

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2074

SPONSOR: Commerce and Economic Opportunities Committee and Senator Bronson

SUBJECT: Sports Industry Economic Development Projects

DATE: April 4, 2000 REVISED: 04/25/00 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schmeling</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Fav/2 amendments</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This committee substitute creates a tax reimbursement program for certified sports industry economic development projects. A sports business may apply to the Governor’s Office of Tourism, Trade, and Economic Development 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 multiyear amateur sporting events that generate new sales tax revenues for the state. Additionally, a project may not be located in Florida prior to the effective date of this act. Upon certification, the certified sports industry economic development project is entitled to reimbursements of new sales tax revenues generated by increased new business or tourism activity directly attributable to the project. The reimbursements may be up to 50 percent of the amount of eligible new sales tax generated by the sports business annually, but generally, may not be less than \$500,000 nor more than \$2 million in a single fiscal year.

This committee substitute amends the following sections of the Florida Statutes: 212.20, 213.053, and 288.1229. This committee substitute creates section 288.113, Florida Statutes.

II. Present Situation:

Chapter 88-226, L.O.F., established a funding mechanism for state support of the construction of professional sports facilities within Florida. Under this act, the Department of Commerce was assigned the duties of screening applicants, developing rules for processing applications, and presenting the applications to the Legislature. The Department of Commerce was dissolved in 1996, by ch. 96-320, L.O.F.

This original chapter law was amended by the Legislature in 1989, 1991, 1994, 1996, and 1997. The current law, s. 288.1162, F.S., requires the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) to carry out the applicant screening duties and certify the eligibility of the applicant’s professional sports franchise under the category of either “new,”

“retained,” or “new spring training,” and caps the number of franchise facilities eligible for certification 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. To date, no local government or organization has applied for certification to receive funds as a “new spring training franchise facility.”

In 1993, the Legislature authorized the same type of funding mechanism for the Professional Golf Hall of Fame and, in 1996, for the International Game Fish Association (IGFA) fishing museum, Hall of Fame, historical display, and educational exhibit facility. Applicants seeking designation as either of these facilities are also to be certified by the Department of Commerce. Chapter 96-320, L.O.F., or ss. 288.1168 and 288.1169, F.S., stipulate that OTTED will assume the former duties of the Department of Commerce related to the annual tourism advertising agreements required of the sponsoring organizations of these facilities in order for funding of the facility to continue.

Criteria are set forth in ch. 288, F.S., for certification of “new,” “retained,” or “new spring training” facilities. Criteria generally include 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. 288.1162, 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. The Department of Revenue (DOR) is authorized 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.

Section 212.20, F.S., authorizes \$166,667 of general sales tax revenues to be distributed monthly (for up to 300 months) to a certified professional golf hall of fame. This same section authorizes \$83,333 of general sales tax revenues to be distributed monthly to the certified International Game Fish Association World Center facility for up to 180 months. The monthly distribution for each applicant that has been certified as a “facility for a new professional sports franchise” or a “facility for a retained professional sports franchise” pursuant to s. 288.1162, F.S., is \$166,667, while \$41,667 is distributed monthly to each applicant that has been certified as a “new spring training franchise facility.” Distributions continue for 30 years to these facilities.

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. The other area is in the promotion of amateur athletic participation for the citizens of Florida and the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions. 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.

Section 213.053, F.S., imposes confidentiality requirements on DOR and specifies the circumstances under which the department can reveal taxpayer information.

III. Effect of Proposed Changes:

This committee substitute creates a tax reimbursement program for certified sports industry economic development projects. A sports business may apply to the Governor's Office of Tourism, Trade, and Economic Development (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 multiyear amateur sporting events that generate new sales tax revenues for the state. However, a project cannot be one that is located in Florida prior to the effective date of this act. Upon certification, the certified sports industry economic development project is entitled to reimbursements of new sales taxes generated by increased new business or tourism activity directly attributable to the project. The reimbursements may be up to 50 percent of the amount of eligible new sales tax generated by the sports business annually, but generally, may not be less than \$500,000 nor more than \$2 million in a single fiscal year.

Section 1. Amends s. 212.20(6)(f)5., F.S., to require the Department of Revenue (DOR) to reimburse sales tax upon notification by OTTED that an applicant has been certified as a qualified sports industry economic development project.

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."

Subsection (2) defines "certified sports industry economic development project" as any amateur sports business that develops, operates, or both develops and operates a project that attracts and retains multiyear 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 (project). Additionally, a project may not be located in Florida prior to the effective date of this act. "Sales tax reimbursement" is defined as the monthly amount to be distributed to a certified sports industry economic development project.

Subsection (3) specifies that any amateur sports business that promotes multiyear amateur sports industry economic development activities in the state may apply for certification in order to receive a reimbursement on new sales taxes generated by increased new business or tourism activity directly attributable to the project. The number of projects certified by OTTED cannot exceed three per year; however, only one project may be certified per year from July 1, 2000, to June 30, 2005.

Tax Reimbursement and Eligible Amount

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

Subsection (5) provides that a certified sports business with an executed agreement may receive reimbursement for any or all of the following:

- Developing and implementing sports events and activities;
- Constructing, reconstructing, renovating, furnishing, equipping, or operating 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 sports business's activities and facilities; and
- Paying the cost of relocating the corporate headquarters into the state.

Certification and Recertification Procedures

Subsection (6) requires OTTED to establish a process for project certification. Before certifying an applicant, OTTED must determine that the applicant has:

- Completed a valid independent analysis or study which demonstrates that the proposed amateur sports business will generate a minimum of \$1 million annually in new sales tax revenues over a multiyear period;
- Received commitments for sports activities which demonstrate that the project will bring to this state on a multiyear basis new proposed amateur sports business 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 amateur sports business activity.

Any project that has previously been certified and has received a reimbursement under that certification is ineligible for additional certification.

OTTED, upon determining that criteria for certification are met, must send the applicant a letter of certification that stipulates the terms of the reimbursement agreement and the penalties for

failing to comply with those terms. OTTED must deny an application for certification if it determines that the proposed project does not meet the criteria.

OTTED is required to develop a standardized certification application form, which must include, but is not limited to, relevant information on employment and job creation, proposed budgets, contracts for multiyear events and projects, project financing, and other information requested by OTTED. OTTED may distribute, and must process, all applications.

Initial certification for reimbursement is valid for 10 years with eligibility for two additional periods of recertification for five years each. The applicant must request recertification 12 months before the expiration of the certificate, and the certification period is limited to 20 years.

OTTED must recertify, before the end of the first 10-year period, that a project is operational and is meeting the minimum projections for sales tax revenues as required at the time of the original certification. If the project fails to generate annual tax revenues pursuant to its agreement with OTTED, the amount of revenues distributed to the project must be reduced to an amount equal to a pro rata amount of the taxes collected times 50 percent. Furthermore, the reduction must remain in effect until the tax revenues generated by the project in a 12-month period equal or exceed \$1 million. At the discretion of OTTED, a project may be decertified if for two consecutive years the amount of tax revenues collected falls below a minimum of \$1 million per year.

OTTED may decertify a project if the business can no longer maintain its economic activities in the state, and notify DOR to suspend the tax reimbursement for a period of six months until the project is either in compliance with the agreement or is determined to be in default when the project is no longer in existence, or is no longer viable. Any person who knowingly falsifies an application for purposes other than those authorized commits a felony of the third degree.

OTTED is required to notify DOR of all certifications, recertifications, and decertifications of projects and of the sales tax reimbursement distribution each project is entitled to receive. OTTED is also required to develop rules for the receipt and processing of an application for funding pursuant to s. 212.20, F.S.

Tax Reimbursement Agreement

Subsection (7) requires that as a condition for reimbursement, a project must enter into a written agreement with OTTED. The agreement must 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 tax reimbursement that the project is eligible to receive; the maximum amount of tax reimbursement that the project is requesting; and the budgets, projections, and cost estimates for the sports activities and projects for which reimbursement is requested.

Compliance with the terms and conditions of the agreement is required for receiving a tax reimbursement each year. Failure to comply will result in an immediate review by OTTED of the activities of the project.

The sales tax reimbursement may not exceed 50 percent of the total project costs, amortized over a period of years not to exceed 20 years. Reimbursements may be provided through direct payment or other means of payment to the certified business, as determined in the agreement with the 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 with the appropriate agency, including DOR, the Department of Labor and Employment Security (DLES), or any local government. DOR is authorized to 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

Subsection (9) requires that, beginning January 1, 2001, OTTED maintain records based on information provided on taxpayer application for sports business reimbursements. The records must 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. OTTED must maintain data showing the annual growth in Florida-based sports industry companies and the number of persons employed and wages paid by such companies. An annual report must be submitted by OTTED to the Legislature on the information gathered pursuant to this subsection 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.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The Revenue Estimating Conference estimates the recurring impact of the bill to be a loss of \$7.5 million in General Revenue.

B. Private Sector Impact:

There may be a positive economic impact due to multiplier effects on private businesses surrounding a new sports business hosting multiyear events in Florida.

C. Government Sector Impact:

The Department of Revenue indicates that this committee substitute will have no fiscal impact on the department. The Office of Tourism, Trade, and Economic Development has indicated that this committee substitute will have a minimal fiscal impact on their operations, and that the committee substitute can be implemented within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Fiscal Resource:

(WITH TITLE AMENDMENT)

Amends s. 212.20(6)(f)c., F.S., compensating the International Game Fish Association World Center for its first year of sales tax distribution totaling \$999,996. The Association qualified, but failed to submit paper work authorizing monthly sales tax distributions pursuant to s.

212.20(6)(f)5.c. The amendment decreases the maximum months the Association can receive monthly distributions from 180 to 168 to account for the lump sum payment.

#2 by Fiscal Resource:

Limits the number of certified sports industry economic development projects to one until July 1, 2005. Fiscal impact: Recurring GR (\$2.0) million