 pursuant to s. 288.11635 to each applicant that has been  
 27 certified pursuant to s. 288.11635. Distributions must begin  
 28 60 days after such certification and must continue for not  
 29 more than 30 years. This paragraph does not allow an applicant  
 30 certified under s. 288.11635 to receive more in distributions  
 31 than the applicant actually expended for the public purposes

Bill No. HB 615

Barcode 172868

1 provided for in s. 288.11635(5).

2 ~~d.c.~~ Beginning 30 days after notice by the Office of  
3 Tourism, Trade, and Economic Development to the Department of  
4 Revenue that an applicant has been certified as the  
5 professional golf hall of fame pursuant to s. 288.1168 and is  
6 open to the public, \$166,667 shall be distributed monthly, for  
7 up to 300 months, to the applicant.

8 ~~e.d.~~ Beginning 30 days after notice by the Office of  
9 Tourism, Trade, and Economic Development to the Department of  
10 Revenue that the applicant has been certified as the  
11 International Game Fish Association World Center facility  
12 pursuant to s. 288.1169, and the facility is open to the  
13 public, \$83,333 shall be distributed monthly, for up to 168  
14 months, to the applicant. This distribution is subject to  
15 reduction pursuant to s. 288.1169. A lump sum payment of  
16 \$999,996 shall be made, after certification and before July 1,  
17 2000.

18 8. All other proceeds shall remain with the General  
19 Revenue Fund.

20 Section 4. Subsection (6) of section 288.1169, Florida  
21 Statutes, is amended to read:

22 288.1169 International Game Fish Association World  
23 Center facility.--

24 (6) The Department of Commerce must recertify every 10  
25 years that the facility is open, that the International Game  
26 Fish Association World Center continues to be the only  
27 international administrative headquarters, fishing museum, and  
28 Hall of Fame in the United States recognized by the  
29 International Game Fish Association, and that the project is  
30 meeting the minimum projections for attendance or sales tax  
31 revenues as required at the time of original certification.

Bill No. HB 615

Barcode 172868

1 If the facility is not recertified during this 10-year review  
 2 as meeting the minimum projections, then funding will be  
 3 abated until certification criteria are met. If the project  
 4 fails to generate \$1 million of annual revenues pursuant to s.  
 5 212.20 ~~paragraph (2)(c)~~, the distribution of revenues pursuant  
 6 to s. 212.20(6)(d)7.d. shall be reduced to an amount equal to  
 7 \$83,333 multiplied by a fraction, the numerator of which is  
 8 the actual revenues generated and the denominator of which is  
 9 \$1 million. Such reduction shall remain in effect until  
 10 revenues generated by the project in a 12-month period equal  
 11 or exceed \$1 million.

12 Section 5. Paragraph (k) of subsection (7) of section  
 13 213.053, Florida Statutes, is amended to read:

14 213.053 Confidentiality and information sharing.--

15 (7) Notwithstanding any other provision of this  
 16 section, the department may provide:

17 (k)1. Payment information relative to chapters 199,  
 18 201, 212, 220, 221, and 624 to the Office of Tourism, Trade,  
 19 and Economic Development, or its employees or agents that are  
 20 identified in writing by the office to the department, in the  
 21 administration of the tax refund program for qualified defense  
 22 contractors authorized by s. 288.1045 and the tax refund  
 23 program for qualified target industry businesses authorized by  
 24 s. 288.106.

25 2. Information relative to tax credits taken by a  
 26 business under s. 220.191 and exemptions or tax refunds  
 27 received by a business under s. 212.08(5)(j) to the Office of  
 28 Tourism, Trade, and Economic Development, or its employees or  
 29 agents that are identified in writing by the office to the  
 30 department, in the administration and evaluation of the  
 31 capital investment tax credit program authorized in s. 220.191

Bill No. HB 615

Barcode 172868

1 and the semiconductor, defense, and space tax exemption  
2 program authorized in s. 212.08(5)(j).

3 3. Information relative to state sales tax collections  
4 authorized by s. 288.11635 to the Office of Tourism, Trade,  
5 and Economic Development, or its employees or agents, that are  
6 identified in writing by the office to the department.

7 Section 6. Notwithstanding the provisions of s.  
8 288.11635(6), Florida Statutes, the Office of Tourism, Trade,  
9 and Economic Development may certify an applicant as a  
10 facility for a professional sports franchise to the Department  
11 of Revenue as eligible for funding under s. 212.20(6)(d)7.c.,  
12 Florida Statutes, without the legislative approval required in  
13 s. 288.11635(6), Florida Statutes, if the applicant has met  
14 all other necessary conditions in s. 288.11635, Florida  
15 Statutes, and if the certification is based on a professional  
16 sports franchise whose previous facility was certified under  
17 the provisions of s. 288.1162, Florida Statutes, and such  
18 facility served as the home facility for two professional  
19 sports franchises. The office of Tourism, Trade, and Economic  
20 Development may not certify an applicant based on the  
21 provisions of this section after June 30, 2007.

22 Section 7. This act shall take effect upon becoming a  
23 law.

24  
25

26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete everything before the enacting clause

29

30 and insert:

31 A bill to be entitled

Bill No. HB 615

Barcode 172868

1 An act relating to professional sports  
2 franchise facilities; amending s. 288.1162,  
3 F.S.; providing additional requirements with  
4 respect to certification as a facility for a  
5 new professional sports franchise or a facility  
6 for a retained professional sports franchise;  
7 providing for repeal of the requirements by a  
8 specified date; creating s. 288.11635, F.S.;  
9 requiring the Office of Tourism, Trade, and  
10 Economic Development to screen applicants for  
11 state funding under s. 212.20(6)(d)7.c., F.S.,  
12 and certify each facility for a new  
13 professional sports franchise or facility for a  
14 retained professional sports franchise that is  
15 eligible for such funding; providing for  
16 legislative approval; defining terms; providing  
17 for rulemaking; providing prerequisites to  
18 certification; prohibiting a facility from  
19 receiving more than one certification;  
20 restricting the use of funds; providing  
21 limitations on certification; authorizing the  
22 Department of Revenue to conduct audits in  
23 order to verify that funds have been expended  
24 as required and to pursue recovery of  
25 inappropriately expended funds; providing for  
26 reimbursement of sales tax distributions under  
27 certain circumstances; amending s. 212.20,  
28 F.S.; providing for the amounts to be  
29 distributed to certified facilities under the  
30 act and for the timetable for such  
31 distributions; amending s. 288.1169, F.S.,

Bill No. HB 615

Barcode 172868

1 relating to the International Game Fish  
2 Association World Center; conforming a  
3 cross-reference; amending s. 213.053, F.S.;  
4 providing for sharing of sales tax information;  
5 authorizing funding under s. 212.20(6)(d)7.c.,  
6 F.S., without legislative approval under  
7 certain circumstances; providing an effective  
8 date.

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