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1 A bill to be entitled
2 An act relating to professional sports franchise
3 facilities; creating s. 288.11635, F.S.; requiring the
4 Office of Tourism, Trade, and Economic Development to
5 serve as the state agency for screening applicants for
6 certain state funding and for certifying applicants as
7 facilities for professional sports franchises eligible for
8 such funding; defining terms; requiring rulemaking;
9 providing prerequisites to certification; prohibiting a
10 facility from receiving more than one certification for
11 any professional sports franchise; restricting the use of
12 funds; requiring notice of and providing a limitation on
13 certifications; authorizing the Department of Revenue to
14 conduct audits in order to verify that funds have been
15 expended as required and to pursue recovery of
16 inappropriately expended funds; amending s. 212.20, F.S.;
17 providing for the distribution of a portion of revenues
18 from the tax on sales, use, and other transactions to
19 applicants certified as facilities for professional sports
20 franchises under s. 288.11635, F.S.; amending s. 288.1169,
21 F.S.; conforming a cross-reference; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 288.11635, Florida Statutes, is created
27 to read:

28 288.11635 Professional sports franchise guarantees.--

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29 (1) The Office of Tourism, Trade, and Economic Development
30 shall serve as the state agency for screening applicants for
31 state funding pursuant to s. 212.20(6)(d)7.c. and for certifying
32 an applicant as a "facility for a professional sports franchise"
33 that is eligible for funding pursuant to s. 212.20(6)(d)7.c.

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

35 (a) "Force majeure event" means a flood, fire, or other
36 casualty, a war, a revolution, civil commotion, an act of a
37 public enemy, an embargo, an act of government in its sovereign
38 capacity, or a labor difficulty, including, without limitation,
39 a strike, a lockout, or any circumstance beyond the reasonable
40 control of the professional sports franchise affected.

41 (b) "League" has the same meaning as provided in s.
42 288.1162.

43 (c) "Professional sports franchise" means a franchise in
44 the National League or the American League of Major League
45 Baseball, the National Basketball Association, the National
46 Football League, or the National Hockey League.

47 (d) "Unit of local government" has the same meaning as
48 provided in s. 218.369.

49 (3) The Office of Tourism, Trade, and Economic Development
50 shall develop rules for the receipt and processing of
51 applications for funding pursuant to s. 212.20(6)(d)7.c.

52 (4) Before certifying an applicant as a "facility for a
53 professional sports franchise" eligible for funding pursuant to
54 s. 212.20(6)(d)7.c., the Office of Tourism, Trade, and Economic
55 Development must:

56 (a) Determine that a unit of local government is
57 responsible for the construction, maintenance, or operation of
58 the professional sports franchise facility or holds title to or
59 a leasehold interest in the property on which the professional
60 sports franchise facility is located and the applicant is or
61 will be the owner, tenant, or operator of the professional
62 sports franchise facility.

63 (b) Determine that the applicant has a verified copy of
64 the approval from the governing authority of the league in which
65 the professional sports franchise exists or verified evidence
66 that it has had a league-authorized location in this state on or
67 before July 1, 2007.

68 (c) Determine that the applicant has projections, verified
69 by the Office of Tourism, Trade, and Economic Development, that
70 demonstrate that the professional sports franchise will attract
71 a paid attendance of more than 300,000 annually.

72 (d) Determine that the applicant has an independent
73 analysis or study, verified by the Office of Tourism, Trade, and
74 Economic Development, that demonstrates that the amount of the
75 revenues generated by the taxes imposed under chapter 212 with
76 respect to the use and operation of the professional sports
77 franchise facility will equal or exceed \$4 million annually,
78 except that if the professional sports franchise that has served
79 as an applicant's basis for certification under this section did
80 not serve as an applicant's basis for certification under s.
81 288.1162, then \$2 million annually.

82 (e) Determine that the municipality or county in which the
83 facility for a professional sports franchise is located has

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84 certified by resolution after a public hearing that the
85 application serves a public purpose.

86 (f) Receive a signed agreement for the benefit of and
87 enforceable by the Department of Revenue from the applicant or
88 the current owner of the professional sports franchise that
89 formed the basis for the applicant's certification pursuant to
90 this section that guarantees that, if the professional sports
91 franchise ceases playing at least 90 percent of its home games
92 in this state, including preseason, regular season, and
93 postseason games, unless the cessation is a result of a force
94 majeure event, the guarantor will pay the Department of Revenue
95 each year thereafter the excess, if any, of:

96 1. The amount distributed pursuant to s. 212.20(6)(d)7.c.
97 to the applicant under this section during such year, and, if
98 the same professional sports franchise also formed the basis for
99 an applicant's certification pursuant to s. 288.1162, the amount
100 distributed pursuant to s. 212.20(6)(d)7.b. to the applicant
101 under s. 288.1162 during such year over

102 2. The amount of the revenues generated by the taxes
103 imposed under chapter 212 with respect to the use and operation
104 of the certified facility during such year.

105
106 Within 60 days after the professional sports franchise ceases
107 playing at least 90 percent of its home games in the state, the
108 guarantor shall provide the Department of Revenue with an
109 annuity contract issued by a person authorized to issue such
110 contracts in this state that will secure the guarantor's
111 obligation to make the payments as required by this paragraph.

112 The guarantee of the applicant or current owner of the
 113 professional sports franchise will be returned upon substitution
 114 of the guarantee of any successor applicant or owner of the
 115 professional sports franchise whose ownership has been approved
 116 by the governing authority of the league in which the
 117 professional sports franchise exists.

118 (g) Receive evidence that one or more of the following
 119 have either previously contributed funds, or are contractually
 120 committed to contribute funds during the next 30 years, for the
 121 construction or improvement of the facility for a professional
 122 sports franchise that in the aggregate equals or exceeds \$60
 123 million:

124 1. The municipality in which the facility for a
 125 professional sports franchise is located.

126 2. The county in which the facility for a professional
 127 sports franchise is located.

128 3. The applicant.

129 4. The owner of the professional sports franchise that has
 130 served as an applicant's basis for certification under this
 131 section or its affiliates.

132 (h) Determine that a professional sports franchise forms
 133 the basis for only one facility certified under this section for
 134 funding pursuant to s. 212.20(6)(d)7.c.

135 (5) An applicant certified as a facility for a
 136 professional sports franchise that is certified for funding
 137 pursuant to s. 212.20(6)(d)7.c. may use funds provided pursuant
 138 to that sub-subparagraph only for the public purpose of:

139 (a) Paying for the acquisition, construction,
140 reconstruction, renovation, capital improvement, or maintenance
141 of the facility for a professional sports franchise or any
142 ancillary facilities, such as parking structures; convention
143 facilities and meeting rooms; retail and concession space;
144 health, fitness, and training facilities; and youth and amateur
145 sports facilities, that support the operations of any such
146 facility;

147 (b) Paying or pledging for the payment of debt service on,
148 or funding debt service reserve funds, arbitrage rebate
149 obligations, or other amounts payable with respect to, bonds or
150 other indebtedness issued for the acquisition, construction,
151 reconstruction, renovation, or capital improvement of the
152 facility for a professional sports franchise or ancillary
153 facilities; or

154 (c) Reimbursing costs for the refinancing of bonds or
155 other indebtedness, including the payment of any interest and
156 prepayment premium or penalty thereon, issued for the
157 acquisition, construction, reconstruction, renovation, or
158 capital improvement of the facility for a professional sports
159 franchise or ancillary facilities.

160 (6) The Office of Tourism, Trade, and Economic Development
161 shall notify the Department of Revenue of any facility certified
162 as a facility for a professional sports franchise that is
163 eligible for funding pursuant to s. 212.20(6)(d)7.c. The Office
164 of Tourism, Trade, and Economic Development may not certify
165 under this section more than nine facilities as facilities for a

166 professional sports franchise that are eligible for funding
 167 pursuant to s. 212.20(6)(d)7.c.

168 (7) The Department of Revenue may conduct audits as
 169 provided in s. 213.34 to verify that the distributions made
 170 under this section have been expended as required in this
 171 section. Such information is subject to the confidentiality
 172 requirements of chapter 213. If the Department of Revenue
 173 determines that the distributions made under this section have
 174 not been expended as required by this section, it may pursue
 175 recovery of the funds under the laws and rules governing the
 176 assessment of taxes.

177 Section 2. Paragraph (d) of subsection (6) of section
 178 212.20, Florida Statutes, is amended to read:

179 212.20 Funds collected, disposition; additional powers of
 180 department; operational expense; refund of taxes adjudicated
 181 unconstitutionally collected.--

182 (6) Distribution of all proceeds under this chapter and s.
 183 202.18(1)(b) and (2)(b) shall be as follows:

184 (d) The proceeds of all other taxes and fees imposed
 185 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
 186 and (2)(b) shall be distributed as follows:

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

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

196 3. After the distribution under subparagraphs 1. and 2.,
197 8.814 percent of the amount remitted by a sales tax dealer
198 located within a participating county pursuant to s. 218.61
199 shall be transferred into the Local Government Half-cent Sales
200 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to
201 be transferred pursuant to this subparagraph to the Local
202 Government Half-cent Sales Tax Clearing Trust Fund shall be
203 reduced by 0.1 percent, and the department shall distribute this
204 amount to the Public Employees Relations Commission Trust Fund
205 less \$5,000 each month, which shall be added to the amount
206 calculated in subparagraph 4. and distributed accordingly.

207 4. After the distribution under subparagraphs 1., 2., and
208 3., 0.095 percent shall be transferred to the Local Government
209 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
210 to s. 218.65.

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

215 6. After the distributions under subparagraphs 1., 2., 3.,
216 and 4., 1.3409 percent of the available proceeds pursuant to
217 this paragraph shall be transferred monthly to the Revenue
218 Sharing Trust Fund for Municipalities pursuant to s. 218.215. If
219 the total revenue to be distributed pursuant to this
220 subparagraph is at least as great as the amount due from the

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221 Revenue Sharing Trust Fund for Municipalities and the former
222 Municipal Financial Assistance Trust Fund in state fiscal year
223 1999-2000, no municipality shall receive less than the amount
224 due from the Revenue Sharing Trust Fund for Municipalities and
225 the former Municipal Financial Assistance Trust Fund in state
226 fiscal year 1999-2000. If the total proceeds to be distributed
227 are less than the amount received in combination from the
228 Revenue Sharing Trust Fund for Municipalities and the former
229 Municipal Financial Assistance Trust Fund in state fiscal year
230 1999-2000, each municipality shall receive an amount
231 proportionate to the amount it was due in state fiscal year
232 1999-2000.

233 7. Of the remaining proceeds:

234 a. In each fiscal year, the sum of \$29,915,500 shall be
235 divided into as many equal parts as there are counties in the
236 state, and one part shall be distributed to each county. The
237 distribution among the several counties shall begin each fiscal
238 year on or before January 5th and shall continue monthly for a
239 total of 4 months. If a local or special law required that any
240 moneys accruing to a county in fiscal year 1999-2000 under the
241 then-existing provisions of s. 550.135 be paid directly to the
242 district school board, special district, or a municipal
243 government, such payment shall continue until such time that the
244 local or special law is amended or repealed. The state covenants
245 with holders of bonds or other instruments of indebtedness
246 issued by local governments, special districts, or district
247 school boards prior to July 1, 2000, that it is not the intent
248 of this subparagraph to adversely affect the rights of those

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249 holders or relieve local governments, special districts, or
250 district school boards of the duty to meet their obligations as
251 a result of previous pledges or assignments or trusts entered
252 into which obligated funds received from the distribution to
253 county governments under then-existing s. 550.135. This
254 distribution specifically is in lieu of funds distributed under
255 s. 550.135 prior to July 1, 2000.

256 b. The department shall distribute \$166,667 monthly
257 pursuant to s. 288.1162 to each applicant that has been
258 certified as a "facility for a new professional sports
259 franchise" or a "facility for a retained professional sports
260 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
261 distributed monthly by the department to each applicant that has
262 been certified as a "facility for a retained spring training
263 franchise" pursuant to s. 288.1162; however, not more than
264 \$416,670 may be distributed monthly in the aggregate to all
265 certified facilities for a retained spring training franchise.
266 Distributions shall begin 60 days following such certification
267 and shall continue for not more than 30 years. Nothing contained
268 in this paragraph shall be construed to allow an applicant
269 certified pursuant to s. 288.1162 to receive more in
270 distributions than actually expended by the applicant for the
271 public purposes provided for in s. 288.1162(6).

272 c. The department shall distribute \$166,667 monthly
273 pursuant to s. 288.11635 to each applicant that has been
274 certified as a "facility for a professional sports franchise"
275 pursuant to s. 288.11635. Distributions must begin 60 days after
276 such certification and must continue for not more than 30 years.

277 This paragraph does not allow an applicant certified pursuant to
 278 s. 288.11635 to receive more in distributions than the applicant
 279 actually expended for the public purposes provided for in s.
 280 288.11635(5).

281 d.e. Beginning 30 days after notice by the Office of
 282 Tourism, Trade, and Economic Development to the Department of
 283 Revenue that an applicant has been certified as the professional
 284 golf hall of fame pursuant to s. 288.1168 and is open to the
 285 public, \$166,667 shall be distributed monthly, for up to 300
 286 months, to the applicant.

287 e.d. Beginning 30 days after notice by the Office of
 288 Tourism, Trade, and Economic Development to the Department of
 289 Revenue that the applicant has been certified as the
 290 International Game Fish Association World Center facility
 291 pursuant to s. 288.1169, and the facility is open to the public,
 292 \$83,333 shall be distributed monthly, for up to 168 months, to
 293 the applicant. This distribution is subject to reduction
 294 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be
 295 made, after certification and before July 1, 2000.

296 8. All other proceeds shall remain with the General
 297 Revenue Fund.

298 Section 3. Subsection (6) of section 288.1169, Florida
 299 Statutes, is amended to read:

300 288.1169 International Game Fish Association World Center
 301 facility.--

302 (6) The Department of Commerce must recertify every 10
 303 years that the facility is open, that the International Game
 304 Fish Association World Center continues to be the only

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305 international administrative headquarters, fishing museum, and
306 Hall of Fame in the United States recognized by the
307 International Game Fish Association, and that the project is
308 meeting the minimum projections for attendance or sales tax
309 revenues as required at the time of original certification. If
310 the facility is not recertified during this 10-year review as
311 meeting the minimum projections, then funding will be abated
312 until certification criteria are met. If the project fails to
313 generate \$1 million of annual revenues pursuant to paragraph
314 (2) (e), the distribution of revenues pursuant to s.
315 212.20(6) (d) 7.e.d. shall be reduced to an amount equal to
316 \$83,333 multiplied by a fraction, the numerator of which is the
317 actual revenues generated and the denominator of which is \$1
318 million. Such reduction shall remain in effect until revenues
319 generated by the project in a 12-month period equal or exceed \$1
320 million.

321 Section 4. This act shall take effect upon becoming a law.