

THE FLORIDA SENATE
2014 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/HB 7095 — Professional Sports Facilities Incentive Application Process

by Appropriations Committee; Economic Affairs Committee; and Rep. Patronis and others (CS/CS/SB 1216 by Appropriations Committee; Commerce and Tourism Committee; and Senator Latvala)

The bill makes several changes to state-administered sports-related programs.

Sports Development Program

The bill creates the Sports Development Program, a process for a local government or team or other entity that operates or manages a sports facility to apply for an annual distribution of state sales and use tax revenue to fund professional sports franchise facilities. Applicants must be evaluated and recommended by the Department of Economic Opportunity (DEO) and distributions must be approved by the Legislature. Distributed funds may be used for the construction or improvement of a professional sports facility.

The application period is June 1 through November 1, and by February 1 of each year, the DEO will rank the recommended applications and present them to the Legislature for approval. However, applicants who have started a project or a new facility between March 1, 2013, and July 1, 2014, may apply to the DEO beginning May 1, 2014, for review. If the DEO recommends approval, the Legislative Budget Committee may approve the application no earlier than January 1, 2015. Approved applicants would be eligible to receive distributions during Fiscal Year 2014-2015, but distributions during that year may not exceed \$7 million. The total annual cap on distributions is \$13 million for all certified applicants.

The DEO determines the annual distribution amount an applicant may receive based on an amount equal to 75 percent of the average annual new incremental state sales tax generated by sales at the facility, up to a maximum amount based on the total project cost. Applicants with a project cost of:

- \$200 million or greater may receive up to \$3 million annually;
- Over \$100 million but under \$200 million may receive up to \$2 million annually;
- Over \$30 million but under \$100 million may receive up to \$1 million annually; and
- Over \$100 million and who are currently receiving distributions under the Professional Sports Franchise program (s. 288.1162, F.S.) may receive up to \$1 million annually.

Distributions may be made for up to 30 years, and may be pledged for repayment of bonds.

The distributions are determined by the amount of new incremental state sales tax generated by sales at the facility over a baseline. The baseline is determined by a 36-month average annual state sales tax generated by sales at the facility. The following applicants have a “zero baseline”:

- An applicant applying for a “new facility,” which includes a first-time applicant whose project exceeds \$300 million and commenced on the facility’s existing site before

January 1, 2014, or a beneficiary that has completed the terms of a previous agreement for distributions under ch. 212, F.S., for an existing facility; and

- An applicant whose project cost over \$300 million and is funded by at least 90 percent private sources.

Additionally, an applicant currently receiving distributions under the Professional Sports Franchise program have a baseline of \$2 million. To be eligible for distributions the expected average annual new incremental state sales tax generated by sales at the facility must be at least \$500,000 above the baseline.

In general, applicants cannot receive multiple state revenue distributions under s. 212.20, F.S., except for applicants currently receiving distributions under the Professional Sports Franchise program that have project costs of over \$100 million, as discussed above.

The applicant must enter into a contract with the DEO to receive the funds, and must agree to repay the state any funds if:

- Distributions exceed the actual amount of new incremental state sales taxes generated by sales at the facility; the applicant may repay the state the total amount at the end of the contract term, plus a 5 percent penalty, or on an annual basis without penalty;
- The beneficiary breaks the terms of the agreement with the applicant and relocates or no longer uses the facility as the primary tenant; the beneficiary must reimburse the state an amount equal to any funds remaining to be distributed, plus a 5 percent penalty; or
- The DEO determines that the applicant submitted false or fraudulent information; the applicant must reimburse the state for all funds that have been and will be distributed, plus a 5 percent penalty.

The bill allows a municipality or county to use its half-cent sales tax revenue to reimburse the state as required in the Sports Development Program. The bill also increases the amount of a municipality's or county's half-cent sales tax revenue that can be used to fund a professional sports facility or motorsport entertainment complex from \$2 million to \$3 million.

The applicant must report to the DEO at least annually, and must be verified to be meeting the program requirements every 5 years. The Auditor General may conduct audits on the applicant's reports of state sales taxes generated and to verify that the distributions are being expended according to program requirements. Additionally, the bill adds the program to the list of economic development programs subject to review by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) beginning January 1, 2018.

Retention of Spring Training Baseball Franchises Program – s. 288.11631, F.S.

The bill revises the schedule of distribution of state sales and use tax for the Retention of Spring Training Baseball Franchises Program. However, no distributions may be made before July 1, 2016, as under current law. The revised distribution schedule is as follows:

- For a facility used by one spring training franchise, monthly distributions are increased to up to \$83,333 from \$55,555, for a period of 20 years instead of 30 years. The maximum amount that may be distributed remains at \$20 million; and
- For a facility used by more than one spring training franchise, monthly distributions are increased to up to \$166,667 from \$111,110, for a period of 25 years instead of 37.5 years. The maximum amount that may be distributed remains at \$50 million.

The bill also revises the following requirements of the program:

- Permits a local government that was certified for use of its facility by one spring training facility to amend its certification if it adds any additional franchises.
- Provides that an agreement for the use of the facility by a franchise can be signed at any time before the expiration of an existing agreement, as long as the applicant has never received state funding for the facility as a spring training facility under ss. 288.11621 and 288.11631, F.S., and the facility was constructed before January 1, 2000. Otherwise such a contract cannot be signed more than 4 years before the expiration of any existing agreement with the spring training franchise for the use of the facility.
- Provides an exception to reimbursement requirements when bonds are issued for the construction of the facility. If a franchise breaks or violates its agreement with the local government, but bonds were issued for the construction of the facility, the franchise's reimbursement is limited to the amount of state distributions expected to be paid from the date of the contract break or violation to final bond maturity. Otherwise the franchise must reimburse the state for all state funds expended by the local government.

Sports Facilities as Homeless Shelters – s. 288.1166, F.S.

The bill limits the use of a professional sports facility as a homeless shelter to the period of a declared federal, state, or local emergency. The bill provides exceptions if the facility is otherwise contractually obligated for a specific event or activity, the facility is designated or used by the county as a staging area, or the county owning the facility also owns or operates homeless assistance shelters and determines there is sufficient capacity to meet the sheltering needs of homeless persons within the county.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 35-3; House 89-27