



277498

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2013	.	
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The Committee on Appropriations (Lee, Thrasher, and Gardiner) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 368 - 734  
and insert:  
management, or operation of a facility; or an entity that is responsible for the construction, management, or operation of a facility if a unit of local government holds title to the underlying property on which the facility is located.

(b) "Agreement" means a signed agreement between a unit of local government and a beneficiary.

(c) "Beneficiary" means a professional sports franchise of the National Football League, the National Hockey League, the



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13 National Basketball Association, the National League or American  
14 League of Major League Baseball, Major League Soccer, or the  
15 National Association of Stock Car Auto Racing, or a nationally  
16 recognized professional sports association that occupies or uses  
17 a facility as the facility's primary tenant. A beneficiary may  
18 also be an applicant under this section.

19 (d) "Facility" means a facility primarily used to host  
20 games or events held by a beneficiary and does not include any  
21 portion used to provide transient lodging. For a professional  
22 sports franchise that uses or occupies a local government-owned  
23 facility during the months from February through April, the  
24 facility also includes training facilities that are associated  
25 with the primary facility, but does not include any portion used  
26 to provide transient lodging.

27 (e) "Project" means a proposed construction,  
28 reconstruction, renovation, or improvement of a facility.

29 (f) "State sales taxes generated by sales at the facility"  
30 means state sales taxes imposed under chapter 212 generated by  
31 admissions to the facility or by sales made by vendors at the  
32 facility who are accessible to persons attending events  
33 occurring at the facility.

34 (g) "Signature event" means a professional sports event  
35 with significant export factor potential. For purposes of this  
36 paragraph, the term "export factor" means the attraction of  
37 economic activity or growth into the state that otherwise would  
38 not have occurred. Examples of signature events may include, but  
39 are not limited to:

- 40 1. National Football League Super Bowls.
- 41 2. Professional sports All-Star games.



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42 3. International sporting events and tournaments.

43 4. Professional automobile race championships or Formula 1  
44 Grand Prix.

45 5. The establishment of a new professional sports franchise  
46 in this state.

47 (3) PURPOSE.—The purpose of this section is to provide  
48 applicants state funding under s. 212.20(6)(d)6.e. for the  
49 public purpose of constructing, reconstructing, renovating, or  
50 improving a facility.

51 (4) APPLICATION AND APPROVAL PROCESS.—

52 (a) The department shall establish the procedures and  
53 application forms deemed necessary pursuant to the requirements  
54 of this section. The department may notify an applicant of any  
55 additional required or incomplete information necessary to  
56 evaluate an application.

57 (b) The annual application period shall be from June 1  
58 through November 1.

59 (c) Within 60 days after receipt of a completed  
60 application, the department shall complete its evaluation of the  
61 application as provided under subsection (5) and notify the  
62 applicant in writing as to the department's decision to  
63 recommend approval of the applicant by the Legislature or to  
64 deny the application.

65 (d) Annually by February 1, the department shall rank all  
66 applicants and shall provide to the Legislature the list of all  
67 recommended applicants in ranked order of projects most likely  
68 to positively impact the state based on required criteria  
69 established in this section. The list shall include the  
70 department's evaluation of the applicant.



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71 (e) A recommended applicant's request for funding must be  
72 approved by the Legislature by general law.

73 1. An application by a unit of local government which is  
74 approved by the Legislature and subsequently certified by the  
75 department remains certified for the duration of the  
76 beneficiary's agreement with the applicant or for 30 years,  
77 whichever is less, provided the certified applicant has an  
78 agreement with a beneficiary at the time of initial  
79 certification by the department.

80 2. An application by a beneficiary that is approved by the  
81 Legislature and subsequently certified by the department remains  
82 certified for the duration of the beneficiary's agreement with  
83 the unit of local government that owns the underlying property  
84 or for 30 years, whichever is less, provided the certified  
85 applicant has an agreement with the unit of local government at  
86 the time of initial certification by the department.

87 3. Previously certified applicants under this section do  
88 not require legislative approval each year to receive state  
89 funding.

90 (f) Applicants recommended by the department and not  
91 approved by the Legislature may reapply and update any  
92 information in the original application as required by the  
93 department.

94 (g) The department may recommend no more than one  
95 distribution under this section for any applicant, facility, or  
96 beneficiary at a time.

97 (5) EVALUATION PROCESS.—

98 (a) Before recommending an applicant to receive a state  
99 distribution under s. 212.20(6)(d)6.e., the department must



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100 verify that:

101 1. The applicant or beneficiary is responsible for the  
102 construction, reconstruction, renovation, or improvement of a  
103 facility.

104 2. If the applicant is also the beneficiary, a unit of  
105 local government holds title to the property on which the  
106 facility and project are located.

107 3. The project for which the applicant is seeking state  
108 funding has not commenced construction.

109 4. If the applicant is a unit of local government in whose  
110 jurisdiction the facility will be located, the unit of local  
111 government has an exclusive intent agreement to negotiate in  
112 Florida with the beneficiary.

113 5.a. The unit of local government in whose jurisdiction the  
114 facility will be located supports the application for state  
115 funds. Such support must be verified by the adoption of a  
116 resolution after a public hearing that the project serves a  
117 public purpose.

118 b. If the unit of local government is required to pass a  
119 resolution by a majority plus-one vote by the local government's  
120 governing body and to hold a referendum for approval under s.  
121 125.0104(3)(n)2., such resolution and referendum must  
122 affirmatively pass for the applicant to receive state funding  
123 under this section.

124 6. The applicant or beneficiary has not previously  
125 defaulted or failed to meet any statutory requirements of a  
126 previous state-administered sports-related program under ss.  
127 288.1162, 288.11621, or 288.1168.

128 7. The applicant or beneficiary has sufficiently



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129 demonstrated a commitment to employ Florida residents, contract  
130 with Florida-based firms, and purchase locally-available  
131 building materials to the greatest extent possible.

132 8. If the applicant is a unit of local government, the  
133 applicant has a certified copy of a signed agreement with a  
134 beneficiary for the use of the facility. If the applicant is a  
135 beneficiary, the beneficiary must enter into an agreement with  
136 the department. The applicant or beneficiary's agreement must  
137 also require the following:

138 a. The beneficiary must reimburse the state for state funds  
139 that have been distributed and will be distributed if the  
140 beneficiary relocates before the agreement expires.

141 b. The beneficiary must pay for signage or advertising  
142 within the facility. The signage or advertising must be placed  
143 in a prominent location as close to the field of play or  
144 competition as is practical, displayed consistent with signage  
145 or advertising in the same location and like value, and must  
146 feature Florida advertising approved by the Florida Tourism  
147 Industry Marketing Corporation.

148 9. The project will be commenced within 12 months after  
149 receiving state funds.

150 (b) The department shall competitively evaluate and rank  
151 applicants that submit applications for state funding received  
152 during the application period using the following criteria to  
153 evaluate the applicant's ability to positively impact the state:

154 1. The proposed use of state funds.

155 2. The length of time that a beneficiary has agreed to use  
156 the facility.

157 3. The percentage of total project funds provided by the



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158 applicant and the percentage of total project funds provided by  
159 the beneficiary.

160 4. The number and type of signature events the facility is  
161 likely to attract during the duration of the agreement with the  
162 beneficiary.

163 5. The anticipated increase in average annual ticket sales  
164 and attendance at the facility due to the project.

165 6. The potential to attract out-of-state visitors to the  
166 facility.

167 7. The length of time a beneficiary has been in the state  
168 or partnered with the unit of local government.

169 8. The multiuse capabilities of the facility.

170 9. The facility's projected employment of Florida  
171 residents, contracts with Florida-based firms, and purchases of  
172 locally-available building materials.

173 10. The amount of private and local financial or in-kind  
174 contributions to the project.

175 11. The amount of positive advertising or media coverage  
176 the facility generates.

177 (6) DISTRIBUTION.—

178 (a) The department shall determine the annual distribution  
179 amount an applicant may receive based on the total cost of the  
180 project.

181 1. If the total project cost is \$200 million or greater,  
182 the applicant is eligible to receive annual distributions equal  
183 to the new incremental state sales taxes generated by sales at  
184 the facility during 12 months as provided under paragraph (b)2.,  
185 up to \$3 million.

186 2. If the total project cost is at least \$100 million but



187 less than \$200 million, the applicant is eligible to receive  
188 annual distributions equal to the new incremental state sales  
189 taxes generated by sales at the facility during 12 months as  
190 provided under paragraph (b)2., up to \$2 million.

191 3. If the total project cost is less than \$100 million, the  
192 applicant is eligible to receive annual distributions equal to  
193 the new incremental state sales taxes generated by sales at the  
194 facility during 12 months as provided under paragraph (b)2., up  
195 to \$666,660.

196 (b) At the time of initial evaluation and review by the  
197 department under subsection (5), the applicant must provide an  
198 analysis by an independent certified public accountant which  
199 demonstrates:

200 1. The amount of state sales taxes generated by sales at  
201 the facility during the 12 month period immediately prior to the  
202 beginning of the application period. This amount shall be the  
203 baseline.

204 2. The expected amount of new incremental state sales taxes  
205 generated by sales at the facility above the baseline that will  
206 be generated as a result of the project.

207 (c) The independent analysis provided in paragraph (b) must  
208 be verified by the department.

209 (d) The Department of Revenue shall begin distributions  
210 within 45 days after notification of initial certification from  
211 the department.

212 (e) The department must consult with the Department of  
213 Revenue and the Office of Economic and Demographic Research to  
214 develop a standard calculation for estimating new incremental  
215 state sales taxes generated by sales at the facility and





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216 adjustments to distributions.

217 (f) In any 12 month period when total distributions for all  
218 certified applicants equal \$13 million, the department may not  
219 certify new distributions for any additional applicants.

220 (7) CONTRACT.—An applicant approved by the Legislature and  
221 certified by the department must enter into a contract with the  
222 department which:

223 (a) Specifies the terms of the state's investment.

224 (b) States the criteria that the certified applicant must  
225 meet in order to remain certified.

226 (c) Requires the applicant to submit the independent  
227 analysis required under subsection (6) and an annual independent  
228 analysis.

229 1. The applicant must agree to submit to the department,  
230 beginning twelve months after completion of a project or twelve  
231 months after the first four annual distributions, whichever is  
232 earlier, an annual analysis by an independent certified public  
233 accountant demonstrating the actual amount of new incremental  
234 state sales taxes generated by sales at the facility during the  
235 previous 12 month period. The applicant shall certify to the  
236 department a comparison of the actual amount of state sales  
237 taxes generated by sales at the facility during the previous 12  
238 month period to the baseline under subparagraph (6) (b) 1.

239 2. The applicant must submit the certification within 60  
240 days after the end of the previous 12 month period. The  
241 department shall verify the analysis.

242 (d) Specifies information that the certified applicant must  
243 report to the department.

244 (e) Requires the applicant to reimburse the state for the



245 amount each year that the actual new incremental state sales  
246 taxes generated by sales at the facility during the most recent  
247 12 month period was less than the annual distribution under  
248 paragraph (6) (a). This requirement applies twelve months after  
249 completion of a project or 12 months after the first four annual  
250 distributions, whichever is earlier.

251 1. If the applicant is unable or unwilling to reimburse the  
252 state in any year for the amount equal to the difference between  
253 the actual new incremental state sales taxes generated by sales  
254 at the facility and the annual distribution under paragraph  
255 (6) (a), the department may place a lien on the applicant's  
256 facility.

257 2. If the applicant is a municipality or county, it may  
258 reimburse the state from its half-cent sales tax allocation, as  
259 provided in s. 218.64(3).

260 3. Reimbursements must be sent to the Department of Revenue  
261 for deposit into the General Revenue Fund.

262 (f) Includes any provisions deemed prudent by the  
263 department.

264 (8) USE OF FUNDS.—An applicant certified under this section  
265 may use state funds only for the following purposes:

266 1. Constructing, reconstructing, renovating, or improving a  
267 facility, or reimbursing such costs.

268 2. Paying or pledging for the payment of debt service on,  
269 or to fund debt service reserve funds, arbitrage rebate  
270 obligations, or other amounts payable with respect thereto,  
271 bonds issued for the construction or renovation of such  
272 facility, or for the reimbursement of such costs or the  
273 refinancing of bonds issued for such purposes.



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274 (9) REPORTS.—

275 (a) On or before November 1 of each year, an applicant  
276 certified under this section and approved to receive state funds  
277 must submit to the department any information required by the  
278 department. The department shall summarize this information for  
279 inclusion in the report to the Legislature due February 1 under  
280 subsection (4) (d).

281 (b) Every 5 years following the first month that an  
282 applicant receives a monthly distribution, the department must  
283 verify that the applicant is meeting all program requirements.  
284 If the applicant is not meeting program requirements, the  
285 department must notify the Governor and Legislature of the  
286 requirements not being met and must make recommendations for  
287 future action as part of the report to the Legislature due  
288 February 1 under paragraph (4) (d). The department shall consider  
289 certain exceptions that may have prevented the applicant from  
290 meeting certain program requirements. Such exceptions include:

- 291 1. Force majeure events.  
292 2. Significant economic downturn.  
293 3. Other extenuating circumstances.

294 (10) AUDITS.—The Auditor General may conduct audits as  
295 provided in s. 11.45 to verify the independent analysis required  
296 under paragraph (6) (b) and paragraph (7) (c) and to verify that  
297 the distributions under this section are expended as required in  
298 this section. The Auditor General shall report all findings to  
299 the department. If the Auditor General determines that the  
300 distribution payments under this section are not expended as  
301 required by this section, the Auditor General must notify the  
302 Department of Revenue, which may pursue recovery of



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303 distributions under the laws and rules governing the assessment  
304 of taxes.

305 (11) APPLICATION RELATED TO SIGNATURE EVENT.—An applicant  
306 may apply for the program under this section after May 1, 2013,  
307 if the applicant intends to apply for a signature event prior to  
308 the 2014 Regular Session for which state funds for a project are  
309 requested. The department must review the application and  
310 recommend approval by the Legislature as required under this  
311 section. The Legislative Budget Commission is authorized to  
312 approve applications as provided under this subsection. For an  
313 applicant under this subsection, distributions under this  
314 section are conditioned upon award of the signature event  
315 applied for which was the basis of the application under this  
316 subsection. State funds may not be distributed until the  
317 department notifies the Department of Revenue that the applicant  
318 was approved by the Legislative Budget Commission and certified  
319 by the department. An applicant certified under this subsection  
320 is subject to all other provisions and requirements of this  
321 section. An applicant that fails to meet the conditions of this  
322 subsection is eligible to reapply during future application  
323 periods.

324 (12) REPAYMENT OF DISTRIBUTIONS.—An applicant certified  
325 under this section may be subject to repayment of distributions  
326 upon the occurrence of any of the following:

327 (a) An applicant's beneficiary has broken the terms of its  
328 agreement with the applicant and relocated from the facility.  
329 The beneficiary must reimburse the state for state funds that  
330 have been distributed and will be distributed if the beneficiary  
331 relocates before the agreement expires.



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332           (b) The department has determined that an applicant has  
333 submitted any information or made a representation that is  
334 determined to be false, misleading, deceptive, or otherwise  
335 untrue. The applicant must reimburse the state for state funds  
336 that have been distributed and will be distributed if such  
337 determination is made.

338           (13) HALTING OF PAYMENTS.—The applicant may request to halt  
339 future distributions by providing the department with written  
340 notice at least 20 days prior to the next monthly distribution  
341 payment. The department must immediately notify the Department  
342 of Revenue to halt future payments.

343           (14) RULEMAKING.—The department may adopt rules to  
344 implement this section.

345           Section 8. Contingent upon enactment of the Economic  
346 Development Program Evaluation as set forth in SB 406 or similar  
347 legislation, section 288.116255, Florida Statutes, is created to  
348 read:

349           288.116255 Sports Development Program evaluation.—Beginning  
350 in 2015, the Sports Development Program must be evaluated as  
351 part of the Economic Development Program Evaluation, and every 3  
352 years thereafter.

353           Section 9. Subsections (2) and (3) of section 218.64,  
354 Florida Statutes, are amended to read:

355           218.64 Local government half-cent sales tax; uses;  
356 limitations.—

357           (2) Municipalities shall expend their portions of the local  
358 government half-cent sales tax only for municipality-wide  
359 programs, for reimbursing the state as required by a contract  
360 under subsection (7) of s. 288.11625, or for municipality-wide



361 property tax or municipal utility tax relief. All utility tax  
362 rate reductions afforded by participation in the local  
363 government half-cent sales tax shall be applied uniformly across  
364 all types of taxed utility services.

365 (3) Subject to ordinances enacted by the majority of the  
366 members of the county governing authority and by the majority of  
367 the members of the governing authorities of municipalities  
368 representing at least 50 percent of the municipal population of  
369 such county, counties may use up to ~~\$2~~ \$3 million annually of  
370 the local government half-cent sales tax allocated to that  
371 county for ~~funding for~~ any of the following ~~applicant's~~ purposes:

372 (a) Funding a certified applicant as a facility for a new  
373 or retained professional sports franchise under s. 288.1162 or a  
374 certified applicant as defined in s. 288.11621 for a facility  
375 for a spring training franchise. It is the Legislature's intent  
376 that the provisions of s. 288.1162, including, but not limited  
377 to, the evaluation process by the Department of Economic  
378 Opportunity except for the limitation on the number of certified  
379 applicants or facilities as provided in that section and the  
380 restrictions set forth in s. 288.1162(8), shall apply to an  
381 applicant's facility to be funded by local government as  
382 provided in this subsection.

383 (b) Funding a certified applicant as a "motorsport  
384 entertainment complex," as provided for in s. 288.1171. Funding  
385 for each franchise or motorsport complex shall begin 60 days  
386 after certification and shall continue for not more than 30  
387 years.

388 (c) Reimbursing the state as required by a contract under  
389 subsection (7) of s. 288.11625.



390           Section 10. (1) The executive director of the Department of  
391 Economic Opportunity is authorized, and all conditions are  
392 deemed met, to adopt emergency rules under ss. 120.536(1) and  
393 120.54(4), Florida Statutes, for the purpose of implementing  
394 this act.

395           (2) Notwithstanding any provision of law, such emergency  
396 rules shall remain in effect for 6 months after the date adopted  
397 and may be renewed during the pendency of procedures to adopt  
398 permanent rules addressing the subject of the emergency rules.  
399

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

401 And the title is amended as follows:

402           Delete lines 59 - 85

403 and insert:

404           providing evaluation criteria for an applicant to  
405           receive state funding; providing for evaluation and  
406           ranking of applicants under certain criteria; allowing  
407           the department to determine the type of beneficiary;  
408           providing levels of state funding up to a certain  
409           amount of new incremental state sales tax revenue;  
410           providing for a distribution and calculation;  
411           requiring the Department of Revenue to distribute  
412           funds within 45 days of notification by the  
413           department; limiting annual distributions to \$13  
414           million; providing for a contract between the  
415           department and the applicant; limiting use of funds;  
416           requiring an applicant to submit information to the  
417           department annually; requiring a 5-year review;  
418           authorizing the Auditor General to conduct audits;



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419 providing for an application related to a signature  
420 event; requiring award of a signature event as a  
421 condition for receiving distributions for an  
422 application related to a signature event; authorizing  
423 the Legislative Budget Commission to approve an  
424 application; providing for reimbursement of the state  
425 funding under certain circumstances; providing for  
426 discontinuation of distributions upon an applicant's  
427 request; permitting the Department of Economic  
428 Opportunity to adopt rules; contingently creating s.  
429 288.116255, F.S.; providing for an evaluation;  
430 amending s. 218.64, F.S.; providing for municipalities  
431 and counties to expend a portion of local government  
432 half-cent sales tax revenues to reimburse the state as  
433 required by a contract; authorizing the Department of  
434 Economic Opportunity to adopt