

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 306

INTRODUCER: Rules Committee; Committee on Appropriations (Recommended by Appropriations Subcommittee on Finance and Tax) and Senators Braynon and Abruzzo

SUBJECT: Economic Development

DATE: April 3, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	<b>Favorable</b>
2.	Cote	Diez-Arguelles	AFT	<b>Fav/CS</b>
3.	Cote	Hansen	AP	<b>Fav/CS</b>
4.	Smith	Phelps	RC	<b>Fav/CS</b>
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/CS/SB 306 creates the Sports Development program. The program allows applicants to apply to the Department of Economic Opportunity (DEO) for funding to assist in the construction, reconstruction, renovation, or improvement of a sports facility. An applicant may be a local government or an entity that operates or owns a facility located on property owned by a local government.

Applicants are eligible to receive an amount equal to the new incremental state sales tax generated by the construction, reconstruction, renovation, or improvement to the facility, up to certain per-applicant annual caps. The bill caps total annual program funding at \$15 million. After the earlier of four years or the completion of a construction project, the amount awarded to each applicant is adjusted each year to reflect the actual new incremental state sales tax generated by the facility during that year.

Applicants are required to apply during a defined application period for evaluation by DEO. DEO will rank applicants and submit recommendations to the Legislature each year for approval. Upon legislative approval, DEO will finalize an applicant's certification and notify the

Department of Revenue (DOR) of the appropriate annual award amount. DEO also notifies DOR each year if an applicant's annual award is adjusted or if the Legislature has chosen to decertify an applicant and discontinue funds. Funds may be discontinued in certain situations such as if a team relocates or if DEO finds that the applicant made any false or fraudulent representations. The bill also provides for situations where a beneficiary will be required to repay the state for funds distributed.

The bill allows for an early application period beginning May 1, 2013, for applicants applying for state funding in order to attract a "signature event."

The bill requires annual reporting to DEO, and verification of program performance every five years.

The bill allows a county that levies the charter county convention development tax under s. 212.0305(4)(b), F.S., to levy the additional professional sports franchise facility tourist development tax under s. 125.0104(3)(n), F.S. Also, the bill expands the allowable uses of the additional professional sports franchise facility tourist development tax.

The bill repeals the corporate income tax deduction for "international banking facilities."

If Miami-Dade County levies the additional professional sports franchise facility tourist development tax, the REC estimates it will generate approximately \$11.0 million annually to be deposited in the county's tourist development trust fund. The REC estimates that repealing the corporate income tax deduction for international banking facilities will increase revenues deposited into the General Revenue Fund by approximately \$13.5 million annually. The REC has not evaluated the impact of the Sports Development program.

The bill is effective upon becoming law. The sections of the bill relating to international banking facilities apply to taxable years beginning on or after January 1, 2013.

The bill substantially amends ss. 125.0104, 212.20, 218.64, and 220.153, F.S.

The bill repeals ss. 220.62 and 220.63, F.S.

The bill creates ss. 288.11625 and 288.116255, F.S.

## **II. Present Situation:**

### **Professional Sports in Florida**

Florida currently has 9 major professional sports teams. The oldest major professional sports team in the state is the Miami Dolphins football franchise of the National Football League (NFL). The Dolphins franchise began in 1966 as an expansion team as part of the now-defunct American Football League. The newest major professional sports team in the state is the Tampa Bay Rays baseball franchise of Major League Baseball (MLB). The Rays franchise began in 1998. Below is a summary table of information on major professional sports franchises in Florida:

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Sun Life Stadium	1987	Miami-Dade
Tampa Bay Buccaneers	Football	NFL	1976	Raymond James Stadium	1998	Hillsborough
Miami Heat	Basketball	NBA	1988	American Airlines Arena	1999	Miami-Dade
Orlando Magic	Basketball	NBA	1989	Amway Center	2010	Orange
Tampa Bay Lightning	Hockey	NHL	1992	Tampa Bay Times Forum	1996	Hillsborough
Florida Panthers	Hockey	NHL	1993	BB&T Center	1998	Broward
Miami Marlins	Baseball	MLB	1993	Marlins Park	2012	Miami-Dade
Jacksonville Jaguars	Football	NFL	1995	EverBank Field	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field	1990, occupied by Rays since 1998	Pinellas

In addition to the nine major professional sports teams, Florida is also home to 33 Minor League franchises in various sports and three Arena Football League teams. MLB's Spring Training Grapefruit League is also based in Florida, with 15 teams claiming the state as their second home for preseason training and exhibition games.

### **State Incentives for Professional Sports Teams**

Section 288.1162, F.S., provides the procedure by which professional sports franchises in Florida may be certified to receive state funding for the purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. Local governments, non-profit, and for-profit entities may apply to the program.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants for state funding. Applicants qualifying as new professional sports franchises must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location. The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.

For both new and retained franchises, DEO must confirm and verify that:

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located;
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise;
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, National Hockey League, or National Basketball League authorizing the location of a new franchise in the state after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorized location in the state on or before December 31, 1976, for a retained professional sports franchise;
- The applicant has projections demonstrating a paid annual attendance of over 300,000 annually;
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the franchise’s facility will generate \$2 million annually;
- The city where the franchise’s facility is located, or the county if the facility is in an unincorporated area, has certified by resolution after a public hearing that the applicant franchise serves a public purpose; and
- The applicant has demonstrated that it has provided or is capable of providing financial or other commitments of more than one-half of the costs incurred or related to the improvement or development of the franchise’s facility.

Any applicant who meets the above mentioned criteria as verified by DEO is eligible to receive monthly payments from the state of \$166,667 for not more than 30 years,<sup>1</sup> for an annual payment totaling \$2,000,004. The Department of Revenue disburses the payments.

Further, payments may only be used for the public purposes of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. The state may only pursue recovery of funds if the Auditor General finds that the distributions were not expended as required by statute.

No facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by DEO before any funds were disbursed under s. 212.20(6)(d), F.S.

As of January 8, 2013, there were eight certified new or retained professional sports franchise facilities in Florida. The facilities and the payment distribution for each are listed below:<sup>2</sup>

Facility name	Certified entity	Franchise	First Payment	Final Payment	Total payments to date
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<sup>1</sup> Section 212.20(6)(d)6.b., F.S.

<sup>2</sup> DEO, *Professional Sports Franchises*, (January 8, 2013), (on file with the Commerce and Tourism Committee).

Sun Life Stadium	Dolphins Stadium/ South Florida Stadium	Florida (Miami) Marlins <sup>3</sup>	06/94	06/2023	\$39,166,745
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/94	05/2024	\$37,333,408
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	06/95	06/2025	\$35,166,737
Tampa Bay Times Forum	Tampa Sports Authority	Tampa Bay Lightning	09/95	08/2025	\$34,833,403
BB&T Center	Broward County	Florida Panthers	08/96	07/2026	\$33,000,066
Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/97	12/2026	\$32,166,731
American Airlines Arena	BPL, LTD	Miami Heat	03/98	03/2028	\$29,666,726
Amway Center	City of Orlando	Orlando Magic	02/08	01/2038	\$10,000,020

### Tourist Development Tax

Section 125.0104, F.S., authorizes the levy of five separate local option taxes on rental charges subject to the transient rentals tax under s. 212.03, F.S., to be used in various ways to promote tourism within the county. The authorized uses of each local option tax vary according to the particular levy.<sup>4</sup>

- The tourist development tax may be levied at the rate of 1 or 2 percent.<sup>5</sup> Currently, 62 counties levy this tax at 2 percent; all 67 counties are eligible to levy this tax.<sup>6</sup> Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.
- An additional tourist development tax of 1 percent may be levied.<sup>7</sup> Currently 45 counties levy this tax and only 57 counties are currently eligible to levy this tax. Revenue from this tax may be bonded to finance certain facilities and projects, but may not be used for certain debt service or refinancing unless approved by an extraordinary vote of the governing board. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.
- A professional sports franchise facility tax may be levied up to an additional 1 percent.<sup>8</sup> Currently 36 counties levy this additional tax and all 67 counties are eligible to levy this

<sup>3</sup> The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.

<sup>4</sup> Florida Revenue Estimating Conference, "2012 Florida Tax Handbook."

<sup>5</sup> Section 125.0104(3)(c), F.S.

<sup>6</sup> Information related to the number of counties levying the taxes is from the Office of Economic and Demographic Research, "2013 Local Option Tourist/Food and Beverage/Tax Rates in Florida's Counties," <http://edr.state.fl.us/Content/local-government/data/county-municipal/2013LOTTTrates.pdf> (last visited January 24, 2013).

<sup>7</sup> Section 125.0104(3)(d), F.S.

<sup>8</sup> Section 125.0104(3)(l), F.S.

- tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers, and to promote and advertise tourism.
- A high tourism impact tax may be levied at an additional 1 percent.<sup>9</sup> Five counties are eligible to levy this tax (Broward, Monroe, Orange, Osceola, and Walton). Of these five counties, Monroe, Orange, and Osceola levy this additional tax. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds.
  - An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.<sup>10</sup> Out of 65 counties that levy a professional sports facility tax, 20 levy an additional professional sports franchise facility tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and to promote and advertise tourism. Miami-Dade and Volusia counties may not levy the additional 1 percent professional sports franchise facility tax.<sup>11 12</sup>

“Local option tourist taxes are significant revenue sources to Florida’s county governments and represent important funding mechanisms for a variety of tourism-related expenditures such as beach and shoreline maintenance, construction of convention centers and professional sports franchise facilities, and tourism promotion.”<sup>13</sup> Generally, the revenues from these levies may be used for capital construction, maintenance, and promotion of tourist-related facilities, tourism promotion, and beach and shoreline maintenance. Tourist-related facilities include convention centers, sports stadiums and arenas, coliseums, auditoriums, aquariums, and museums that are publically owned and operated within the area that the tax is levied. Tax revenues may also be used to promote zoos.

The local taxes on rental charges are required to be remitted to the Department of Revenue, unless a county has adopted an ordinance providing for local collection and administration of the tax.<sup>14</sup>

In counties that have plans for tourist development that include the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, the ordinance levying the tourist development tax automatically expires upon the later of two circumstances:

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<sup>9</sup> Section 125.0104(3)(m), F.S.

<sup>10</sup> Section 125.0104(3)(n), F.S.

<sup>11</sup> Section 212.0305(4)(b), F.S.

<sup>12</sup> Section 125.0104(3)(b), F.S.

<sup>13</sup> Florida Legislative Committee on Intergovernmental Relations, Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10 (December 2009), available at <http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf> (last visited on January 24, 2013).

<sup>14</sup> Also known as “self-administering.”

- The retirement of all bonds issued by the county for financing the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization; or
- The expiration of any agreement by the county for the operation or maintenance, or both, of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum.

### **Convention Development Taxes**

Section 212.0305, F.S., authorizes Duval, Miami-Dade and Volusia counties to levy a convention development tax on transient rental transactions. Three of the five available levies are applicable to only separate taxing districts within Volusia County. The levies may be authorized by adoption of an ordinance by the county's governing body. Revenues may generally be used for capital construction of convention centers and other tourist-related facilities as well as tourism promotion.<sup>15</sup>

Only Duval County meets the requirements to levy the 2 percent convention development tax on the total charged consideration for transient rentals under s. 212.0305(4)(a), F.S., which applies to counties operating under a government consolidated with one or more municipalities in the county. Proceeds from the tax may be used for the following purposes:

- To promote and advertise tourism (only for municipalities of more than 10,000 population);
- To extend, enlarge, and improve existing publicly owned convention centers in the county;
- To construct a multipurpose convention/coliseum/exhibition center or the maximum components thereof as funds permit in the county; and/or
- To acquire, construct, extend, enlarge, remodel, repair, improve, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, or auditoriums.

Miami-Dade County is the only county meeting the requirements of s. 212.0305(4)(b), F.S., authorizing a charter county as defined in s.125.011(1), F.S., to levy the charter county convention development tax. The tax is a 3 percent tax on the total consideration charged for transient rental transactions. The county must notify each municipality of projects to be developed, and each municipality must designate an authority with the power to approve the concept, location, and design of the facilities or improvements to be developed. The governing board of any municipality within Miami-Dade County that levies the Municipal Resort Tax<sup>16</sup> may adopt a resolution prohibiting the imposition of the convention development tax within the municipality's jurisdiction. Should a municipality adopt such a resolution, no convention development taxes collected by the county may be expended within the municipality. Proceeds from the tax may be used only in the following manner:

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<sup>15</sup> Office of Economic and Demographic Research, *2012 Local Government Financial Information Handbook*, (October 2012), available at: <http://edr.state.fl.us/Content/local-government/reports/lghih12.pdf>, (last visited on January 28, 2013).

<sup>16</sup> Chapter 67-930, L.O.F.

- Two-thirds of the proceeds shall be used to extend, enlarge, and improve the largest existing publicly owned convention center in the county;
- One-third of the proceeds shall be used to construct a new multipurpose convention/coliseum/exhibition center/stadium or the maximum components thereof, as funds permit in the most populous municipality in the county;
- After completion of any project on the largest existing publicly owned convention center in the county, tax revenues and accrued interest may be used to acquire, construct, extend, enlarge, remodel, repair, improve, plan for, operate, manage, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, or golf courses, and may be used to acquire and construct an intercity light rail system;<sup>17</sup> and
- After the completion of any convention project in the most populous municipality in the county, tax revenues and accrued interest may be used to operate the authority designated by the municipality with the powers to approve the concept, location, and design of the convention facilities, or for maintenance on one or more convention facilities, golf courses, related buildings or parking facilities within the most populous municipality in the county.

Volusia County is the only county authorized to levy three separate special district convention development taxes. The county levies the special district convention development tax, the special convention development tax, and the subcounty convention district tax, as authorized by ss. 212.0305(4)(c)-(e) and 212.03055, F.S., on the total consideration charged for transient rentals. The combined effect of the three separate taxing districts is a countywide tax of 3 percent.<sup>18</sup> For each levy, the county may designate or appoint an authority to administer or disburse the tax proceeds. Proceeds from the tax, including any accrued interest is to be used in the following manner:

- To promote and advertise tourism; and
- To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.

The local taxes on transient rental charges are required to be remitted to the Department of Revenue, unless a county has adopted an ordinance providing for local collection and administration of the tax.

### **International Banking Facility Corporate Income Tax Deduction**

Section 220.63(5), F.S., provides a corporate income tax deduction for income from international banking activities. The qualifying international banking facility income generally includes income generated from loans to foreign persons, deposits with foreign banks or other international banking facilities, and foreign exchange trading or hedging transactions. Florida's deduction was created as an incentive for U.S. banks to locate their international banking offices within Florida.

<sup>17</sup> The light rail system must be used to transport persons to and from the largest publicly owned convention center to hotels north of the convention center, and to and from the downtown area of the most populous municipality within the county as determined by the county.

<sup>18</sup> *Supra* note 13 at pages 125 and 240.

At the time the deduction was adopted, federal interstate banking restrictions ensured that international banking facilities that were subject to Florida's corporate income tax had physical facilities in Florida. In 1994, federal interstate banking restrictions were largely repealed due to changes in federal law. Because of the change in interstate banking restrictions, banks can currently take the deduction even if their interstate banking facility is located in another state.

As of December 31, 2012, there were 20 foreign banks and 9 domestic banks with international banking facility assets within Florida.<sup>19</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 125.0104, F.S., to allow counties to use the proceeds of the additional 1 percent professional sports franchise facility tourist development tax for the purposes of paying debt service on bonds issued to finance the renovation of a professional sports franchise facility. The bill provides that funds generated by the tax may also be used to pay planning and design costs incurred prior to bond issuance, and to pay for operation and maintenance costs of the facility. This is an expansion of the eligible uses of the already-existing additional professional sports franchise facility tourist development tax. In order to be eligible for the expanded uses, a facility must:

- Have a total renovation cost of over \$300 million, including permitting, architectural, and engineering fees, of which a majority must be paid for by the ownership of the professional sports franchise or by other private sources, exclusive of in-kind contributions; and
- Be publicly owned, or be located on land that is publicly owned and be publicly operated or operated by the professional sports franchise or another lessee with expertise or financial capability to operate the facility.

This section also allows charter counties that levy the charter county convention development tax (Miami-Dade County) to levy the additional 1 percent professional sports franchise facility tourist development tax. The county must receive referendum approval in order to levy and use the additional 1 percent sports franchise facility tourist development tax. Current law prohibits Miami-Dade County from levying the additional tax.

**Section 2** amends s. 212.20, F.S., to authorize the Department of Revenue (DOR) to distribute monthly payments equal to one-twelfth of the annual distribution amount certified by the Department of Economic Opportunity (DEO) under the Sports Development program created by s. 288.11625, F.S. DOR must begin distributions within 45 days from notification by DEO. The distribution is subject to adjustments upon annual notification from DEO. DOR may not distribute more than \$15 million annually to all applicants certified by DEO under the Sports Development program.

**Section 3** amends s. 220.153, F.S., to delete a cross-reference to "international banking facility."

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<sup>19</sup> See email from the Atlanta office of the Federal Reserve Bank dated March 15, 2013 (on file with the Appropriations Subcommittee on Finance and Tax).

**Section 4** amends s. 220.62(3) and (5) to repeal the definition of the terms “international banking facility” and “foreign person.”

**Section 5** amends s. 220.63, F.S., to repeal the corporate tax deduction for international banking facilities.

**Section 6** provides that Sections 3, 4, and 5, relating to international banking facilities, apply to taxable years beginning on or after January 1, 2013.

**Section 7** creates s. 288.11625, F.S., to create the Sports Development program (program).

DEO is the state agency responsible for screening, evaluating, recommending, and certifying applicants. Local governments, non-profits, or for-profit entities, including professional sports franchises and associations (applicants) are eligible to apply to the program, provided the facility for which the applicant is applying sits on land owned by a unit of local government. An applicant may apply for annual distributions to help pay for constructing, reconstructing, renovating, or improving a facility. A “facility” may not include hotels or retail operations, unless physically connected to the facility.

The annual distribution amounts are based on the new incremental state sales taxes generated as a result of the construction, reconstruction, renovation, or improvement of a facility over the amount generated at the time of initial application, i.e. prior to the capital project, up to a certain annual limitations, depending on the type of beneficiary. A “beneficiary” may be a professional sports franchise or national sports association. Payments may continue for up to 30 years or the duration of an agreement for use of a facility, provided such an agreement is for at least 15 years. Total annual payments are capped at \$15 million.

#### Application and Review Process

The bill requires applicants to submit applications to DEO between June 1<sup>st</sup> and November 1<sup>st</sup>. DEO must review applications for defined criteria within 60 days of receiving a complete application. Applicants must submit, and DEO must verify:

- The applicant owns or occupies the facility or a local government holds title to the property;
- The applicant is planning a capital project for construction, reconstruction, renovation, or improvement of a facility for use by a beneficiary franchise or association;
- The capital project has not commenced at the time of the application;
- The applicant has not previously defaulted or failed to meet any statutory requirements of a previous state-administered program for sports facility funding;
- If the applicant is a unit of local government in which the facility will be located, the unit of local government has an exclusive intent agreement to negotiate in Florida with a beneficiary franchise or association;
- The applicant or beneficiary has demonstrated a commitment to hire Florida residents and firms or to use locally-available building materials;
- The local government supports the application through passage of a public resolution. If a unit of local government is required to hold a referendum to levy the additional professional

sports tourist development tax for the purposes of bonding, such a referendum must affirmatively pass; and

- There is an agreement, either between and local government and a beneficiary franchise or association for use of the facility or between the beneficiary and DEO, depending on the applicant. The agreement must include certain specific provisions:
  - The beneficiary must reimburse the state for state funds distributed if the beneficiary franchise or association relocates prior to the expiration of the agreement.
  - The beneficiary must pay for Florida signage or advertising within the facility as close to the field of play as possible, at a cost comparable to similar advertising.
  - The advertising must be approved by VISIT Florida. The owner of a beneficiary must reimburse the state for state funds expended if the owner sells the beneficiary prior to the expiration of the agreement. Payments must be paid in lump sum within 90 days of sale.

By February 1<sup>st</sup> of each year, DEO must provide evaluations of recommended applications received during the application cycle, in ranked order, to the Legislature for final consideration and approval. DEO must rank applications using the following criteria to evaluate the applicant's ability to positively impact the state:

- The applicant's proposed use of state funds;
- The length of time a beneficiary franchise or association has agreed to use the facility;
- The percentage of total project funds supplied by the applicant and the beneficiary and the amount of private or in-kind contributions;
- The number of "signature events" the facility is likely to attract. "Signature events" include events such as Super Bowls, All-Star games, College Bowl Games, International sporting events, and other such events with the potential to attract economic activity to the state that would not have otherwise have occurred;
- The anticipated increase in average annual ticket sales and attendance due to the project;
- The potential of the facility to attract out-of-state visitors;
- The length of time a beneficiary has been in the state or partnered with a local government;
- The facility's multiuse capabilities;
- The projected use of Florida residents, firms, and building materials; and
- The amount of positive advertising generated by the facility.

To receive distribution payments, a new applicant must be approved through legislative action. Following legislative approval, DEO must certify applicants upon receiving all necessary information. The applicant must execute a contract with DEO that:

- Specifies the terms of the state's investment;
- States the criteria that the certified applicant must meet in order to remain certified;
- States that the certified applicant is subject to decertification as recommended by DEO and approved by the Legislature, or reduction of funding, if the certified applicant fails to comply the with contract's terms;
- Specifies information that the certified applicant must report to DEO; and
- Includes any other provisions deemed prudent by DEO.

Upon certifying an applicant, DEO must notify DOR to begin monthly distribution payments. Payment amounts continue until DEO otherwise notifies DOR to adjust or discontinue the payment amount.

Applicants certified under the program and receiving monthly distribution payments do not require legislative action each year to continue receiving payments. DEO will present a ranked list of applicants to the Legislature each year on February 1<sup>st</sup>, regardless of whether the total program cap has been reached, however DOR is prohibited from distributing over \$15 million in annual distribution payments. DEO may not recommend more than one distribution for any applicant, facility, or beneficiary at any single point in time.

#### Payment and Distribution Adjustment

A certified applicant is only eligible to receive payments equal to the new incremental state sales tax generated by the facility over a 12-month period, up to a certain amount. The new incremental amount is the amount over the “baseline amount,” which is the amount of state sales tax generated by the facility during the 12-month period prior to the beginning of an application period. The “baseline amount” must be determined by a study paid for by the applicant and verified by an independent certified public accountant.

During the initial application period, DEO must determine the type of team or association the capital project will benefit. The classification determines the maximum annual award amount the applicant may receive. The three classifications and their maximum award amounts are:

- “*Major professional sports franchise*,” which includes franchises playing in the NFL, MLB, NBA, MLS, or NHL. Applicants whose facility will benefit these franchises may receive up to 80 percent of the new incremental sales tax generated by the facility or \$3 million annually, whichever is less, for a maximum potential value of \$90 million over 30 years.
- “*Professional sports or association*,” which includes any other professional sports franchises not listed above or a nationally-recognized professional sports association. Applicants whose facility will benefit these franchises or associations may receive up to 100 percent of the new incremental sales tax generated by the facility or \$2 million annually, whichever is less, for a maximum potential value of \$60 million over 30 years.
- “*Off-season sports training franchise*,” which includes major professional sports franchises that use a local government-owned facility during the months from February through April. This category includes MLB franchises using facilities for spring training. Applicants whose facility will benefit these franchises may receive up to 100 percent of the new incremental sales tax generated by the facility or \$666,660 annually, whichever is less, for a maximum potential value of \$20 million over 30 years.

During the application process, DEO must estimate the amount of new incremental state sales tax the facility will generate as a result of the capital project based on information submitted by the applicant. The methodology used to estimate this amount must be developed in consultation with the Office of Economic and Demographic Research and DOR. Certified applicants will receive this amount until at least 1 year following completion of the capital project or 4 years, whichever occurs first.

Each year thereafter the applicant must submit an analysis to DEO, verified by an independent certified public accountant that certifies the actual amount of state sales taxes generated by the facility over the previous 12 month period. The applicant has 60 days from the end of the previous 12 month period to submit the certification to DEO. DEO will compare the actual

amount submitted by the applicant to the “baseline amount,” the difference between the two amounts is the actual new incremental increase in state sales taxes generated. DEO will determine if this amount is higher or lower than the amount estimated at the time of application, and will certify to DOR an amount to increase or decrease the applicant’s total annual distributions. Due to a potential delay in time between DEO notifying DOR and DOR adjusting monthly payments, DOR is directed to compensate for the delay by further adjusting subsequent monthly payments to account for the amount that should have been adjusted during the first months of the new 12 month period. Each year DEO will notify DOR to adjust payments either upward or downward, depending on the actual amount of new incremental state sales tax generated by the facility compared to the amount generated the prior year.

The bill prohibits DEO from certifying any new distributions for new applicants or certifying to DOR any upward payment adjustments that would cause total payments to exceed \$15 million.

#### Discontinuation of Payments

The bill requires an applicant’s distributions to be discontinued by DOR upon notification from DEO that:

- An applicant’s beneficiary franchise or association has broken the terms of its agreement and relocated from the facility;
- The applicant has been decertified by the Legislature;
- DEO determined that an applicant has submitted false, misleading, deceptive, or otherwise untrue information; or
- An applicant requested to halt future distribution payments.

#### Reports and Audits

Each certified applicant receiving distribution payments must submit an annual report to DEO by November 1<sup>st</sup>. This report will include any information required by DEO. DEO is directed to summarize the information received and submit a report to the Legislature on February 1<sup>st</sup>.

Every 5 years following the first month an applicant receives a distribution payment, DEO must verify the applicant is meeting all program requirements. If the applicant is not meeting program requirements, DEO must notify the Governor and Legislature of any requirements not being met and any recommendations for future action, including reducing or halting payments. The report and recommendations must be included in the report to the Legislature on February 1<sup>st</sup>.

The Auditor General may conduct audits to ensure that distributions are expended as required. DOR may seek recovery of funds if it is found the applicant is found to be out of compliance with the expenditure requirements of the program.

#### Early Application Period for Signature Events

The bill permits an early application period beginning May 1, 2013, if an applicant intends to apply for a signature event prior to the 2014 Regular Session for which state funds to renovate a major professional sports facility are requested. The application approval and evaluation requirements discussed above apply in the early application period, but the legislative Budget

Commission (LBC) is authorized to approve applications. State funds may not be distributed until DEO notifies DOR that the LBC has approved and DEO has certified the applicant. Any early application will be subject to individual award category limits, and individual awards will count toward the \$15 million annual distribution cap. Applicants certified under the early application process will be subject to all other program requirements.

**Section 8** creates s. 288.116255, F.S. The bill requires the Sports Development program to be evaluated as part of the Economic Development Program Evaluation every 3 years beginning in 2015. Passage of this section is contingent upon enactment of the Economic Development Program Evaluation set forth in SB 406 or similar legislation.

**Section 9** allows the executive directors of DEO and DOR to adopt emergency rules to implement the requirements of the bill. The bill allows such emergency rules to remain in effect for 6 months after the date adopted, and such rules may be renewed during the pendency of procedures to adopt permanent rules for the Sports Development program.

**Section 10** provides that the bill's effective date is upon becoming law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not evaluated the impact of the provisions of the bill relating to the Sports Development program.

The bill provides for a maximum cap of \$15 million for all certified applicants under the Sports Development program.

The bill allows a "major professional sports franchise" to receive up to 80 percent of the new incremental sales tax generated by the facility or \$3 million annually, whichever is less, for a maximum potential value of \$90 million over 30 years.

The bill allows a “professional sports or association” to receive up to 100 percent of the new incremental sales tax generated by the facility or \$2 million annually, whichever is less, for a maximum potential value of \$60 million over 30 years.

The bill allows an “off-season sports training franchise” to receive up to 100 percent of the new incremental sales tax generated by the facility or \$666,660 annually, whichever is less, for a maximum potential value of \$20 million over 30 years.

The bill allows a county that currently levies the charter county convention development tax (Miami-Dade County) to also levy an additional 1 percent professional sports franchise facility tourist development tax. For the additional levy, the REC adopted a positive, indeterminate impact since it is dependent on passage of a local referendum. If the tax was levied by the local government, it would generate approximately \$11.0 million annually.

The REC estimates that repealing the corporate income tax deduction for international banking facilities will increase revenues deposited into the General Revenue Fund by \$13.5 million annually.

**B. Private Sector Impact:**

The bill would allow for the increase of taxes imposed on transient rentals on individuals staying at such establishments in the county by 1 percent.

**C. Government Sector Impact:**

The impact of the CS on the resource demands of the Department of Economic Opportunity and the Department of Revenue are unknown at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill allows the Department of Economic Opportunity to adopt rules relating to administering the Sports Development program.

The bill allows the Department of Revenue to adopt rules relating to administering the distribution of state funds.

**VIII. Additional Information:**

- A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Rules on April 2, 2013:**

The CS does the following:

- Removes the new category of “professional sports franchise renovation facility.”
- Removes the \$250,000 monthly distribution for “professional sports franchise renovation facilities” certified by DEO.
- Creates the Sports Development program.
- Creates the procedures by which DOR must administer the monthly distribution to applicants certified under the Sports Development program.
- Requires the Sports Development program to be evaluated under the Economic Development Programs Evaluation, pending passage of SB 406 or similar legislation.
- Allows DEO and DOR to adopt emergency rules.

**CS by Appropriations on March 14, 2013:**

The CS does the following:

- Requires referendum approval to levy and use the additional 1% sports facilities tourist development tax for the renovation of a professional sports facility.
- Increases the required cost of renovation of a professional sports facility from more than \$250 million to more than \$300 million.
- Repeals the corporate income tax deduction for “international banking facilities.”
- Makes minor clarifying changes.
- Provides that Sections 4, 5, and 6, relating to international banking facilities, apply to taxable years beginning on or after January 1, 2013.

**B. Amendments:**

None.