

# 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 Committee

BILL: CS/SB 544

SPONSOR: Commerce Committee and Senator Garcia

SUBJECT: Professional Sports Franchises

DATE: February 21, 2007

REVISED: 02/27/07

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	Fav/CS
2.			FT	
3.			TA	
4.				
5.				
6.				

## I. Summary:

CS/SB 544 authorizes a distribution of state sales and use tax revenue to a ninth professional sports franchise facility in Florida for capital improvements and related bond debt service. It directs the Office of Tourism, Trade and Economic Development (OTTED) to screen applicants and certify a ninth facility eligible for \$2 million annually over 30 years if it meets a number of existing criteria, and if the franchise that will be using the facility is a Major League Baseball club that has been located in Florida since 1993. The Florida Marlins baseball team is the only professional sports franchise to meet CS/SB 544's criteria.

This committee substitute modifies the existing prohibition against facilities that were previously certified to be eligible for a subsequent certification. Further, it deletes the existing provision offsetting any new state funding from a subsequent certification of a facility originally certified between May 23-May 25, 1993, with the funds the facility already has received through the original certification. Dolphin Stadium (formerly called Joe Robbie Stadium and Pro Player Stadium) is the only certified facility to meet these revised criteria.

New requirements are added for the facility seeking the ninth certification. The facility applicant or current franchise owner must guarantee to provide to the Department of Revenue (DOR) an annuity contract that reimburses the state for 125 percent of all future annual tax distributions if the team does not play all of its home games there. The only exception is if the team can't play because of a "force majeure event," which is a natural disaster or other listed occurrence beyond the team's control.

This committee substitute amends section 288.1162, Florida Statutes.

## **II. Present Situation:**

### **Incentives for Sports Facilities**

Several state incentive programs are available to attract, recruit, and retain businesses in Florida. The majority of the programs are coordinated and administered by OTTED and Enterprise Florida, Inc. They range from tax exemptions and tax credits, to cash payments from state sales tax revenues pursuant to ch. 212, F.S.

In 1988, with the enactment of ch. 88-226, Laws of Florida (L.O.F.), the Legislature created a funding mechanism for state support of the construction of professional sports facilities in Florida. The now-defunct Department of Commerce was assigned the duties of screening applicants, developing rules for processing applications, and presenting the applications to the Legislature for funding approval.<sup>1</sup>

It was not until 1991 that the current structure for certification of facilities for professional sports franchises and the annual distribution of \$2 million to certified facilities became law. The first facility, Joe Robbie Stadium (now called Dolphin Stadium), with the Florida Marlins as the applicant, was certified in July 1993. It began receiving a distribution of state sales tax revenues in June 1994. Through Fiscal Year 2005-2006, this stadium has received nearly \$26.7 million in state sales tax revenues pursuant to s. 212.20, F.S.

Over the years, seven facilities for professional sports franchises have been certified pursuant to s. 288.1162, F.S. Through Fiscal Year 2005-2006, they have received about \$147.2 million total in state funding pursuant to s. 212.20, F.S.

The statutory criteria used by OTTED for certification of professional sports facilities include:

- A unit of local government must be responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property on which the professional sports franchise facility is located;
- A new professional sports franchise has agreed to use the facility for 10 years and a retained franchise has agreed to use the facility for 20 years;
- The franchise's governing league approves of the facility;
- Verified projections indicate the franchise will draw more than 300,000 people annually in paid attendance;
- An independent analysis or study, verified by OTTED, demonstrating that the amount of state sales tax generated by the facility will be at least \$2 million annually;
- The county or municipality in which the facility is or will be located certifies that the application serves a public purpose;
- The applicant demonstrates that it has provided, is capable of providing, or has commitments to provide more than 50 percent of the funds necessary to pay the costs incurred or related to the facility; and
- The applicant has not been previously certified and received funds for the certified facility.

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<sup>1</sup> See ch. 88-226, L.O.F. (Filed as HB 1717 by Bell, et al.)

Funds to be distributed under s. 212.20, F.S., for certified facilities must be used only for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise; to pay or pledge for the payment of debt service, debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to any bonds issued for the acquisition, construction, reconstruction, or renovation of such a facility; for the reimbursement of these costs; or for refinancing bonds issued for these purposes.

No facility can be certified more than once.<sup>2</sup> No sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by OTTED before funds were distributed under s. 212.20, F.S., or the previous certification occurred between May 23-May 25, 1993.<sup>3</sup> However, any funds distributed pursuant to s. 212.20, F.S., for the second certification must be offset by the amount distributed to the previous certified facility, and distribution of funds for the second certification shall not be made until all amounts payable for the first certification have been distributed.<sup>4</sup>

### **Florida's Professional Sports Facilities**

Section 288.1162(7), F.S., provides that OTTED may certify up to eight facilities for new or retained professional sports franchises.<sup>5</sup> According to OTTED, there are currently seven certified professional sports franchise facilities:<sup>6</sup>

- Dolphin Stadium (formerly Joe Robbie Stadium and Pro Player Stadium), home of the Florida Marlins;<sup>7</sup>
- Alltel Stadium, home of the Jacksonville Jaguars;
- Tropicana Field, home of the Tampa Bay Devil Rays;
- St. Pete Times Forum, home of the Tampa Bay Lightning;
- Home Depot Stadium, home of the Florida Panthers;
- Raymond James Stadium, home of the Tampa Bay Buccaneers; and
- American Airlines Arena, home of the Miami Heat.

An anticipated eighth certified facility is specified in law. This facility shall be for a franchise that is a member of the National Basketball Association, has been located within the state since 1987, and has not been previously certified.<sup>8</sup> The only professional sports franchise in Florida that meets these criteria is the Orlando Magic. This provision is scheduled for repeal on July 1, 2010. News reports indicate the Magic, Orange County, and the City of Orlando are discussing a \$480 million proposal, including land and infrastructure costs.<sup>9</sup>

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<sup>2</sup> Section 288.1162(4)(d), F.S.

<sup>3</sup> Section 288.1164(9), F.S.

<sup>4</sup> Ibid.

<sup>5</sup> A "new professional sports franchise" means a professional sports franchise that was not based in Florida prior to April 1, 1987, and a "retained professional sports franchise" means a professional sports franchise that has had a league-authorized location in Florida on or before December 31, 1976.

<sup>6</sup> The only facility certified for a retained professional sports franchise is Raymond James Stadium for the Tampa Bay Buccaneers. The rest are certified for new professional sports franchises.

<sup>7</sup> The Miami Dolphins also play in Dolphin Stadium.

<sup>8</sup> Section 288.1162(7)(b), F.S., as amended by s. 2, ch. 2006-262, L.O.F.

<sup>9</sup> Orlando Sentinel, "Is Arena Deal too Good to Magic?" published Jan. 30, 2007. Article available at: <http://www.orlandosentinel.com/news/local/orange/orl-arenamoney3007jan30,0,1398391.story?coll=orl-home-headlines>.

### III. Effect of Proposed Changes:

**Section 1** makes a number of changes to s. 288.1162, F.S., in order to provide state funding for a new sports facility for the Florida Marlins, and to continue the distribution of sales tax funding to Dolphin Stadium until 2023.

CS/SB 544 adds a ninth certification under s. 288.1162, F.S., for an applicant that will serve as a facility for a new or retained professional sports franchise that is a Major League Baseball team and has been located in Florida since 1993. The Florida Marlins franchise is the only one of the nine professional sports franchises in the state that meets the proposed criteria.

This committee substitute also modifies the existing prohibition against an applicant being qualified for certification if the franchise that will be using the new facility formed the basis for an earlier certification. Under CS/SB 544, an applicant that will serve as the home facility for a professional sports franchise, which was the basis for a previous certification of a facility used by two franchises, can be certified.

Deleted is the requirement that a facility certified between May 23-May 25, 1993, may receive a second certification, but that any sales tax funds distributed pursuant to s. 212.20, F.S., for the second certification must be offset by the amount of funds distributed under the original certification. Also deleted is the requirement that no funds shall be distributed for the second certification until all amounts payable for the first certification have been distributed.

CS/SB 544 adds two requirements specific to the ninth certification:

- OTTED must receive a signed agreement, enforceable by the Department of Revenue (DOR), from the applicant or current owner of the professional sports franchise that formed the basis of the certification request that guarantees the team will play all of its pre-season, regular season, and post-season home games at the facility. If the team fails to meet this requirement, within 60 days the facility's or current team owner's guarantor must give DOR an annuity contract that repays the state 125 percent of all future annual tax distributions. For example, if a Florida team relocates to a different state 10 years after it began playing at the certified facility, its annuity would have to cover 20 years of tax distributions at the 125-percent rate, or \$50 million.

The only exception is for cancellation of games because of a "force majeure event," which is defined as a "flood, fire or other casualty, war, revolution, civil commotion, an act of a public enemy, embargo, an act of government in its sovereign capacity, or a labor difficulty, including without limitation, a strike, lockout, or any circumstance beyond the reasonable control of the professional sports franchise affected."

CS/SB 544 also allows the substitution of a successor sports franchise owner's annuity guarantee for that of the current owner.

- The facility applicant and the professional sports franchise must have a verified binding agreement that requires the franchise to pay for any cost overruns associated with the facility.

Finally, CS/SB 544 specifies that notwithstanding any other provision in s. 288.1162, F.S., a professional sports franchise continuing to use a facility that was used by two such franchises shall be deemed the franchise that formed the basis of the previous certification. This provision would designate the Miami Dolphins, replacing the Florida Marlins, as the franchise associated with the previously certified Joe Robbie Stadium (now called Dolphin Stadium). Additionally, the previous certification shall continue to apply for the period permitted from the original date of certification, or the year 2023.

Also, provisions in s. 288.1162, F.S., made obsolete or inconsistent because of the changes are deleted.

**Section 2** provides that this act shall take effect July 1, 2007.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

CS/SB 544 would have an annual \$2 million impact to General Revenue, and a total fiscal impact of \$60 million over the 30-year certification period. The source of the funds is the state's sales and use tax collections, pursuant to s. 212.20(6)(d)7.b., F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

OTTED, and potentially DOR, are likely to incur minimal, indeterminate administrative expenses to implement the provisions of this committee substitute.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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