HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7089 PCB TURS 06-02 Facilities for Retained Spring Training Franchises
SPONSOR(S): Tourism Committee and Rep. Detert
TIED BILLS: **IDEN./SIM. BILLS:** SB 1886

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Tourism Committee	8 Y, 0 N	Langston	McDonald
1) Transportation & Economic Development Appropriations Committee	18 Y, 0 N	McAuliffe	Gordon
2) State Infrastructure Council	9 Y, 0 N	Langston	Havlicak
3)			
4)			
5)			

SUMMARY ANALYSIS

Chapter 2000-186, LOF, created a one-time funding opportunity for at least five applicants certified as facilities for retained spring training franchises. Applications for consideration for certification were required to be submitted to the Office of Tourism, Trade, and Economic Development (OTTED) by October 1, 2000 with certifications being given by January 1, 2001. OTTED was required to competitively evaluate applications. OTTED certified applicants based upon the statutory criteria and notified the Department of Revenue of the certifications. The Department of Revenue was instructed to distribute sales tax proceeds to any applicant certified under s. 288.1162(5), F.S., as a “facility for a retained spring training franchise.” A certified applicant could receive up to $41,667 monthly for up to 30 years. However, not more than $208,335 could be distributed monthly in the aggregate to all applicants certified as facilities for retained spring training franchises. The duration and total amount of funding varies depending upon the certification. The five existing certifications are: Lakeland - Detroit Tigers, Dunedin -Toronto Blue Jays, Indian River - Los Angeles Dodgers, Osceola County - Houston Astros, and Clearwater - Philadelphia Phillies.

The bill provides for certification of up to five additional applicants as facilities for retained spring training franchises. Applications must be received by OTTED by October 1, 2006 and certifications made by January 1, 2007. The bill uses the same procedures used for the one-time funding of the five certified applicants in 2001 with the exception of the criteria. The bill includes additional selection criteria, including a prohibition against consideration of an application for those franchises that have more than five years remaining on an existing lease. The aggregate amount of funding for certified applicants is up to $41,667 per facility per month for a total aggregate monthly maximum of $208,335.

The bill amends s. 212.20, F.S., to increase the aggregate distribution of sales and use tax distributions to all applicants certified as facilities for a retained spring training franchises to $416,670 to accommodate the five additional certifications. It also provides that both the amount and duration of distribution established in the certification cannot be altered. The addition of five certifications of applicants as retained spring training franchise facilities will have a maximum negative impact of ($833,340) in fiscal year 2006-2007 and a maximum recurring negative impact of ($2,500,020) annually beginning in fiscal year 2007-2008 and continuing for up to 30 years. See “Fiscal Comments.”

Currently, five retained spring training franchises with no more than 5 years remaining on existing leases are the Baltimore Orioles, Cincinnati Reds, Cleveland Indians, Pittsburgh Pirates, and the Tampa Bay Devil Rays.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government- The bill increases responsibilities for the Governor's Office of Tourism, Trade, and Economic Development and the Department of Revenue relating to the certification and distribution processes related to applicants for facilities for retained spring training franchises.

Ensure Lower Taxes – The bill requires an annual distribution from sales tax revenues of up to $2,500,020 for additional certifications for applicants for facilities for retained spring training franchises. See details below.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Facilities for Retained Spring Training Franchise - Certification

Chapter 2000-186, LOF, created a one-time funding opportunity for at least five applicants certified as facilities for retained spring training franchises. Applications for consideration for certification were required to be submitted to the Office of Tourism, Trade, and Economic Development (OTTED) by October 1, 2000 with certifications being given by January 1, 2001. OTTED was required to competitively evaluate applications. If the number exceeded five and the aggregate funding request exceeded $208,335 per month, OTTED was required to rank the applications according to criteria delineated in s. 288.1162(5)(c), F.S. OTTED could not certify partial funding to any applicant certified as a facility for a retained spring training franchise.

Prior to certifying, OTTED was required to determine that a unit of local government was responsible for the acquisition, construction, management or operation of the retained spring training franchise facility or held title to the property on which the facility was located; the applicant had a verified copy of a signed agreement with a retained spring training franchise for the use of the facility for a term of at least 15 years; the applicant had a financial commitment of 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility; the applicant had valid projections demonstrating that the facility would attract paid attendance of at least 50,000 annually; and, that the facility was located in a county levying a tourist development tax pursuant to s.125.0104, F.S.

Funds could not be expended to subsidize privately-owned and maintained facilities for use by the retained spring training franchise. Funds could be used to relocate an existing retained spring training franchise to another unit of local government within the state if the local government from which it was relocating agreed to the move. Other than the use of funds for an agreed to relocation, funds could only be used to pay for acquisition, construction, reconstruction, or renovation of a facility or to pay or pledge for the payment of debt service on a facility or for the reimbursement or refinancing of bonds issued.

The Department of Revenue was instructed to distribute sales tax proceeds to any applicant certified under s. 288.1162(5), F.S., as a "facility for a retained spring training franchise." A certified applicant could receive up to $41,667 monthly for up to 30 years. However, not more than $208,335 could be distributed monthly in the aggregate to all applicants certified as facilities for retained spring training franchises.

OTTED certified the following:

• Lakeland	Detroit Tigers	$ 7 million	15 years
• Dunedin	Toronto Blue Jays	$10 million	20 years
• Indian River	Los Angeles Dodgers	$15 million	30 years
• Osceola County	Houston Astros	$ 7.5 million	15 years
• Clearwater	Philadelphia Phillies	$15 million	30 years

Funding – Tax Distribution

Chapter 212, F.S., imposes a state sales and use tax of six percent 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 applicants certified as sports facilities.[1]

Specifically, s. 212.20(6)(d)7.b., F.S., requires DOR to distribute up to $41,667 monthly to applicants certified by OTTED as "facilities for retained spring training franchises." However, not more than $208,335 can be distributed monthly in the aggregate to all applicants certified as "facilities for retained spring training franchises." All distributions to certified applicants for new and retained professional sports franchise facilities and for retained spring training franchise facilities begin 60 days after certification and continue for no more than 30 years.

A certified applicant under the paragraph is not to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6), F.S. A certified applicant, however, is entitled to receive distributions up to the maximum amount allowable and undistributed under s. 212.20, F.S., for additional renovations and improvements to the facility for the franchise without additional certification.

Proposed Changes:

The bill amends s. 288.1162(5), F.S., to provide for certification and funding of no more than five additional applicants for facilities for retained spring training franchises. Applications must be received by OTTED by October 1, 2006, and any certifications must be made by January 1, 2007. The bill uses the same procedures used for the one-time funding of five facilities in 2001 with the exception of changes in the selection criteria. The funding for facilities to be certified is up to $41,667 per facility per month for a total aggregate amount for the new certified applicants not to exceed $208,335 per month.

Additional criteria for selection is added, including a prohibition against consideration of an application for those franchises that have greater than 5 years remaining on an existing lease.[2] The bill amends s. 212.20(6)(d)7.b., F.S., to increase the aggregate distribution of sales and use tax distributions to all applicants certified as facilities for retained spring training franchises to $416,670 to accommodate the five additional certifications and to remove language that permits changes in the amount of distribution and length of distribution after certification and without any review by OTTED. This final change

[1] Under this paragraph, DOR provides funding to new and retained professional sports franchise facilities and to retained spring training franchise facilities as certified under s. 288.1162, F.S.; 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. It also requires that no other sports businesses or facilities are entitled to distributions from DOR of tax revenues collected pursuant to Chapter 212, F.S.

[2] Currently, there are five spring training franchises that do not have more than 5 years on their leases: Baltimore Orioles, Cincinnati Reds, Cleveland Indians, Pittsburgh Pirates, and the Tampa Bay Devil Rays.

provides that the amount of distribution and the time frame for distribution is that which is specified in the certification.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.20(6)(d)7.b., F.S., relating to distribution of funds to applicants certified as facilities for retained spring training franchises; increases distribution for applicants certified as facilities for retained spring training franchises; removes language providing ability to increase amount or duration of funding after certification.

Section 2: Amends ss. 288.1162, (5) and (7), F.S., relating to retained spring training franchise facilities; provides additional certifications of applicants as facilities for retained spring training franchises; provides procedures and criteria for certifying applicants; conforms language; provides exceptions for certification disqualification; provides limitation on length of payment.

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: :	FY 06-07	FY 07-08	FY 08-09
General Revenue	($833,340)	($2,500,020)	($2,500,020)

See "Fiscal Comments" for more detail.

2. Expenditures:

Minimal. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:	FY 06-07	FY 07-08	FY 08-09
Local Revenues	$833,340	$2,500,020	$2,500,020

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

At this time, the exact impact on the private sector is not able to be determined.

D. FISCAL COMMENTS:

The actual amount of the distribution and the duration of the distribution for the five new certifications of applicants as retained spring franchise facilities will not be known until the certifications are approved by OTTED. As with the previous such certifications, the amount and duration could vary. Therefore, the maximum amount of monthly distribution was used to estimate the general revenue impacts. Since certifications have to be completed by January 1, 2007 and distributions occur 60 days after DOR is notified by OTTED, the assumption was made that distributions would begin March 1, 2007 for purposes of estimating fiscal year 2006-2007 impacts.

The bill will have an impact on OTTED and the Florida Sports Foundation with regard to the application review and certification process for the new certifications created by the bill. The impact is not known at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require municipalities or counties to expend funds, does not reduce their authority to raise revenue, and does not reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Tourism Committee adopted three amendments to PCB TURS 06-02 and reported the bill favorably. The first amendment increased the number of proposals eligible for certification from four to five and increased the maximum aggregate funding by $41,667 to accommodate the additional certification. The second amendment changed the certification requirement for the remaining allowable time on a franchise lease from four years to five years to accommodate the Pittsburgh Pirates. The third amendment increased to total aggregate monthly distribution in s. 212.20, F.S., to include the additional certifications.