

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1079 Professional Sports Franchise Facilities
SPONSOR(S): Policy & Budget Council, Traviesa and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2168

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-------------------------|------------------|----------------|
| 1) <u>Committee on Economic Development</u> | <u>8 Y, 0 N</u> | <u>McAuliffe</u> | <u>Croom</u> |
| 2) <u>Economic Expansion & Infrastructure Council</u> | <u>13 Y, 1 N</u> | <u>McAuliffe</u> | <u>Tinker</u> |
| 3) <u>Policy & Budget Council</u> | <u>16 Y, 6 N, As CS</u> | <u>Jacobik</u> | <u>Hansen</u> |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

This bill authorizes an additional distribution of state sales and use tax revenue to up to nine professional sports franchise facilities in Florida for capital improvements. The bill provides authority for the Office of Tourism, Trade and Economic Development (OTTED) to screen applicants and certify a facility eligible for \$2 million annually over 30 years as a professional sports franchise facility. Applicants must meet a number of requirements, including minimum attendance, generation of a minimum amount of state tax revenues, and a local or private-sector match.

These funds will be in addition to the \$2 million annually that currently is distributed to eight professional sports facilities, pursuant to section 288.1162, Florida Statutes.

If a professional sports team leaves Florida, then the team or the applicant must hold the state harmless from the sales tax revenues thereafter distributed to the facility that the team qualified for certification under both the new and old incentive programs.

This bill will have a negative fiscal impact on the General Revenue Fund of \$18 million per year for 30 years if all nine professional sports franchises are certified eligible by OTTED.

This bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – The bill authorizes an annual distribution from sales tax revenues for nine additional certification slots for new professional sports franchise facilities. See details below.

B. EFFECT OF PROPOSED CHANGES:

HISTORY:

In 1988, the enactment of Ch. 88-226, L.O.F., provided a funding mechanism for state support of the construction of professional sports facilities in Florida. The Department of Commerce was assigned the duties of screening applicants, developing rules for processing applications, and presenting the applications to the Legislature for funding approval.

It was not until 1991 that the current structure for certification of facilities for professional sports franchises and for funding of \$2 million for each certified facility through distribution of sales tax revenues became law.¹

PRESENT SITUATION:

Facilities for New and Retained Professional Franchises - Certification

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) can certify a total of eight applicants as "facilities for new or retained professional sports franchises."² An applicant can be a unit of local government or it can be a private entity; however, a local government must be responsible for the facility or own the land on which it sits. A "new professional sports franchise" means a professional sports franchise that is not based in this state prior to April 1, 1987, and a "retained professional sports franchise" means a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, and has continuously remained at that location, and has never been located at a previously certified facility."³

To qualify an applicant for certification as either a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise", OTTED must determine that:

- A unit of local government is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located;
- A franchise has agreed to use the facility for 10 or 20 years depending on type of franchise;
- The governing league approves;
- Projections indicate 300,000 in paid annual attendance;
- Tax revenues generated will equal or exceed \$2 million annually;
- The local government certifies that the facility serves a public purpose;
- An applicant has provided, is capable of providing, or has financial or other commitments to provide more than 50 percent of costs incurred or related to the improvement and development of the facility; and,
- An applicant has not been previously certified and received funds for that certification.

¹ See Ch 91-274, L.O.F.

² Currently, seven applicants/facilities have been certified: Broward Co. for Home Depot Stadium (Panthers); Joe Robbie, Inc., for Pro Player Stadium (Marlins); City of Jacksonville for Alltel Stadium (Jaguars); Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning); City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays); BPL, Ltd., for American Airlines Arena (Miami Heat); and Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers).

³ See s. 288.1162(3)(a) and (b), F.S. The Miami Dolphins is the only team in the state that does not qualify under either definition.

The only team eligible under the definition of "retained professional sports franchise" is the Tampa Bay Buccaneers.

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 (department) in the General Revenue Fund and into a variety of trust funds benefiting state agencies and local governments. Section 212.20, F.S., governs the distribution by the department of tax revenues collected under the provisions of Chapter 212, F.S.

Section 212.20 (6), F.S., requires the department to distribute \$166,667 monthly (\$2 million annually), pursuant to s. 288.1162, F.S., to each applicant certified as facilities for new or retained professional sports franchises for no more than 30 years. The department may audit to verify that the distributions have been expended for the public purposes as required in s. 288.1162(6), F.S. If the department determines that the funds have not been used as required, it may pursue recovery of the funds.⁴

Funds distributed under s. 212.20, F.S., may be used by the certified applicant only for the public purpose of:

- Paying for the acquisition, construction, reconstruction, or renovation of a facility for a professional sports franchise; or
- Paying debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

An applicant previously certified by OTTED that has also received funding under s. 212.20, F.S., is not eligible for an additional certification unless the previous certification was withdrawn by the facility or invalidated by OTTED before funds were distributed under s. 212.20, F.S.⁵

Currently, the certification of a facility ends if the franchise that qualified as the facility for certification leaves the facility and any remaining franchise does not qualify as a “new professional sports franchise,” “retained professional sports franchise,” or “retained spring training franchise.”

Local Option

Section 218.64, F.S., provides a local option funding mechanism authorizing local governments to use up to \$2 million annually of the local government half-cent sales tax allocation to provide funding for facilities for new or retained professional sports franchises, facilities for retained spring training franchises, or motorsports entertainment complexes. The use of local funds for this purpose must be authorized by the majority of members of the county governing authority and by the majority of the members of the governing authorities of municipalities representing at least 50 percent of the municipal population of the respective county. OTTED is required to certify applicants seeking local funding based on applicable existing provisions in s. 288.1162, F.S., or in s. 288.1171, F.S. For purposes of the local option funding program, s. 218.64, F.S. waives existing limitations and restrictions on statewide programs that might otherwise bar facilities from receipt of local funding.

EFFECT OF PROPOSED CHANGES:

The bill creates s. 288.11635, F. S. to authorize the existing eight recipients of distributions under s. 288.1162, F. S., and an additional ninth to apply to be certified as sports franchise facilities and receive additional distributions of state revenue.

⁴ See s. 288.1162(8), F.S.

⁵ See s. 288.1162(4)(h), F.S.

This bill establishes certification criteria for OTTED to determine whether an applicant is eligible as a professional sports franchise facility, which is:

- A local government must hold title or leasehold to the facility, or a local government must be responsible for construction, maintenance, or operation of the facility.
- The person filing on behalf of the applicant is the owner, tenant, or operator of the facility.
- Submittal of verified proof of professional sports franchise status in Florida as of July 1, 2007 from the applicable sports league.
- Verified projections demonstrating that the franchise will draw more than 300,000 annual paid attendance.
- Submittal of an independent analysis or study, verified by OTTED, demonstrating that the facility generates at least \$4 million in annual sales tax revenues. However, a professional sports franchise whose facility is serving as the applicant's basis for application under the proposed s. 288.11635, F.S., but not under the existing s. 288.1162, F.S., must demonstrate only \$2 million in annual sales tax revenues generated. Only the Miami Dolphins qualify for this exemption.
- A city or county resolution specifying that the application serves a public purpose.
- Delivery of a guarantee by the team owner or applicant that if the team does not play at least 90 percent of its pre-season, regular season, and post-season home games in Florida, the state will be repaid the amount of sales tax revenue it has distributed to the team, under both the new and old programs, less the amount of sales tax generated by the facility. The only exception is for teams that cannot play because of a "force majeure event," defined as a "flood, fire, or other casualty, war, revolution, civil commotion, an act of a public enemy, embargo, an act of government in its sovereign capacity, or labor difficulty, including without limitation a strike, lockout, or any circumstance beyond the reasonable control of the professional sports franchise affected."
- If a certified franchise leaves the state, this guarantee may be transferred to the owner of another professional sports franchise.
- Local governmental or private match of funds or commitment of funds over the next 30 years for the construction of or improvements to a facility of at least \$60 million.

The bill provides that OTTED may not certify more than nine facilities as professional sports franchise facilities eligible for the new funding under s. 212.20 (6)(d)7.c.

Another provision of the bill requires that an applicant certified as a professional sports franchise facility may only use the new state funds for:

- The construction, reconstruction, renovation, capital improvement or maintenance of the certified facility or ancillary facilities.
- Payment of debt service on, and any issuance costs incurred in connection with, bonds or other indebtedness issued for the construction, reconstruction, renovation, or capital improvement of the certified facility or ancillary facilities.
- Reimbursement of costs for the refinancing of bonds or other indebtedness issued for the construction, reconstruction, renovation, or capital improvement of the certified facility or ancillary facilities.

OTTED is directed to develop rules to administer the receipt and processing of applications under this new program. The Department of Revenue is authorized to conduct audits to verify the appropriate expenditure of funds and to recover inappropriately expended funds.

C. SECTION DIRECTORY:

Section 1: - Creates s. 288.11635, F. S., to provide a mechanism by which existing recipients of distributions under s. 288.1162, F. S., can be certified as sports franchise facilities and receive additional distributions of state revenue.

Section 2: - Amends s. 212.20, F. S., to make available an additional distribution of \$166,667 monthly (\$2 million annually) to certified professional sports franchise facilities for no more than 30 years, totaling a maximum of \$60 million per facility.

Section 3: - Amends subsection (6) of s. 288.1169, F. S., to correct a reference.

Section 4: - Provides that this act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

| | <u>FY 07-08</u> | <u>FY 08-09</u> | <u>FY 09-10</u> |
|-----------------|-----------------|-----------------|-----------------|
| General Revenue | (\$18M) | (\$18M) | (\$18M) |

See "Fiscal Comments."

2. Expenditures:

Minimal. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

| | <u>FY 07-08</u> | <u>FY 08-09</u> | <u>FY 09-10</u> |
|-------------------|-----------------|-----------------|-----------------|
| Local Governments | \$18M | \$18M | \$18M |

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:

This bill will have a negative fiscal impact on the General Revenue Fund of \$18 million per year for 30 years if all nine professional sports franchises are certified eligible by OTTED. This funding is in addition to the current \$2 million per year authorized in s. 288.1162, F. S., for distribution to eight professional sports franchises.

The bill will have an impact on OTTED and the Department of Revenue with regard to the application review and certification process for the new additional certifications created by the bill. However, OTTED and the department may be able to absorb these costs with current resources.

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:

OTTED is directed to develop rules to administer the receipt and processing of applications under this new program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement was provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 13, 2007, the Policy and Budget Council adopted one amendment and voted the bill as amended out as a council substitute. CS/HB 1079 differs from the original bill in the mechanism for repayment of the state that must be included in a guaranty agreement prerequisite to certification by OTTED. The new repayment mechanism will require the guarantor to post a bond for the repayment of the full amount of the annual distribution within 60 days of leaving the state. Any offsetting amounts due to the guarantor will be remitted within 60 after the close of the calendar year. These changes are reflected in this analysis.