

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/SB 306

INTRODUCER: Committee on Appropriations (Recommended by Appropriations Subcommittee on Finance and Tax) and Senator Braynon

SUBJECT: Professional Sports Facilities

DATE: March 29, 2013 **REVISED:** _____

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

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| 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/SB 306 creates the new category of “professional sports franchise renovation facility” under s. 288.1162, F.S. A facility that meets certain requirements and is certified by the Department of Economic Opportunity is eligible for a sales tax distribution payment of \$3 million per year for 30 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.”

The Revenue Estimating Conference (REC) estimates that the section of the bill authorizing a sales tax distribution for a professional sports franchise renovation facility will decrease General Revenue by \$2.5 million in FY2013-14, with a recurring negative \$3.0 million impact to General Revenue. 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 bill is effective July 1, 2013. 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 the following sections of the Florida Statutes: 125.0104, 212.20, 218.64, 288.1162, and 288.11621.

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,¹ 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:²

Facility name	Certified entity	Franchise	First Payment	Final Payment	Total payments to date
Sun Life Stadium	Dolphins Stadium/ South Florida Stadium	Florida (Miami) Marlins ³	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

¹ Section 212.20(6)(d)6.b., F.S.

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

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

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.⁴

- The tourist development tax may be levied at the rate of 1 or 2 percent.⁵ Currently, 62 counties levy this tax at 2 percent; all 67 counties are eligible to levy this tax.⁶ 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.⁷ 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.⁸ Currently 36 counties levy this additional tax and all 67 counties are eligible to levy this 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.⁹ 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.¹⁰ 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.^{11 12}

⁴ Florida Revenue Estimating Conference, “2012 Florida Tax Handbook.”

⁵ Section 125.0104(3)(c), F.S.

⁶ 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/2013LOTTates.pdf> (last visited January 24, 2013).

⁷ Section 125.0104(3)(d), F.S.

⁸ Section 125.0104(3)(l), F.S.

⁹ Section 125.0104(3)(m), F.S.

¹⁰ Section 125.0104(3)(n), F.S.

¹¹ Section 212.0305(4)(b), F.S.

¹² Section 125.0104(3)(b), F.S.

“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.”¹³ 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.¹⁴

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:

- 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.¹⁵

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

¹³ 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).

¹⁴ Also known as “self-administering.”

¹⁵ 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).

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 Tax¹⁶ 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:

- 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;¹⁷ 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.

¹⁶ Chapter 67-930, L.O.F.

¹⁷ 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.

The combined effect of the three separate taxing districts is a countywide tax of 3 percent.¹⁸ 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.

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.¹⁹

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:

¹⁸ *Supra* note 13 at pages 125 and 240.

¹⁹ 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).

- 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 to distribute \$250,000 per month to any certified “professional sports franchise renovation facility.” This is a new designation not present in current law. Distributions may only continue for up to 30 years, as under current law.

Section 3 amends s. 218.64, F.S., to correct a cross-reference to s. 288.1162, F.S.

Section 4 amends s. 220.153, F.S., to delete a cross-reference to “international banking facility.”

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

Section 6 amends s. 220.63, F.S., to repeal the corporate tax deduction for international banking facilities.

Section 7 provides that Sections 4, 5, and 6, relating to international banking facilities, apply to taxable years beginning on or after January 1, 2013.

Section 8 amends s. 288.1162, F.S., relating to professional sports franchises. The bill creates a new classification under this section, allowing for a facility to receive certification as a “professional sports franchise renovation facility.” DEO may only certify one facility as a “professional sports franchise renovation facility.” A “professional sports franchise renovation facility” may also be previously certified as a new or retained professional sports franchise by DEO. In order to be certified, a facility must:

- Be a continuously league-authorized location for a professional sports franchise for 20 years or more;
- Have a county, municipality, or other public entity that is responsible for the construction, management, or operation of the facility, or hold the title to the property on which the facility is located;
- Have a verified copy of a lease agreement with a professional sports franchise to use the facility for at least the next 20 years;
- Provide an independent analysis demonstrating sales taxes generated by the facility will equal or exceed \$3 million annually;

- Have the county or municipality in which the facility is located certify a resolution after a public hearing that the application for certification serves a public purpose; and
- Demonstrate that the renovation costs will exceed \$300 million, including permitting, architectural, and engineering fees, and that a majority of the costs will be paid for by the ownership group of the franchise or other private sources.

The certified “professional sports franchise renovation facility” is required to use any funds provided by the Department of Revenue under s. 212.20, F.S., to pay “for the public purpose of renovating the facility only to pay or pledge for the debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for the renovation of the facility or for reimbursement of the costs or the refinancing of bonds issued for that purpose.”

Section 9 amends s. 288.11621, F.S., to correct a cross-reference to s. 288.1162, F.S.

Section 10 provides an effective date of July 1, 2013.

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 REC estimates that the section of the bill authorizing a sales tax distribution for a professional sports franchise renovation facility will decrease General Revenue by \$2.5 million in FY2013-14, with a recurring negative \$3.0 million impact to General Revenue.

Additionally, 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 a local ordinance passed by a super majority vote. 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 bill is not expected to significantly increase resource demands on the Department of Economic Opportunity or the Department of Revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

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.