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.)

Prepared By: Commerce and Consumer Services Committee

BILL: SB 1070

SPONSOR: Senator Constantine and others

SUBJECT: Economic Development Incentives

DATE: March 23, 2005 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barrett	Cooper	CM	**Favorable**
2.			CA	
3.			GE	
4.			WM	
5.				
6.				

I. Summary:

This bill provides that 50 percent of the sales tax collections generated by the use and operations of an eligible convention center will be remitted back to the unit of local government owning the eligible convention center. This bill prescribes the convention center standard services that are eligible for the sales tax rebate. The remitted tax collections must be used for economic development. Distributions may not exceed $2 million per fiscal year for each eligible local government and may not exceed $10 million in the aggregate per fiscal year. Such distributions are required to begin 60 days following certification and may not continue for longer than 30 years. The criteria for eligibility are delineated in newly created s. 288.1171, F.S. The Governor's Office of Tourism, Trade, and Economic Development (OTTED) is responsible for screening and certifying eligible convention centers.

This bill substantially amends section 212.20, Florida Statutes, and creates section 288.1171, Florida Statutes.

II. Present Situation:

Economic Development Incentives

Several incentive programs are available to attract, recruit, and retain businesses in Florida. The majority of the programs are coordinated and administered by the Office of Tourism, Trade, and Economic Development (OTTED) and Enterprise Florida, Inc (EFI). EFI has overall responsibility for the retention and recruitment of businesses to the state. The Legislature has expressed its intent in s. 288.90151(2), F.S., for EFI to work with local economic development entities to maximize the state and local return-on-investment to create jobs for Floridians.

Examples of Business Development Incentives

The Qualified Targeted Industry (QTI) Tax Refund Program is one of the state's key economic development incentives. The QTI program encourages quality job growth in targeted high-wage, value-added businesses. Approved businesses receive refunds on taxes paid (corporate income, sales, and certain other taxes) for creating new jobs in specified industry categories.[1] This program defines a "target industry business" as a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by OTTED in consultation with EFI:

- Future growth. – Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to Florida's growing access to international markets or to replacing imports.
- Stability. – The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the demand for products of this industry is not necessarily subject to decline during an economic downturn.
- High wage. – The industry should pay relatively high wages compared to statewide or area averages.
- Market and resource independent. – The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis.
- Industrial base diversification and strengthening. – The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis.
- Economic benefits. – The industry should have strong positive impacts on or benefits to the state and regional economies.[2]

The High-Impact Performance Incentive (HIPI) Grant is an incentive used to attract and grow high-impact facilities.[3] To qualify, a business must make a cumulative investment in the state of at least $100 million and create at least 100 new full-time equivalent jobs in the state. If the business is a research and development facility, it must make a cumulative investment of at least $75 million and create at least 75 new full-time equivalent jobs. The investment and employment targets must be achieved within three years after the date the business is certified as a qualified high-impact business.[4] The QTI and HIPI programs apply to high technology and manufacturing businesses but not necessarily to tourism-related businesses.

[1] Section 288.106, F.S.
[2] Section 288.106(1)(o), F.S.
[3] Section 288.108, F.S.
[4] *Id.* at (2)(a).

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 by the Department of Revenue (DOR). Several provisions within s. 212.20, F.S., provide economic 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 DOR after certification by OTTED.[5] OTTED grants or denies certification using criteria set out in s. 288.1162, F.S. Other examples include the Professional Golf Hall of Fame facility,[6] certified under s. 288.1168, F.S., and the International Game Fish Association World Center facility,[7] certified under s. 288.1169, F.S. Recipients receive a fixed monthly distribution of sales tax revenues set by statute 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: $167,667 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, recertification, sanctions, audits, and a prohibition of additional certifications for the same facility.

Convention Centers

At this time, there are eleven convention centers in the state that contain at least 60,000 square feet of exhibit space:

- Orange County Convention Center (2,053,820 sq. ft.);
- Miami Beach Convention Center (502,848 sq. ft.);
- Tampa Convention Center (200,000 sq. ft.);
- Broward County Convention Center (199,526 sq. ft.);
- Coconut Grove Convention Center, Miami (150,000 sq. ft.);
- Palm Beach County Convention Center (100,000 sq. ft.);
- Lakeland Center (100,000 sq. ft.);
- Prime F. Osborn III Convention Center, Jacksonville (78,500 sq. ft.);
- Tallahassee Leon County Civic Center (78,000 sq. ft.);

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[5] Section 212.20(6)(d)7.b., F.S.
[6] Section 212.20(6)(d)7.c., F.S.
[7] Section 212.20(6)(d)7.d., F.S.

- Expo Center, Orlando (65,200 sq. ft.); and
- Ocean Center, Volusia (60,000).[8]

Local Option Tourist Development Taxes

Section 125.0104, F.S., authorizes counties to levy five separate tourist development taxes on transient rental transactions: The Tourist Development Tax, the Additional Tourist Development Tax, the Professional Sports Franchise Facility Tax, the Additional Professional Sports Franchise Facility Tax, and the High Tourism Impact Tax. (See TABLE 1) Depending on the particular tax, the levy may be authorized by vote of the governing body or referendum approval. Tax rates vary by county depending on a county's eligibility to levy particular taxes. The maximum tax rate for most counties is 3 or 4 percent; however, the maximum rate is 6 percent for several counties.

Generally, the revenues may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance; however, the authorized uses vary according to the particular levy.

TABLE 1: Tourist Development Taxes

TAX	AUTHORIZED LEVY (%)	# OF COUNTIES AUTHORIZED TO LEVY TAX	# OF COUNTIES LEVYING TAX
TOURIST DEVELOPMENT			
Original Tax (s. 125.0104(3)(b), F.S.)	1 or 2%	67	53
Additional Tax (s. 125.0104(3)(d), F.S.)	1%	45	33
Professional Sports Franchise Facility Tax (s. 125.0104(3)(l), F.S.)	up to 1%	67	17
Additional Professional Sports Franchise Facility Tax (s. 125.0104(3)(n), F.S.)	1%	15	4
High Tourism Impact Tax (s. 125.0104(3)(m), F.S.)	1%	Monroe, Orange & Osceola	Orange & Osceola

(Source: Legislative Committee on Intergovernmental Relations, 3/2004)

[8] Revenue Estimating Conference, February 14, 2005.

III. Effect of Proposed Changes:

Section 1 amends s. 212.20(6)(d)7., F.S., to require the Department of Revenue (DOR) to distribute monthly to qualified local governments, 50 percent of the sales tax collections generated by the use and operations of eligible convention centers and reported on the convention center's sales and use tax return. The eligible convention centers must be certified pursuant to new s. 288.1171, F.S. The sales taxes eligible for rebate must come from the following convention center standard services provided by center staff: parking; admission; ticket sales; food services; electrical or like services; space rentals; equipment rentals; and security services. Distributions may not exceed $2 million per fiscal year for each eligible local government and total distributions to all units of local governments may not exceed $10 million each fiscal year. The distributions are limited to the taxes collected and remitted under ch. 212, F.S. Such distributions are required to begin 60 days following certification and may not continue for longer than 30 years. Distributions may only be used to encourage and provide economic development for the attraction, recruitment, and retention of corporate headquarters and of high-technology, manufacturing, research and development, entertainment, and tourism industries as designated by the unit of local government by resolution of its governing body; and to assist the eligible convention centers in attracting more business and expanding their offerings.

Section 2 creates s. 288.1171, F.S., which states that the Office of Tourism, Trade, and Economic Development (OTTED) shall adopt rules to screen applicants and certify those meeting the criteria as an "eligible convention center." The criteria for eligibility for each center include that:

- it must be owned by a unit of local government;
- it must contain more than 60,000 square feet of exhibit space;
- its application for funding must be certified by resolution as serving a public purpose; and
- it must be located in a county levying a local option tourist development tax under s. 125.0104, F.S.

Previously certified applicants are not eligible for additional certifications.

Funds distributed to a local government are required to be used for the economic development purposes set forth above as designated in a resolution adopted by the governing body of the local government. DOR may conduct an audit to verify the expenditure of the distributions and may pursue recovery of funds if the funds are not expended in accordance with the bill's requirements. Failure to use the funds as provided in the bill is grounds for revoking certification.

Section 3 provides an effective date of July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

On February 14, 2005, the Revenue Estimating Conference adopted the revenue impact estimate for SB 1070. This bill will result in lost revenue to the state. However, any negative impact on local governments that own the eligible convention centers will be more than offset by the remittance of 50 percent of state and local sales taxes collected in the convention centers.

Fiscal Impact (millions of dollars)

	Cash	Recurring
General Revenue	(2.5)	(3.3)
Local Impact	2.5	3.3
Total Impact	0.00	0.00

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

For administrative clarity, DOR recommends the following provision be added to proposed s. 212.20(6)(d)7.e., F.S.:

In the event that collections and remittances of eligible convention centers exceed the $10 million maximum amount authorized for distribution, the department shall distribute proceeds to each eligible convention center using an apportionment factor, the numerator of which will be the amount remitted by an eligible convention center, and the denominator will be the total amount remitted by all eligible convention centers. The apportionment factor for each eligible convention center will be applied to the $10 million maximum amount authorized for distribution to determine the amount that shall be distributed to each local government unit.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.