

1 A bill to be entitled

2 An act relating to the professional sports facilities
3 incentive application process; amending s. 212.20,
4 F.S.; providing for the distribution of a specified
5 amount of tax proceeds to certain applicants of the
6 professional sports facility incentive program;
7 prohibiting the Department of Revenue from
8 distributing more than a specified amount to program
9 applicants; amending s. 218.64, F.S.; authorizing
10 municipalities and counties to use local government
11 half-cent sales tax distributions to reimburse the
12 state for funding received under the professional
13 sports facility incentive program; amending s.
14 288.0001, F.S.; requiring the Office of Economic and
15 Demographic Research and the Office of Program Policy
16 Analysis and Government Accountability to provide a
17 detailed analysis of the professional sports facility
18 incentive program; creating s. 288.11625, F.S.;
19 creating the professional sports facility incentive
20 program; providing definitions; providing application
21 requirements and procedures; providing procedures and
22 criteria for the evaluation of applications and the
23 recommendation of applications for legislative
24 approval; providing that an applicant must receive
25 legislative approval of its application in order to
26 receive state funding; requiring an applicant whose

HB 7095

2014

27 application is approved by the Legislature to enter
28 into a contract with the Department of Economic
29 Opportunity containing specified terms in order to
30 become certified; providing for the duration of
31 certain certifications; providing for the distribution
32 of state funds to certified applicants; requiring
33 certain certified applicants to submit an annual
34 analysis including specified information; providing
35 for the determination of annual distribution amounts;
36 restricting the amount of state funds that may be
37 provided to certified applicants in a specified
38 period; restricting the use of state funds received by
39 a certified applicant to specified purposes; providing
40 for the repayment of distributions under certain
41 circumstances; requiring the department to submit an
42 annual report containing specified information to the
43 Governor and Legislature; requiring the Auditor
44 General to conduct an audit of the program;
45 authorizing the Department of Revenue to recover
46 improperly expended distributions at the request of
47 the Auditor General; providing for the halting of
48 payments; authorizing the Department of Economic
49 Opportunity to adopt rules; providing an effective
50 date.

51
52 Be It Enacted by the Legislature of the State of Florida:

Page 2 of 24

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb7095-00

53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78

Section 1. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

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

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

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

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

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

79 distributed accordingly.

80 3. After the distribution under subparagraphs 1. and 2.,
81 0.095 percent shall be transferred to the Local Government Half-
82 cent Sales Tax Clearing Trust Fund and distributed pursuant to
83 s. 218.65.

84 4. After the distributions under subparagraphs 1., 2., and
85 3., 2.0440 percent of the available proceeds shall be
86 transferred monthly to the Revenue Sharing Trust Fund for
87 Counties pursuant to s. 218.215.

88 5. After the distributions under subparagraphs 1., 2., and
89 3., 1.3409 percent of the available proceeds shall be
90 transferred monthly to the Revenue Sharing Trust Fund for
91 Municipalities pursuant to s. 218.215. If the total revenue to
92 be distributed pursuant to this subparagraph is at least as
93 great as the amount due from the Revenue Sharing Trust Fund for
94 Municipalities and the former Municipal Financial Assistance
95 Trust Fund in state fiscal year 1999-2000, no municipality shall
96 receive less than the amount due from the Revenue Sharing Trust
97 Fund for Municipalities and the former Municipal Financial
98 Assistance Trust Fund in state fiscal year 1999-2000. If the
99 total proceeds to be distributed are less than the amount
100 received in combination from the Revenue Sharing Trust Fund for
101 Municipalities and the former Municipal Financial Assistance
102 Trust Fund in state fiscal year 1999-2000, each municipality
103 shall receive an amount proportionate to the amount it was due
104 in state fiscal year 1999-2000.

105 6. Of the remaining proceeds:

106 a. In each fiscal year, the sum of \$29,915,500 shall be
107 divided into as many equal parts as there are counties in the
108 state, and one part shall be distributed to each county. The
109 distribution among the several counties must begin each fiscal
110 year on or before January 5th and continue monthly for a total
111 of 4 months. If a local or special law required that any moneys
112 accruing to a county in fiscal year 1999-2000 under the then-
113 existing provisions of s. 550.135 be paid directly to the
114 district school board, special district, or a municipal
115 government, such payment must continue until the local or
116 special law is amended or repealed. The state covenants with
117 holders of bonds or other instruments of indebtedness issued by
118 local governments, special districts, or district school boards
119 before July 1, 2000, that it is not the intent of this
120 subparagraph to adversely affect the rights of those holders or
121 relieve local governments, special districts, or district school
122 boards of the duty to meet their obligations as a result of
123 previous pledges or assignments or trusts entered into which
124 obligated funds received from the distribution to county
125 governments under then-existing s. 550.135. This distribution
126 specifically is in lieu of funds distributed under s. 550.135
127 before July 1, 2000.

128 b. The department shall distribute \$166,667 monthly
129 pursuant to s. 288.1162 to each applicant certified as a
130 facility for a new or retained professional sports franchise

131 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
132 monthly by the department to each certified applicant as defined
133 in s. 288.11621 for a facility for a spring training franchise.
134 However, not more than \$416,670 may be distributed monthly in
135 the aggregate to all certified applicants for facilities for
136 spring training franchises. Distributions begin 60 days after
137 such certification and continue for not more than 30 years,
138 except as otherwise provided in s. 288.11621. A certified
139 applicant identified in this sub-subparagraph may not receive
140 more in distributions than expended by the applicant for the
141 public purposes provided for in s. 288.1162(5) or s.
142 288.11621(3).

143 c. Beginning 30 days after notice by the Department of
144 Economic Opportunity to the Department of Revenue that an
145 applicant has been certified as the professional golf hall of
146 fame pursuant to s. 288.1168 and is open to the public, \$166,667
147 shall be distributed monthly, for up to 300 months, to the
148 applicant.

149 d. Beginning 30 days after notice by the Department of
150 Economic Opportunity to the Department of Revenue that the
151 applicant has been certified as the International Game Fish
152 Association World Center facility pursuant to s. 288.1169, and
153 the facility is open to the public, \$83,333 shall be distributed
154 monthly, for up to 168 months, to the applicant. This
155 distribution is subject to reduction pursuant to s. 288.1169. A
156 lump sum payment of \$999,996 shall be made, after certification

157 and before July 1, 2000.

158 e. The department shall distribute up to \$55,555 monthly
159 to each certified applicant as defined in s. 288.11631 for a
160 facility used by a single spring training franchise, or up to
161 \$111,110 monthly to each certified applicant as defined in s.
162 288.11631 for a facility used by more than one spring training
163 franchise. Monthly distributions begin 60 days after such
164 certification or July 1, 2016, whichever is later, and continue
165 for not more than 30 years, except as otherwise provided in s.
166 288.11631. A certified applicant identified in this sub-
167 subparagraph may not receive more in distributions than expended
168 by the applicant for the public purposes provided in s.
169 288.11631(3).

170 f. Beginning 60 days after notice by the Department of
171 Economic Opportunity to the Department of Revenue that an
172 applicant has been approved by the Legislature, enacted by
173 general law approved by the Governor, and certified by the
174 Department of Economic Opportunity under s. 288.11625, the
175 department shall distribute each month an amount equal to one-
176 twelfth the annual distribution amount certified by the
177 Department of Economic Opportunity for the applicant. The
178 department may not distribute more than \$12 million annually to
179 all applicants approved by the Legislature and certified by the
180 Department of Economic Opportunity pursuant to s. 288.11625.

181 7. All other proceeds must remain in the General Revenue
182 Fund.

183 Section 2. Subsections (2) and (3) of section 218.64,
 184 Florida Statutes, are amended to read:

185 218.64 Local government half-cent sales tax; uses;
 186 limitations.—

187 (2) Municipalities shall expend their portions of the
 188 local government half-cent sales tax only for municipality-wide
 189 programs, for reimbursing the state as required by a contract
 190 pursuant to s. 288.11625(6), or for municipality-wide property
 191 tax or municipal utility tax relief. All utility tax rate
 192 reductions afforded by participation in the local government
 193 half-cent sales tax shall be applied uniformly across all types
 194 of taxed utility services.

195 (3) Subject to ordinances enacted by the majority of the
 196 members of the county governing authority and by the majority of
 197 the members of the governing authorities of municipalities
 198 representing at least 50 percent of the municipal population of
 199 such county, counties may use up to \$2 million annually of the
 200 local government half-cent sales tax allocated to that county
 201 for funding for any of the following purposes ~~applicants~~:

202 (a) Funding a certified applicant as a facility for a new
 203 or retained professional sports franchise under s. 288.1162 or a
 204 certified applicant as defined in s. 288.11621 for a facility
 205 for a spring training franchise. It is the Legislature's intent
 206 that the provisions of s. 288.1162, including, but not limited
 207 to, the evaluation process by the Department of Economic
 208 Opportunity except for the limitation on the number of certified

209 applicants or facilities as provided in that section and the
 210 restrictions set forth in s. 288.1162(8), shall apply to an
 211 applicant's facility to be funded by local government as
 212 provided in this subsection.

213 (b) Funding a certified applicant as a "motorsport
 214 entertainment complex," as provided for in s. 288.1171. Funding
 215 for each franchise or motorsport complex shall begin 60 days
 216 after certification and shall continue for not more than 30
 217 years.

218 (c) Reimbursing the state as required by a contract
 219 pursuant to s. 288.11625(6).

220 Section 3. Paragraph (b) of subsection (2) of section
 221 288.0001, Florida Statutes, is amended to read:

222 288.0001 Economic Development Programs Evaluation.—The
 223 Office of Economic and Demographic Research and the Office of
 224 Program Policy Analysis and Government Accountability (OPPAGA)
 225 shall develop and present to the Governor, the President of the
 226 Senate, the Speaker of the House of Representatives, and the
 227 chairs of the legislative appropriations committees the Economic
 228 Development Programs Evaluation.

229 (2) The Office of Economic and Demographic Research and
 230 OPPAGA shall provide a detailed analysis of economic development
 231 programs as provided in the following schedule:

232 (b) By January 1, 2015, and every 3 years thereafter, an
 233 analysis of the following:

234 1. The entertainment industry financial incentive program

235 established under s. 288.1254.

236 2. The entertainment industry sales tax exemption program
237 established under s. 288.1258.

238 3. The ~~VISIT~~ Florida Tourism Industry Marketing
239 Corporation and its programs established or funded under ss.
240 288.122, 288.1226, 288.12265, and 288.124.

241 4. The Florida Sports Foundation and related programs
242 established under ss. 288.1162, 288.11621, 288.11625, 288.1166,
243 288.1167, 288.1168, 288.1169, and 288.1171.

244 Section 4. Section 288.11625, Florida Statutes, is created
245 to read:

246 288.11625 Professional sports facility incentive program.—

247 (1) PURPOSE.—There is created within the department the
248 professional sports facility incentive program. The purpose of
249 the program is to provide for distributions of state funding to
250 applicants under s. 212.20(6)(d)6.f. for the public purpose of
251 constructing, reconstructing, renovating, or improving a
252 facility.

253 (2) DEFINITIONS.—As used in this section, the term:

254 (a) "Beneficiary" means a professional sports franchise of
255 the National Football League, the National Hockey League, the
256 National Basketball Association, the National League or the
257 American League of Major League Baseball, Major League Soccer,
258 or the National Association for Stock Car Auto Racing, or a
259 nationally recognized professional sports association that
260 occupies or uses a facility as the facility's primary tenant. A

261 beneficiary may also be an applicant under this section.

262 (b) "Facility" means a facility used primarily to host
 263 games or events held by a beneficiary. The term does not include
 264 any portion of a facility used for transient lodging. The term
 265 also does not include a Major League Baseball spring training
 266 facility, a facility certified under s. 288.1168, or a facility
 267 certified under s. 288.1169.

268 (c) "Project" means the proposed construction,
 269 reconstruction, renovation, or improvement of a facility or the
 270 proposed acquisition of land to construct a new facility.

271 (d) "State sales taxes generated by sales at the facility"
 272 means state sales taxes imposed under chapter 212 and generated
 273 by admissions to the facility or by sales made by vendors at the
 274 facility who are accessible to persons attending events
 275 occurring at the facility.

276 (3) APPLICATION PROCESS.—

277 (a) To apply for a distribution of state funds under s.
 278 212.20(6)(d)6.f., an applicant must:

279 1. Be a unit of local government, as defined in s.
 280 218.369, that is responsible for construction, management, or
 281 operation of a facility; or

282 2. If not a unit of local government, be another entity
 283 responsible for construction, management, or operation of a
 284 facility, in which case, a unit of local government must hold
 285 title to the property on which the facility is or will be
 286 located.

HB 7095

2014

287 (b) The annual application period is June 1 through
288 November 1.

289 (c) The department shall establish procedures and
290 application forms deemed necessary pursuant to the requirements
291 of this section. The department may notify an applicant of any
292 incomplete or additional required information necessary for the
293 department to evaluate the application.

294 (d) Each application shall include an independent analysis
295 prepared by a certified public accountant licensed in this state
296 that demonstrates:

297 1. The average annual amount of state sales taxes
298 generated by sales at the facility during the 36-month period
299 immediately before the beginning of the application period,
300 which shall be known as the "baseline amount."

301 2. The expected amount of new incremental state sales
302 taxes generated by sales at the facility in excess of the
303 baseline amount to be generated annually as a result of the
304 project.

305 (e) Within 60 days after receipt of a completed
306 application, the department shall evaluate the application as
307 provided in subsection (4) and notify the applicant in writing
308 of the department's decision to recommend legislative approval
309 of the application or to deny the application.

310 (4) EVALUATION PROCESS.—

311 (a) Before recommending an applicant for a distribution of
312 state funds under s. 212.20(6)(d)6.f., the department shall

313 verify:

314 1. That the applicant or beneficiary is responsible for
315 construction, reconstruction, renovation, or improvement of the
316 facility.

317 2. If the applicant is also the beneficiary, that a unit
318 of local government holds title to the property on which the
319 facility and project are or will be located.

320 3. If the applicant is a unit of local government within
321 whose jurisdiction the facility is or will be located, that the
322 unit of local government has an exclusive intent agreement to
323 negotiate in this state with the beneficiary.

324 4. That the unit of local government, within whose
325 jurisdiction the facility is or will be located, supports the
326 application for state funds. Such support must be verified by
327 adoption, after a public hearing, of a resolution that the
328 project serves a public purpose.

329 5. That the applicant or beneficiary has not previously
330 defaulted or failed to meet any statutory requirement of a
331 previous state-administered sports-related program under this
332 chapter.

333 6. That the applicant or beneficiary has sufficiently
334 demonstrated a commitment to employ residents of this state,
335 contract with Florida-based firms, and purchase locally
336 available building materials to the greatest extent practicable.

337 7. If the applicant is a unit of local government, that
338 the applicant has a certified copy of a signed agreement with a

339 beneficiary for use of the facility. If the applicant is a
340 beneficiary, the beneficiary must enter into an agreement with
341 the department. The applicant or beneficiary's agreement must
342 require the following:

343 a. If, before expiration of the agreement, the beneficiary
344 relocates to another venue or no longer occupies or uses the
345 facility as the facility's primary tenant, the beneficiary shall
346 reimburse the state for state funds distributed under this
347 section, plus a 5-percent penalty.

348 b. The beneficiary shall pay for signage or advertising
349 within the facility. The signage or advertising shall be placed
350 in a prominent location as close to the field of play or
351 competition as is practicable, shall be displayed consistent
352 with signage or advertising in the same location and be of like
353 value, and shall feature Florida advertising approved by the
354 Florida Tourism Industry Marketing Corporation.

355 8. That the total project cost is greater than \$100
356 million and more than one-half of the funds used to pay for the
357 project are from private sources.

358 9. The independent analysis submitted by the applicant
359 pursuant to paragraph (3) (d). The department shall consult with
360 the Department of Revenue or the Office of Economic and
361 Demographic Research to verify the independent analysis. Such
362 consultation may include the development of a standard
363 calculation for estimating new incremental state sales taxes
364 generated by sales at the facility and adjustments to

365 distributions.

366 (b) By February 1 of each year, as part of its annual
367 report submitted pursuant to paragraph (10)(a), the department
368 shall submit to the Governor, the President of the Senate, and
369 the Speaker of the House of Representatives an evaluation of
370 each application received during the application period that the
371 department recommends for legislative approval to receive a
372 distribution of state funds. The department's evaluation shall
373 include a list of the recommended projects, ranked in order of
374 projects most likely to produce a significant positive economic
375 impact within the state based on the following criteria:

376 1. The ability to provide a positive return on the state's
377 investment.

378 2. The proposed use of state funds.

379 3. The length of time that a beneficiary has agreed to use
380 the facility.

381 4. The percentage of total project funds provided by the
382 applicant, the percentage of total project funds provided by the
383 beneficiary, and the total amount of private or in-kind
384 contributions to the project.

385 5. The number and type of signature events that the
386 facility is likely to attract during the duration of the
387 agreement with the beneficiary. For purposes of this
388 subparagraph, the term "signature event" means a sporting event
389 that creates a significant positive economic impact within the
390 state, as determined by the department, and enhances the status

391 of the state as a premier sports tourism destination. Such
 392 events may include, but are not limited to:

- 393 a. National Football League Super Bowls.
- 394 b. College Football Playoff games.
- 395 c. College football bowl games.
- 396 d. Professional sports all-star games.
- 397 e. International sporting events and tournaments.
- 398 f. Professional motorsports events.
- 399 6. The anticipated increase in average annual ticket sales
 400 and attendance at the facility due to the project.
- 401 7. The potential to attract out-of-state visitors to the
 402 facility.
- 403 8. The multiuse capabilities of the facility.
- 404 9. The facility's projected employment of residents of
 405 this state, contracts with Florida-based firms, and purchases of
 406 locally available building materials.
- 407 10. The amount of positive advertising or media coverage
 408 that the facility generates.
- 409 11. The estimate by an independent certified public
 410 accountant licensed in this state of the amount of new
 411 incremental state sales taxes that the facility is expected to
 412 generate annually as a result of the project provided pursuant
 413 to subparagraph (3) (d)2.
- 414 12. The size and scope of the project and number of
 415 temporary and permanent jobs that will be created as a direct
 416 result of the facility improvement.

417 (c) The department may recommend no more than one
 418 distribution under this section for any applicant, facility, or
 419 beneficiary at a time.

420 (5) LEGISLATIVE APPROVAL.—

421 (a) In order for an applicant to receive a distribution of
 422 state funds under s. 212.20(6)(d)6.f., its application must be
 423 approved by the Legislature, enacted by general law approved by
 424 the Governor in the manner provided in s. 8, Art. III of the
 425 State Constitution.

426 (b) An applicant whose application is recommended by the
 427 department but not approved by the Legislature may reapply and
 428 update any information in the original application as required
 429 by the department.

430 (6) CERTIFICATION AND CONTRACT.—

431 (a) To be certified by the department to receive a
 432 distribution of state funds under s. 212.20(6)(d)6.f., an
 433 applicant whose application is approved by the Legislature must
 434 enter into a contract with the department that:

435 1. Specifies the terms of the state's investment.

436 2. States the criteria that the applicant must meet in
 437 order to become and remain certified.

438 3. States that the applicant is subject to decertification
 439 if recommended by the department and approved by the
 440 Legislature.

441 4. Requires the applicant to submit the independent
 442 analyses required under paragraphs (3)(d) and (7)(c).

443 5. Specifies information that the applicant must report to
444 the department.

445 6. Requires the applicant to reimburse the state in an
446 amount equal to the sum of the first five annual distributions
447 less 75 percent of the actual new incremental state sales taxes
448 generated by sales at the facility since the date of
449 certification of the applicant, plus a 5 percent penalty.

450 7. Beginning with the sixth annual distribution, requires
451 the applicant to reimburse the state each year in an amount
452 equal to the annual distribution received less 75 percent of the
453 actual new incremental state sales taxes generated by sales at
454 the facility during the most recent 12-month period.

455 8. Includes any other provisions deemed prudent by the
456 department.

457 (b) An application by a unit of local government which is
458 approved by the Legislature, enacted by general law approved by
459 the Governor, and subsequently certified by the department
460 remains certified for the duration of the beneficiary's
461 agreement with the applicant or for 30 years, whichever is less,
462 if the certified applicant has an agreement with a beneficiary
463 at the time of initial certification by the department.

464 (c) An application by a beneficiary which is approved by
465 the Legislature, enacted by general law approved by the
466 Governor, and subsequently certified by the department remains
467 certified for the duration of the beneficiary's agreement with
468 the unit of local government that owns the underlying property

469 or for 30 years, whichever is less, if the certified applicant
470 has an agreement with the unit of local government at the time
471 of initial certification by the department.

472 (d) An applicant that is certified under this section does
473 not require legislative approval in any subsequent year in order
474 to continue to receive distributions of state funding authorized
475 pursuant to that certification.

476 (7) DISTRIBUTIONS.—

477 (a) The Department of Revenue shall begin distributions
478 within 60 days after notification of initial certification by
479 the department.

480 (b) The department shall determine the amount of the first
481 five annual distributions to be disbursed to a certified
482 applicant before receipt of the analysis required under
483 paragraph (c). The determination of the distribution amounts
484 shall be based on the estimate of the amount of new incremental
485 state sales taxes that the facility is expected to generate as a
486 result of the project provided pursuant to subparagraph (3)(d)2.
487 However, a certified applicant may not receive an annual
488 distribution amount under this paragraph that exceeds 75 percent
489 of the estimated new incremental state sales taxes generated by
490 sales at the facility or \$2 million, whichever is less.

491 (c) Before the sixth annual distribution, as near to such
492 distribution as determined practicable by the department by
493 rule, a certified applicant shall submit to the department an
494 analysis prepared by an independent certified public accountant

495 licensed in this state demonstrating the actual amount of new
496 incremental state sales taxes generated by sales at the facility
497 since the date of certification. The applicant shall certify to
498 the department a comparison of the actual amount of state sales
499 taxes generated by sales at the facility since the date of
500 certification to the sum of the first five annual distributions.
501 The department shall verify the analysis. The department may
502 consult with the Department of Revenue to verify the analysis.

503 (d) The amount of a sixth or subsequent annual
504 distribution to be disbursed to a certified applicant shall be
505 determined by the department based on the estimate of the amount
506 of new incremental state sales taxes that the facility is
507 expected to generate annually in excess of the baseline amount
508 as a result of the project provided pursuant to subparagraph
509 (3) (d)2. However, a sixth or subsequent annual distribution to a
510 certified applicant may not exceed 75 percent of the estimated
511 amount of new incremental state sales taxes generated by sales
512 at the facility or \$2 million, whichever is less.

513 (e) The department may not certify new distributions for
514 additional certified applicants if total distributions for all
515 certified applicants equal or exceed \$12 million in any 12-month
516 period.

517 (8) USE OF FUNDS.—A certified applicant may only use state
518 funds distributed under this section for the following purposes:

519 (a) Constructing, reconstructing, renovating, or improving
520 a facility or reimbursing such costs.

521 (b) Paying or pledging the payment of debt service on, or
522 to fund debt service reserve funds, arbitrage rebate
523 obligations, or other amounts payable with respect thereto;
524 bonds issued for the construction or renovation of such
525 facility; or for the reimbursement of such costs or the
526 refinancing of bonds issued for such purposes.

527 (9) REPAYMENT OF DISTRIBUTIONS.—

528 (a) If a beneficiary breaks the terms of its agreement
529 with a certified applicant and relocates to another venue or no
530 longer occupies or uses the facility as the facility's primary
531 tenant, the beneficiary shall reimburse the state for state
532 funds that have been distributed, plus a 5-percent penalty.

533 (b) If the department determines that a certified
534 applicant has submitted information or made a representation
535 that is false, misleading, deceptive, or otherwise untrue, the
536 certified applicant shall reimburse the state for state funds
537 that have been distributed, plus a 5-percent penalty.

538 (c) A certified applicant shall reimburse the state in an
539 amount equal to the sum of the first five annual distributions
540 less 75 percent of the actual new incremental state sales taxes
541 generated by sales at the facility since certification of the
542 applicant, plus a 5 percent penalty.

543 (d) Beginning with the sixth annual distribution, a
544 certified applicant shall reimburse the state each year in an
545 amount equal to the annual distribution received less 75 percent
546 of the actual new incremental state sales taxes generated by

547 sales at the facility during the most recent 12-month period.

548 (e) If a certified applicant is unable or unwilling to
549 reimburse the state as required by paragraphs (b), paragraph
550 (c), or paragraph (d), the department may place a lien on the
551 certified applicant's facility. If the applicant is a
552 municipality or county, it may reimburse the state using local
553 government half-cent sales tax distributions as provided in s.
554 218.64(3). Reimbursements shall be sent to the Department of
555 Revenue for deposit into the General Revenue Fund.

556 (10) REPORTS.—

557 (a) By February 1 of each year, the department shall
558 submit an annual report to the Governor, the President of the
559 Senate, and the Speaker of the House of Representatives. The
560 report shall include the department's recommendations submitted
561 for legislative approval under paragraph (4)(b) and any other
562 information required to be submitted pursuant to this
563 subsection.

564 (b) On or before November 1 of each year, a certified
565 applicant approved to receive state funds under this section
566 shall submit to the department any information required by the
567 department. The department shall summarize this information for
568 inclusion in its annual report submitted under paragraph (a).

569 (c) Every 3 years after the first month that a certified
570 applicant receives a monthly distribution, the department shall
571 verify that the applicant is meeting the program requirements.
572 If the applicant is not meeting program requirements, the

573 department shall notify the Governor, the President of the
574 Senate, and the Speaker of the House of Representatives of the
575 requirements not being met and shall recommend future action as
576 part of the department's annual report submitted under paragraph
577 (a). The department shall consider any extenuating circumstances
578 that may have prevented the applicant from meeting the program
579 requirements, such as a force majeure event or a significant
580 economic downturn.

581 (11) AUDITS.—Every 5 years beginning in 2020, the Auditor
582 General shall conduct audits pursuant to s. 11.45 to verify the
583 independent analyses required under paragraph (7) (c) and to
584 verify that distributions were expended in accordance with this
585 section. The Auditor General shall report the findings to the
586 department. If the Auditor General determines that a
587 distribution was not expended in accordance with this section,
588 the Auditor General shall notify the Department of Revenue,
589 which may pursue recovery of the distribution under the laws and
590 rules that govern the assessment of taxes.

591 (12) HALTING OF PAYMENTS.—

592 (a) A certified applicant may request to halt future
593 distributions by providing the department with written notice at
594 least 20 days before the next monthly distribution payment. Upon
595 receiving such notice, the department shall immediately notify
596 the Department of Revenue to halt future payments.

597 (b) If a certified applicant fails to make timely
598 reimbursements as required under paragraph (9) (c) or paragraph

HB 7095

2014

599 (9) (d), the department shall direct the Department of Revenue to
600 halt future distributions to the certified applicant.

601 (13) RULEMAKING.—The department may adopt rules to
602 administer this section.

603 Section 5. This act shall take effect July 1, 2014.