

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 791 Sports Franchises and Facilities

**SPONSOR(S):** Avila, Bryan

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee	13 Y, 2 N	Willson	Cooper
2) Ways & Means Committee	17 Y, 0 N	Aldridge	Langston
3) Commerce Committee	21 Y, 0 N	Willson	Hamon

### SUMMARY ANALYSIS

Florida is home to many professional and semi-professional sports franchises. Generally, the facilities where these franchises play are financed through local government-issued bonds, which are repaid using a combination of state and local tax revenues and related incentive programs. The facilities are generally located on land leased or purchased from local government.

The bill repeals the following sections of law:

- Section 288.1162, F.S., relating to Professional Sports Franchises,
- Section 288.11621, F.S., relating to Spring Training Baseball Franchises,
- Section 288.11625, F.S., relating to Sports Development,
- Section 288.11631, F.S., relating to Retention of MLB Spring Training Baseball Franchises, and
- Section 288.1171, F.S., relating to Motorsports Entertainment Complexes.

The bill prohibits the use of Tourist Development Tax or Convention Development Tax revenues to finance or construct any aspect of a facility that is or will be used by a sports franchise after July 1, 2019.

The bill amends subsections 218.64(2) & (3), F.S., removing the authority for local governments to spend the half-cent sales tax on a motorsport entertainment complex or for reimbursements under the sports development program.

The bill creates s. 288.1163, F.S., providing for certain conditions relating to sports franchise facilities and public land. Specifically, the bill:

- Prohibits a sports franchise from constructing or improving a facility on land that is leased from the state or local government.
- Requires that the lease or sale of public land to a sports franchise for a sports facility must be at fair market value.
- Specifies that a facility that is owned, operated or leased by a sports franchise is not tax exempt.
- Provides that any new or amended contract include a provision requiring the sports franchise to pay off any outstanding governmental debt in the event that the sports franchise stops using the facility.

The bill deletes subparagraph 125.35(1)(b)3., F.S., relating to the lease of professional sports franchise facilities that are financed by certain tax revenues.

The bill specifies that lawful contracts entered into before July 1, 2019, will not be affected and that the provisions of the bill will not be construed to impair existing contracts without the consent of the parties.

The bill may have an indeterminate fiscal impact on both the state and local governments.

The bill has an effective date of July 1, 2019.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0791e.COM

**DATE:** 3/21/2019

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

#### State Incentives for Professional Sports Franchise Facilities

##### **Professional Sports Franchise Program (s. 288.1162, F.S.)**

The Professional Sports Franchise program allows professional sports franchises in Florida to receive state sales and use tax revenue to pay for the construction or renovation of a facility for a new or retained professional sports franchise.<sup>1</sup> Local governments, non-profit, and for-profit entities may apply to the program. Approved applicants are eligible to receive up to \$2,000,004 per year for a period of up to 30 years.<sup>2</sup> No more than eight facilities can be certified under this program at one time.<sup>3</sup>

Currently, eight facilities receive distributions under the Professional Sports Franchise Program. Each facility is currently on track to receive \$60 million, which is the maximum distribution allowable under this program (\$166,667 per month or \$2,000,004 per year, over 30 years), as follows:

Facility name	Location, Certified entity, & Certification Date	Franchise	First Payment Final Payment	Lease Expiration Date	Total payments as of Feb. 2019
Hard Rock Stadium (formerly Sun Life, Land Shark, Dolphin, Pro Player, Joe Robbie)	Miami, S. FL. Stadium Corp., May 1993	Miami Marlins <sup>4</sup>	06/1994 06/2023	99 yr, issued 1987	\$51,333,436
TIAA Field (previously EverBank Field)	Jacksonville, City of Jacksonville, April 1994	Jacksonville Jaguars	06/1994 05/2024	2030	\$49,500,099
Tropicana Field	St. Petersburg, City of St. Petersburg, May 1995	Tampa Bay Rays	07/1995 06/2025	2027	\$47,333,428
Amelie Arena (previously Tampa Bay Times Forum)	Tampa, Tampa Bay Sports Auth., July 1995	Tampa Bay Lightning	09/1995 08/2025	2025	\$47,000,094
BB&T Center	Sunrise, Broward County, June 1996	Florida Panthers	08/1996 07/2026	2028	\$45,166,757
Raymond James Stadium	Tampa, Hillsborough County, November 1996	Tampa Bay Buccaneers	01/1997 12/2026	2028	\$44,333,422
American Airlines Arena	Miami, BPL, LTD, February 1998	Miami Heat	03/1998 03/2028	2030	\$41,833,417
Amway Center	Orlando, City of Orlando, November 2007	Orlando Magic	02/2008 01/2038	2036	\$22,166,711
<i>(Information from the Department of Revenue<sup>5</sup> and OPPAGA<sup>6</sup>)</i>				<b>TOTAL:</b>	<b>\$348,667,364</b>

<sup>1</sup> S. 288.1162, F.S.

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

<sup>3</sup> S. 288.1162(6), F.S.

<sup>4</sup> The Marlins franchise relocated from Sun Life Stadium to Marlins Park in 2012.

<sup>5</sup> Email from Lynne Moeller, Office of Legislative & Cabinet Services, Department of Revenue, Pro Sports summary by fiscal year as of 2-28-19 (Feb. 19, 2019).

<sup>6</sup> OPPAGA, *Report No. 17-13, Florida Economic Development Program Evaluations-Year 5*, p. 56 (Dec. 28, 2017).

## Spring Training Baseball Franchises Program (s. 288.11621, F.S.)

The Spring Training Baseball Franchise incentive is the state's funding mechanism to attract and retain facilities for Major League Baseball (MLB) spring training in Florida. Qualified applicants are eligible for up to \$500,000 annually for up to 30 years. These dollars are typically pledged with designated Tourist Development Tax revenue and other local government resources to secure bonds to fund the acquisition, construction, reconstruction or renovation of spring training facilities.

In 1991, the law establishing incentives to attract professional franchises to the state was significantly revised and expanded to include an incentive for spring training baseball franchises. Certification criteria for the spring training franchise incentive included a commitment by the franchise to use the facility for fifteen years, projections for paid attendance (at least 50,000 annually), 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, proof that the facility was located within 20 miles of an interstate or other limited-access highway system, and a requirement that the county levy a four-percent Tourist Development Tax, with 87.5% of the proceeds dedicated for the construction of the complex.<sup>7</sup> This law also limited the total number of awards for both the professional sports franchises and new spring training franchises to six, and prohibited facilities from receiving more than one award.

In 1999, the Legislature extended the use of the Professional Sports and Additional Professional Sports Tourist Development Taxes to fund debt service on spring training franchise facilities.<sup>8</sup> At that point, no local governments had applied for the incentive. In 2000, the law was amended to limit the incentive to "retained" rather than "new" spring training franchises; delete the requirement that the facility be located within 20 miles of an interstate or other limited-access highway system; establish ranking criteria for awards;<sup>9</sup> and limit the awards to publically-owned facilities, authorized for in-state relocations.<sup>10</sup>

In 2006, the number of authorized awards for spring training facilities was expanded to ten, with the imposition of additional certification criteria. Counties were authorized to use up to \$2 million of their local option half-cent sales tax revenues annually to fund facilities for new or retained professional sports franchises and facilities for retained spring training franchises.<sup>11</sup> Finally, the scope of the incentive was expanded in 2010, to include any spring training franchise rather than only "retained" spring training franchises,<sup>12</sup> and by August 2012, ten facilities were certified for the incentive.<sup>13</sup>

Currently, under s. 218.64(3), F.S., counties may use up to \$3 million annually of the local government half-cent sales tax allocated to that county for a number of purposes, including, as specified in s. 218.64(3)(a), F.S., "funding a certified applicant as a facility for a new or retained professional sports franchise under s. 288.1162, F.S., or a certified applicant as defined in s. 288.11621, F.S., for a facility for a spring training franchise."<sup>14</sup>

Before certifying an applicant to receive state funding for a facility for a spring training franchise, the Department of Economic Opportunity (DEO) must verify that<sup>15</sup>:

- The applicant is responsible for the acquisition, construction, management, or operation of the facility for a spring training franchise or holds title to the property on which the facility for a spring training franchise is located.

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<sup>7</sup> Ch. 91-274, Laws of Fla.

<sup>8</sup> Ch. 99-287, Laws of Fla.

<sup>9</sup> EDR, *Return on Investment for the Florida Sports Foundation Grants and Related Programs*, p. 21. (January 2015).

<sup>10</sup> Ch. 2000-186, Laws of Fla.

<sup>11</sup> Ch. 2006-262, Laws of Fla.

<sup>12</sup> Ch. 2010-140, Laws of Fla. (with provisions relating to the spring training incentive were transferred from s. 288.1162 to newly created s. 288.11621, F.S.)

<sup>13</sup> EDR, *Return on Investment for the Florida Sports Foundation Grants and Related Programs*, p. 21.

<sup>14</sup> S. 218.64(3), F.S.

<sup>15</sup> S. 288.11621(2)(a), F.S.

- The applicant has a certified copy of a signed agreement with a spring training franchise for the use of the facility for a term of at least 20 years. The agreement also must require the franchise to reimburse the state for state funds expended by an applicant under this section if the franchise relocates before the agreement expires. The agreement may be contingent on an award of funds under this section and other conditions precedent.
- The applicant has made a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility for a spring training franchise. The commitment may be contingent upon an award of funds under this section and other conditions precedent.
- The applicant demonstrates that the facility for a spring training franchise will attract a paid attendance of at least 50,000 annually to the spring training games.
- The facility for a spring training franchise is located in a county that levies a tourist development tax under s. 125.0104, F.S.

Each applicant certified since July 1, 2010, enters into an agreement that:<sup>16</sup>

- Specifies the amount of the state incentive funding to be distributed.
- States the criteria that the certified applicant must meet in order to remain certified.
- States that the certified applicant is subject to decertification if the certified applicant fails to comply with this section or the agreement.
- States that DEO may recover state incentive funds if the certified applicant is decertified.
- Specifies information that the certified applicant must report to DEO.
- Includes any provision deemed prudent by DEO.

A certified applicant may use funds provided under s. 212.20(6)(d)(6)(b), F.S., to:<sup>17</sup>

- Serve the public purpose of acquiring, constructing, reconstructing, or renovating a facility for a spring training franchise.
- Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.
- Assist in the relocation of a spring training franchise from one unit of local government to another only if the governing board of the current host local government by a majority vote agrees to relocation.

Additionally, state funds awarded to a certified applicant for a facility for a spring training franchise may not be used to subsidize facilities that are privately owned, maintained, and used only by a spring training franchise.<sup>18</sup> The expenditure of state funds distributed to a certified applicant, must begin within 48 months after the initial receipt of the state funds, with the additional requirement of the construction of, or capital improvements to, a spring training facility being completed within 24 months after the project's commencement.<sup>19</sup>

### **Retention of MLB Spring Training Baseball Franchises Program (s. 288.11631, F.S.)**

Section 288.11631, F.S., authorizes local governments that partner with a spring training baseball franchise to apply for certification from DEO to receive state distributions for the purpose of renovating or constructing a spring training baseball facility.<sup>20</sup>

Certified applicants receive a distribution from state sales tax revenue of up to \$83,333 per month for 20 years for a facility used by a single spring training franchise facility or up to \$166,667 per month for

<sup>16</sup> S. 288.11621(2)(c), F.S.

<sup>17</sup> S. 288.11621(3)(a), F.S.

<sup>18</sup> S. 288.11621(3)(b), F.S.

<sup>19</sup> S. 288.11621(3)(d)(3), F.S.

<sup>20</sup> S. 288.11631(1)-(2), F.S.

25 years for a facility used by more than one spring training franchise.<sup>21</sup> The amount of state incentive funding per certified applicant may not exceed \$20 million if the applicant's facility is used by one franchise and \$50 million if the applicant's facility is used by more than one franchise.<sup>22</sup>

Section 288.11631, F.S., which became law in 2013, mostly mirrors the provisions of s. 288.11621, F.S. The differences between the sections include:

- The agreement must be for a minimum of the length of the term of the bonds issued for the construction or renovation of the facility, or if no such bonds are issued, at least 20 years.
- A new agreement may not be signed unless the previous agreement, if any, is within 4 years of expiring.
- There is no limit to the number of applicants which may be certified.
- The net increase in recreational areas represented by the facility is not considered in the evaluation process.
- The amount of state funding provided in the agreement between the applicant and DEO may not exceed \$20 million, or if the applicant hosts 2 or more franchises, \$50 million.
- Funds provided as a result of certification under this section may not be used to acquire or reconstruct a facility, or to assist a franchise in moving from one local government to another.

*Spring Training Facilities for Major League Baseball Franchises:*

Team	Facility	Location, Certified Entity, Certification Date, Statute	Monthly Distribution, # Years Bonded, Total State Funds	First Payment Final Payment	Team's Lease Expires	Total Payments as of Feb. 28, 2019
Detroit Tigers	Joker Marchant Stadium	Lakeland Lakeland January 2001 s. 288.1162, F.S.	\$38,889 15 years \$7 million	March 2001 February 2016	2016	\$7,000,020
Houston Astros	Osceola County Stadium	Kissimmee Osceola County January 2001 s. 288.1162, F.S.	\$41,667 15 years \$7.5 million	March 2001 February 2016	2016	\$7,500,060
Los Angeles Dodgers <sup>23</sup>	Holman Stadium (now Dodgertown)	Vero Beach Indian River County January 2001 s. 288.1162, F.S.	\$41,667 30 years \$15 million	March 2001 February 2031	No lease	\$9,072,000
Philadelphia Phillies	Spectrum Field (formerly Bright House Field)	Clearwater Clearwater December 2006 s. 288.1162, F.S.	\$41,667 30 years \$15 million	March 2001 February 2031	2023	\$9,072,000
Toronto Blue Jays	Florida Auto Exchange Stadium	Dunedin Dunedin January 2001 s. 288.1162, F.S.	\$41,667 20 years \$10 million	March 2001 February 2023	2017	\$9,072,000
Baltimore Orioles	Ed Smith Stadium	Sarasota Sarasota January 2006 s. 288.1162, F.S.	\$41,667 30 years \$15 million	March 2007 March 2037	2039	\$6,000,048

<sup>21</sup> S. 212.20(6)(d)(6)(e), F.S.

<sup>22</sup> S. 288.11631(2)(c), F.S.

<sup>23</sup> This facility, now known as Historic Dodgertown, was previously occupied by the Los Angeles Dodgers until the Dodgers moved their spring training facility to Arizona in 2008. The facility hosts local sports events that bring in amateur, high school, collegiate, and international sports teams. There is not currently a Major League Baseball team based at the facility, and it is privately owned.

New York Mets	Tradition Field	Port St. Lucie St. Lucie County December 2006 s. 288.1162, F.S.	\$21,985 30 years \$7.9 million	March 2007 March 2017	2016	\$2,660,240
Pittsburgh Pirates	McKechnie Field	Bradenton Bradenton December 2006 s. 288.1162, F.S.	\$41,667 30 years \$15 million	March 2007 March 2037	2037	\$6,000,048
Tampa Bay Rays	Charlotte Sports Park	Port Charlotte Charlotte County December 2006 s. 288.1162, F.S.	\$41,667 30 years \$15 million	March 2007 March 2037	2028	\$6,000,048
Minnesota Twins	Hammond Stadium	Ft. Myers Lee County August 2012 s. 288.11621, F.S.	\$41,667 30 years \$15 million	July 2013 June 2043	2045	\$2,833,356
Houston Astros <sup>24</sup> (Recertification)	Ballpark of the Palm Beaches	West Palm Beach Palm Beach County October 2015 s. 288.11631, F.S.	\$166,667 25 years \$50 million	October 2016 September 2041	2048	\$4,833,343
Washington Nationals	<i>See above</i>	<i>See above</i>	<i>See above</i>	<i>See above</i>	<i>See above</i>	<i>See above</i>
Detroit Tigers (Recertification)	Joker Marchant Stadium	Lakeland Lakeland December 2015 s. 288.11631, F.S.	\$83,333 20 years \$20 million	November 2016 October 2036	2036	\$2,333,324
New York Yankees	George M. Steinbrenner Field	Tampa Tampa Sports Authority December 2016 s. 288.11631, F.S.	\$83,333 20 years \$20 million	January 2017 December 2036	2046	\$2,166,658
New York Mets (Recertification)	First Data Field (formerly Tradition Field)	Port St. Lucie St. Lucie County March 2017 s. 288.11631, F.S.	\$83,333 20 years \$20 million	June 2017 May 2037	2042	\$1,749,993
Atlanta Braves	CoolToday Park	City of North Port US Bank, as Trustee November 2017 s. 288.11631, F.S.	\$83,333 20 years \$20 million	January 2018 December 2037	<i>unknown</i>	1,166,662
Toronto Blue Jays	Florida Auto Exchange Stadium	Dunedin US Bank Corp. Trust July 2018 s. 288.11631, F.S.	\$83,333 20 years \$20 million	September 2018 August 2038	<i>unknown</i>	\$499,998
<i>(Information from the Department of Revenue<sup>25</sup> and OPPAGA<sup>26</sup>)</i>					<b>TOTAL:</b>	<b>\$77,744,014</b>

### Sports Development Program (s. 288.11625, F.S.)

The Sports Development Program provides state funding for constructing, reconstructing, renovating, or improving professional sports facilities, as provided under s. 288.11625, F.S. The program is administered by DEO. In order to receive funding under the program, DEO must first recommend the

<sup>24</sup> The Houston Astros moved their spring training operations from Osceola County to Palm Beach County in 2015. They share the newly certified facility with the Washington Nationals.

<sup>25</sup> Email from Lynne Moeller, Office of Legislative & Cabinet Services, Department of Revenue, Pro Sports summary by fiscal year as of 2-28-19 (Feb. 19, 2019).

<sup>26</sup> OPPAGA, *Report No. 17-13, Florida Economic Development Program Evaluations-Year 5*, p. 54-55 (Dec. 28, 2017).

applicant's request for funding to the Legislature and receive approval, then certify the approved request for funding as an annual distribution amount to the Department of Revenue.

The Program is funded by state sales and use tax revenues. Individual facilities may receive up to \$3 million annually, and no more than \$13 million can be distributed under the Program in a single year. A facility can receive distributions for up to 30 years and up to \$90 million per certified facility.

Eligible professional sport franchises include the National Football League, the National Hockey League, the National Basketball League, Major and Minor League Baseball, Major League Soccer, the North American Soccer League, the Professional Rodeo Cowboys Association, the promoter or host of a signature event administered by the Breeders' Cup Limited or the promotor of a signature event hosted by the National Association of Stock Car Auto Racing (NASCAR).

The Legislature created the Sports Development Program in 2014. To date, no facilities or applicants have been approved to receive funding and no distributions have been made under the Program.<sup>27</sup>

### **Motorsports Entertainment Complex Certification** (s. 288.1171, F.S.)

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. A motorsport entertainment complex is defined as a closed-course racing facility. As of February 2019, no local government has ever been certified for the motorsport entertainment complex program.<sup>28</sup>

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.

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 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.

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<sup>27</sup> Email from Karis Lockhart, Deputy Director of Legislative Affairs, Department of Economic Opportunity, RE: Sports Development Program information (Feb. 13, 2019).

<sup>28</sup> *Id.*

## Effect of the Bill

The bill repeals s. 288.1162, F.S., relating to Professional Sports Franchises, s. 288.11621, F.S., relating to Spring Training Baseball Franchises, s. 288.11625, F.S., relating to Sports Development, s. 288.11631, F.S., relating to Retention of MLB Spring Training Baseball Franchises, and s. 288.1171, F.S., relating to Motorsports Entertainment Complexes.

## **Public Financing and Sports Facilities**<sup>29</sup>

Many stadiums and sports facilities are financed with tax-exempt bonds, which are issued through state and local governments or other public entities such as regional sports authorities. Tax-exempt bonds allow issuers to take on debt at a lower interest rate relative to taxable bonds. In turn, the underwriter is able to get a better return on their investment because their earnings are exempt from federal income tax. The maturity structure for tax-exempt bonds is typically 20 to 30 years, so it is essentially a long-term debt that is paid back over time. Tax-exempt bonds are secured by pledged revenues which are usually generated from a tax or fee. The most commonly pledged revenues for sports facilities bonds are tourist development taxes, ad valorem taxes, and sales taxes, including local option sales taxes. Annual sales tax distributions for sports facilities financing are also used to secure tax-exempt bonds. In a few instances, the bonds have been issued as general obligation debt, which means that all revenues of the issuer, regardless of the source, may be used to pay debt service, if needed. Rarely, proceeds from land sales or other non-ad-valorem revenues are also used.

The issuance of bonds provides a large amount of cash up-front that can be used for capital investment. However, most of the bonds are issued with 30-year maturity structures, which mean that a large portion of the state funding is actually used to pay the interest cost of the debt. For example, a certified professional sports facility in Florida that receives \$2 million a year for 30 years pledges this \$60 million to pay debt service on \$30 million of bonds issued. So, the state's \$60 million investment results in \$30 million of up-front cash that can be used to construct or renovate a facility. The state's investment for spring training facilities is significantly less. In most cases, certified spring training facilities receive \$0.5 million each year for 30 years, which typically results in about \$7.5 million of cash available for the state's \$15 million investment. In both programs, the amount of cash available varies up or down slightly by facility, depending on what interest rates were at the time bonds were issued.

## **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. Additionally, s. 212.20, F.S., contains statutory direction for the schedule of distributions for the professional sports franchise facility incentive programs.

## Effect of the Bill

The bill amends s. 212.20, F.S., to specify that applicants who were not certified as a sports facility under the spring training franchises or the new or retained professional sports franchise programs before July 1, 2019, may not receive monthly distributions from DOR. The bill also deletes the provision authorizing distributions under the sports development program.

## **Tourist Development Taxes (s. 125.0104, F.S.)**

Section 125.0104, F.S., authorizes the levy of five separate local option taxes on rental charges subject to the transient rentals tax under s. 212.03, F.S., to be used in various ways to promote tourism within the county. Generally, the revenues from these levies may be used for capital construction of tourist-

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<sup>29</sup> EDR, *Return on Investment for the Florida Sports Foundation Grants and Related Programs*, p.28 (January 1, 2018).



related facilities, tourist promotion, and beach and shoreline maintenance; however, the authorized uses vary according to the particular levy. There is a prohibition against any county levying a convention development tax from levying tourist development taxes at a rate of more than 2 percent; however, this prohibition does not apply to a county's levy of the Professional Sports Franchise Facility Tax and Duval County's levy of the Additional Professional Sports Franchise Facility Tax.

In fiscal year 2018-19, 63 of the eligible 67 counties currently levying one or more of the tourist development taxes will realize an estimated \$1.02 billion in revenue.<sup>30</sup>

#### *Professional Sports Franchise Facility TDT (s. 125.0104(3)(l), F.S.)*

In addition to any other tourist development tax imposed, a county may levy up to an additional 1 percent tax on the total consideration charged for transient rental transactions. The tax is levied pursuant to an ordinance adopted by a majority vote of the county's governing body. The tax proceeds are used to pay the debt service on bonds issued to finance professional sports franchise facilities, retained spring training franchise facilities, and convention centers. In addition, these proceeds can be used to promote tourism in the State of Florida, nationally and internationally.

The provisions in s. 125.0104(4)(a)–(d), F.S., regarding the preparation of the county tourist development plan, are not be applicable to this tax. In addition, the provision in s. 125.0104(3)(b), F.S., that prohibits any county authorized to levy a convention development tax from levying more than the 2 percent tourist development tax is not applicable to this tax.

During the 2018-19 state fiscal year, 44 of the eligible 67 counties currently levying this tax will realize an estimated \$191 million in revenue.<sup>31</sup>

#### *Additional Professional Sports Franchise Facility TDT (s. 125.0104(3)(n), F.S.)*

The Additional Professional Sports Franchise Facility Tax may be levied at a rate up to 1 percent by a majority plus one vote of the governing board of the county. The tax can only be levied in counties that have imposed the Professional Sports Franchise Facility TDT. Generally, the proceeds can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and to promote and advertise tourism.

During the 2018-19 state fiscal year, the 30 counties currently levying this tax will realize an estimated \$149 million in revenue.<sup>32</sup>

#### Effect of the Bill

The bill amends paragraphs 125.0104(3)(l) & (n), F.S., to disallow a county from using the additional 1-percent taxes on certain costs related to the planning, design, or financing of a professional sports franchise facility or a retained spring training franchise facility.

The bill creates paragraph 125.0104(5)(f), F.S., to provide that Tourist Development Tax revenues may not be used to finance or construct any aspect of a facility that is or will be used by a sports franchise after July 1, 2019. The bill clarifies that lawful contracts entered into before this date are not affected.

#### **Convention Development Taxes (s. 212.0305, F.S.)<sup>33</sup>**

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<sup>30</sup> EDR, *Local Government Financial Information Handbook*, p. 251.

<sup>31</sup> *Id.* at 261.

<sup>32</sup> *Id.* at 267.

Certain counties or sub-parts of counties are authorized to levy convention development taxes on transient rental transactions. Duval (as a county consolidated with a municipality), Miami-Dade (as a charter county), and parts of Volusia currently levy a convention development tax. Three of the five available levies are applicable to separate taxing districts in Volusia County. The levies may be authorized pursuant to an ordinance enacted by the county's governing body, and the tax rates are either two or three percent depending on the particular levy. Generally, the revenues may be used for capital construction of convention centers and other tourist-related facilities as well as tourist promotion; however, the authorized uses vary by levy.

In the State Fiscal Year ending June 2019, the three counties levying a convention development tax will realize an estimated \$91 million in revenue.<sup>34</sup>

### Effect of the Bill

The bill creates paragraph 212.0305(6), F.S., to provide that Convention Development Tax revenues may not be used to finance or construct any aspect of a facility that is or will be used by a sports franchise after July 1, 2019. The bill clarifies that lawful contracts entered into before this date are not affected.

### **Local Government Half-cent Sales Tax (s. 218.64, F.S.)**

Authorized in 1982, the Local Government Half-cent Sales Tax Program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature.<sup>35</sup> It distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Additionally, the program distributes a portion of communications services tax revenue to eligible local governments. Allocation formulas serve as the basis for these separate distributions. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.<sup>36</sup>

Municipalities are authorized to spend their portion of the local government half-cent sales tax for:

- municipality-wide programs,
- reimbursing the state as required by the Sports Development Program, or
- municipality-wide property tax or municipal utility tax relief.

Counties are authorized to spend their portion of the local government half-cent sales tax for countywide tax relief or countywide programs. Subject to certain conditions, counties may also use up to \$3 million annually of the local government half-cent sales tax for the following purposes:

- new or retained professional sports franchises under s. 288.1162, F.S. or a spring training franchise under s. 288.11621, F.S.
- a certified applicant as a motorsport entertainment complex under s. 288.1171, F.S., or
- reimbursing the state as required by the Sports Development Program.

Additionally, counties and municipalities are authorized to pledge proceeds of the local government half-cent sales tax for the payment of principal and interest on any capital project.

### Effect of the Bill

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<sup>33</sup> EDR, *Local Government Financial Information Handbook*, p. 119-120.

<sup>34</sup> *Id.* at 119.

<sup>35</sup> Ch. 82-154, Laws of Fla.

<sup>36</sup> EDR, *2018 Local Government Financial Information Handbook*, p. 55.

The bill amends subsections 218.64(2) & (3), F.S., removing the authority for local governments to spend the half-cent sales tax on a motorsport entertainment complex or for reimbursements under the sports development program. The bill also specifies that a county can only use the half-cent sales tax on a new or retained professional sports franchise or spring training franchise facility that is certified prior to July 1, 2019.

## **Use of Government Land**

### **Tax-exempt Status for Certain Infrastructure**

Section 196.199, F.S., generally exempts all property of the state that is used for governmental purposes from ad valorem taxation. Additionally, property that is owned by the government but leased to a nongovernmental lessee is exempt from ad valorem taxation and the intangible tax when the lessee serves or performs a governmental, municipal, or public purpose or function, including:

. . . The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission . . .<sup>37</sup>

### **Local Government Authority to Sell and Lease Land**

Florida law provides broad authority to cities and counties to conduct governmental functions and render governmental services, except when expressly prohibited by law.<sup>38</sup> Such authority includes, but is not limited to, certain statutorily enumerated powers and all implied authority necessary to effectively exercise those express powers, including the authority to contract and to purchase, lease, sell, and exchange real or personal property.<sup>39</sup>

Counties and municipalities may also offer private entities below-market rate leases or deeds for real property for economic development purposes.

### **County Authority to Lease a Professional Sports Franchise**

Section 125.35, F.S., authorizes the board of county commissioners to sell or lease real property belonging to the county under certain circumstances. Furthermore, counties are expressly authorized to:

Lease a professional sports franchise facility financed by revenues received pursuant to s. 125.0104 or s. 212.20 which may include commercial development that is ancillary to the sports facility if the ancillary development property is part of or contiguous to the professional sports franchise facility. The board's authority to lease the above described ancillary commercial development in conjunction with a professional sports franchise facility lease applies only if at the time the board leases the ancillary commercial development, the professional sports franchise facility lease has been in effect for at least 10 years and such lease has at least an additional 10 years remaining in the lease term.

Alternatively, counties are authorized to adopt an ordinance prescribing the disposition standards and procedures for the county to use when selling or leasing property owned by the county.<sup>40</sup> At a minimum, such standards and procedures must provide for:

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<sup>37</sup> S. 196.012(6), F.S.

<sup>38</sup> See ss. 125.01 and 166.021, F.S.

<sup>39</sup> Sections 125.01(3)(a) and 166.021(1), F.S. See also Art. VIII, s. 2, FLA. CONST.

<sup>40</sup> S. 125.35(3), F.S.

- Establishment of competition and qualification standards upon which disposition will be determined.
- Reasonable public notice of the intent to consider disposition of county property and the availability of copies of the standards. Reasonableness of the notice is to be determined by the efficacy and efficiency of the means of communication used.
- Identification of the form and manner by which an interested person may acquire county property.
- Types of negotiation procedures applicable to the selection of a person to whom county properties may be disposed.
- The manner in which interested persons will be notified of the board's intent to consider final action at a regular meeting of the board on the disposition of a property and the time and manner for making objections.
- Adherence in the disposition of real property to the governing comprehensive plan and zoning ordinances.

### Effect of the Bill

The bill defines the following terms:

"Facility" means a stadium, arena, or other structure used by a sports franchise to host games or events, or any directly related property or structure, including practice facilities, offices, restaurants, concessions, retail or lodging facilities, onsite and offsite parking lots, garages, and other properties.

"Fair market value" means a negotiated price of at least the average of the values contained in two independent appraisals, performed by appraisers that meet certain minimum qualifications.

"Sports franchise" means a person or persons, sole proprietorship, corporation, limited liability company, partnership, or association that has been granted the contractual right to own or operate a professional sports team, or host a professional sporting event, in a specified location.

The bill creates s. 288.1163, F.S., providing for certain conditions relating to sports franchise facilities and public land. Specifically, the bill:

- Prohibits a sports franchise from constructing or improving a facility on land that is leased from the state or local government.
- Requires that the lease or sale of public land to a sports franchise for a sports facility must be at fair market value.
- Specifies that a facility that is owned, operated or leased by a sports franchise is not tax exempt.
- Provides that any new or amended contract include a provision requiring the sports franchise to pay off any outstanding governmental debt in the event that the sports franchise stops using the facility.
- Specifies that these provisions will not apply retroactively to existing contracts.

The bill deletes subparagraph 125.35(1)(b)3., F.S., authorizing counties to lease professional sports franchise facilities that are financed by revenues pursuant to ss. 125.0104 or s. 212.20, F.S.

The bill provides that any applications for certification under ss. 288.1162, 288.11621, 288.11625, 288.11631, or 288.1171, F.S., will be rescinded when the bill takes effect on July 1, 2019. Applicants that were certified before this date are not affected by the bill, and their contracts remain in full force and effect.

**B. SECTION DIRECTORY:**

- Section 1 Amends s. 125.0104, F.S.; deleting provisions authorizing a county to impose a specified tax for debt service on bonds relating to sports franchise facilities and professional sports franchises; prohibiting revenues generated by specified county taxes to be used for sports franchises after a certain date.
- Section 2 Amends s. 125.35, F.S.; prohibiting a county from leasing specified professional sports franchise facilities; prohibiting revenues generated by convention development taxes to be used for sports franchises after a certain date.
- Section 3 Amends s. 212.0305, F.S.; prohibiting revenues collected after a specified date to be used for sports franchise activities.
- Section 4 Amends s. 212.205, F.S.; conforming a cross-reference.
- Section 5 Amends s. 212.20, F.S.; conforming provisions to changes made by the act; removing a provision that distributes specified sales tax revenues to certain applicants.
- Section 6 Amends s. 218.64, F.S.; conforming provisions to changes made by the act.
- Section 7 Amends s. 288.0001, F.S.; deleting a provision requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to provide an analysis regarding a sports development program.
- Section 8 Repeals ss. 288.1162, 288.11621, 288.11625, 288.11631, and 288.1171, F.S., relating to professional sports franchises and their duties, spring training baseball franchises, sports development, and the retention of Major League Baseball spring training baseball franchises, respectively.
- Section 9 Creates s. 288.11633, F.S.; prohibiting the lease of public lands for certain purposes related to sports franchises and their facilities; requiring the lease of a facility on public lands for certain purposes to be at fair market value; requiring a sports franchise to repay specified debt incurred by a local government related to construction of facilities; defining the terms "facility," "fair market value," and "sports franchise".
- Section 10 Provides applicability.
- Section 11 Provides an effective date of July 1, 2019.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

- 1. Revenues:  
None.
- 2. Expenditures:  
See Fiscal Comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

- 1. Revenues:  
See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill constrains state and local government funding mechanisms for certain private sector sports franchises and facilities.

D. FISCAL COMMENTS:

There is an indeterminate impact to state and local government expenditures because the bill constrains state and local government funding mechanisms for certain private sector sports franchises and facilities which reduce such expenditures in the future. Additionally, restriction of uses of certain local option taxes may result in fewer future levies of those taxes.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES