

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6057 Sports Development Program

SPONSOR(S): Avila

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee	10 Y, 1 N	Willson	Barry
2) Ways & Means Committee	15 Y, 0 N	Berg	Langston
3) Commerce Committee	22 Y, 0 N	Willson	Hamon

SUMMARY ANALYSIS

The Sports Development Program (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 the Department of Economic Opportunity (DEO). In order to receive funding under the Program, DEO must first recommend the 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.

The professional sport franchises that can participate in the program 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.

The bill repeals s. 288.11625, F.S., eliminating the Sports Development Program, and updates a number of related sections to conform with the elimination of the Program.

The bill takes effect July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Sports and Facilities

Florida is home to many professional and semi-professional sports teams, organizations and facilities, including professional football, basketball, baseball, hockey, and soccer teams, National Association of Stock Car Racing (NASCAR) sanctioned tracks, and professional equestrian and rodeo events. Generally, team facilities are located on property leased by or purchased from local governments.

The following table provides basic information about the 10 professional sports franchises in Florida that could qualify for the Sports Development Program and their facilities:

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Hard Rock Stadium (originally Joe Robbie Stadium)	1987	Miami-Dade
Tampa Bay Buccaneers	Football	NFL	1976	Raymond James Stadium	1998	Hillsborough
Miami Heat	Basketball	NBA	1988	American Airlines Arena	1999	Miami-Dade
Orlando Magic	Basketball	NBA	1989	Amway Center	2010	Orange
Tampa Bay Lightning	Hockey	NHL	1992	Amalie Arena (previously Tampa Bay Times Forum)	1996	Hillsborough
Florida Panthers	Hockey	NHL	1993	BB&T Center	1998	Broward
Miami Marlins	Baseball	MLB	1993	Marlins Park	2012	Miami-Dade
Jacksonville Jaguars	Football	NFL	1995	TIAA Bank Field (previously EverBank Field)	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field (occupied by Rays since 1998)	1990	Pinellas
Orlando City Soccer Club/ "Lions"	Soccer	MLS	2015	Exploria Stadium (previously Orlando City Stadium)	2017	Orange

In addition to the 10 major professional sports teams, Florida is also home to the MLB's Spring Training Grapefruit League, with 15 teams holding preseason training and exhibition games in the state.¹

State Incentives for Professional Sports Franchises

¹ For general information related to professional sports in Florida, see Florida Sports Foundation at <http://www.flasports.com/> (last visited Jan. 16, 2020).

Professional Sports Franchise Program

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.² 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.³ No more than eight facilities can be certified under this program at one time.⁴

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 and Final Payments	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 ⁵	06/1994 06/2023	99 year land lease, issued 1987	\$51,333,436
TIAA Bank 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 Authority, 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
				TOTAL:	\$348,667,364

(Information from the Department of Revenue⁶ and OPPAGA⁷)

Sports Development Program

² S. 288.1162, F.S.

³ S. 212.20(6)(d)6.b., F.S.

⁴ S. 288.1162(6), F.S.

⁵ The Marlins franchise relocated from Sun Life Stadium to Marlins Park in 2012.

⁶ 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).

⁷ OPPAGA, Report No. 17-13, Florida Economic Development Program Evaluations-Year 5, p. 56 (Dec. 28, 2017).

Section 288.11625, F.S., allows for distributions of state sales and use tax revenue pursuant to s. 212.20, F.S., to fund professional sports franchise facilities. The Department of Economic Opportunity (DEO) administers the Program and is responsible for screening applicants⁸ for state funding. The purpose of the Program is to provide state funding for the construction, reconstruction, renovation, or improvement of a sports facility,⁹ the proposed acquisition of land to construct a new facility, and construction of improvements to state-owned land necessary for the efficient use of the facility.

General Application and Approval Process

DEO accepts applications between June 1 and November 1 each year. Within 60 days of receiving a completed application, DEO is required to evaluate the application and notify the applicant in writing of their decision to recommend or deny approval. DEO provides the Legislature with a list of the recommended applicants, ranked in the order of the project's likelihood to positively impact the state. To receive funding, an application must be approved by the Legislature in a conforming bill or general law approved by the Governor, and DEO must certify the applicant and its approved request for funding and notify the Department of Revenue (DOR) of the initial certification and distribution amount.

An applicant remains certified for 30 years or the length of the agreement between the beneficiary¹⁰ and the local government that owns the facility or the property on which the facility is or will be located, whichever is less.

DEO may only recommend one distribution per applicant, facility or beneficiary. Furthermore, no facility or beneficiary can receive more than one distribution under s. 212.20, F.S., for any state-administered, sports-related program.¹¹ An exception exists for applicants who can show that the beneficiary that was the subject of a previous distribution under s. 212.20, F.S., no longer plays at the facility that is the subject of the application under the new program.

"Special" Application Process for New Facilities or Projects Commenced Before July 1, 2014¹²

Section 288.11625(11), F.S., provides for an alternative application process to receive state funding under the Program. Under this process, the Legislative Budget Commission (LBC) can approve applications for new facilities or projects that commenced between March 1, 2013, and July 1, 2014, and such applicants are not subject to the competitive evaluation and ranking component. An applicant certified under the special application process remains subject to other provisions and requirements under the Program.

Distribution of State Funds

⁸ Section 288.11625(2), F.S. An "Applicant" is a unit of local government which is responsible for the construction, management, or operation of a facility; or an entity that is responsible for the construction, management, or operation of a facility if a unit of local government holds title to the underlying property on which the facility is located.

⁹ *Id.* A "Facility" is a structure, and its adjoining parcels of local-government-owned land, primarily used to host games or events held by a beneficiary and does not include any portion used to provide transient lodging.

¹⁰ *Id.* A "Beneficiary" is a professional sports franchise of the NFL, NHL, NBA, the National League or American League of MLB, Minor League Baseball, MLS, the North American Soccer League (NASL), the Professional Rodeo Cowboys Association (PRCA), the promoter or host of a signature event administered by Breeders' Cup Limited, or the promoter of a signature event sanctioned by the National Association for Stock Car Auto Racing (NASCAR). A beneficiary may also be an applicant under this program.

¹¹ Such sports-related programs include Professional Sports Franchises (s. 288.1162, F.S.), Spring Training Baseball Franchises (s. 288.11621, F.S.), Sports Development (s. 288.11625, F.S.), and Retention of MLB Spring Training Franchises (s. 288.11631, F.S.). However, if an applicant for the Sports Development Program is already receiving distributions under the Professional Sports Franchises Program (s. 288.1162, F.S.) for the same facility or beneficiary, the applicant is eligible for an additional distribution of up to \$1 million if the total project cost exceeds \$100 million.

¹² DEO Memorandum, *Re Sports Development Statute*, <http://www.floridajobs.org/docs/default-source/division-of-strategic-business-development/sports-development-program/sports-development-statute-memo.pdf?sfvrsn=6> (last visited Jan. 16, 2020).

The amount that an applicant may receive is based on 75 percent of the average annual new incremental state sales taxes generated by sales at the facility. Such annual distribution are limited by the following tiered system:

- If the total project cost is \$200 million or greater, the annual distribution amount may be up to \$3 million.
- If the total project cost is at least \$100 million, but less than \$200 million, the annual distribution amount may be up to \$2 million.
- If the total project cost is at least \$30 million, but less than \$100 million, the annual distribution amount may be up to \$1 million.

DEO is required to consult with DOR and the Office of Economic and Demographic Research (EDR) to develop a standard calculation for estimating the average annual new incremental state sales taxes generated by sales at the facility.

Use of Funds

Once certified, applicants may use Sports Development Program funds for the following purposes:

- Constructing, reconstructing, renovating, or improving a facility or reimbursing such costs;
- Paying or pledging for the payment of debt service on bonds issued for the construction or renovation of a facility;
- Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto on bonds issued for the construction or renovation of a facility; and
- Reimbursing the costs associated with debt service payments or refinancing of bonds issued for the construction or renovation of a facility.

Contract

Certified applicants must enter into a contract with DEO that:

- Specifies the terms of the state's investment;
- States the criteria that the certified applicant must meet in order to remain certified;
- Requires the applicant to submit the independent analyses required by the Program;
- Specifies information that the certified applicant must report to DEO; and
- Includes any provisions deemed prudent by DEO.

The contract must also require the applicant to reimburse the state, after all distributions have been made, any amount by which the total distributions made under the program exceed actual new incremental state sales taxes generated by sales at the facility during the contract, plus a 5% penalty on that amount. Reimbursements due to the state must be made within 90 days after the last distribution. If the applicant is unable or unwilling to reimburse the state, DEO may place a lien on the applicant's facility. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation.

Repayment of Distributions

A certified applicant may be required to repay distributions if:

- An applicant's beneficiary breaks the terms of its agreements and relocates, or no longer occupies or uses the facility as the facility's primary tenant. The beneficiary is required to reimburse the state for such distributed funds, plus a five percent penalty, if the beneficiary relocates before the agreement expires.
- DEO determines that the applicant submitted false, misleading, deceptive, or otherwise untrue information. As above, the applicant is required to reimburse the state, plus a five percent

penalty. Applicants that are a municipality or a county may reimburse the state from their half-cent sales tax allocation.

Applicant History under the Sports Development Program

To date, no applicants have been certified and no funds have been distributed under the Program.

In FY14-15, DEO received four applications: the City of Jacksonville, the City of Orlando, Daytona International Speedway, LLC, and South Florida Stadium, LLC. All applicants qualified for the “special” application process.

In FY15-16, DEO received four applications: Buccaneers Football Stadium Limited Partnership, the City of Jacksonville, Daytona International Speedway, LLC, and South Florida Stadium, LLC. The Buccaneers application was incomplete and not transmitted to the Legislature, the other applications qualified for the special application process.

In FY 16-17, DEO received one application, from Buccaneers Stadium, LLC. DEO reviewed the application under the “general” application process.

DEO did not receive any applications for the Program in FY 17-18 or FY 18-19.¹³

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 approved pursuant to ss. 288.1162 and 288.11625, F.S.

Local Government Half-cent Sales Tax (Section 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.¹⁴ 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.¹⁵

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.

¹³ Email from Karis Lockhart, Deputy Director of Legislative Affairs, DEO, RE: Sports Development Program (Jan. 17, 2020).

¹⁴ Ch. 82-154, Laws of Fla.

¹⁵ EDR, 2018 Local Government Financial Information Handbook (September 2018), p. 55.

Economic Development Programs Evaluation

Section 288.0001, F.S., requires EDR and OPPAGA to include the Sports Development Program among the list of economic development programs scheduled to be reviewed and analyzed by January 1, 2018, and every three years thereafter. As no applicants have been certified under the Program and no funds have been distributed, neither OPPAGA¹⁶ nor EDR¹⁷ was able to review and analyze the Program in its first three-year reporting cycle.

Effect of Proposed Changes

The bill repeals s. 288.11625, F.S., eliminating the Sports Development Program. To conform with the elimination of the Program, the bill also removes provisions relating to the distribution of funds under the program, reimbursement provisions, and reporting requirements.

The bill takes effect July 1, 2020.

B. SECTION DIRECTORY:

- Section 1 Repeals s. 288.11625, F.S., relating to the Sports Development Program.
- Section 2 Amends s. 212.20, F.S., conforming provisions to changes made by the act.
- Section 3 Amends s. 212.205, F.S.; conforming a cross-reference.
- Section 4 Amends s. 218.64, F.S.; conforming provisions to changes made by the act.
- Section 5 Amends s. 288.0001, F.S.; conforming provisions to changes made by the act.
- Section 6 Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None.
- 2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

¹⁶ OPPAGA, Report No. 17-13, Florida Economic Development Program Evaluations-Year 5, p. 45 (Dec. 28, 2017).

¹⁷ EDR, Return on Investment for the Florida Sports Foundation Grants and Related Programs, p. 1 (Jan. 1, 2018).

Indeterminate. No state funding was authorized and no applicants were ever approved by the Legislature under the program being repealed.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create the need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES