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576-01965-13

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Finance and Tax)

A bill to be entitled

An act relating to economic development; amending s. 125.0104, F.S.; providing that tourist development tax revenues may also be used to pay the debt service on bonds that finance the renovation of a professional sports facility that is publicly owned, or that is on publicly owned land, which is publicly operated or operated by the owner of a professional sports franchise or other lessee; requiring that the renovation costs exceed a specified amount; allowing certain fees and costs to be included in the cost for renovation; requiring private contributions to the professional sports facility as a condition for the use of tourist development taxes; authorizing the use of certain tax revenues to pay for operation and maintenance costs of the renovated facility; requiring a majority-plus-one vote of the membership of the board of county commissioners to levy a tax for renovation of a sports franchise facility after approval by a majority of the electors voting in a referendum to approve the proposal; authorizing the referendum to be held before or after the effective date of this act; providing requirements for the referendum ballot; providing for nonapplication of the prohibition against levying such tax in certain cities and towns under certain conditions; restricting certain counties from levying the tax; providing for



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28 controlling application notwithstanding conflicting
29 provisions; authorizing the use of tourist development
30 tax revenues for financing the renovation of a
31 professional sports franchise facility; amending s.
32 212.20, F.S.; authorizing a tax rebate for a renovated
33 professional sports facility; conforming a cross-
34 reference; amending s. 218.64, F.S.; conforming a
35 cross-reference; amending s. 220.153, F.S.; conforming
36 a cross-reference; repealing s. 220.62(3) and (5),
37 F.S., relating to the definition of the terms
38 "international banking facility" and "foreign person"
39 in the income tax code; repealing s. 220.63(5), F.S.,
40 relating to an income tax deduction for international
41 banking facilities; amending s. 288.1162, F.S.;
42 authorizing a professional sports franchise renovation
43 facility to apply for certain state funds; defining
44 the term "professional sports franchise renovation
45 facility"; authorizing a professional sports franchise
46 renovation facility to receive additional funding;
47 requiring the Department of Economic Opportunity to
48 make a determination that certain criteria are met
49 before certifying a professional sports franchise
50 renovation facility; limiting the use of certain funds
51 by a professional sports franchise renovation
52 facility; prohibiting the department from certifying
53 more than one professional sports franchise renovation
54 facility; clarifying that the limitations for
55 certification apply to new or retained professional
56 sports franchise facilities; amending s. 288.11621,



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57 F.S.; conforming a cross-reference; providing an
58 effective date.

59

60 Be It Enacted by the Legislature of the State of Florida:

61

62 Section 1. Paragraph (n) of subsection (3) and paragraph
63 (a) of subsection (5) of section 125.0104, Florida Statutes, are
64 amended to read:

65 125.0104 Tourist development tax; procedure for levying;
66 authorized uses; referendum; enforcement.—

67 (3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

68 (n) In addition to any other tax that is imposed under this
69 section, a county that has imposed the tax under paragraph (1)
70 may impose an additional tax that is no greater than 1 percent
71 on the exercise of the privilege described in paragraph (a) by a
72 majority plus one vote of the membership of the board of county
73 commissioners, or as otherwise provided in this paragraph, in
74 order to:

75 1. Pay the debt service on bonds issued to finance:

76 a. The construction, reconstruction, or renovation of a
77 facility that is either publicly owned and operated, ~~or is~~
78 publicly owned and operated by the owner of a professional
79 sports franchise or other lessee with sufficient expertise or
80 financial capability to operate such facility, and to pay the
81 planning and design costs incurred before ~~prior to~~ the issuance
82 of such bonds for a new professional sports franchise as defined
83 in s. 288.1162.

84 b. The acquisition, construction, reconstruction, or
85 renovation of a facility ~~either~~ publicly owned and operated, or



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86 publicly owned and operated by the owner of a professional
87 sports franchise or other lessee with sufficient expertise or
88 financial capability to operate such facility, and to pay the
89 planning and design costs incurred before ~~prior to~~ the issuance
90 of such bonds for a retained spring training franchise.

91 2. Pay the debt service on bonds issued to finance the
92 renovation of a professional sports franchise facility that is
93 publicly owned or located on land that is publicly owned and
94 that is publicly operated or operated by the owner of a
95 professional sports franchise or other lessee who has sufficient
96 expertise or financial capability to operate the facility, and
97 to pay the planning and design costs incurred before the
98 issuance of such bonds for the renovated professional sports
99 facility. The cost to renovate the facility must be more than
100 \$300 million, including permitting, architectural, and
101 engineering fees, and at least a majority of the total
102 construction cost, exclusive of in-kind contributions, must be
103 paid for by the ownership group of the professional sports
104 franchise or other private sources. Tax revenues available to
105 pay debt service on bonds may be used to pay for operation and
106 maintenance costs of the facility. A county levying the tax for
107 the purposes specified in this subparagraph may do so only by a
108 majority-plus-one vote of the membership of the board of county
109 commissioners and after approval of the proposal by a majority
110 vote of the electors voting in a referendum. Referendum approval
111 of the proposal may be in an election held before or after the
112 effective date of this act. The referendum ballot must include a
113 brief description of the proposal and the following question:

114 FOR the Proposal



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115 AGAINST the Proposal

116 3.2- Promote and advertise tourism in this ~~the~~ state ~~of~~
117 ~~Florida~~ and nationally and internationally; however, if tax
118 revenues are expended for an activity, service, venue, or event,
119 the activity, service, venue, or event must ~~shall~~ have as one of
120 its main purposes the attraction of tourists as evidenced by the
121 promotion of the activity, service, venue, or event to tourists.
122

123 A county that imposes the tax authorized in this paragraph may
124 not expend any ad valorem tax revenues for the acquisition,
125 expansion, construction, reconstruction, or renovation of a
126 facility for which tax revenues are used pursuant to
127 subparagraph 1. The provision of paragraph (b) which prohibits
128 any county authorized to levy a convention development tax
129 pursuant to s. 212.0305 from levying more than the 2 percent ~~2-~~
130 ~~percent~~ tax authorized by this section does ~~shall~~ not apply to
131 the additional tax authorized by this paragraph in counties that
132 ~~which~~ levy convention development taxes pursuant to s.
133 212.0305(4) (a) or (b). Subsection (4) does not apply to the
134 adoption of the additional tax authorized in this paragraph. The
135 effective date of the levy and imposition of the tax authorized
136 under this paragraph is the first day of the second month
137 following approval of the ordinance by the board of county
138 commissioners or the first day of any subsequent month specified
139 in the ordinance. A certified copy of such ordinance must ~~shall~~
140 be furnished by the county to the Department of Revenue within
141 10 days after approval of the ordinance.

142 (5) AUTHORIZED USES OF REVENUE.—

143 (a) All tax revenues received pursuant to this section by a



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144 county imposing the tourist development tax must ~~shall~~ be used
145 by that county for the following purposes only:

146 1. To acquire, construct, extend, enlarge, remodel, repair,
147 improve, maintain, operate, or promote one or more publicly
148 owned and operated convention centers, sports stadiums, sports
149 arenas, coliseums, auditoriums, aquariums, or museums that are
150 publicly owned and operated or owned and operated by not-for-
151 profit organizations and open to the public, within the
152 boundaries of the county or subcounty special taxing district in
153 which the tax is levied. Tax revenues received pursuant to this
154 section may also be used for promotion of zoological parks that
155 are publicly owned and operated or owned and operated by not-
156 for-profit organizations and open to the public. However, these
157 purposes may be implemented through service contracts and leases
158 with lessees with sufficient expertise or financial capability
159 to operate such facilities;

160 2. To promote and advertise tourism in this ~~the~~ state ~~of~~
161 ~~Florida~~ and nationally and internationally; however, if tax
162 revenues are expended for an activity, service, venue, or event,
163 the activity, service, venue, or event must ~~shall~~ have as one of
164 its main purposes the attraction of tourists as evidenced by the
165 promotion of the activity, service, venue, or event to tourists;

166 3. To fund convention bureaus, tourist bureaus, tourist
167 information centers, and news bureaus as county agencies or by
168 contract with the chambers of commerce or similar associations
169 in the county, which may include any indirect administrative
170 costs for services performed by the county on behalf of the
171 promotion agency; ~~or~~

172 4. To finance beach park facilities or beach improvement,



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173 maintenance, renourishment, restoration, and erosion control,
174 including shoreline protection, enhancement, cleanup, or
175 restoration of inland lakes and rivers to which there is public
176 access as those uses relate to the physical preservation of the
177 beach, shoreline, or inland lake or river. However, any funds
178 identified by a county as the local matching source for beach
179 renourishment, restoration, or erosion control projects included
180 in the long-range budget plan of the state's Beach Management
181 Plan, pursuant to s. 161.091, or funds contractually obligated
182 by a county in the financial plan for a federally authorized
183 shore protection project may not be used or loaned for any other
184 purpose. In counties of less than 100,000 population, no more
185 than 10 percent of the revenues from the tourist development tax
186 may be used for beach park facilities; or-

187 5. For other uses specifically allowed under subsection
188 (3).

189 Section 2. Paragraph (d) of subsection (6) of section
190 212.20, Florida Statutes, is amended to read:

191 212.20 Funds collected, disposition; additional powers of
192 department; operational expense; refund of taxes adjudicated
193 unconstitutionally collected.—

194 (6) Distribution of all proceeds under this chapter and s.
195 202.18(1)(b) and (2)(b) shall be as follows:

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

199 1. In any fiscal year, the greater of \$500 million, minus
200 an amount equal to 4.6 percent of the proceeds of the taxes
201 collected pursuant to chapter 201, or 5.2 percent of all other



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202 taxes and fees imposed pursuant to this chapter or remitted
203 pursuant to s. 202.18(1)(b) and (2)(b) must ~~shall~~ be deposited
204 in monthly installments into the General Revenue Fund.

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

215 3. After the distribution under subparagraphs 1. and 2.,
216 0.095 percent must ~~shall~~ be transferred to the Local Government
217 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
218 to s. 218.65.

219 4. After the distributions under subparagraphs 1., 2., and
220 3., 2.0440 percent of the available proceeds must ~~shall~~ be
221 transferred monthly to the Revenue Sharing Trust Fund for
222 Counties pursuant to s. 218.215.

223 5. After the distributions under subparagraphs 1., 2., and
224 3., 1.3409 percent of the available proceeds must ~~shall~~ be
225 transferred monthly to the Revenue Sharing Trust Fund for
226 Municipalities pursuant to s. 218.215. If the total revenue to
227 be distributed pursuant to this subparagraph is at least as
228 great as the amount due from the Revenue Sharing Trust Fund for
229 Municipalities and the former Municipal Financial Assistance
230 Trust Fund in state fiscal year 1999-2000, a ~~no~~ municipality may



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231 not ~~shall~~ receive less than the amount due from the Revenue
232 Sharing Trust Fund for Municipalities and the former Municipal
233 Financial Assistance Trust Fund in state fiscal year 1999-2000.
234 If the total proceeds to be distributed are less than the amount
235 received in combination from the Revenue Sharing Trust Fund for
236 Municipalities and the former Municipal Financial Assistance
237 Trust Fund in state fiscal year 1999-2000, each municipality
238 shall receive an amount proportionate to the amount it was due
239 in state fiscal year 1999-2000.

240 6. Of the remaining proceeds:

241 a. In each fiscal year, the sum of \$29,915,500 must ~~shall~~
242 be divided into as many equal parts as there are counties in the
243 state, and one part must ~~shall~~ be distributed to each county.
244 The distribution among the several counties must begin each
245 fiscal year on or before January 5th and continue monthly for a
246 total of 4 months. If a local or special law required that any
247 moneys accruing to a county in fiscal year 1999-2000 under the
248 then-existing provisions of s. 550.135 be paid directly to the
249 district school board, special district, or a municipal
250 government, such payment must continue until the local or
251 special law is amended or repealed. The state covenants with
252 holders of bonds or other instruments of indebtedness issued by
253 local governments, special districts, or district school boards
254 before July 1, 2000, that it is not the intent of this
255 subparagraph to adversely affect the rights of those holders or
256 relieve local governments, special districts, or district school
257 boards of the duty to meet their obligations as a result of
258 previous pledges or assignments or trusts entered into which
259 obligated funds received from the distribution to county



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260 governments under then-existing s. 550.135. This distribution
261 specifically is in lieu of funds distributed under s. 550.135
262 before July 1, 2000.

263 b. The department shall, pursuant to s. 288.1162,
264 distribute \$166,667 monthly ~~pursuant to s. 288.1162~~ to each
265 applicant certified as a facility for a new or retained
266 professional sports franchise and distribute \$250,000 monthly to
267 an applicant certified as a professional sports franchise
268 renovation facility ~~pursuant to s. 288.1162~~. Up to \$41,667 must
269 ~~shall~~ be distributed monthly by the department to each certified
270 applicant as defined in s. 288.11621 for a facility for a spring
271 training franchise. However, not more than \$416,670 may be
272 distributed monthly in the aggregate to all certified applicants
273 for facilities for spring training franchises. Distributions
274 begin 60 days after such certification and continue for not more
275 than 30 years, except as otherwise provided in s. 288.11621. A
276 certified applicant identified in this sub-subparagraph may not
277 receive more in distributions than expended by the applicant for
278 the public purposes provided for in s. 288.1162 ~~288.1162(5)~~ or
279 s. 288.11621(3).

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

286 d. Beginning 30 days after notice by the Department of
287 Economic Opportunity to the Department of Revenue that the
288 applicant has been certified as the International Game Fish



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289 Association World Center facility pursuant to s. 288.1169, and
290 the facility is open to the public, \$83,333 must ~~shall~~ be
291 distributed monthly, for up to 168 months, to the applicant.
292 This distribution is subject to reduction pursuant to s.
293 288.1169. A lump sum payment of \$999,996 must ~~shall~~ be made,
294 after certification and before July 1, 2000.

295 7. All other proceeds must remain in the General Revenue
296 Fund.

297 Section 3. Paragraph (a) of subsection (3) of section
298 218.64, Florida Statutes, is amended to read:

299 218.64 Local government half-cent sales tax; uses;
300 limitations.-

301 (3) Subject to ordinances enacted by the majority of the
302 members of the county governing authority and by the majority of
303 the members of the governing authorities of municipalities
304 representing at least 50 percent of the municipal population of
305 such county, counties may use up to \$2 million annually of the
306 local government half-cent sales tax allocated to that county
307 for funding for any of the following applicants:

308 (a) A certified applicant as a facility for a new or
309 retained professional sports franchise under s. 288.1162 or a
310 certified applicant as defined in s. 288.11621 for a facility
311 for a spring training franchise. It is the Legislature's intent
312 that the provisions of s. 288.1162, including, but not limited
313 to, the evaluation process by the Department of Economic
314 Opportunity except for the limitation on the number of certified
315 applicants or facilities as provided in that section and the
316 restrictions set forth in s. 288.1162(9) ~~288.1162(8)~~, shall
317 apply to an applicant's facility to be funded by local



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318 government as provided in this subsection.

319 Section 4. Subsection (2) of section 220.153, Florida
320 Statutes, is amended to read:

321 220.153 Apportionment by sales factor.—

322 (2) APPORTIONMENT OF TAXES; ELIGIBILITY.—A taxpayer, not
323 including a financial organization as defined in s. 220.15(6) or
324 a bank, savings association, ~~international banking facility,~~ or
325 banking organization as defined in s. 220.62, doing business
326 within and without this state, who applies and demonstrates to
327 the Department of Economic Opportunity that, within a 2-year
328 period beginning on or after July 1, 2011, it has made qualified
329 capital expenditures equal to or exceeding \$250 million may
330 apportion its adjusted federal income solely by the sales factor
331 set forth in s. 220.15(5), commencing in the taxable year that
332 the Department of Economic Opportunity approves the application,
333 but not before a taxable year that begins on or after January 1,
334 2013. Once approved, a taxpayer may elect to apportion its
335 adjusted federal income for any taxable year using the method
336 provided under this section or the method provided under s.
337 220.15.

338 Section 5. Subsections (3) and (5) of section 220.62,
339 Florida Statutes, are repealed.

340 Section 6. Subsection (5) of section 220.63, Florida
341 Statutes, is repealed.

342 Section 7. Section 288.1162, Florida Statutes, is amended
343 to read:

344 288.1162 Professional sports franchises; duties.—

345 (1) The department shall serve as the state agency for
346 screening applicants for state funding under s. 212.20 and for



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347 certifying an applicant as a facility for a new or retained
348 professional sports franchise or a professional sports franchise
349 renovation facility.

350 (2) The department shall develop rules for the receipt and
351 processing of applications for funding under s. 212.20.

352 (3) As used in this section, the term:

353 (a) "New professional sports franchise" means a
354 professional sports franchise that was not based in this state
355 before April 1, 1987.

356 (b) "Professional sports franchise renovation facility"
357 means a sports facility that has continuously been a league-
358 authorized location for a professional sports franchise for 20
359 years or more and that otherwise meets the requirements for
360 certification of such a facility pursuant to this section.

361 (c) ~~(b)~~ "Retained professional sports franchise" means a
362 professional sports franchise that has had a league-authorized
363 location in this state on or before December 31, 1976, and has
364 continuously remained at that location, and has never been
365 located at a facility that has been previously certified under
366 any provision of this section.

367 (4) Before certifying an applicant as a facility for a new
368 or retained professional sports franchise, the department must
369 determine that:

370 (a) A "unit of local government" as defined in s. 218.369
371 is responsible for the construction, management, or operation of
372 the professional sports franchise facility or holds title to the
373 property on which the professional sports franchise facility is
374 located.

375 (b) The applicant has a verified copy of a signed agreement



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376 with a new professional sports franchise for the use of the
377 facility for a term of at least 10 years, or in the case of a
378 retained professional sports franchise, an agreement for use of
379 the facility for a term of at least 20 years.

380 (c) The applicant has a verified copy of the approval from
381 the governing authority of the league in which the new
382 professional sports franchise exists authorizing the location of
383 the professional sports franchise in this state after April 1,
384 1987, or in the case of a retained professional sports
385 franchise, verified evidence that it has had a league-authorized
386 location in this state on or before December 31, 1976. As used
387 in this section, the term "league" means the National League or
388 the American League of Major League Baseball, the National
389 Basketball Association, the National Football League, or the
390 National Hockey League.

391 (d) The applicant has projections, verified by the
392 department, which demonstrate that the new or retained
393 professional sports franchise will attract a paid attendance of
394 more than 300,000 annually.

395 (e) The applicant has an independent analysis or study,
396 verified by the department, which demonstrates that the amount
397 of the revenues generated by the taxes imposed under chapter 212
398 with respect to the use and operation of the professional sports
399 franchise facility will equal or exceed \$2 million annually.

400 (f) The municipality in which the facility for a new or
401 retained professional sports franchise is located, or the county
402 if the facility for a new or retained professional sports
403 franchise is located in an unincorporated area, has certified by
404 resolution after a public hearing that the application serves a



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405 public purpose.

406 (g) The applicant has demonstrated that it has provided, is
407 capable of providing, or has financial or other commitments to
408 provide more than one-half of the costs incurred or related to
409 the improvement and development of the facility.

410 (h) An applicant previously certified as a new or retained
411 professional sports facility under any provision of this section
412 who has received funding under such certification is not
413 eligible for an additional certification except as a
414 professional sports franchise renovation facility.

415 (5) Before certifying an applicant as a professional sports
416 franchise renovation facility, the department shall determine
417 that the following requirements are met:

418 (a) A county, municipality, or other public entity is
419 responsible for the construction, management, or operation of
420 the professional sports franchise facility or holds title to the
421 property on which the professional sports franchise facility is
422 located.

423 (b) The applicant has a verified copy of a signed agreement
424 with a professional sports franchise for the use of the facility
425 for a term of at least the next 20 years.

426 (c) The applicant has an independent analysis or study,
427 verified by the department, which demonstrates that the amount
428 of the revenues generated by the taxes imposed under chapter 212
429 with respect to the use and operation of the renovated
430 professional sports franchise facility will equal or exceed \$3
431 million annually.

432 (d) The county or municipality in which the professional
433 sports franchise renovation facility is located has certified by



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434 resolution after a public hearing that the application serves a
435 public purpose.

436 (e) The applicant has demonstrated that the cost to
437 renovate the facility will be more than \$300 million, including
438 permitting, architectural, and engineering fees, and that at
439 least a majority of the total construction cost, exclusive of
440 in-kind contributions, will be paid for by the ownership group
441 of the professional sports franchise or other private sources.

442 (6)~~(5)~~ An applicant certified as a facility for a new or
443 retained professional sports franchise may use funds provided
444 under s. 212.20 only for the public purpose of paying for the
445 acquisition, construction, reconstruction, or renovation of a
446 facility for a new or retained professional sports franchise to
447 pay or pledge for the payment of debt service on, or to fund
448 debt service reserve funds, arbitrage rebate obligations, or
449 other amounts payable with respect to, bonds issued for the
450 acquisition, construction, reconstruction, or renovation of such
451 facility or for the reimbursement of such costs or the
452 refinancing of bonds issued for such purposes. An applicant
453 certified as a professional sports franchise renovation facility
454 may use funds provided under s. 212.20 only for the public
455 purpose of renovating the facility to pay or pledge for the debt
456 service on, or to fund debt service reserve funds, arbitrage
457 rebate obligations, or other amounts payable with respect to
458 bonds issued for the renovation of the facility or for the
459 reimbursement of the costs or the refinancing of bonds issued
460 for that purpose.

461 (7)~~(6)~~ The department shall notify the Department of
462 Revenue of any facility certified as a facility qualified



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463 pursuant to this section ~~for a new or retained professional~~
464 ~~sports franchise~~. The department shall certify no more than
465 eight facilities as facilities for a new professional sports
466 franchise or as facilities for a retained professional sports
467 franchise, including in the total any facilities certified by
468 the former Department of Commerce before July 1, 1996. The
469 department may not certify more than one facility as a
470 professional sports franchise renovation ~~may make no more than~~
471 ~~one certification for any facility~~.

472 (8) ~~(7)~~ The Auditor General may conduct audits as provided
473 in s. 11.45 to verify that the distributions under this section
474 are expended as required in this section. If the Auditor General
475 determines that the distributions under this section are not
476 expended as required by this section, the Auditor General shall
477 notify the Department of Revenue, which may pursue recovery of
478 the funds under the laws and rules governing the assessment of
479 taxes.

480 (9) ~~(8)~~ For new or retained professional sport franchise
481 facilities, an applicant is not qualified for certification
482 under this section if the franchise formed the basis for a
483 previous certification, unless the previous certification was
484 withdrawn by the facility or invalidated by the department or
485 the former Department of Commerce before any funds were
486 distributed under s. 212.20. This subsection does not disqualify
487 an applicant if the previous certification occurred between May
488 23, 1993, and May 25, 1993; however, any funds to be distributed
489 under s. 212.20 for the second certification must ~~shall~~ be
490 offset by the amount distributed to the previous certified
491 facility. Distribution of funds for the second certification may



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492 ~~shall~~ not be made until all amounts payable for the first
493 certification are distributed.

494 Section 8. Paragraph (c) of subsection (1) of section
495 288.11621, Florida Statutes, is amended to read:

496 288.11621 Spring training baseball franchises.—

497 (1) DEFINITIONS.—As used in this section, the term:

498 (c) "Certified applicant" means a facility for a spring
499 training franchise that was certified before July 1, 2010, under
500 s. 288.1162 ~~288.1162(5)~~, Florida Statutes 2009, or a unit of
501 local government that is certified under this section.

502 Section 9. This act shall take effect July 1, 2013.