

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1216

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senator Latvala

SUBJECT: Professional Sports Facilities

DATE: April 14, 2014

REVISED: 04/04/14

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Askey</u>	<u>Hrdlicka</u>	<u>CM</u>	Fav/CS
2.	<u>Fournier</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1216 creates the Sports Development Program which allows for distributions of state sales and use tax revenue to fund professional sports franchise facilities, up to an annual cap of \$13 million for all certified applicants. Applicants must be evaluated and recommended by the Department of Economic Opportunity (DEO) and distributions must be approved by the Legislature. Distributed funds may be used for the construction or improvement of a professional sports facility. The maximum annual distribution for a single facility is \$3 million, and distributions can be made for up to 30 years for a potential maximum amount of \$90 million per certified applicant.

Applicants who have started a project or a new facility between March 1, 2013, and July 1, 2014, may apply to the DEO beginning May 1, 2014, for review. If the DEO recommends approval, the Legislative Budget Committee may approve the application no earlier than January 1, 2015. Approved applicants would be eligible to receive distributions during Fiscal Year 2014-2015, but distributions during that year may not exceed \$6 million.

The bill allows a municipality or county to use its half-cent sales tax revenue to reimburse the state as required in the Sports Development Program. The bill increases the amount of a municipality's or county's half-cent sales tax revenue that can be used to fund a professional sports facility or motorsport entertainment complex from \$2 million \$3 million.

The bill increases the annual distribution of state sales and use tax available to a spring training facility under s. 288.11631, F.S., and decreases from 30 to 20 the number of years the

distribution will be made. It permits an applicant that has never received state funding as a spring training facility and is applying for funding for a facility that was constructed before January 1, 2000, to apply for the program based on an agreement with a franchise that was signed at any time before the expiration of the previous agreement with the franchise. Under current law, a new agreement cannot be signed more than 4 years before the expiration of the previous agreement.

The bill allows up to \$6 million of state sales and use tax revenue to be distributed in Fiscal Year 2014-2015 to new facilities or projects commenced between March 1, 2014 and July 1, 2014. Receipts to the General Revenue Fund will decrease by the amount of any distribution.

Changes in the funding of spring training facilities included in this bill will reduce revenue in the General Revenue Fund by \$4.7 million annually beginning in Fiscal Year 2016-2017.

II. Present Situation:

Professional Sports in Florida

Florida currently has 10 major professional sports teams. The oldest major professional sports team in the state is the Miami Dolphins football franchise of the National Football League. The Dolphins franchise began in 1966 as an expansion team as part of the now-defunct American Football League. The newest major professional sports team in the state is the Orlando Lions (Orlando City Soccer Club) in Major League Soccer (MLS). The club will become the MLS’s 21st franchise in 2015. Below is a summary table of information on major professional sports franchises in Florida:

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Sun Life 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	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	EverBank Field	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field	1990, occupied by Rays since 1998	Pinellas
Orlando City Soccer Club/ "Lions"	Soccer	MLS	2015	Orlando City Stadium	2015-2016 (est.)	Orange

In addition to the 10 major professional sports teams, Florida is also home to 33 Minor League franchises in various sports, three Arena Football League teams, and two NASCAR sanctioned tracks. MLB's Spring Training Grapefruit League is also based in Florida, with 15 teams holding preseason training and exhibition games in the state.

State Incentives for Professional Sports Teams

Section 288.1162, F.S., provides the procedure by which professional sports franchises in Florida may be certified to receive state sales and use tax revenue to pay for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. Local governments, non-profit, and for-profit entities may apply to the program.

The DEO is responsible for screening and certifying applicants for state funding. An applicant qualifying as a new professional sports franchise must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location. The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.

For both new and retained franchises, the DEO must confirm and verify that:

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located.
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise.
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location of a new franchise in the state after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorized location in the state on or before December 31, 1976, for a retained professional sports franchise.
- The applicant has projections demonstrating a paid annual attendance of over 300,000 annually.
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the facility is \$2 million annually.
- The city or county where the facility is located has certified by resolution after a public hearing that the application serves a public purpose.
- The applicant has demonstrated that it has provided or is capable of providing financial or other commitments of more than one-half of the costs incurred or related to the improvement or development of the facility.

Any applicant who meets the above-mentioned criteria as verified by the DEO is eligible to receive monthly payments from the state of \$166,667 for not more than 30 years,¹ for an annual payment totaling \$2,000,004. The Department of Revenue (DOR) disburses the payments.

Further, payments may be used only for the public purposes of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports

¹ Section 212.20(6)(d)6.b., F.S.

franchise; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. The state may only pursue recovery of funds if the Auditor General finds that the distributions were not expended as required by statute.

No facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by the DEO before any funds were disbursed under s. 212.20(6)(d), F.S.

As of January 8, 2013, there were eight certified new or retained professional sports franchise facilities in Florida. The facilities and the payment distribution for each are listed below:

Facility name	Certified entity	Franchise	First Payment	Final Payment	Total payments as of January 2014
Sun Life Stadium	Dolphins Stadium/ South Florida Stadium	Florida (Miami) Marlins ²	06/1994	06/2023	\$41,166,749
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/1994	05/2024	\$39,333,412
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	06/1995	06/2025	\$37,166,741
Tampa Bay Times Forum	Tampa Bay Sports Authority	Tampa Bay Lightning	09/1995	08/2025	\$36,833,407
BB&T Center	Broward County	Florida Panthers	08/1996	07/2026	\$35,000,070
Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/1997	12/2026	\$34,166,729
American Airlines Arena	BPL, LTD	Miami Heat	03/1998	03/2028	\$31,666,730
Amway Center	City of Orlando	Orlando Magic	02/2008	01/2038	\$12,000,024

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

A local government may be certified to receive funding for the purpose of acquiring, constructing, reconstructing, or renovating a spring training facility.³ There are 10 local governments certified to receive funding for spring training facilities under s. 288.11621, F.S. Each certified local government receives up to \$41,667 monthly for up to 30 years.

In 2013, the Legislature approved a new funding program for spring training facilities. Section 288.11631, F.S., provides a facility used by a single spring training franchise a distribution up to \$55,555 per month for up to 30 years; and a facility used by more than one franchise can receive

² The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.

³ Sections 288.11621 and 288.11631, F.S.

up to \$111,110 monthly for up to 37.5 years.⁴ Distributions under this new program may not begin until July 1, 2016.

Monthly sales tax distributions (\$166,667 for up to 300 months) also fund the professional golf hall of fame.⁵ 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 Fiscal Year 2013-2014.⁶

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.

Local Government Half-cent Sales Tax Program

The Local Government Half-cent Sales Tax Program is the largest source of state-shared revenue received by local governments. The program provides ad valorem and utility tax relief, in addition to providing eligible local governments revenues for local programs.⁷ A local government may also pledge funds from the program for payment of principal and interest on any capital project.⁸

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.⁹ The *ordinary* distribution transfers 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).¹⁰ The *emergency* and *supplemental* distributions transfer 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.¹¹ An additional, separate distributions from the trust fund are available to qualifying fiscally constrained counties.¹²

A majority 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

⁴ Chapter 2013-42, L.O.F. Section 212.20(6)(d)6.e., F.S.

⁵ Sections 212.20(6)(d)6.c. and 288.1168, F.S.

⁶ Sections 212.20(6)(d)6.d. and 288.1169, F.S.

⁷ Office of Economic and Demographic Research, *2013 Local Government Financial Information Handbook*, (December 2013), available at: <http://edr.state.fl.us/Content/local-government/reports/lghfih13.pdf>, (last visited on March 6, 2014).

⁸ Section 218.64, F.S.

⁹ 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. See also s. 218.62, F.S.

¹⁰ Section 212.20(6)(d)2., F.S.

¹¹ Section 212.20(6)(d)3., F.S.

¹² Section 218.67, F.S.

population may, by ordinance, allocate up to \$2 million annually of the Local Government Half-cent Sales Tax Program funds received by that county for the following purposes:^{13, 14}

- 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.; and
- Funding an applicant certified as a “motorsports entertainment complex” under s. 288.1171, F.S.

Designation of a Professional Sports Facility as a Shelter Site for the Homeless

Section 288.1166, F.S., provides that any professional sports facility constructed with financial assistance from the state must be designated as a shelter site for the homeless in accordance with the criteria of locally existing homeless shelter programs, except when the facility is otherwise contractually obligated for a specific event or activity. It further provides that if a local program does not exist in the facility’s area, the county or its designee must establish one. It does not appear that any sports facilities are currently used for this purpose

III. Effect of Proposed Changes:

Sports Development Program

Section 4 of the bill creates s. 288.11625, F.S., which allows for distributions of state sales and use tax revenue to fund professional sports franchise facilities. The program is administered by the DEO which is responsible for screening applicants for state funding. The purpose of the program is to provide state funding to a “beneficiary,” defined as a professional sports franchise of the National Football League (NFL), the National Hockey League (NHL), the National Basketball Association (NBA), the National or American Leagues of Major League Baseball (MLB), the National Association of Professional Baseball Leagues, Major League Soccer (MLS), the North American Soccer League, the Professional Rodeo Cowboys Association, 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) for the construction, reconstruction, renovation, or improvement of a facility, 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. The facility must be the responsibility of, or located on land owned by, a unit of local government. The bill excludes any portion of a facility used for transient lodging.

The term “state sales taxes generated by sales at the facility” (which will be used to determine the distribution the facility is eligible to receive) is defined as “state sales taxes imposed under ch. 212, F.S., and generated by admissions to the facility; parking on property owned or controlled by the beneficiary or the applicant; team operations and necessary leases; sales by the beneficiary; sales by other vendors at the facility and ancillary uses, including, but not limited to, team stores, museums, restaurants, retail, lodging, and commercial uses from economic

¹³ Section 218.64(3)(b), F.S.

¹⁴ 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.

development generated by the beneficiary or facility as determined by the Department of Economic Opportunity.” A unit of local government which is responsible for the construction, management, or operation of a facility, or another entity responsible for the construction, management, or operation of a facility located on land owned by a unit of local government may apply for funding under this program. The DEO must complete evaluations of applications within 60 days and notify the applicant if the application has been recommended to the Legislature or denied. Applications can be submitted between June 1 and November 1 annually. By February 1 of each year, the DEO will rank the recommended applications and present them to the Legislature for approval. Applications that are approved by the Legislature in the General Appropriations Act or a conforming bill to the General Appropriations Act and subsequently certified by the DEO do not need to be approved by the Legislature each year to receive funding. Certified applications remain certified for the duration of the agreement between the unit of local government that is responsible for the facility or owns the property the facility is on and the beneficiary of the state funding or 30 years, whichever is less.

The bill provides that an application submitted by either:

- A first-time applicant whose project exceeds \$300 million and commenced on the facility’s existing site before January 1, 2014, or
- A beneficiary that has completed the terms of a previous agreement for distributions under ch. 212, F.S., for an existing facility

shall be considered an application for a new facility for incremental and baseline tax calculations.¹⁵

The bill requires the DEO, prior to recommendation of an application, to verify that:

- The applicant or beneficiary is responsible for the improvements to the facility and has obtained at least three bids on the project.
- The facility is on land owned by local government.
- The local government, in whose jurisdiction the facility will be located, has an exclusive intent agreement to negotiate with the beneficiary in this state.
- The local government supports the application for state funds, verified by adoption of a resolution that the project serves a public purpose.
- The applicant or beneficiary has not defaulted or failed to meet statutory requirements of a previous state-administered sports program under s. 288.1162, F.S. (professional sports franchises), s. 288.11621, F.S. (spring training baseball franchises), or s. 288.1168, F.S. (professional golf hall of fame).
- The applicant or beneficiary is not receiving distributions under s. 212.20, F.S. (An exception to this requirement is provided for an applicant that demonstrates that the franchise that applied for a distribution under s. 212.20, F.S., no longer plays at the facility that is the subject of the application. This exception applies to the Miami Dolphins, who play at a stadium that receives payments under a distribution based on the Miami Marlins. The Marlins relocated to Marlins Park in 2012.)

¹⁵ This provision could be read to mean that facilities meeting these criteria will be eligible for distributions based on their total state sales taxes generated, not the increase in sales taxes attributable to the construction or renovation receiving state funding under this program. However, the bill does not define the term “new facility” and the term is not used when setting forth the requirements for establishing the distribution (see discussion below). The application of this provision is unclear.

- The facility that is the subject of the application is not the subject of distributions under s. 212.20, F.S.
- The applicant has a commitment to employing state residents, contracting with Florida-based firms, and purchasing materials available locally to the greatest extent possible.
- The project will commence within 12 months of receiving state funds or did not commence before March 1, 2013.
- If the applicant is a local government, then it has an agreement between it and the beneficiary for the use of the facility.

If the applicant is the beneficiary (the professional sports franchise that will use the facility), then the beneficiary must enter into an agreement with the DEO that requires: 1) The beneficiary to reimburse the state for any funds that have been and will be distributed if the beneficiary relocates before the expiration of the agreement; and 2) The beneficiary to pay for signage to be displayed in a prominent location and feature Florida advertising approved by the Florida Tourism Industry Marketing Corporation (Visit Florida).

The DEO must rank the applications based on their ability to positively impact the state under the following criteria:

- The proposed use of state funds.
- The length of time a beneficiary has agreed to use the facility.
- The percentage of total project funds provided by the applicant and beneficiary with priority given to applications with 50 percent or more of total project funds not from state distributions.
- The number and type of signature events the facility is likely to attract during the duration of the agreement with the beneficiary.¹⁶
- The increase in ticket sales and attendance annually due to the project.
- The potential to attract out-of-state visitors.
- The length of time a beneficiary has been in-state or partnered with local government, with priority given to franchises new to the state.
- The facility's multiuse capabilities.
- The facility's projected employment of state residents, contracts with Florida-based firms, and locally purchased materials.
- The amount of private and local financial or in-kind contributions.
- The amount of positive advertising or media coverage the facility generates.

At the time of evaluation and review by the DEO, the applicant must provide an analysis by an independent certified public accountant that shows the amount of state sales tax generated at the facility during the 12 months prior to the submission of the application (referred to as the baseline) and the expected amount of new incremental state sales tax that will be generated by sales (above the baseline) as a result of the project. For projects with a total cost of more than \$300 million which are at least 90 percent funded by private sources, the baseline shall be zero for the purposes of this calculation. This means that facilities meeting these criteria will be

¹⁶ The bill defines "signature event" as a professional sports event with significant export factor potential. "Export factor" means the attraction of economic activity or growth into the state which otherwise would not have occurred. Examples of signature events may include but are not limited to: NFL Super Bowls, All-Star games, international sporting events and tournaments, professional motorsports events, and the establishment of a new professional sports franchise in this state.

eligible for distributions based on their total state sales taxes generated, not the increase in sales taxes attributable to the construction or renovation receiving state funding under this program.

In order for an applicant to be eligible for a distribution, the expected average annual incremental sales tax generated by sales at the facility must be at least \$500,000 above the baseline. The DEO determines the annual distribution amount an applicant may receive based on an amount equal to 80 percent of the average annual new incremental state sales tax generated by sales at the facility, up to a maximum amount based on the total project cost. If the total project cost is \$200 million or greater, the annual distribution 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 less than \$100 million, the annual distribution may be up to \$1 million.. The DOR will begin monthly distributions 45 days after the notification of initial certification by the DEO. Distributions will be made for up to 30 years.

The bill caps total distributions for all applicants for this program at \$13 million for any 12-month period. In Fiscal Year 2014-2015, total distributions to certified applicants are limited to \$6 million.

The bill requires a contract to be signed between a certified applicant and the DEO that specifies the terms of the state's investment and the criteria for a certified applicant to remain certified. The contract requires the certified applicant to submit an annual independent analysis that demonstrates the actual amount of new incremental state sales tax generated during the previous 12 months compared to the baseline established in the application and evaluation. This requirement applies 12 months after completion of the project or 12 months after the first 4 annual distributions, whichever is less. The analysis must be submitted within 60 days after the end of the previous 12-month period. The contract also requires the certified applicant to reimburse the state after all distributions have been made in an amount equal to the difference between the actual new incremental state sales tax generated by sales at the facility during the contract and the total amount of distributions. Any such reimbursement must be made 90 days after the final distribution. The DEO may place a lien on the applicant's facility if it is unwilling or unable to reimburse the state in this matter. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation. Reimbursements are sent to the DOR for deposit in the General Revenue Fund. The contract can include any provisions deemed prudent by the DEO and must specify other information that the certified applicant must report to the DEO.

The applicant may use the state funds for the following purposes:

- Construction, reconstruction, renovation, or improving a facility.
- Paying or pledging payment of debt service on bonds issued for construction or renovation of the facility.
- Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for construction or renovation of the facility.
- Reimbursing the costs of the aforementioned uses for funds or refinancing bonds issued for the construction or renovation of the facility.

The bill requires the certified applicant to submit annually by November 1 any information the DEO requires. The DEO must summarize this information for its inclusion in its annual report to the Legislature due February 1.

Every five years after an applicant receives its first distribution, the DEO must verify that the applicant is still meeting program requirements. If the applicant is not meeting the requirements that information must be included in the annual report for the Governor and the Legislature; the report must also include the DEO's recommended future action. The DEO can consider mitigating circumstances that may have prevented the applicant from meeting program requirements when recommending future action.

The bill permits the Auditor General (AG) to conduct audits on the independent analysis required of the applicant and to verify that the distributions are being expended according to program requirements. If the AG determines that distributions are being improperly expended, the AG must inform the DOR, which may pursue recovery of the distributions.

Applicants who have started a project or a new facility between March 1, 2013 and July 1, 2014 may apply to the DEO beginning May 1, 2014, for review. If the DEO recommends approval, the Legislative Budget Committee may approve the application no earlier than January 1, 2015. Approved applicants would be eligible to receive distributions during Fiscal Year 2014-2015, but distributions during that year may not exceed \$6 million.

A certified applicant may be subject to repayment of distributions if the beneficiary breaks the terms of the agreement for facility use and relocates or if the DEO determines that the applicant has been false, misleading, deceptive, or otherwise untrue in any information submitted to the DEO. The certified applicant must repay the amount of state funds that remain to be distributed. Any repayment must be sent to the DOR for deposit in the General Revenue Fund.

The bill permits the applicant to halt payments of distribution by informing the DEO in writing at least 20 days prior to the next monthly distribution.

The bill permits the DEO to adopt rules to implement the program.

Section 1 amends s. 212.20, F.S., to authorize the DOR to distribute monthly amounts from state sales tax revenue equal to one-twelfth of the annual distribution amount certified by the DEO under the Sports Development Program created by s. 288.11625, F.S. The DOR must begin distributions 45 days from notification by the DEO of an applicant's certification by the DEO and approval by the Legislature. The DOR may not distribute more than \$13 million annually under s. 212.20(6)(d)6.f., F.S. In Fiscal Year 2014-2015, distributions are limited to \$6 million.

Section 2 amends s. 218.64, F.S., to authorize the additional use of half-cent sales tax program revenue for reimbursing the state as required by a contract pursuant to s. 288.11625(7), F.S. Consistent with the annual project cap in s. 288.11625, F.S., the bill also raises the amount of the half-cent sales tax that can be used to \$3 million, from \$2 million, for:

- Funding a facility certified as a new or retained professional sports franchise or a facility certified as a spring training franchise.
- Funding an applicant certified as a "motorsport entertainment complex."

- Reimbursing the state as required by contract in s. 288.11625(7).

Section 3 amends s. 288.0001, F.S., to require the EDR and the OPPAGA to include a detailed analysis of the Sports Development Program created by s. 288.11625, F.S., in the annual Economic Development Programs Evaluation beginning January 1, 2018, and every 3 years thereafter.

Spring Training

Section 1 amends s. 212.20, F.S., to revise the distribution schedule for the spring training program under s. 288.11631, F.S., in order to accelerate payments for spring training facilities. However, no distributions may be made before July 1, 2016, as under current law. The distribution schedule is as follows:

- For a facility used by one spring training franchise, monthly distributions are increased to up to \$83,333 from \$55,555, for a period of 20 years instead of 30 years. The maximum amount that may be distributed remains at \$20 million; and
- For a facility used by more than one spring training franchise, monthly distributions are increased to up to \$166,667 from \$111,110, for a period of 25 years instead of 37.5 years. The maximum amount that may be distributed remains at \$50 million.

Section 5 amends s. 288.11631, F.S., to permit a local government that was certified for use of its facility by one spring training facility to amend its certification if it adds any additional franchises. The bill maintains the existing cap of \$50 million for applicants certified for more than one franchise.

Current law provides that a signed agreement for the use of the facility by a franchise, required in the certification process, cannot be signed more than four years before the expiration of any existing agreement with the spring training franchise for the use of the facility. The bill amends s. 288.11631, F.S., to provide that such an agreement can be signed at any time before the expiration of an existing agreement, as long as the applicant has never received state funding for the facility as a spring training facility under ss. 288.11621 and 288.11631, F.S., and the facility was constructed before January 1, 2000.

Under current law, if a franchise breaks its agreement with the local government, either by relocating or violating the agreement, the franchise must reimburse the state for all state funds expended by the local government. The bill provides an exception that if a franchise breaks or violates the agreement with the local government, but bonds were issued for the construction of the facility, the franchise's reimbursement is limited to the amount of state distributions expected to be paid from the date of the contract break or violation to final bond maturity.

Section 6 amends s. 288.1166, F.S., regarding the designation of a professional sports facility as a homeless shelter. It limits this use to the period of a declared federal, state, or local emergency, and provides exceptions if the facility is otherwise contractually obligated for a specific event or activity, the facility is designated or used by the county as a staging area, or the county owning the facility also owns or operates homeless assistance shelters and determines there is sufficient capacity to meet the sheltering needs of homeless persons within the county.

Section 7 authorizes the DEO to adopt emergency rules to implement the bill.

Section 8 provides 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:

CS/CS/SB 1216 reduces General Revenue Fund Receipts by \$4.7 million annually beginning in Fiscal Year 2016-2017 due to the changes to the spring training program. The changes may permit certain applicants to apply for certification earlier than under current law, accelerate the distribution schedules, and change the repayment requirements when bonds are issued.

The bill allows up to \$6 million of state sales and use tax revenue to be distributed in Fiscal Year 2014-2015 to new facilities or projects commenced between March 1, 2014 and July 1, 2014. Receipts to the General Revenue Fund will decrease by the amount of any distribution. The Revenue Estimating Conference has not determined the impact of this provision.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The DOR reported an insignificant departmental impact.¹⁷

The DEO reported that it would require one FTE to administer the Sports Development Program, at a cost of \$85,000.¹⁸

¹⁷ Department of Revenue, *Legislative Bill Analysis: SB 1216*, March 3, 2014.

¹⁸ Department of Economic Opportunity, *Legislative Bill Analysis: SB 1216*. March 12, 2014.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill permits, and considers all conditions met for, the DEO to adopt emergency rules for the purpose of implementing the bill. The emergency rules will remain in effect for 6 months after being adopted and may be renewed during the process to adopt permanent rules. The DEO is also authorized to adopt rules to implement the Sports Development Program.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.20, 218.64, 288.0001, 208.1166, and 288.11631.

This bill creates section 288.11625 of the Florida Statutes.

This bill creates an undesignated section of Florida law.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations on April 10, 2014:**

The CS makes the following changes to the Sports Development program:

- Adds the National Association of Professional Baseball Leagues, the North American Soccer League, the Professional Rodeo Cowboys Association, and the promoter or host of a signature event administered by Breeders' Cup Limited to the list of beneficiaries eligible for distributions under the Sports Development Program.
- Expands the definition of "state sales tax generated by sales at the facility" to include parking on property owned or controlled by the beneficiary or the applicant; team operations and necessary leases; sales by the beneficiary; sales by other vendors at the facility; and ancillary uses, including, but not limited to, team stores, museums, restaurants, retail, lodging, and commercial uses from economic development generated by the beneficiary or facility as determined by the Department of Economic Opportunity.
- Requires Legislative approval of any distribution in the General Appropriations Act or a conforming bill for the General Appropriations Act.
- Provides that applications by certain specified applicants shall be considered an application for a new facility for purposes of baseline tax calculations.
- Provides an exception to the requirement that an applicant or beneficiary is not currently receiving state distributions under s. 212.20 for the facility that is the subject of the application.
- Provides limitations on the annual distribution an applicant may receive based on the total cost of the project.

- Provides that certain large projects are eligible for distributions based on their total, rather than incremental, state sales taxes generated by sales at the facility.
- Provides that an applicant may apply for state funds for a new project or facility commenced between March 1, 2013, and July 1, 2014. The DEO must review such applications and recommend approval to the Legislature. The Legislative Budget Commission may approve such applications on or after January 1, 2015, and the total amount approved for distribution in Fiscal Year 2014-2015 is \$6 million.
- Required designation of a professional sports facility as a shelter site for the homeless has been limited to a period of a declared federal, state, or local emergency.

CS by Commerce and Tourism on March 24, 2014:

The CS makes the following changes to the Sports Development program;

- Defines “beneficiary” to include the promoter of signature events sanctioned by NASCAR and clarifies an example for a signature event to include motorsports events;
- Defines “project” to include the construction of improvements to state owned land for efficient use of the facility;
- Clarifies the application process when the applicant is not a local government;
- Provides that an eligible project may have commenced no earlier than March 1, 2013 (16 months before July 1, 2014);
- Simplifies the distribution under the program by changing the 3-tiers of distribution based on project costs to a distribution of 80 percent of the average annual new state sales tax generated by sales at the facility;
 - The most an applicant could receive is capped at \$3 million; and
 - The bill requires that the estimated average annual new sales tax generated by the facility must be \$500,000 more than the baseline in order to receive distributions;
- Changes the reimbursement requirement from an annual “true-up” to a one-time “true-up.” Instead of an applicant reimbursing the state every year for the difference between the actual and estimated new state sales taxes generated, the applicant will reimburse the state after all distributions have been made for any difference between the total actual new state sales taxes generated and total distributions. Reimbursement must be made within 90 days of the end of the last distribution;
- Limits any required repayment of distributions so that if a team relocates before the end of the contract or is found to have fraudulently received state funds, only the state funds that remain to be distributed must be repaid, instead of all previous and future funds distributed; and
- Clarifies that such repayments are paid to DOR to deposit into the General Revenue Fund.

The CS makes the following changes to the Spring Training program:

- Revises the distribution schedule for the new spring training program under s. 288.11631, F.S.;
 - A facility used by one spring training franchise will receive \$83,333, an increase from \$55,555, but for only 20 years instead of 30 years, which is still a maximum of \$20 million; and

- A facility used by more than one spring training franchise will receive \$166,667, an increase from \$111,110, but for only 25 years instead of 37.5 years, which is still a maximum of \$50 million.
- Provides that if a franchise breaks or violates its agreement with a local government, but bonds were issued for the construction of the facility, the franchise's reimbursement is limited to only the amount of state distributions expected to be paid from the date of the contract break or violation to final bond maturity; and
- Allows a local government that was certified for one spring training facility to amend its certification if it adds an additional team at a later date.

B. Amendments:

None.