

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 208

INTRODUCER: Commerce and Tourism Committee and Senator Hukill and others

SUBJECT: Motorsports Entertainment Complexes

DATE: March 5, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Askey</u>	<u>Hrdlicka</u>	<u>CM</u>	<b>Fav/CS</b>
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<b>Fav/CS</b>
3.	<u>Fournier</u>	<u>Kynoch</u>	<u>AP</u>	<b>Pre-meeting</b>
4.	_____	_____	<u>RC</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 208 permits the Department of Economic Opportunity to certify one motorsports entertainment complex to receive a monthly distribution from state sales tax revenues.

The bill authorizes the Auditor General to conduct audits to ensure that distributions are expended as required and, if not found in compliance, notify the Department of Revenue which may pursue recovery of such funds.

The distribution is \$166,667 monthly for up to 30 years. For Fiscal Year 2014-2015, the fiscal impact of the bill is a negative \$1.7 million; the recurring fiscal impact is a negative \$2 million annually.

**II. Present Situation:**

**Motorsports in Florida**

Automobile racing in Florida has a long and storied history stretching back more than 100 years. In April 1902, the first “tests of speed” began on the 12-mile stretch of beach between Ormond and Daytona.<sup>1</sup>

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<sup>1</sup> Randall L. Hall, *Automobile Racing in the South*, The Journal of Southern History, (August 2002).

In late 1947, a group of racing promoters gathered in Daytona Beach to create an organization which would unify automobile racers and build back interest in the sport following World War II. This meeting was the impetus for the incorporation of the National Association of Stock Car Auto Racing (NASCAR) in 1948.<sup>2</sup>

Today, NASCAR is automobile racing's largest sanctioning body for stock cars. Currently, NASCAR has 28 sanctioned tracks. Additionally, Florida is one of only three states that have two NASCAR-sanctioned tracks. These tracks are the Daytona International Speedway and the Homestead-Miami Speedway.<sup>3</sup> Information on the tracks is below:

	<b>Daytona International Speedway<sup>4</sup></b>	<b>Homestead Miami Speedway<sup>5</sup></b>
Major Races	Daytona 500, Coke Zero 400	Ford EcoBoost 400, Ford EcoBoost 300
Year Opened	1959	1995
Grandstand Seating Capacity	147,000	65,000
Location	Volusia County	Miami-Dade County
Facility Operator	International Speedway Corporation (facility leased from Daytona Beach Racing and Recreational Facilities District)	International Speedway Corporation (facility leased from City of Homestead)

The Daytona 500 is the opening race of the NASCAR Sprint Cup Series, and is considered the race that “sets the tone for the entire season to follow.”<sup>6</sup> The Ford EcoBoost 400 is the NASCAR Sprint Cup Series' final race.

Aside from the two NASCAR-sanctioned tracks, Florida is home to an additional 50 automobile racing tracks. These tracks are located throughout the state, and provide local amateur racers and enthusiasts the opportunity to be involved with the sport.<sup>7</sup>

### **Sales and Use Tax**

Chapter 212, F.S., contains the state's statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property and a limited number of services. The statutes currently provide for more than 200 different exemptions.

<sup>2</sup> *Id.*

<sup>3</sup> NASCAR Tracks, available at: [www.nascar.com/races/tracks/](http://www.nascar.com/races/tracks/), (last visited on December 17, 2013).

<sup>4</sup> ESPN, *NASCAR Track Guide: Daytona International Speedway*, (June 27, 2011), available at: <http://espn.go.com/espn/thelife/news/story?id=2346804>, (last visited on December 17, 2013).

<sup>5</sup> Homestead Miami Speedway website, *The History of Homestead-Miami Speedway*, available at: <http://www.homesteadmiamispeedway.com/About/Track-History.aspx>, (last visited on December 17, 2013).

<sup>6</sup> *Supra* note 4.

<sup>7</sup> Florida Race Track Directory of Asphalt & Dirt Tracks & Drag Strips, available at: <http://www.racingin.com/track/florida.aspx>, (last visited December 17, 2013).

**Sales Tax Funding of Professional Sports Facilities**

Since 1991, Florida has authorized distributions from state sales tax for professional sports facilities and for spring training facilities.<sup>8</sup> There are eight certified new or retained professional sports franchise facilities in Florida, the total number allowed under the statute.<sup>9</sup> The maximum payment allowed for a new or retained professional sports franchise facility is \$166,667 per month for up to 30 years. The facilities funded under this program and the payment distribution for each are listed below:

<b>Facility name</b>	<b>Certified entity</b>	<b>Franchise</b>	<b>First Payment</b>	<b>Final Payment</b>	<b>Total payments as of January 2014</b>
Sun Life Stadium	Dolphins Stadium/ South Florida Stadium	Florida (Miami) Marlins <sup>10</sup>	06/94	06/2023	\$41,166,749
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/94	05/2024	\$39,333,412
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	06/95	06/2025	\$37,166,741
Tampa Bay Times Forum	Tampa Sports Authority	Tampa Bay Lightning	09/95	08/2025	\$36,833,407
BB&T Center	Broward County	Florida Panthers	08/96	07/2026	\$35,000,070
Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/97	12/2026	\$34,166,729
American Airlines Arena	BPL, LTD	Miami Heat	03/98	03/2028	\$31,666,730
Amway Center	City of Orlando	Orlando Magic	02/08	01/2038	\$12,000,024

*(Information from the Department of Economic Opportunity and Department of Revenue)*

A local governments may be certified to receive funding for the purpose of acquiring, constructing, reconstructing, or renovating a spring training facility.<sup>11</sup> In order to be certified, a facility must be located in a county that levies a tourist development tax under s. 125.0104, F.S., which authorizes an additional 1-cent excise tax on transient lodgings that is used to pay debt service on bonds issued to finance the facility. (Duval County and Miami-Dade County are authorized under other statutes to levy additional transient lodging taxes for this purpose.<sup>12</sup>) Even though new spring training facilities had been eligible for certification since 1991 under s. 288.1162, F.S., no such facilities were certified. In 2000, funding (\$41,667 per month for up to

<sup>8</sup> Section 212.20(6)(d)6.b. and e., F.S.

<sup>9</sup> Section 288.1162, F.S. The number of new or retained facilities eligible for funding was increased from 6 to eight by ch. 96-320, L.O.F.

<sup>10</sup> The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.

<sup>11</sup> Sections 288.11621 and 288.11631, F.S.

<sup>12</sup> Section 212.0305(4)(a), F.S. (Duval County) and s. 212.0305(4)(b), F.S., (Miami-Dade County.)

30 years) for each of five “retained” spring training facilities was provided.<sup>13</sup> In 2006 the number of spring training facilities eligible for funding was doubled.<sup>14</sup> As of January 8, 2013, there were 10 certified local governments. The local governments and the payment distribution for each are listed below:

<b>Certified Local Government</b>	<b>Franchise</b>	<b>Facility</b>	<b>First Payment</b>	<b>Final Payment</b>	<b>Total Payments as of January 2014</b>
City of Clearwater	Philadelphia Phillies	Bright House Field	February 2001	February 2031	\$6,458,385
City of Dunedin	Toronto Blue Jays	Dunedin Stadium	February 2001	February 2023	\$6,458,385
Indian River County	Los Angeles Dodgers <sup>15</sup>	Holman Stadium (Dodgertown)	February 2001	February 2031	\$6,458,385
Osceola County	Houston Astros	Osceola County Stadium	February 2001	February 2016	\$6,458,385
City of Lakeland	Detroit Tigers	Joker Marchant Stadium	February 2001	February 2016	\$6,027,795
Charlotte County	Tampa Bay Rays	Charlotte County Stadium	March 2007	March 2037	\$3,458,361
City of Bradenton	Pittsburgh Pirates	McKechnie Field	March 2007	March 2037	\$3,458,361
City of Fort Lauderdale <sup>16</sup>	NA	NA	March 2007	March 2037	\$0
City of Sarasota <sup>17</sup>	Baltimore Orioles	Ed Smith Stadium	March 2007	March 2037	\$3,458,361
St. Lucie County	New York Mets	Digital Domain Park	March 2007	March 2037	\$1,824,793
Lee County	Minnesota Twins	Hammond Stadium	July 2013	June 2043	\$291,669

*(Information from the Department of Economic Opportunity and Department of Revenue)*

<sup>13</sup> Chapter 2000-186, L.O.F.

<sup>14</sup> Chapter 2006-262, L.O.F.

<sup>15</sup> The L.A. Dodgers relocated their spring training operations to Arizona in 2008.

<sup>16</sup> The City of Ft. Lauderdale was unable to find a suitable home for the Baltimore Orioles. In 2011, OTTED requested the city return the unspent funds to the state. The city submitted a check to the state for the full amount, plus interest, as required by statute. The funds were returned to the state’s General Revenue Fund. On April 6, 2012, a notice was published in the Florida Administrative Register announcing the application period for the Spring Training Baseball Facilities program, based on an opening that resulted from the decertification of the City of Fort Lauderdale and the return of funds. Lee County was the only applicant, on behalf of the Minnesota Twins for \$15 million over 30 years. On August 9, 2012, Lee County received notice that it had been certified.

<sup>17</sup> Sarasota was awarded funds for a facility for the Cincinnati Reds, but was unable to use these funds because the Reds moved to Arizona in 2009. Sarasota petitioned the then Director of OTTED, and was granted permission to use the state funds to help pay debt service on bonds to be issued and entered into a long-term agreement with the Baltimore Orioles.

In 2013, the Legislature approved a new funding program for spring training facilities. Section 288.11631, F.S., provides funding for a facility used by a single spring training franchise up to \$55,555 per month for up to 30 years; a facility used by more than one franchise can receive \$111,110 monthly for up to 37.5 years.<sup>18</sup>

Monthly sales tax distributions (\$166,667 for up to 300 months) also fund the professional golf hall of fame.<sup>19</sup> The International Game Fish Association World Center facility received a lump-sum payment (\$999,996) after it was certified in 2000 and received a monthly distribution (\$83,333 for up to 168 months) which ended in FY 2013-14.

### **Local Government Half-cent Sales Tax Program**

The Local Government Half-cent Sales Tax Program (program) is the largest source of revenue received by local governments among the state's shared revenue sources. The program primarily serves to provide ad valorem and utility tax relief, in addition to providing eligible local governments revenues for local programs.<sup>20</sup> A local government may also pledge funds from the program for payment of principal and interest on any capital project.<sup>21</sup>

Moneys for the program are collected pursuant to the provisions of ch. 212, F.S. The program distributes funds to eligible local governments through three distributions of sales tax revenues remitted by a sales tax dealer within the eligible participating county.<sup>22</sup> The *ordinary* distribution operates by a transfer of 8.814 percent of net sales tax proceeds remitted by a sales tax dealer in the eligible local government's jurisdiction to the Local Government Half-cent Sales Tax Clearing Trust Fund (trust fund).<sup>23</sup> The *emergency* and *supplemental* distributions operate by a transfer of 0.095 percent of net sales tax proceeds to the trust fund, and are available only to those counties that meet certain fiscal eligibility requirements, or have an inmate population of greater than 7 percent of the total county population.<sup>24,25</sup> An additional, separate distribution from the trust fund is available to qualifying fiscally constrained counties.<sup>26</sup>

Funds remitted by sales tax dealers within a local government's jurisdiction and transferred to the trust fund are earmarked and distributed monthly to the governing bodies of participating eligible local governments.<sup>27</sup> Program funds are distributed to participating county and municipal governments based on a distribution formula.<sup>28</sup>

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<sup>18</sup> Chapter 2013-42, L.O.F.

<sup>19</sup> Section 212.20(6)(d)6.c., F.S.

<sup>20</sup> Office of Economic and Demographic Research, *2012 Local Government Financial Information Handbook*, (October 2012), available at: <http://edr.state.fl.us/Content/local-government/reports/lgfi12.pdf>, (last visited on December 17, 2013).

<sup>21</sup> Section 218.64, F.S.

<sup>22</sup> Section 218.63, F.S., defines eligibility requirements. In order to participate in the program, a local government must meet the revenue sharing eligibility requirements specified in s. 218.23, F.S.

<sup>23</sup> Section 212.20(6)(d)2., F.S.

<sup>24</sup> Section 212.20(6)(d)3., F.S.

<sup>25</sup> *Supra* note 8 at page 55.

<sup>26</sup> Section 218.67, F.S.

<sup>27</sup> Section 218.61, F.S.

<sup>28</sup> Section 218.62, F.S.

If a majority of the members of the governing body of a county government and a majority of the members of the governing authority of municipalities representing at least 50 percent of the county's municipal population adopt an ordinance, up to \$2 million annually of the program funds allocated to that county may be used for the following purposes:<sup>29, 30</sup>

- Funding a facility certified as a new or retained professional sports franchise under s. 288.1162, F.S., or a facility certified as a spring training franchise under s. 288.11621, F.S.
- Funding an applicant certified as a “motorsports entertainment complex” under s. 288.1171, F.S.

### **Motorsports Entertainment Complex Certification**

Section 288.1171, F.S., provides the procedure by which a local government may receive certification for a motorsport entertainment complex in order to use \$2 million of Local Government Half-cent Sales Tax Program funds to pay for certain costs associated with the complex. As of October 30, 2013, no local government has received certification for a motorsport entertainment complex to use such funds.<sup>31</sup> A motorsport entertainment complex is defined as a closed-course racing facility.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants to allow them to use program funds for these purposes. An applicant must be a unit of local government that either owns a motorsport entertainment complex or owns the land on which a complex is located.

Before certifying an applicant as a motorsport entertainment complex, the DEO must first verify that:

- The local government holds title to the land on which the complex is located or holds title to the complex; and
- The local government in which the complex is located has certified by resolution after a public hearing that the application for certification serves a public purpose.

If the DEO determines an applicant meets eligibility requirements, it must notify the applicant and the Department of Revenue (DOR) of the applicant's certification through an official letter. If an applicant does not meet the requirements, the DEO must notify the applicant within 10 days of such determination. An applicant may not receive more than one certification. There are no limitations on the number of applicants that may be certified.

An applicant certified as a motorsport entertainment complex may only use funds provided from the Local Government Half-cent Sales Tax Program for the public purposes of paying for the construction, reconstruction, expansion, or renovation of a motorsport entertainment complex, including related transportation and other infrastructure improvements; paying debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. Additional eligible uses include paying for

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<sup>29</sup> Section 218.64(3)(b), F.S.

<sup>30</sup> If a county and municipal government's governing body support using program funds to support funding of professional sports, spring training, or motorsports entertainment complexes, their distribution for general use is provided *after* funding is provided for these projects.

<sup>31</sup> Department of Economic Opportunity, *Agency Bill Analysis: SB 208*, (October 30, 2013).

advertising and promotional activities related to the motorsport entertainment complex or the municipality or county in which the complex is located, if such activities are designed to increase tourism or promote economic development of the municipality or county.<sup>32</sup>

The DOR may perform an audit to ensure the distributions are expended as required, and may pursue recovery of any funds not expended as required by law.

### III. Effect of Proposed Changes:

CS/SB 208 permits the DEO to certify one motorsports entertainment complex to receive a monthly distribution from state sales tax revenues. It also limits certification and funding of motorsports entertainment complexes under s. 218.64, F.S., by limiting certification by DEO as a motorsport entertainment complex to only one applicant and providing additional criteria for qualifying as a motorsports complex eligible for funding under that section.

**Section 1** amends s. 212.20, F.S., to direct the DOR to distribute \$166,667 monthly from state sales tax revenues to a motorsports entertainment complex certified under s. 288.1171, F.S.

**Section 2** amends s. 288.1171, F.S., to permit a single motorsports entertainment complex to receive a distribution from either the Local Government Half-cent Sales Tax Program, as provided in current law, or state sales tax revenue upon certification by the DEO.

The bill limits a “motorsports entertainment complex” to “a closed-course racing facility that has at least 50,000 fixed seats.”

**Application** Before certification, the DEO must determine whether the applicant meets certain criteria. In addition to the current criteria discussed above in the present situation, the bill also requires the DEO to determine that:

- The applicant has approval from a sanctioning body<sup>33</sup> that motorsport events are sanctioned to occur at the applicant’s complex;
- The applicant has projections, verified by the DEO, which demonstrate that the complex will attract paid attendance of more than 100,000 annually;
- The applicant has an independent analysis, verified by the DEO, which demonstrates that the amount of revenues generated by the taxes imposed under ch. 212, F.S., with respect to the use and operation of the complex will equal or exceed \$2 million annually;

<sup>32</sup> Distributions to professional sports facilities and local governments for funding spring training facilities under s. 212.20(6)(d)6.b and e., F.S., may not be used for advertising and promotional activities related to the motorsport entertainment complex or the municipality or county in which the complex is located, if such activities are designed to increase tourism or promote economic development of the municipality or county.

<sup>33</sup> Defined in current law under s. 288.1171(1)(e), F.S., as the American Motorcycle Association (AMA), Championship Auto Racing Teams (CART), Grand American Road Racing Association (Grand Am), Indy Racing League (IRL), National Association for Stock Car Auto Racing (NASCAR), National Hot Rod Association (NHRA), Professional Sportscar Racing (PSR), Sports Car Club of America (SCCA), United States Auto Club (USAC), or any successor organization, or any other nationally recognized governing body of motorsports which establishes and administers rules and regulations governing all participants involved in such events and all persons conducting such events, and requires certain liability assurances, including insurance.

- The applicant has demonstrated that it has or is capable of providing, or has financial or other commitments to provide, one-half the cost incurred or related to the improvement and development of the complex; and
- The total cost of the construction, reconstruction, expansion, or renovation of the complex exceeds \$250 million.

**Certification**The bill provides that the DEO may certify only one applicant as a motorsports entertainment complex. The approved applicant may not seek a distribution from the Local Government Half-cent Sales Tax Program under s. 218.64(3), F.S., while receiving a distribution from state sales tax revenue under s. 212.20, F.S.

### **Audits**

The bill authorizes the Auditor General to verify the expenditure of distributions, and notify the DOR of improperly expended funds so that it may pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.

**Section 3** provides for an effective date of July 1, 2014.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

## **V. Fiscal Impact Statement:**

### **A. Tax/Fee Issues:**

The distribution of sales tax revenue to a motorsports entertainment complex would decrease General Revenue by \$1.7 million in Fiscal Year 2014-2015 and \$2 million on a recurring basis.

### **B. Private Sector Impact:**

The bill will allow the owner of a certified motorsports entertainment complex to receive funding of up to \$2 million per year for up to 30 years, for a total distribution of \$60 million, to support renovations of such a complex. It prevents other potentially-eligible facilities from being certified and receiving funding under s. 218.64, F.S.



**C. Government Sector Impact:**

The DEO indicated that any costs incurred would be covered by current resources.

The DOR indicated that the bill would have insignificant impact on the department.

Funds distributed under s. 212.20, F.S., to a motorsports entertainment complex may be used to pay for advertising or promotion of or related to the motorsports entertainment complex or the municipality or county in which the complex is located, if the advertising or promotion is designed to increase paid attendance at the complex or increase tourism in or promote the economic development of the community in which the complex is located.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 212.20 and 288.1171

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism on Jan. 8, 2014:**

The committee substitute corrects a reference to clarify that the certified applicant may not seek a distribution from the Local Government Half-cent Sales Tax Program under s. 218.64(3), F.S., while receiving a distribution from state sales tax revenue under s. 212.20, F.S.

**B. Amendments:**

None.