SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2976

SPONSOR: Senator Diaz de la Portilla

SUBJECT: Qualified Job Training Organizations

DATE: April 9, 2004 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kruse/Gillespie	Maclure	CM	Favorable
2.			FT	
3.			AGG	
4.			AP	
5.			RC	
6.				

I. Summary:

Senate Bill 2976 requires the monthly distribution of the sales and use taxes collected by "qualified job training organizations" back to those organizations. To qualify, a job training organization must be located in Florida, be exempt from federal income taxation under s. 501(c)(3) or s. 501(c)(4) of the Internal Revenue Code, specialize in the retail sale of donated items, provide job training and employment services to individuals with workplace disadvantages and disabilities, and use a majority of its revenues for job training and placement programs that create jobs and foster economic development. The bill limits the total tax distributions to $3 million per year, and prohibits an organization from continuing to receive the tax distributions for more than 10 years.

The bill requires that the tax distributions be used "solely to encourage and provide economic development through capital construction, improvements, or equipment that will result in expanded employment opportunities." The bill designates the Department of Revenue as the agency responsible for screening the qualified job training organizations, making the tax distributions to the organizations, auditing the organizations, and pursuing the recovery of distributions that are not used for the authorized purposes.

This bill substantially amends section 212.20, Florida Statutes. The bill also creates section 288.1170, Florida Statutes.

II. Present Situation:

Distribution of Sales Tax Collections

Chapter 212, F.S., governs taxes on sales, use, and other transactions. Section 212.20, F.S., governs the distribution of some of those funds collected or received by the Department of Revenue. Several provisions within s. 212.20, F.S., provide assistance to certain economic sectors. For example, facilities designated as new professional sports franchises or facilities for a retained professional sports franchise receive funding distributions from the department after certification by the Governor's Office of Tourism, Trade, and Economic Development (OTTED) (s. 212.20(6)(d)7.b., F.S.). OTTED grants or denies certification using criteria in s. 288.1162, F.S.

Other examples include the Professional Golf Hall of Fame facility (ss. 212.20(6)(d)7.c. and 288.1168, F.S.), and the International Game Fish Association World Center facility (ss. 212.20(6)(d)7.d. and 288.1169, F.S.). Recipients receive a fixed monthly distribution of sales tax revenues established by law for a fixed number of years:

- Facility for a new/retained professional sports franchise: $166,667 monthly for no more than 30 years;
- Facility for a retained spring training franchise: Up to $41,667 monthly for not more than 30 years, but not more than $208,335 may be distributed monthly in the aggregate to all such facilities;
- Professional Golf Hall of Fame: $166,667 monthly for up to 300 months; and
- International Game Fish Association World Center facility: $83,333 monthly for up to 168 months.

The criteria used by OTTED for certification include items such as the relationship with and support of a local unit of government, projections for paid attendance, and demonstration of the financial capability to provide more than one-half of the costs incurred or related to the improvement or development of the facility. Other requirements generally include reviews, recertifications, sanctions, audits, and a prohibition on additional certifications for the same facility.

III. Effect of Proposed Changes:

The bill requires the Department of Revenue to distribute to "qualified job training organizations" the proceeds[1] from the sales and use taxes collected by the organizations. The bill specifies that the department shall distribute the tax proceeds monthly to each qualified job training organization and that the distributions must equal the previous month's tax proceeds generated by the organization and remitted on the organization's sales and use tax return. The bill defines a "qualified job training organization" as an organization that:

[1] The bill cites to s. 212.20(5)(a), F.S., which defines the term "proceeds" as all tax or fee revenue collected or received by the Department of Revenue, including interest and penalties.

- Is located in Florida;
- Is exempt from federal income taxation under s. 501(c)3[2] or s. 501(c)4[3] of the Internal Revenue Code;
- Specializes in the retail sale of donated items;
- Provides job training and employment services to individuals with workplace disadvantages and disabilities; and
- Uses a majority of its revenues for job training and placement programs that create jobs and foster economic development.

The bill requires each qualified job training organization to be certified by the Department of Revenue as meeting these criteria in order to receive the tax distributions. The bill designates the department as the state agency for screening applicants for these tax distributions and requires the department to adopt rules for the receipt and processing of applications for the tax distributions.

The bill directs the department to begin the monthly distributions 60 days after certifying a qualified job training organization. The bill also provides that a qualified job training organization may not continue to receive the tax distributions for more than 10 years. The bill does not, however, specify whether a qualified job training organization may be recertified and continue receiving the tax distributions after the organization's initial 10-year certification expires.

The bill requires that the tax distributions must be used by the qualified job training organizations "solely to encourage and provide economic development through capital construction, improvements, or equipment that will result in expanded employment opportunities." The bill specifies that failure to use the proceeds for these authorized purposes is grounds for revoking the organization's certification to continue receiving the tax distributions.

The bill authorizes the Department of Revenue to audit a qualified job training organization to verify that the organization used the tax proceeds for the authorized purposes. The bill authorizes the department, if the department determines that the tax distributions are not used for the

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[2] The Internal Revenue Code defines a s. 501(c)(3) organization as follows:

> Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation ..., and which does not participate in, or intervene in ..., any political campaign on behalf of (or in opposition to) any candidate for public office (26 U.S.C. s. 501(c)(3)).

[3] The Internal Revenue Code defines a s. 501(c)(4) organization as follows:

> Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes. ... [This exemption does] not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual (26 U.S.C. s. 501(c)(4)).

authorized purposes, to pursue recovery of the proceeds under the "laws and rules governing the assessment of taxes."

The bill declares that the audit information is subject to the confidentiality requirements of ch. 213, F.S. These requirements generally specify that the information contained in returns, reports, accounts, or declarations received by the Department of Revenue, including investigative reports and letters of technical advice, is confidential except for official purposes and is exempt from public disclosure under the Public Records Law[4] (see s. 213.053(2), F.S.).

The bill limits the total amount of the tax distributions to $3 million per year; however, the bill is unclear whether this limit applies to the total amount of tax distributions that may be made to all qualified job training organizations, collectively, or to the total amount that may be made to each organization, individually.

This bill provides an effective date of October 1, 2004. The Department of Revenue cites that the department would not have sufficient time to make necessary systems modifications to implement the bill by that date. The department recommends that the Legislature amend the bill to change the effective date to January 1, 2005.

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:

On March 19, 2004, the Revenue Impact Conference determined that House Bill 933, which is substantially similar to Senate Bill 2976, would have a negative cash impact on state revenue for the 2004-2005 fiscal year of $3 million and a recurring negative impact on state revenue of $3 million.[5]

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[4] Section 119.07(1), F.S.

[5] Office of Economic and Demographic Research, Revenue Impact Conference, *Analysis of House Bill 993 (Qualified Job Training Organizations)* (Mar. 19, 2004), available at http://www.state.fl.us/edr/conferences/revenueimpact/Impact_pdf/2004/page159.pdf (last visited Apr. 9, 2004).

In Millions of Dollars	Fiscal Year 2004-2005							
	General Revenue		Trust		Local		Total	
Issue/Fund	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
HB 933	$ (3.0)	$ (3.0)	$ (0.0)	$ (0.0)	$ (0.0)	$ (0.0)	$ (3.0)	$ (3.0)

B. Private Sector Impact:

Organizations that are certified as qualified job training organizations and receive distributions may be able to increase economic development through capital construction, improvements, or equipment that may result in expanded employment opportunities.

C. Government Sector Impact:

The Department of Revenue has reviewed the bill but has not determined whether the bill would impose operational costs on the department which would require additional appropriations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.