

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 2076

SPONSOR: Governmental Oversight and Productivity Committee and Senator Kirkpatrick

SUBJECT: Office of Tourism, Trade, and Economic Development

DATE: April 25, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Joseph</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
2.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This committee substitute requires that certain contracts governing the operations of Enterprise Florida, Inc., the Florida Commission on Tourism, the Florida Tourism Industry Marketing Corporation, and the direct-support organization for sports-industry promotion shall provide for recovery of state assets in the event of termination of the contracts.

This committee substitute provides that upon dissolution of the party contracting with the state, the contracted party shall cease incurring debt and all assets of the contracted party held in trust shall revert to the state for use by OTTED for satisfaction of outstanding debt and, after such satisfaction, all assets remaining shall be used by OTTED for carrying out its statutory duties. The committee substitute provides that these provisions for dissolution are deemed to be part of each contract for which OTTED serves as contract administrator.

This committee substitute amends the following sections of the Florida Statutes: 14.2015 and 288.1224.

II. Present Situation:

Section 14.2015 , F.S., provides that the purpose of the Office of Tourism, Trade, and Economic Development (OTTED) is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, OTTED serves as contract administrator for the state with respect to contracts with Enterprise Florida, Inc. (EFI), the Florida Commission on Tourism, and all direct-support organizations, except the tourism direct-support organization. To accomplish the provisions, OTTED enters into specific contracts with EFI, the Florida Commission on Tourism, and other appropriate direct-support organizations. Such contracts may be multi-year and include specific performance measures for each year.

Section 288.1224, F.S., provides the powers and duties of the Florida Commission on Tourism, specifying that the commission shall contract no later than December 31, 1996, with a direct-support organization incorporated as a private, not-for-profit corporation, defined in section 501(c)(6) of the Internal Revenue Code, to execute the tourism and marketing promotion services of the state. Section 288.1226, F.S., identifies that direct-support organization as the Florida Tourism Industry Marketing Corporation. The corporation does business under the name "Visit Florida." The commission serves as the contract administrator for this contract. Section 288.1224, F.S., allows OTTED to review such contract in an expedient manner and to timely make any recommendations so as to allow the date of the contract to be met.

Section 288.1229, F.S., permits OTTED to authorize a direct-support organization to assist with the promotion and development of sports-related industries and amateur athletics in the state. Under this authority, OTTED currently contracts with the Florida Sports Foundation.

III. Effect of Proposed Changes:

This committee substitute amends s. 14.2015(2)(g), F.S., to permit the Office of Tourism, Trade, and Economic Development (OTTED) to serve as contract administrator for the state with respect to contracts under that paragraph with only one direct-support organization, instead of "all direct-support organizations under this act . . ." The specified direct-support organization is an unnamed entity authorized by s. 288.1229, F.S. The OTTED, however, currently contracts with the Florida Sports Foundation.

The committee substitute further amends the paragraph to require the addition of contractual provisions relating to asset recovery upon termination of the contract. Specifically, each contract must provide for recovery of state assets in a manner consistent with the provisions of the paragraph in the event that the entity that has contracted with the office is no longer approved to operate for or on behalf of the state, the contract is terminated, or the entity is dissolved. In those cases, the contracted party is required to cease incurring debt, and all assets of the contracted party that are held in trust must revert to the State for use by OTTED to satisfy any outstanding debt. Assets that are held in trust may include, money, whether from public, private, or third-party sources, real property or tangible and intangible property. The committee substitute specifies that the provisions of the act are deemed to be a part of the contract with each party.

The committee substitute also amends s. 288.1224(1), F.S., which establishes powers and duties of the Florida Commission on Tourism. The subsection is amended to specify the direct-support organization that the Florida Commission on Tourism is required to contract with, namely, the Florida Tourism Industry Marketing Corporation (Visit Florida), a direct-support organization that is created by s. 288.1226, F.S. Further, the committee substitute strikes language in the subsection that requires the direct-support organization to be a private, not-for-profit corporation, as defined in s. 501(c)(6) of the Internal Revenue Code of 1986, as amended.

The committee substitute further amends s. 288.1224(1), F.S., to provide that in the event that the entity that has contracted with the office is no longer approved to operate for or on behalf of the state, the contract is terminated, or upon dissolution of the corporation, it must cease incurring debt, and all assets of the corporation held in trust must revert to the State for use by OTTED for satisfaction of outstanding debt. Assets of the corporation held in trust are defined to include

money, whether from public, private, or third-party sources, real property, and tangible and intangible property. The requirements of the subsection are deemed to be part of the contract.

The committee substitute provides an effective date of July 1, 2000.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This committee substitute provides a mechanism for recovery of state assets held in trust by certain entities contracting with the Office of Tourism, Trade, and Economic Development, as well as by the Florida Tourism Industry Marketing Corporation contracting with the Florida Commission on Tourism.

VI. Technical Deficiencies:

None.

VII. Related Issues:

While the committee substitute strikes language in s. 288.1224, F.S., which requires the direct-support organization of the Florida Commission on Tourism to be incorporated as a private, not-for-profit corporation, as defined in s. 501 (c)(6) of the Internal Revenue Code of 1986, as amended, s. 288.1226, F.S., which creates the Florida Tourism Industry Marketing

Corporation as a direct-support organization, still states in paragraph (a) of subsection (2) that the corporation must be not-for-profit, as defined in s. 501(c)(6) of the Internal Revenue Code of 1986, as amended. Further, the paragraph still requires the corporation to be incorporated under the provisions of ch. 617, F.S.

Typically, statutory authorization for a governmental entity to utilize the services of a direct-support organization requires that the governmental entity and the direct-support entity enter into a contract that must contain specific terms. An example of one requirement related to the issue in this committee substitute is contained in s. 266.0018, F.S., which provides requirements for the Historic Pensacola Preservation Board of Trustees and its direct-support organization. Paragraph (d) of subsection (2) of that section requires:

The reversion to the board, or the state if the board ceases to exist, of moneys and property held in trust by the direct-support organization for the benefit of the board if the direct-support organization is no longer approved to operate for the board, or the board ceases to exist

Section 288.1229(3), F.S., already contains specific requirements that must be contained in the contract between OTTED and the direct-support organization authorized by s. 288.1229, F.S., including a requirement in paragraph (c) that “[a]ny funds that the organization holds in trust will revert to the state upon the expiration or cancellation of the contract.” The committee substitute expands the contractual requirements specifically noted in s. 288.1229(3), F.S., by including other assets than monetary funds in s. 14.2015, F.S. Modification of s. 288.1229(3), F.S., to include the additional types of properties might be sufficient as that section specifically relates to contractual requirements of one of the direct-support organizations authorized by the committee substitute.

VIII. Amendments:

None.