

**STORAGE NAME:** h1857s1a.ft

**DATE:** April 25, 2000

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
FINANCE & TAXATION  
ANALYSIS**

**BILL #:** CS/HB 1857

**RELATING TO:** Targeted Sports Business Economic Development

**SPONSOR(S):** Committee on Tourism and Representative Bronson

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TOURISM YEAS 7 NAYS 0
  - (2) FINANCE & TAXATION YEAS 15 NAYS 0
  - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
  - (4)
  - (5)
- 

**I. SUMMARY:**

Section 212.20, F.S., is amended to authorize the Department of Revenue (DOR), after the Office of Tourism, Trade, and Economic Development (OTTED) has certified an applicant as a certified sports industry economic development project (project) under the newly created s. 288.113, F.S., to issue a sales tax reimbursement based upon total project cost and newly generated annual sales taxes. The project is to receive 50 percent of the new sales tax revenues it generates. The total sales tax reimbursement cannot exceed 50 percent of the cost of the project, amortized over 20 years. The annual amount cannot be less than \$500,000 nor more than \$2,000,000. The amount and duration of the sales tax reimbursement is based upon a sales tax reimbursement agreement (agreement) between the project and OTTED. Certification is valid for 10 years and may be renewed up to two times for five years each with a total certification not to exceed 20 years.

Before being certified, the applicant must prove to OTTED that it has completed an independent analysis demonstrating that the project will generate a minimum of \$1 million annually in new sales tax revenues over a multi-year period; has commitments for amateur sports activities demonstrating that on a multi-year basis the proposed project will bring to the state new amateur sports business activities that will generate a minimum of \$1 million in new sales tax revenues annually; has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the cost incurred in or related to the development of the proposed project.

After certification, a project must enter into an agreement with OTTED specifying, at a minimum, the total number of full-time equivalent jobs created or transferred; the average wage paid for those jobs; maximum amounts of new sales taxes estimated to be generated as a result of the project; the sales tax reimbursement that the project is eligible to receive and the tax reimbursement that the project is requesting; and, budgets, projections, and cost estimates for which a sales tax reimbursement is sought.

After entering into an agreement, a project may receive sales tax reimbursements from DOR for developing and implementing any component of the project's sports events and activities; constructing, reconstructing, renovating, furnishing, equipping, or operating its facilities or events; pledging payments or debt service on, or funding, debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds for the project; and, paying the cost to relocate corporate headquarters into the state.

The bill provides recertification and decertification procedures; adoption of rules by OTTED; performance of an audit by DOR; and, maintenance of annual records of projects, an annual audit review of the projects to maintain certification and an annual report to the Legislature by OTTED.

There is a cap of three projects per year that could be certified as sports economic development projects. No sales tax reimbursement is authorized for a project until new taxes are remitted to the state for a 12-month period. Therefore, there would be no impact the first year and there would be a potential maximum impact the second year of \$2,000,000 for each project for a total of \$6,000,000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- 1. Less Government                      Yes     No     N/A
- 2. Lower Taxes                              Yes     No     N/A
- 3. Individual Freedom                      Yes     No     N/A
- 4. Personal Responsibility                      Yes     No     N/A
- 5. Family Empowerment                      Yes     No     N/A

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 212.20, F.S., describes how tax revenues collected pursuant to Chapter 212, F.S., are to be distributed. Pursuant to s. 212.20(6)(f), F.S., the Department of Revenue (DOR) distributes tax revenues to professional sports franchise facilities that are certified by the Office of Tourism, Trade, and Economic Development (OTTED) as meeting requirements set forth in s. 288.1162, F.S., to the Professional Golf Hall of Fame as certified pursuant to s. 288.1168, F.S., and to the International Game Fish Association World Center facility as certified pursuant to s. 288.1169, F.S. Each recipient receives a fixed monthly distribution that is set by statute. No other sports related businesses or facilities are entitled to distributions from DOR of tax revenues collected pursuant to Chapter 212, F.S.

The amounts listed below are the monthly payments currently authorized by law:

\$166,667	New professional sports franchise facility*
\$166,667	Retained professional sports franchise facility*
\$ 41,667	New spring training franchise facility*
\$166,667	Professional Golf Hall of Fame
\$ 83,333	International Game Fish Association World Center facility

The law caps the number of franchise facilities eligible for funding at eight. Currently, there are six new professional sports franchise facilities and one retained professional sports franchise facility that have been certified and are receiving money. There are no new spring training franchise facilities that have been certified. The other two certifications can only be for one specific facility.

Criteria is set forth in Chapter 288, F.S., for certification for each of the above listed types of facilities. Criteria generally includes such things as relationship with and support of a local unit of government, projections for paid attendance, an independent analysis demonstrating that the amount of revenues projected to be generated will exceed any money received from the state, an agreement to provide a specified amount annually for promotion and advertising, and demonstration of being able to provide or having financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility. Under s. 288.1662, F.S., there is a prohibition for an applicant previously certified under any provisions of the section and

receiving funding from being eligible for an additional certification. Sections 288.1168 and 288.1169, F.S., contain requirements for recertification by OTTED every 10 years as well as mechanisms for imposing monetary sanctions for failure to meet all certification requirements. DOR is required to audit to verify that the distributions under the various sections have been expended as required by the individual sections; however, only s. 288.1162, F.S., states that DOR may pursue recovery of funds if they have been determined to have been expended outside the requirements of the law. There are no procedures for decertification.

Sections 288.1162, 288.1168, and 288.1169, F.S., require OTTED to serve as the state agency for screening applicants for state funding pursuant to s. 212.20, F.S., and for certifying applicant facilities for funding. Section 288.1229, F.S., authorizes the creation of a direct-support organization to assist OTTED in two primary areas, one of which is in the promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida. As part of this assistance, OTTED uses the direct support organization, the Florida Sports Foundation, to carry out the applicant screening duties required under ss. 288.1162, 288.1168, and 288.1169, F.S. The Foundation submits the applications to OTTED which certifies the eligibility of the applicant under the law.

**C. EFFECT OF PROPOSED CHANGES:**

Committee Substitute for House Bill 1857 amends s. 212.20(6)(f)5., F.S., to require DOR to distribute funds to any "certified sports industry economic development project" as certified by OTTED pursuant to s. 288.113, F.S., created by the bill. OTTED is required to certify that the project is under development or operational, has generated sales tax revenue for 12 months, and is creating new jobs as agreed in advance with OTTED. DOR is required to distribute up to 50 percent, but not exceeding \$2 million, of the newly generated sales tax monthly, pro rata, to the applicant in an amount and for a duration as agreed to in a written sales tax reimbursement agreement between the project and OTTED. A "sports business economic impact" is defined as the amount of new sales tax generated by a project as estimated by the Sports Economic Impact Model used by OTTED.

Section 288.113, F.S., is created to establish a sales tax reimbursement program for certified sports industry economic development projects, including a statement of legislative findings and declarations supporting the recruitment of these projects because of importance to the state; eligibility, certification, recertification, and decertification requirements and procedures; reimbursement amounts and procedures; and, program administration.

A sports business may apply to OTTED to be certified as a "certified sports industry economic development project" which is defined as an amateur sports business that develops, operates, or both develops and operates a project that attracts and retains multi-year amateur sporting events that generate new sales tax revenues for the state, that has submitted a properly completed application to OTTED, and that has subsequently been certified by that office as a certified sports industry economic development project (project). Upon certification, the project is entitled to distributions under s. 212.20, F.S., of new sales taxes generated by increased new business or tourism activity directly attributable to the project. The project must generate sales tax revenues for a 12-month period before a revenue distribution is available. The amount of the monthly reimbursement payment is established by using a model to project the total estimated amount the project would receive over 20 years in order to establish the payment amount. In essence, the project is

to receive 50 percent of the new sales tax revenues it is expected to generate. The total cannot exceed 50 percent of the cost of the project amortized over 20 years. The annual amount can be no less than \$500,000 and no more than \$2,000,000. OTTED is required to notify DOR of the initial certification and reimbursement amount and any changes to the certification status and amount to be paid to a project. Purposes for which the funds are to be used are delineated in the section.

OTTED is required to establish certification, recertification, and decertification procedures. OTTED is required to develop a standardized certification application form which must include information about job creation, proposed budgets, contracts for events, and project financing. An applicant must provide an independent analysis showing it will generate at least \$1 million annually in new sales tax revenues over a multi-year period. It must have commitments for amateur sports activities demonstrating that the proposed sports industry economic development projects (proposed project) will bring new amateur sports business activities to the state on a multi-year basis that will generate the minimum \$1 million in new sales tax revenues annually. Additionally, the proposed project must be able to provide at least 50 percent of its development costs. The applicant amateur sports business is required to enter into a written agreement with OTTED that provides the terms of the certification. Compliance with the agreement is a condition precedent for receiving payments under s. 212.20, F.S.

Initial certification of a project is for ten years with two possible recertifications for five years each. If upon review after the ten year certification the project is not generating sales tax revenues as projected, its distributions will be reduced until it meets the certification criteria. Any reduction in distributions will remain in effect until the project generates \$1 million in sales tax revenues in a 12-month period. If the project fails to generate new sales tax revenues of \$1 million for two consecutive years, OTTED has the discretion to decertify the project. OTTED may also decertify a project that is not able to maintain economic development activities in Florida. In that case, DOR may suspend payments for six months until the project is either in compliance or is determined to be in default.

OTTED is authorized to verify information provided in applications, including information concerning payment of taxes, to DOR. To facilitate the monitoring and auditing process, OTTED is authorized to request assistance from DOR, the Department of Labor and Employment Security, or any local government or entity regarding a project's compliance with s. 288.113, F.S.

OTTED is granted rulemaking authority to carry out provisions of the bill. DOR is authorized to establish auditing procedures.

Finally, the bill amends s. 288.1229, F.S., to add the attraction of amateur sports economic development projects to the responsibilities of the direct support organization (Florida Sports Foundation) created to assist OTTED with professional and amateur sports responsibilities in the state.

#### D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Amends s. 212.20(6)(f)5., F.S., by adding a new subparagraph a. to require that beginning 30 days after notice by OTTED that an applicant has been certified as a certified sports economic development project, a monthly sales tax reimbursement payment in the amount set forth by the office, shall be distributed to the applicant until the certification expires or notice is received from the office of a change in the applicant's

certification status or in the certified monthly payment. The amount of the monthly sales tax reimbursement distribution shall be adjusted beginning 30 days after notice by OTTED that the applicant is to receive a reduced or increased sales tax reimbursement.

**Section 2.** Amends s. 213.053(7)(k), F.S., extending DOR information sharing with OTTED to include the sales tax reimbursement program authorized by s. 288.113, F.S.

**Section 3.** Creates s. 288.113, F.S., to establish a tax reimbursement program for “certified sports industry economic development projects,” including a statement of legislative findings and declarations supporting the recruitment of these projects because of importance to the state; eligibility, certification, recertification, and decertification requirements and procedures; reimbursement amounts and procedures; and, program administration.

Subsection (1) provides legislative findings and declarations purporting the value of “certified sports industry economic development projects” in providing high-quality employment opportunities for the residents of the state, increasing tourism, and enhancing the economic foundation of the state.

Subsection (2) defines “certified sports industry economic development project” and “sales tax reimbursement”. A “certified sports industry economic development project” or “project” is any amateur sports business that develops, operates, or both develops and operates a project that attracts and retains multi-year amateur sporting events that generate new sales taxes for the state, that has submitted a properly completed application to OTTED, and that has subsequently been certified by that office as a certified sports industry economic development project. A “sales tax reimbursement” is that percentage of new sales taxes that are generated by a project and collected by the state which OTTED, using the Sports Economic Impact Model, estimated to be returned to the project as a reimbursement under the terms of the sales tax reimbursement agreement. The bill provides that the project must first generate new sales taxes which have been collected by DOR before any sales tax reimbursement may be provided to the project. The reimbursement may not exceed 50 percent of the total new sales tax generated annually by the project.

Subsection (3) specifies that any sports business that promotes multi-year amateur sports industry economic development activities in the state may apply for certification in order to receive a sales tax reimbursement on new sales taxes generated by increased new business and tourism activity directly attributable to the proposed sports industry economic development project. The number of certified sports economic development projects shall not exceed three per year.

#### Tax Reimbursement and Authorized Amount

Subsection (4) provides that the eligible amount of a sales tax reimbursement to a project is up to 50 percent of the amount of eligible new sales taxes generated by the project annually. This is certified by OTTED. The total amount of sales tax reimbursements for all fiscal years estimated for each project may not exceed 50 percent of the cost of the project. Sales tax reimbursements per project shall not be less than \$500,000 nor more than \$2 million in a single fiscal year.

Subsection (5) provides that after entering into a sales tax reimbursement agreement, a project may receive a sales tax reimbursement for any or all of the following:

- Developing and implementing any component of the project's sports events and activities;
- Constructing, reconstructing, renovating, furnishing, equipping, or operating the project's facilities or events;
- Pledging payments or debt service on, or funding, debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds for the project's activities and facilities; and,
- Paying the cost of relocating the project's corporate headquarters into the state.

#### Certification, Recertification, and Decertification

Subsection (6) requires OTTED to establish a process for certifying a proposed sports industry economic development project to receive a sales tax reimbursement of a percentage of new sales taxes that have been generated and remitted to the state as a result of the project. Before certifying an applicant, OTTED must determine that the applicant has:

- Completed a valid independent analysis or study which demonstrates that the proposed sports economic development project will generate a minimum of \$1 million annually in new sales tax revenues over a multi-year period;
- Commitments for amateur sports activities which demonstrate that the proposed sports economic development project will bring to this state on a multi-year basis new proposed sports economic development project activities that will generate a minimum of \$1 million in new sales tax revenues annually; and,
- Demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the cost incurred in or related to the development of the proposed sports industry economic development project activity.

Requires OTTED, upon determining that criteria for certification are met, to send the applicant a letter of certification that stipulates the terms of the sales tax reimbursement agreement and the penalties for failing to comply with those terms. Requires OTTED to deny an application for certification if it determines that the proposed project does not meet the criteria.

Prohibits a project that has previously been certified and has received a reimbursement under that certification from an additional certification.

Requires OTTED to develop a standardized certification application form for amateur sports businesses. Requires the application to include, but not be limited to, relevant information on employment and job creation, proposed budgets, contracts for multi-year events and projects, project financing, and other information requested by OTTED. OTTED shall distribute and process all applications.

Requires initial certification for reimbursement to be valid for ten years with eligibility for two additional periods of recertification for five years each. Requires the applicant to request recertification 12 months before the expiration of the certificate. Limits certification period to 20 years.

Requires OTTED to recertify, before the end of the first 10-year period, that the project is operational and is meeting the minimum projections for sales tax revenues as required at the time of the original certification. Requires funding to be adjusted until certification criteria are met, if the project is not recertified as meeting minimum projections during the ten year review. Requires the amount of sales tax reimbursement distributed to the project to be reduced to an amount equal to a pro rata amount of the sales taxes collected times 50 percent, if the project fails to generate annual sales tax revenues pursuant to its sales tax reimbursement agreement with OTTED. Provides that at the discretion of OTTED a project may be decertified if for two consecutive years the amount of sales tax revenues collected falls below a minimum of \$1 million per year. Requires that a reduction remain in effect until the sales tax revenues generated by the project in a 12-month period equal or exceed \$1 million.

Provides that OTTED may decertify a project if the business can no longer maintain its economic activities in the state. Authorizes DOR to suspend payment for a period of 6 months until the project is either in compliance with the sales tax reimbursement agreement or is determined to be in default when the project is no longer in existence, or is no longer viable, as determined by the sales tax reimbursement agreement with OTTED, or the project has the certificate for purposes other than authorized. Provides that any person who knowingly falsifies an application for purposes other than those authorized commits a felony of the third degree.

Requires OTTED to develop rules for the receipt and processing of an application for funding pursuant to s. 212.20, F.S.

#### Sales Tax Reimbursement Agreement

Subsection (7) requires that as a condition for sales tax reimbursement that a project enter into a written agreement with OTTED. Requires that the sales tax reimbursement agreement include, at a minimum, the total number of full-time equivalent jobs created in or transferred to this state as a direct result of the project; the average wage paid for those jobs; the criteria that will apply to measuring the achievement of these terms during the effective period of the agreement; the time schedule or plan for when jobs will be in place and operative in the state; the maximum amount of new sales taxes estimated to be generated as a result of the project; the maximum amount of sales tax reimbursement that the project is eligible to receive; the maximum amount of sales tax reimbursement that the project is requesting; and, the budgets, projections, and cost estimates for the sports activities and projects for which a sales tax reimbursement is sought.

Requires compliance with the terms and conditions of the sales tax reimbursement agreement as a condition precedent for receiving a sales tax reimbursement each year. Requires that failure to comply will result in an immediate review by OTTED of the activities of the project. The sales tax reimbursement shall not exceed 50 percent of the total project cost, amortized over a period of years not to exceed 20. The sales tax reimbursement may be provided through direct payment or other means of payment to the certified sports industry economic development project, as determined in the sales tax reimbursement agreement with approval of DOR.

#### Administration

Subsection (8) authorizes OTTED to verify information provided in any claim for sales tax reimbursement including information regarding employment, wage levels or the payment of taxes to any agency, including DOR, the Department of Labor and Employment Security

(LES), or any local government. Authorizes OTTED to request the assistance of those agencies in monitoring the compliance of the projects with this section. DOR may audit as provided in s. 213.34, F.S., to verify that the distributions have been expended as required.

Information to be Gathered by OTTED; Report to Legislature

Section (9) requires that, beginning January 1, 2001, OTTED maintain records based on information provided on taxpayer applications for project reimbursements. Requires the records to include a statement of what percentage of the overall new economic impact generated by projects consists of the amount of funds annually reimbursed to projects. Requires that OTTED maintain data showing the annual growth in Florida-based amateur sports industry companies and the number of persons employed and wages paid by such companies. Requires an annual report to the Legislature on the information gathered pursuant to this subsection be submitted no later than December 1 of each year.

**Section 4.** Amends s. 288.1229, F.S., to add the attraction of sports economic development projects to the responsibilities of the direct support organization (Florida Sports Foundation) created to assist OTTED with professional and amateur sports responsibilities in the state.

**Section 5.** Provides for a July 1, 2000, effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The fiscal impact to the state is not able to be determined. Additional revenues, however, could be gained by the state if a new multi-year sports economic development project attracts new sales tax dollars that otherwise would not have been collected.

2. Expenditures:

The actual fiscal impact to the state is not able to be determined. Although there is a cap of three projects per year that can be certified as certified sports industry economic development projects, there is no way of knowing how many will be certified the first year nor in subsequent years. Additionally, no reimbursement is authorized for a project until new taxes are remitted by it to the state for a 12-month period. A project can receive between \$500,000 and \$2 million per year for up to 20 years. The amount is to be determined by OTTED based upon criteria in the bill.

For FY 2000-01 there would be no cost even if projects were certified. For FY 2001-02 the sales tax reimbursements would be dependent upon the number of and date of certifications for the previous fiscal year. The amount could range from nothing to a maximum of \$2 million.



**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

There may be a slight positive fiscal impact on local government revenues generated by additional local sales tax dollars generated by a sports economic development project that otherwise would not have been collected.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

There may be a positive economic impact due to multiplier effects on private businesses surrounding a new sports business hosting multi-year events in Florida. The amount is unknown.

**D. FISCAL COMMENTS:**

The actual fiscal impact to the state is not able to be determined. Although there is a cap of three projects per year that can be certified as certified sports industry economic development projects, there is no way of knowing how many will be certified the first year nor in subsequent years. Additionally, no reimbursement is authorized for a project until new taxes are remitted by it to the state for a 12-month period. A project can receive between \$500,000 and \$2 million per year for up to 20 years. The amount is to be determined by OTTED based upon criteria in the bill.

For FY 2000-01 there would be no cost even if projects were certified. For FY 2001-02 the sales tax reimbursements would be dependent upon the number of and date of certifications for the previous fiscal year. The amount could range from nothing to a maximum of \$6 million.

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

The bill does not require counties or municipalities to expend funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

The bill does not reduce the authority of counties or municipalities to raise revenue.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

The bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill appears to provide sufficient statutory rulemaking authority for OTTED.

C. OTHER COMMENTS:

The Department of Revenue (DOR) provided staff with comments regarding HB 1857 which were incorporated into CS/HB1857. No other agencies or entities provided written comment.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

House Bill 1857 was heard by the Tourism Committee on March 21, 2000, and reported unanimously favorable as a committee substitute. Committee Substitute for House Bill 1857 differs from the original bill in the following ways:

- Limits the number of projects to no more than three per year.
- Corrects inconsistencies in terminology.
- Clarifies that the bill relates only to “amateur” sports businesses and projects.
- Addresses concerns raised by the Department of Revenue (DOR) in their comments on HB 1857. Examples of concerns with the original bill related to:
  1. Deleting references to DOR making decisions on the amount of funds to be distributed to projects which was felt to be the role of OTTED;
  2. Requiring OTTED to notify DOR regarding any change in status or reimbursement level of a project;
  3. Clarifying what taxes would be taken into consideration as the basis of a project’s reimbursement amount;
  4. Amending s. 213.053, F.S., to provide for sharing of information specific to the tax reimbursement authorized under the bill with OTTED;
  5. Deleting reference to rule-making for DOR which was felt not to be needed; and,
  6. Amending the audit language in the bill which was felt to be too vague in comparison to that used in other statutory cites.

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On April 24, 2000, the Committee on Finance and Taxation adopted two amendments to this bill. The first amendment, which is a conforming amendment to the Senate bill, changes the period of time from when a sports industry economic development project is certified to when it begins to receive monthly sales tax reimbursement payments from 30 days to 12 months. The second amendment limits the number of certified sports industry economic development projects which may exist prior to June 30, 2005, to one. This limits the economic impact of this bill to \$2,000,000.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Monique H. Cheek

Staff Director:

Judy C. McDonald

AS REVISED BY THE COMMITTEE ON FINANCE & TAXATION:

Prepared by:

Kama D.S. Monroe

Staff Director:

Alan Johansen