

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.--

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 Basketball Association that began playing games  
45 before January 1, 1990, but not before January 1, 1989, or a  
46 franchise in the National Hockey League that began playing games  
47 before January 1, 1993.

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

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

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

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

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

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

73 (d) Determine that the applicant has an independent  
74 analysis or study, verified by the Office of Tourism, Trade, and  
75 Economic Development, that demonstrates that the amount of the  
76 revenues generated by the taxes imposed under chapter 212 with  
77 respect to the use and operation of the professional sports  
78 franchise facility will equal or exceed \$4 million annually.

79 (e) Determine that the municipality or county in which the  
80 facility for a professional sports franchise is located has  
81 certified by resolution after a public hearing that the  
82 application serves a public purpose.

83 (f) Receive a signed agreement for the benefit of and  
84 enforceable by the Department of Revenue from the applicant or

85 the current owner of the professional sports franchise that  
86 formed the basis for the applicant's certification pursuant to  
87 this section that guarantees that, if the professional sports  
88 franchise ceases playing at least 90 percent of its home games  
89 in this state, including preseason, regular season, and  
90 postseason games, unless the cessation is a result of a force  
91 majeure event, the guarantor will pay the Department of Revenue,  
92 commencing with the calendar year in which the professional  
93 sports franchise ceases playing at least 90 percent of its home  
94 games in this state and each calendar year thereafter, the  
95 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 the same calendar  
98 year, and, if the same professional sports franchise also formed  
99 the basis for an applicant's certification pursuant to s.  
100 288.1162, the amount distributed pursuant to s. 212.20(6)(d)7.b.  
101 to the applicant under s. 288.1162 during the same calendar year  
102 over

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

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

113 212.20(6)(d)7.c. to the applicant under this section during the  
114 same calendar year and, if the same professional sports  
115 franchise also formed the basis for an applicant's certification  
116 pursuant to s. 288.1162, the amount distributed pursuant to s.  
117 212.20(6)(d)7.b. to the applicant under s. 288.1162 during the  
118 same calendar year, as required in subparagraph 1. Within 60  
119 days after the end of each calendar year for which an annuity  
120 contract is in force, the Department of Revenue shall reimburse  
121 the guarantor an amount equal to the state revenues generated by  
122 the taxes imposed under chapter 212 with respect to the use and  
123 operation of the certified facility during the prior calendar  
124 year, not to exceed the aggregate amount distributed to the  
125 applicant under s. 212.20(6)(d)7.b. and c. during the same  
126 calendar year. The guarantee of the applicant or current owner  
127 of the professional sports franchise will be returned upon  
128 substitution of the guarantee of any successor applicant or  
129 owner of the professional sports franchise whose ownership has  
130 been approved by the governing authority of the league in which  
131 the professional sports franchise exists.

132 (g) Receive evidence that one or more of the following  
133 have either previously contributed funds, or are contractually  
134 committed to contribute funds during the next 30 years, for the  
135 construction or improvement of the facility for a professional  
136 sports franchise that in the aggregate equals or exceeds \$60  
137 million:

138 1. The municipality in which the facility for a  
139 professional sports franchise is located.

140 2. The county in which the facility for a professional

141 sports franchise is located.

142 3. The applicant.

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

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

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

153 (a) Paying for the acquisition, construction,  
 154 reconstruction, renovation, capital improvement, or maintenance  
 155 of the facility for a professional sports franchise or any  
 156 ancillary facilities, such as parking structures; convention  
 157 facilities and meeting rooms; retail and concession space;  
 158 health, fitness, and training facilities; and youth and amateur  
 159 sports facilities, that support the operations of any such  
 160 facility;

161 (b) Paying or pledging for the payment of debt service on,  
 162 or funding debt service reserve funds, arbitrage rebate  
 163 obligations, or other amounts payable with respect to, bonds or  
 164 other indebtedness issued for the acquisition, construction,  
 165 reconstruction, renovation, or capital improvement of the  
 166 facility for a professional sports franchise or ancillary  
 167 facilities; or

168 (c) Reimbursing costs for the refinancing of bonds or

169 other indebtedness, including the payment of any interest and  
 170 prepayment premium or penalty thereon, issued for the  
 171 acquisition, construction, reconstruction, renovation, or  
 172 capital improvement of the facility for a professional sports  
 173 franchise or ancillary facilities.

174 (6) The Office of Tourism, Trade, and Economic Development  
 175 shall notify the Department of Revenue of any facility certified  
 176 as a facility for a professional sports franchise that is  
 177 eligible for funding pursuant to s. 212.20(6)(d)7.c. The Office  
 178 of Tourism, Trade, and Economic Development may not certify  
 179 under this section more than two facilities as facilities for a  
 180 professional sports franchise that are eligible for funding  
 181 pursuant to s. 212.20(6)(d)7.c.

182 (7) The Department of Revenue may conduct audits as  
 183 provided in s. 213.34 to verify that the distributions made  
 184 under this section have been expended as required in this  
 185 section. Such information is subject to the confidentiality  
 186 requirements of chapter 213. If the Department of Revenue  
 187 determines that the distributions made under this section have  
 188 not been expended as required by this section, it may pursue  
 189 recovery of the funds under the laws and rules governing the  
 190 assessment of taxes.

191 Section 2. Paragraph (d) of subsection (6) of section  
 192 212.20, Florida Statutes, is amended to read:

193 212.20 Funds collected, disposition; additional powers of  
 194 department; operational expense; refund of taxes adjudicated  
 195 unconstitutionally collected.--

196 (6) Distribution of all proceeds under this chapter and s.  
 197 202.18(1)(b) and (2)(b) shall be as follows:

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

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

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

210 3. After the distribution under subparagraphs 1. and 2.,  
 211 8.814 percent of the amount remitted by a sales tax dealer  
 212 located within a participating county pursuant to s. 218.61  
 213 shall be transferred into the Local Government Half-cent Sales  
 214 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to  
 215 be transferred pursuant to this subparagraph to the Local  
 216 Government Half-cent Sales Tax Clearing Trust Fund shall be  
 217 reduced by 0.1 percent, and the department shall distribute this  
 218 amount to the Public Employees Relations Commission Trust Fund  
 219 less \$5,000 each month, which shall be added to the amount  
 220 calculated in subparagraph 4. and distributed accordingly.

221 4. After the distribution under subparagraphs 1., 2., and  
 222 3., 0.095 percent shall be transferred to the Local Government



223 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant  
 224 to s. 218.65.

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

229 6. After the distributions under subparagraphs 1., 2., 3.,  
 230 and 4., 1.3409 percent of the available proceeds pursuant to  
 231 this paragraph shall be transferred monthly to the Revenue  
 232 Sharing Trust Fund for Municipalities pursuant to s. 218.215. If  
 233 the total revenue to be distributed pursuant to this  
 234 subparagraph is at least as great as the amount due from the  
 235 Revenue Sharing Trust Fund for Municipalities and the former  
 236 Municipal Financial Assistance Trust Fund in state fiscal year  
 237 1999-2000, no municipality shall receive less than the amount  
 238 due from the Revenue Sharing Trust Fund for Municipalities and  
 239 the former Municipal Financial Assistance Trust Fund in state  
 240 fiscal year 1999-2000. If the total proceeds to be distributed  
 241 are less than the amount received in combination from the  
 242 Revenue Sharing Trust Fund for Municipalities and the former  
 243 Municipal Financial Assistance Trust Fund in state fiscal year  
 244 1999-2000, each municipality shall receive an amount  
 245 proportionate to the amount it was due in state fiscal year  
 246 1999-2000.

247 7. Of the remaining proceeds:

248 a. In each fiscal year, the sum of \$29,915,500 shall be  
 249 divided into as many equal parts as there are counties in the  
 250 state, and one part shall be distributed to each county. The

251 distribution among the several counties shall begin each fiscal  
252 year on or before January 5th and shall continue monthly for a  
253 total of 4 months. If a local or special law required that any  
254 moneys accruing to a county in fiscal year 1999-2000 under the  
255 then-existing provisions of s. 550.135 be paid directly to the  
256 district school board, special district, or a municipal  
257 government, such payment shall continue until such time that the  
258 local or special law is amended or repealed. The state covenants  
259 with holders of bonds or other instruments of indebtedness  
260 issued by local governments, special districts, or district  
261 school boards prior to July 1, 2000, that it is not the intent  
262 of this subparagraph to adversely affect the rights of those  
263 holders or relieve local governments, special districts, or  
264 district school boards of the duty to meet their obligations as  
265 a result of previous pledges or assignments or trusts entered  
266 into which obligated funds received from the distribution to  
267 county governments under then-existing s. 550.135. This  
268 distribution specifically is in lieu of funds distributed under  
269 s. 550.135 prior to July 1, 2000.

270       b. The department shall distribute \$166,667 monthly  
271 pursuant to s. 288.1162 to each applicant that has been  
272 certified as a "facility for a new professional sports  
273 franchise" or a "facility for a retained professional sports  
274 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
275 distributed monthly by the department to each applicant that has  
276 been certified as a "facility for a retained spring training  
277 franchise" pursuant to s. 288.1162; however, not more than  
278 \$416,670 may be distributed monthly in the aggregate to all

279 certified facilities for a retained spring training franchise.  
280 Distributions shall begin 60 days following such certification  
281 and shall continue for not more than 30 years. Nothing contained  
282 in this paragraph shall be construed to allow an applicant  
283 certified pursuant to s. 288.1162 to receive more in  
284 distributions than actually expended by the applicant for the  
285 public purposes provided for in s. 288.1162(6).

286 c. The department shall distribute \$166,667 monthly  
287 pursuant to s. 288.11635 to each applicant that has been  
288 certified as a "facility for a professional sports franchise"  
289 pursuant to s. 288.11635. Distributions must begin 60 days after  
290 such certification and must continue for not more than 30 years.  
291 This paragraph does not allow an applicant certified pursuant to  
292 s. 288.11635 to receive more in distributions than the applicant  
293 actually expended for the public purposes provided for in s.  
294 288.11635(5).

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

301 ~~e.d.~~ Beginning 30 days after notice by the Office of  
302 Tourism, Trade, and Economic Development to the Department of  
303 Revenue that the applicant has been certified as the  
304 International Game Fish Association World Center facility  
305 pursuant to s. 288.1169, and the facility is open to the public,  
306 \$83,333 shall be distributed monthly, for up to 168 months, to

307 the applicant. This distribution is subject to reduction  
 308 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be  
 309 made, after certification and before July 1, 2000.

310 8. All other proceeds shall remain with the General  
 311 Revenue Fund.

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

314 288.1169 International Game Fish Association World Center  
 315 facility.--

316 (6) The Department of Commerce must recertify every 10  
 317 years that the facility is open, that the International Game  
 318 Fish Association World Center continues to be the only  
 319 international administrative headquarters, fishing museum, and  
 320 Hall of Fame in the United States recognized by the  
 321 International Game Fish Association, and that the project is  
 322 meeting the minimum projections for attendance or sales tax  
 323 revenues as required at the time of original certification. If  
 324 the facility is not recertified during this 10-year review as  
 325 meeting the minimum projections, then funding will be abated  
 326 until certification criteria are met. If the project fails to  
 327 generate \$1 million of annual revenues pursuant to paragraph  
 328 (2)(e), the distribution of revenues pursuant to s.  
 329 212.20(6)(d) ~~7.e.d.~~ shall be reduced to an amount equal to  
 330 \$83,333 multiplied by a fraction, the numerator of which is the  
 331 actual revenues generated and the denominator of which is \$1  
 332 million. Such reduction shall remain in effect until revenues  
 333 generated by the project in a 12-month period equal or exceed \$1  
 334 million.

335

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