

**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.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 208

INTRODUCER: Commerce and Tourism Committee, Senator Hukill, and others

SUBJECT: Motorsports Entertainment Complexes

DATE: January 8, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	Hrdlicka	CM	Fav/CS
2.			CA	
3.			AFT	
4.			AP	
5.			RC	

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

COMMITTEE SUBSTITUTE - Technical Changes

**I. Summary:**

CS/SB 208 permits the Department of Economic Opportunity to certify one motorsports entertainment complex to receive a monthly distribution from state sales tax revenues.

The distribution is \$166,667 monthly for up to 30 years.

The bill authorizes the Auditor General to conduct audits to ensure that distributions are expended as required and, if not found in compliance, notify the Department of Revenue which may pursue recovery of such funds.

**II. Present Situation:**

**Motorsports in Florida**

Automobile racing in Florida has a long and storied history stretching back more than 100 years. In April 1902, the first “tests of speed” began on the 12-mile stretch of beach between Ormond and Daytona.<sup>1</sup>

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<sup>1</sup> Randall L. Hall, *Automobile Racing in the South*, The Journal of Southern History, (August 2002).

In late 1947, a group of racing promoters gathered in Daytona Beach to create an organization which would unify automobile racers and build back interest in the sport following World War II. This meeting was the impetus for the incorporation of the National Association of Stock Car Auto Racing (NASCAR) in 1948.<sup>2</sup>

Today, NASCAR is automobile racing's largest sanctioning body for stock cars. Currently, NASCAR has 28 sanctioned tracks. Additionally, Florida is one of only three states that have two NASCAR-sanctioned tracks. These tracks are the Daytona International Speedway and the Homestead-Miami Speedway.<sup>3</sup> Information on the tracks is below:

	Daytona International Speedway <sup>4</sup>	Homestead Miami Speedway <sup>5</sup>
Major Races	Daytona 500, Coke Zero 400	Ford EcoBoost 400, Ford EcoBoost 300
Year Opened	1959	1995
Grandstand Seating Capacity	147,000	65,000
Location	Volusia County	Miami-Dade County
Facility Owner	International Speedway Corporation	International Speedway Corporation

The Daytona 500 is the opening race of the NASCAR Sprint Cup Series, and is considered the race that “sets the tone for the entire season to follow.”<sup>6</sup> The Ford EcoBoost 400 is the NASCAR Sprint Cup Series' final race.

Aside from the two NASCAR-sanctioned tracks, Florida is home to an additional 50 automobile racing tracks. These tracks are located throughout the state, and provide local amateur racers and enthusiasts the opportunity to be involved with the sport.<sup>7</sup>

### Sales and Use Tax

Chapter 212, F.S., contains the state's statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property and a limited number of services. The statutes currently provide for more than 200 different exemptions.

<sup>2</sup> *Id.*

<sup>3</sup> NASCAR Tracks, available at: [www.nascar.com/races/tracks/](http://www.nascar.com/races/tracks/), (last visited on December 17, 2013).

<sup>4</sup> ESPN, *NASCAR Track Guide: Daytona International Speedway*, (June 27, 2011), available at: <http://espn.go.com/espn/thelife/news/story?id=2346804>, (last visited on December 17, 2013).

<sup>5</sup> Homestead Miami Speedway website, *The History of Homestead-Miami Speedway*, available at: <http://www.homesteadmiamispeedway.com/About/Track-History.aspx>, (last visited on December 17, 2013).

<sup>6</sup> *Supra* note 4.

<sup>7</sup> Florida Race Track Directory of Asphalt & Dirt Tracks & Drag Strips, available at: <http://www.racingin.com/track/florida.aspx>, (last visited December 17, 2013).

## Local Government Half-cent Sales Tax Program

The Local Government Half-cent Sales Tax Program (program) is the largest source of revenue received by local governments among the state's shared revenue sources. The program primarily serves to provide ad valorem and utility tax relief, in addition to providing eligible local governments revenues for local programs.<sup>8</sup> A local government may also pledge funds from the program for payment of principal and interest on any capital project.<sup>9</sup>

Moneys for the program are collected pursuant to the provisions of ch. 212, F.S. The program distributes funds to eligible local governments through three distributions of sales tax revenues remitted by a sales tax dealer within the eligible participating county.<sup>10</sup> The *ordinary* distribution operates by a transfer of 8.814 percent of net sales tax proceeds remitted by a sales tax dealer in the eligible local government's jurisdiction to the Local Government Half-cent Sales Tax Clearing Trust Fund (trust fund).<sup>11</sup> The *emergency* and *supplemental* distributions operate by a transfer of 0.095 percent of net sales tax proceeds to the trust fund, and are available only to those counties that meet certain fiscal eligibility requirements, or have an inmate population of greater than 7 percent of the total county population.<sup>12, 13</sup> An additional, separate distribution from the trust fund is available to qualifying fiscally constrained counties.<sup>14</sup>

Funds remitted by sales tax dealers within a local government's jurisdiction and transferred to the trust fund are earmarked and distributed monthly to the governing bodies of participating eligible local governments.<sup>15</sup> Program funds are distributed to participating county and municipal governments based on a distribution formula.<sup>16</sup>

If a majority of the governing body of a county government and a majority of the members of the governing authority of municipalities representing at least 50 percent of the county's municipal population adopt an ordinance, up to \$2 million annually of the program funds allocated to that county may be used for the following purposes:<sup>17, 18</sup>

- Funding a facility certified as a new or retained professional sports franchise under s. 288.1162, F.S., or a facility certified as a spring training franchise under s. 288.11621, F.S.
- Funding an applicant certified as a "motorsports entertainment complex" under s. 288.1171, F.S.

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<sup>8</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/lgfih12.pdf>, (last visited on December 17, 2013).

<sup>9</sup> Section 218.64, F.S.

<sup>10</sup> Section 218.63, F.S., defines eligibility requirements. In order to participate in the program, a local government must meet the revenue sharing eligibility requirements specified in s. 218.23, F.S.

<sup>11</sup> Section 212.20(6)(d)2., F.S.

<sup>12</sup> Section 212.20(6)(d)3., F.S.

<sup>13</sup> *Supra* note 8 at page 55.

<sup>14</sup> Section 218.67, F.S.

<sup>15</sup> Section 218.61, F.S.

<sup>16</sup> Section 218.62, F.S.

<sup>17</sup> Section 218.64(3)(b), F.S.

<sup>18</sup> If a county and municipal government's governing body support using program funds to support funding of professional sports, spring training, or motorsports entertainment complexes, their distribution for general use is provided *after* funding is provided for these projects.

### **Motorsports Entertainment Complex Certification**

Section 288.1171, F.S., provides the procedure by which a local government may receive certification for a motorsport entertainment complex in order to use \$2 million of Local Government Half-cent Sales Tax Program funds to pay for certain costs associated with the complex. As of October 30, 2013, no local government has received certification for a motorsport entertainment complex to use such funds.<sup>19</sup> A motorsport entertainment complex is defined as a closed-course racing facility.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants to allow them to use program funds. An applicant must be a unit of local government that either owns a motorsport entertainment complex or owns the land on which a complex is located.

Before certifying an applicant as a motorsport entertainment complex, the DEO must first verify that:

- The local government holds title to the land on which the complex is located or holds title to the complex; and
- The local government in which the complex is located has certified by resolution after a public hearing that the application for certification serves a public purpose.

If the DEO determines an applicant meets eligibility requirements, it must notify the applicant and Department of Revenue (DOR) of the applicant's certification through an official letter. If an applicant does not meet the requirements, the DEO must notify the applicant within 10 days of such determination. An applicant may not receive more than one certification. There are no limitations on the number of applicants that may be certified.

An applicant certified as a motorsport entertainment complex may only use funds provided from the Local Government Half-cent Sales Tax Program for the public purposes of paying for the construction, reconstruction, expansion, or renovation of a motorsport entertainment complex, including related transportation and other infrastructure improvements; paying debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. Additional eligible uses include paying for advertising and promotional activities related to the motorsport entertainment complex or the municipality or county in which the complex is located, if such activities are designed to increase tourism or promote economic development of the municipality or county.

The DOR may perform an audit to ensure the distributions are expended as required, and may pursue recovery of any funds not expended as required by law.

### **III. Effect of Proposed Changes:**

CS/SB 208 permits the Department of Economic Opportunity (DEO) to certify one motorsports entertainment complex to receive a monthly distribution from state sales tax revenues.

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<sup>19</sup> Department of Economic Opportunity, *Agency Bill Analysis: SB 208*, (October 30, 2013).

**Section 1** amends s. 212.20, F.S., to direct the Department of Revenue to distribute \$166,667 monthly from state sales tax revenues to a motorsports entertainment complex certified under s. 288.1171, F.S.

**Section 2** amends s. 288.1171, F.S., to permit a motorsports entertainment complex to receive a distribution from either the Local Government Half-cent Sales Tax Program, as provided in current law, or state sales tax revenue upon certification by the DEO.

The bill limits a “motorsports entertainment complex” to “a closed-course racing facility that has at least 50,000 fixed seats.”

#### Application

Before certification, the DEO must determine whether the applicant meets certain criteria. In addition to the current criteria discussed above in the present situation, the bill also requires the DEO to determine that:

- The applicant has approval from a sanctioning body<sup>20</sup> that motorsport events are sanctioned to occur at the applicant’s complex;
- The applicant has projections, verified by the DEO, which demonstrate that the complex will attract paid attendance of more than 100,000 annually;
- The applicant has an independent analysis, verified by the DEO, which demonstrates that the amount of revenues generated by the taxes imposed under ch. 212, F.S., with respect to the use and operation of the complex will equal or exceed \$2 million annually;
- The applicant has demonstrated that it has or is capable of providing, or has financial or other commitments to provide, one-half the cost incurred or related to the improvement and development of the complex; and
- The total cost of the construction, reconstruction, expansion, or renovation of the complex exceeds \$250 million.

#### Certification

The bill provides that the DEO may certify only one applicant as a motorsports entertainment complex. The approved applicant may not seek a distribution from the Local Government Half-cent Sales Tax Program under s. 218.64(3), F.S., while receiving a distribution from state sales tax revenue under s. 212.20, F.S.

#### Audits

The bill authorizes the Auditor General to a) verify the expenditure of distributions, and b) notify the Department of Revenue of improperly expended funds so that it may pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.

**Section 3** provides for an effective date of July 1, 2014.

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<sup>20</sup> Defined in current law under s. 288.1171(1)(e), F.S., as the American Motorcycle Association (AMA), Championship Auto Racing Teams (CART), Grand American Road Racing Association (Grand Am), Indy Racing League (IRL), National Association for Stock Car Auto Racing (NASCAR), National Hot Rod Association (NHRA), Professional Sportscar Racing (PSR), Sports Car Club of America (SCCA), United States Auto Club (USAC), or any successor organization, or any other nationally recognized governing body of motorsports which establishes and administers rules and regulations governing all participants involved in such events and all persons conducting such events, and requires certain liability assurances, including insurance.

**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:

If an applicant is certified as a motorsports entertainment complex to receive distributions under s. 212.20, F.S., it would be eligible to receive up to \$2 million per year for up to 30 years, for a total distribution of \$60 million.

## B. Private Sector Impact:

The CS will allow the owner of a certified motorsports entertainment complex to receive funding to support renovations of such a complex.

## C. Government Sector Impact:

The Department of Economic Opportunity indicated that any costs incurred would be covered by current resources.<sup>21</sup>

The Department of Revenue indicated that the bill would have insignificant impact on the department.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Under current law, there are programs that permit eligible professional sports facilities<sup>23</sup> and spring training baseball facilities<sup>24</sup> to receive monthly distributions from sales tax revenues.

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<sup>21</sup> Department of Economic Opportunity, *Agency Bill Analysis: SB 208*, (October 30, 2013).

<sup>22</sup> Department of Revenue, *DOR 2014 Bill Analysis: SB 208*, (October 9, 2013).

<sup>23</sup> Section 288.1162, F.S.

<sup>24</sup> Sections 288.11621 and 288.11631, F.S.

**VIII. Statutes Affected:**

This CS amends ss. 212.20 and 288.1171, F.S.

**IX. Additional Information:**

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

**CS by Commerce and Tourism Committee on Jan. 8, 2014:**

The committee substitute corrects a reference to clarify that the certified applicant may not seek a distribution from the Local Government Half-cent Sales Tax Program under s. 218.64(3), F.S., while receiving a distribution from state sales tax revenue under s. 212.20, F.S.

- B. **Amendments:**

None.