



Committee on Economic Development

**Thursday, March 15, 2007
8:30 a.m – 10:00 a.m.
Reed Hall**

**Marco Rubio
Speaker**

**Rep. Don Davis
Chair**

COMMITTEE ON ECONOMIC DEVELOPMENT

Thursday, March 15, 2007

8:30 am – 10:00 am

Reed Hall

I. **Call to Order**

II. **Remarks by Chairman**

III. **Consideration of the following bills:**

- HB 323 – Relating to Professional Sports Franchises
Representative Lopez-Cantera

1 AMENDMENT

- HB 1079 – Relating to Professional Sports Franchise facilities
Representative Traviesa

- HB 445 – Relating to Tax on Sales, Use, and Other Transactions
Representative Altman

1 AMENDMENT

- HB 841 – Relating to Economic Development Incentives
Representative Flores

IV. **ADJOURN**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 323 Professional Sports Franchises
SPONSOR(S): Lopez-Cantera and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 544

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development		McAuliffe	Croom
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) is authorized under s. 288.1162, F.S., to certify up to eight applicants as a facility for a new or retained professional sports franchise. Currently, the following seven applicants have been certified: Broward County for Home Depot Stadium (Panthers); Joe Robbie, Inc., for Pro Player Stadium (Marlins); City of Jacksonville for Alltel Stadium (Jaguars); Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning); City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays); BPL, Ltd., for American Airlines Arena (Miami Heat); and, Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers). The eighth certification of an applicant is for a franchise that is a member of the National Basketball Association that has been located in the state since 1987, and has not been previously certified (Orlando Magic). The Orlando Magic has not applied for certification.

The Department of Revenue (DOR) is required to distribute monthly \$166,667 (\$2 million annually) of tax proceeds collected under ch. 212, F.S., for no more than 30 years, to each applicant certified as a facility for a new or retained professional sports franchise by OTTED as meeting specific requirements outlined in s. 288.1162, F.S. Funds distributed can be used only for the public purposes delineated in s. 288.1162(6), F.S.

This bill creates a ninth certification of an applicant as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" for a franchise that is a member of Major League Baseball and has been located within the state since 1993. The only franchise in the state that qualifies as an applicant for the ninth certification under the bill is the Florida Marlins.

The addition of a ninth certification for a new or retained professional sports franchise facility will have a recurring negative fiscal impact to General Revenue of \$2 million beginning in fiscal year 2007-08 and continuing for 30 years.

The bill has an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – The bill requires an annual distribution from sales tax revenues of \$2 million for an additional certification slot for a facility for a new professional sports franchise. See details below.

B. EFFECT OF PROPOSED CHANGES:

HISTORY:

In 1988, the enactment of Ch. 88-226, L.O.F., provided a funding mechanism for state support of the construction of professional sports facilities in Florida. The Department of Commerce was assigned the duties of screening applicants, developing rules for processing applications, and presenting the applications to the Legislature for approval for funding.

It was not until 1991 that the current structure for certification of facilities for professional sports franchises and for funding of \$2 million through distribution of sales tax revenues became law.¹

PRESENT SITUATION:

Facilities for New and Retained Professional Franchises - Certification

The Governor's Office of Tourism, Trade, and Economic Development can certify a total of eight applicants as "facilities for new or retained professional sports franchises."² An applicant can be a unit of local government or it can be a private entity; however, local government must be responsible for the facility or own the land on which it sits. A "new professional sports franchise" means a professional sports franchise that is not based in this state prior to April 1, 1987, and a "retained professional sports franchise" means a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, and has continuously remained at that location, and has never been located at a previously certified facility."³

To qualify an applicant for certification as either a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise", OTTED must determine that:

- A unit of local government is 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 franchise has agreed to use the facility for 10 or 20 years depending on type of franchise;
- The governing league approves;
- Projections indicate 300,000 in paid annual attendance;
- Tax revenues generated will equal or exceed \$2 million annually;
- The local government certifies that the facility serves a public purpose;
- An applicant has provided, is capable of providing, or has financial or other commitments to provide more than 50 percent of costs incurred or related to the improvement and development of the facility; and,
- An applicant has not been previously certified and received funds for that certification.

Tax Distribution

¹ See Ch 91-274, L.O.F.

² Currently, seven applicants/facilities have been certified: Broward Co. for Home Depot Stadium (Panthers); Joe Robbie, Inc., for Pro Player Stadium (Marlins); City of Jacksonville for Alltel Stadium (Jaguars); Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning); City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays); BPL, Ltd., for American Airlines Arena (Miami Heat); and Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers).

³ See s. 288.1162(3)(a) and (b), F.S. The Miami Dolphins is the only team in the state that does not qualify under either definition. The only team eligible under the definition of "retained professional sports franchise" is the Tampa Bay Buccaneers.

Chapter 212, F.S., imposes a state sales and use tax of six percent on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, and motor vehicles. Tax collections are deposited by the Department of Revenue (department) in the General Revenue Fund and into a variety of trust funds benefiting state agencies and local governments. Section 212.20, F.S., governs the distribution by the department of tax revenues collected under the provisions of Chapter 212, F.S.

Section 212.20 (6), F.S., requires the department to distribute \$166,667 monthly (\$2 million annually), pursuant to s. 288.1162, F.S., to each applicant certified as facilities for new or retained professional sports franchises for no more than 30 years. The department may audit to verify that the distributions have been expended for the public purposes as required in s. 288.1162(6), F.S. If the department determines that the funds have not been used as required, it may pursue recovery of the funds.⁴

Funds distributed under s. 212.20, F.S., may be used by the certified applicant only for the public purpose of:

- Paying for the acquisition, construction, reconstruction, or renovation of a facility for a professional sports franchise; or
- Paying debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, 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.

No applicant previously certified by OTTED that has received funding under s. 212.20, F.S., is eligible for an additional certification unless the previous certification was withdrawn by the facility or invalidated by OTTED before funds were distributed under s. 212.20, F.S.⁵

Currently, the certification of a facility ends if the franchise that qualified as the facility for certification leaves the facility and any remaining franchise does not qualify as a "new professional sports franchise," "retained professional sports franchise," or "retained spring training franchise."

Local Option

Section 218.64, F.S., provides a local option funding mechanism authorizing local governments to use up to \$2 million annually of the local government half-cent sales tax allocation to provide funding for facilities for new or retained professional sports franchises, facilities for retained spring training franchises, or motorsports entertainment complexes. The use of local funds for this purpose must be authorized by the majority of members of the county governing authority and by the majority of the members of the governing authorities of municipalities representing at least 50 percent of the municipal population of the respective county. OTTED is required to certify applicants seeking local funding based on applicable existing provisions in s. 288.1162, F.S., or in s. 288.1171, F.S. For purposes of the local option funding program, s. 218.64, F.S., waives existing limitations and restrictions on statewide programs that might otherwise bar facilities from receipt of local funding.

EFFECT OF PROPOSED CHANGES:

This bill 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.

This bill 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.

⁴ See s. 288.1162(8), F.S.

⁵ See s. 288.1162(4)(h), F.S.

This bill 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 this bill, 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.

The bill deletes the requirement that a facility certified between May 23 and 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. The bill also deletes the requirement that no funds may be distributed for the second certification until all amounts payable for the first certification have been distributed.

This bill 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.

C. SECTION DIRECTORY:

Section 1: Amends ss. 288.1162(4), (7), and (9), relating to professional sports franchises; expands the number of slots for applicants for facilities for new and retained professional sports franchises; provides exceptions for certification disqualification; designates the eighth certification for a specific applicant.

Section 2: Provides for an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>
General Revenue	(\$2M)	(\$2M)	(\$2M)
See "Fiscal Comments."			

2. Expenditures:

Minimal. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

A local government may be the recipient of the \$2 million for a sports franchise facility if they own or operate the facility, however such funds must be used to make improvements to a current facility or build a new facility.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

At this time the exact impact on the private sector is not able to be determined.

D. FISCAL COMMENTS:

Allowing one additional applicant to be certified by OTTED as a facility for a new professional sports franchise or a facility for a retained professional sports franchise will have a recurring negative fiscal impact to General Revenue of \$2 million annually beginning in FY 07/08 and continuing for 30 years for a total General Revenue loss of \$60 million.

It will have an impact on OTTED and the Department of Revenue with regard to the application review and certification process for the new certification slot created by the bill. However, OTTED and department may be able to absorb these costs with current resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require municipalities or counties to expend funds, does not reduce their authority to raise revenue, and does not reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

While the bill analysis mentions the recurring negative fiscal impact to General Revenue of (\$2) million beginning in FY 07-08 and continuing for 30 years, it fails to mention that creating a new stadium will generate a positive source of tax revenue for the State. Conservative figures state that a new stadium will create sales tax revenue in excess of (\$8) million a year. The State will still net over (\$6) million a year in new sales tax revenue, even with (\$2) million a year rebate going to the sports franchise.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to professional sports franchises;
 3 amending s. 288.1162, F.S.; providing an exception to a
 4 provision prohibiting certain persons who have previously
 5 received funding from receiving additional funds;
 6 increasing the number of facilities that may be certified
 7 as facilities for certain new or retained professional
 8 sports franchises; authorizing an additional certification
 9 of a facility for a specified Major League Baseball
 10 franchise; providing that a franchise that continues to
 11 occupy a facility that was concurrently occupied by two
 12 professional sports franchises shall be deemed the
 13 franchise that formed the basis of the previous
 14 certification; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Paragraph (h) of subsection (4) and subsections
 19 (7) and (9) of section 288.1162, Florida Statutes, are amended,
 20 and subsection (10) is added to that section, to read:

21 288.1162 Professional sports franchises; spring training
 22 franchises; duties.--

23 (4) Prior to certifying an applicant as a "facility for a
 24 new professional sports franchise" or a "facility for a retained
 25 professional sports franchise," the Office of Tourism, Trade,
 26 and Economic Development must determine that:

27 (h) An ~~No~~ applicant previously certified under any
 28 provision of this section who has received funding under such

29 certification is not ~~shall be~~ eligible for an additional
 30 certification, except as provided in subsections (9) and (10).

31 (7) (a) The Office of Tourism, Trade, and Economic
 32 Development shall notify the Department of Revenue of any
 33 facility certified as a facility for a new professional sports
 34 franchise or a facility for a retained professional sports
 35 franchise or as a facility for a retained spring training
 36 franchise. The Office of Tourism, Trade, and Economic
 37 Development shall certify no more than nine ~~eight~~ facilities as
 38 facilities for a new professional sports franchise or as
 39 facilities for a retained professional sports franchise,
 40 including in such total any facilities certified by the
 41 Department of Commerce before July 1, 1996. The number of
 42 facilities certified as a retained spring training franchise
 43 shall be as provided in subsection (5). The office may make no
 44 more than one certification for any facility. The office may not
 45 certify funding for less than the requested amount to any
 46 applicant certified as a facility for a retained spring training
 47 franchise.

48 (b) The eighth certification of an applicant under this
 49 section as a facility for a new professional sports franchise or
 50 a facility for a retained professional sports franchise shall be
 51 for a franchise that is a member of the National Basketball
 52 Association, has been located within the state since 1987, and
 53 has not been previously certified. This paragraph is repealed
 54 July 1, 2010.

55 (c) The ninth certification of an applicant under this
 56 section as a facility for a new professional sports franchise or

57 a facility for a retained professional sports franchise shall be
 58 for a franchise that is a member of Major League Baseball and
 59 has been located within the state since 1993.

60 (9) An applicant is not qualified for certification under
 61 this section if the franchise formed the basis for a previous
 62 certification, unless:

63 (a) The previous certification was withdrawn by the
 64 facility or invalidated by the Office of Tourism, Trade, and
 65 Economic Development or the Department of Commerce before any
 66 funds were distributed pursuant to s. 212.20; or-

67 (b) The applicant will be the home facility for a
 68 professional sports franchise that served as the basis for
 69 certifying a facility that was occupied by two franchises. This
 70 ~~subsection does not disqualify an applicant if the previous~~
 71 ~~certification occurred between May 23, 1993, and May 25, 1993;~~
 72 ~~however, any funds to be distributed pursuant to s. 212.20 for~~
 73 ~~the second certification shall be offset by the amount~~
 74 ~~distributed to the previous certified facility. Distribution of~~
 75 ~~funds for the second certification shall not be made until all~~
 76 ~~amounts payable for the first certification have been~~
 77 ~~distributed.~~

78 (10) Notwithstanding any other provision of this section,
 79 a franchise continuing to use a facility that was concurrently
 80 occupied by two professional sports franchises shall be deemed
 81 the franchise forming the basis of the previous certification
 82 and the previous certification shall continue to apply for the
 83 period permitted from the original date of certification.

84 Section 2. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1079 Professional Sports Franchise Facilities
SPONSOR(S): Traviesa and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2168

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	_____	<u>McAuliffe</u>	<u>Croom</u>
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill authorizes an additional distribution of state sales and use tax revenue to up to nine professional sports franchise facilities in Florida for capital improvements. The bill provides authority for the Office of Tourism, Trade and Economic Development (OTTED) to screen applicants and certify a facility eligible for \$2 million annually over 30 years as a professional sports franchise facility. Applicants must meet a number of requirements, including minimum attendance, generation of a minimum amount of state tax revenues, and a local or private-sector match.

These funds will be in addition to the \$2 million annually that currently is distributed to eight professional sports facilities, pursuant to section 288.1162, Florida Statutes.

If a professional sports team leaves Florida, then the team or the applicant must hold the state harmless from the sales tax revenues thereafter distributed to the facilities the team qualified for certification under both the new and old incentive programs.

This bill will have a negative fiscal impact on the General Revenue Fund of \$18 million per year for 30 years if all nine professional sports franchises are certified eligible by OTTED.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – The bill authorizes an annual distribution from sales tax revenues for nine additional certification slots for new professional sports franchise facilities. See details below.

B. EFFECT OF PROPOSED CHANGES:

HISTORY:

In 1988, the enactment of Ch. 88-226, L.O.F., provided a funding mechanism for state support of the construction of professional sports facilities in Florida. The Department of Commerce was assigned the duties of screening applicants, developing rules for processing applications, and presenting the applications to the Legislature for approval for funding.

It was not until 1991 that the current structure for certification of facilities for professional sports franchises and for funding of \$2 million through distribution of sales tax revenues became law.¹

PRESENT SITUATION:

Facilities for New and Retained Professional Franchises - Certification

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) can certify a total of eight applicants as "facilities for new or retained professional sports franchises."² An applicant can be a unit of local government or it can be a private entity; however, a local government must be responsible for the facility or own the land on which it sits. A "new professional sports franchise" means a professional sports franchise that is not based in this state prior to April 1, 1987, and a "retained professional sports franchise" means a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, and has continuously remained at that location, and has never been located at a previously certified facility."³

To qualify an applicant for certification as either a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise", OTTED must determine that:

- A unit of local government is 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 franchise has agreed to use the facility for 10 or 20 years depending on type of franchise;
- The governing league approves;
- Projections indicate 300,000 in paid annual attendance;
- Tax revenues generated will equal or exceed \$2 million annually;
- The local government certifies that the facility serves a public purpose;
- An applicant has provided, is capable of providing, or has financial or other commitments to provide more than 50 percent of costs incurred or related to the improvement and development of the facility; and,
- An applicant has not been previously certified and received funds for that certification.

¹ See Ch 91-274, L.O.F.

² Currently, seven applicants/facilities have been certified: Broward Co. for Home Depot Stadium (Panthers); Joe Robbie, Inc., for Pro Player Stadium (Marlins); City of Jacksonville for Alltel Stadium (Jaguars); Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning); City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays); BPL, Ltd., for American Airlines Arena (Miami Heat); and Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers).

³ See s. 288.1162(3)(a) and (b), F.S. The Miami Dolphins is the only team in the state that does not qualify under either definition. The only team eligible under the definition of "retained professional sports franchise" is the Tampa Bay Buccaneers.

Tax Distribution

Chapter 212, F.S., imposes a state sales and use tax of six percent on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, and motor vehicles. Tax collections are deposited by the Department of Revenue (department) in the General Revenue Fund and into a variety of trust funds benefiting state agencies and local governments. Section 212.20, F.S., governs the distribution by the department of tax revenues collected under the provisions of Chapter 212, F.S.

Section 212.20 (6), F.S., requires the department to distribute \$166,667 monthly (\$2 million annually), pursuant to s. 288.1162, F.S., to each applicant certified as facilities for new or retained professional sports franchises for no more than 30 years. The department may audit to verify that the distributions have been expended for the public purposes as required in s. 288.1162(6), F.S. If the department determines that the funds have not been used as required, it may pursue recovery of the funds.⁴

Funds distributed under s. 212.20, F.S., may be used by the certified applicant only for the public purpose of:

- Paying for the acquisition, construction, reconstruction, or renovation of a facility for a professional sports franchise; or
- Paying debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, 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.

No applicant previously certified by OTTED and has received funding under s. 212.20, F.S., is eligible for an additional certification unless the previous certification was withdrawn by the facility or invalidated by OTTED before funds were distributed under s. 212.20, F.S.⁵

Currently, the certification of a facility ends if the franchise that qualified as the facility for certification leaves the facility and any remaining franchise does not qualify as a "new professional sports franchise," "retained professional sports franchise," or "retained spring training franchise."

Local Option

Section 218.64, F.S., provides a local option funding mechanism authorizing local governments to use up to \$2 million annually of the local government half-cent sales tax allocation to provide funding for facilities for new or retained professional sports franchises, facilities for retained spring training franchises, or motorsports entertainment complexes. The use of local funds for this purpose must be authorized by the majority of members of the county governing authority and by the majority of the members of the governing authorities of municipalities representing at least 50 percent of the municipal population of the respective county. OTTED is required to certify applicants seeking local funding based on applicable existing provisions in s. 288.1162, F.S., or in s. 288.1171, F.S. For purposes of the local option funding program, s. 218.64, F.S. waives existing limitations and restrictions on statewide programs that might otherwise bar facilities from receipt of local funding.

EFFECT OF PROPOSED CHANGES:

The bill creates s. 288.11635, F. S. to authorize the existing eight recipients of distributions under s. 288.1162, F. S., and an additional ninth to apply to be certified as sports franchise facilities and receive additional distributions of state revenue.

This bill establishes certification criteria for OTTED to determine whether an applicant is eligible as a professional sports franchise facility, which is:

- A local government must hold title or leasehold to the facility, or a local government must be responsible for construction, maintenance, or operation of the facility.

⁴ See s. 288.1162(8), F.S.

⁵ See s. 288.1162(4)(h), F.S.

- The person filing on behalf of the applicant is the owner, tenant, or operator of the facility.
- Submittal of verified proof of professional sports franchise status in Florida as of July 1, 2007 from the applicable sports league.
- Verified projections demonstrating that the franchise will draw more than 300,000 annual paid attendance.
- Submittal of an independent analysis or study, verified by OTTED, demonstrating that the facility generates at least \$4 million in annual sales tax revenues. However, a professional sports franchise whose facility is serving as the applicant's basis for application under the proposed s. 288.11635, F.S., but not under the existing s. 288.1162, F.S., must demonstrate only \$2 million in annual sales tax revenues generated. Only the Miami Dolphins qualify for this exemption.
- A city or county resolution specifying that the application serves a public purpose.
- Delivery of a guarantee by the team owner or applicant that if the team does not play at least 90 percent of its pre-season, regular season, and post-season home games in Florida, the state will be repaid the amount of sales tax revenue it has distributed to the team, under both the new and old programs. The only exception is for teams that cannot play because of a "force majeure event," 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 labor difficulty, including without limitation a strike, lockout, or any circumstance beyond the reasonable control of the professional sports franchise affected."
- This guarantee will be transferred to a successor owner of the professional sports franchise or facility.
- Local governmental or private match of funds or commitment of funds over the next 30 years for the construction of or improvements to a facility of at least \$60 million.

The bill provides that OTTED may not certify more than nine facilities as professional sports franchise facilities eligible for the new funding under s. 212.20 (6)(d)7.c.

Another provision of the bill requires that an applicant certified as a professional sports franchise facility may only use the new state funds for:

- The construction, reconstruction, renovation, capital improvement or maintenance of the certified facility or ancillary facilities.
- Payment of debt service on, and any issuance costs incurred in connection with, bonds or other indebtedness issued for the construction, reconstruction, renovation, or capital improvement of the certified facility or ancillary facilities.
- Reimbursement of costs for the refinancing of bonds or other indebtedness issued for the construction, reconstruction, renovation, or capital improvement of the certified facility or ancillary facilities.

OTTED is directed to develop rules to administer the receipt and processing of applications under this new program. The Department of Revenue is authorized to conduct audits to verify the appropriate expenditure of funds and to recover inappropriately expended funds.

C. SECTION DIRECTORY:

Section 1: - Creates s. 288.11635, F. S., to provide a mechanism by which existing recipients of distributions under s. 288.1162, F. S., can be certified as sports franchise facilities and receive additional distributions of state revenue.

Section 2: - Amends s. 212.20, F. S., to make available an additional distribution of \$166,667 monthly (\$2 million annually) to certified professional sports franchise facilities for no more than 30 years, totaling a maximum of \$60 million per facility.

Section 3: - Amends subsection (6) of s. 288.1169, F. S., to correct a reference.

Section 4: - Provides that this act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>
General Revenue	(\$18M)	(\$18M)	(\$18M)

See "Fiscal Comments."

2. Expenditures:

Minimal. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

A local government may be the recipient of the \$2 million for a sports franchise facility if they own or operate the facility, however such funds must be used to make improvements to a current facility or build a new facility.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

At this time the exact impact on the private sector is not able to be determined.

D. FISCAL COMMENTS:

This bill will have a negative fiscal impact on the General Revenue Fund of \$18 million per year for 30 years if all nine professional sports franchises are certified eligible by OTTED. This funding is in addition to the current \$2 million per year authorized in s. 288.1162, F. S., for distribution to eight professional sports franchises.

The bill will have an impact on OTTED and the Department of Revenue with regard to the application review and certification process for the new additional certifications created by the bill. However, OTTED and the department may be able to absorb these costs with current resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require municipalities or counties to expend funds, does not reduce their authority to raise revenue, and does not reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

OTTED is directed to develop rules to administer the receipt and processing of applications under this new program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement was provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to professional sports franchise
 3 facilities; creating s. 288.11635, F.S.; requiring the
 4 Office of Tourism, Trade, and Economic Development to
 5 serve as the state agency for screening applicants for
 6 certain state funding and for certifying applicants as
 7 facilities for professional sports franchises eligible for
 8 such funding; defining terms; requiring rulemaking;
 9 providing prerequisites to certification; prohibiting a
 10 facility from receiving more than one certification for
 11 any professional sports franchise; restricting the use of
 12 funds; requiring notice of and providing a limitation on
 13 certifications; authorizing the Department of Revenue to
 14 conduct audits in order to verify that funds have been
 15 expended as required and to pursue recovery of
 16 inappropriately expended funds; amending s. 212.20, F.S.;
 17 providing for the distribution of a portion of revenues
 18 from the tax on sales, use, and other transactions to
 19 applicants certified as facilities for professional sports
 20 franchises under s. 288.11635, F.S.; amending s. 288.1169,
 21 F.S.; conforming a cross-reference; providing an effective
 22 date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Section 288.11635, Florida Statutes, is created
 27 to read:
 28 288.11635 Professional sports franchise guarantees.--

29 (1) The Office of Tourism, Trade, and Economic Development
 30 shall serve as the state agency for screening applicants for
 31 state funding pursuant to s. 212.20(6)(d)7.c. and for certifying
 32 an applicant as a "facility for a professional sports franchise"
 33 that is eligible for funding pursuant to s. 212.20(6)(d)7.c.

34 (2) As used in this section, the term:

35 (a) "Force majeure event" means a flood, fire, or other
 36 casualty, a war, a revolution, civil commotion, an act of a
 37 public enemy, an embargo, an act of government in its sovereign
 38 capacity, or a labor difficulty, including, without limitation,
 39 a strike, a lockout, or any circumstance beyond the reasonable
 40 control of the professional sports franchise affected.

41 (b) "League" has the same meaning as provided in s.
 42 288.1162.

43 (c) "Professional sports franchise" means a franchise in
 44 the National League or the American League of Major League
 45 Baseball, the National Basketball Association, the National
 46 Football League, or the National Hockey League.

47 (d) "Unit of local government" has the same meaning as
 48 provided in s. 218.369.

49 (3) The Office of Tourism, Trade, and Economic Development
 50 shall develop rules for the receipt and processing of
 51 applications for funding pursuant to s. 212.20(6)(d)7.c.

52 (4) Before certifying an applicant as a "facility for a
 53 professional sports franchise" eligible for funding pursuant to
 54 s. 212.20(6)(d)7.c., the Office of Tourism, Trade, and Economic
 55 Development must:

56 (a) Determine that a unit of local government is
 57 responsible for the construction, maintenance, or operation of
 58 the professional sports franchise facility or holds title to or
 59 a leasehold interest in the property on which the professional
 60 sports franchise facility is located and the applicant is or
 61 will be the owner, tenant, or operator of the professional
 62 sports franchise facility.

63 (b) Determine that the applicant has a verified copy of
 64 the approval from the governing authority of the league in which
 65 the professional sports franchise exists or verified evidence
 66 that it has had a league-authorized location in this state on or
 67 before July 1, 2007.

68 (c) Determine that the applicant has projections, verified
 69 by the Office of Tourism, Trade, and Economic Development, that
 70 demonstrate that the professional sports franchise will attract
 71 a paid attendance of more than 300,000 annually.

72 (d) Determine that the applicant has an independent
 73 analysis or study, verified by the Office of Tourism, Trade, and
 74 Economic Development, that demonstrates that the amount of the
 75 revenues generated by the taxes imposed under chapter 212 with
 76 respect to the use and operation of the professional sports
 77 franchise facility will equal or exceed \$4 million annually,
 78 except that if the professional sports franchise that has served
 79 as an applicant's basis for certification under this section did
 80 not serve as an applicant's basis for certification under s.
 81 288.1162, then \$2 million annually.

82 (e) Determine that the municipality or county in which the
 83 facility for a professional sports franchise is located has

84 certified by resolution after a public hearing that the
 85 application serves a public purpose.

86 (f) Receive a signed agreement for the benefit of and
 87 enforceable by the Department of Revenue from the applicant or
 88 the current owner of the professional sports franchise that
 89 formed the basis for the applicant's certification pursuant to
 90 this section that guarantees that, if the professional sports
 91 franchise ceases playing at least 90 percent of its home games
 92 in this state, including preseason, regular season, and
 93 postseason games, unless the cessation is a result of a force
 94 majeure event, the guarantor will pay the Department of Revenue
 95 each year thereafter the excess, if any, of:

96 1. The amount distributed pursuant to s. 212.20(6)(d)7.c.
 97 to the applicant under this section during such year, and, if
 98 the same professional sports franchise also formed the basis for
 99 an applicant's certification pursuant to s. 288.1162, the amount
 100 distributed pursuant to s. 212.20(6)(d)7.b. to the applicant
 101 under s. 288.1162 during such year over

102 2. The amount of the revenues generated by the taxes
 103 imposed under chapter 212 with respect to the use and operation
 104 of the certified facility during such year.

105
 106 Within 60 days after the professional sports franchise ceases
 107 playing at least 90 percent of its home games in the state, the
 108 guarantor shall provide the Department of Revenue with an
 109 annuity contract issued by a person authorized to issue such
 110 contracts in this state that will secure the guarantor's
 111 obligation to make the payments as required by this paragraph.

112 | The guarantee of the applicant or current owner of the
 113 | professional sports franchise will be returned upon substitution
 114 | of the guarantee of any successor applicant or owner of the
 115 | professional sports franchise whose ownership has been approved
 116 | by the governing authority of the league in which the
 117 | professional sports franchise exists.

118 | (g) Receive evidence that one or more of the following
 119 | have either previously contributed funds, or are contractually
 120 | committed to contribute funds during the next 30 years, for the
 121 | construction or improvement of the facility for a professional
 122 | sports franchise that in the aggregate equals or exceeds \$60
 123 | million:

124 | 1. The municipality in which the facility for a
 125 | professional sports franchise is located.

126 | 2. The county in which the facility for a professional
 127 | sports franchise is located.

128 | 3. The applicant.

129 | 4. The owner of the professional sports franchise that has
 130 | served as an applicant's basis for certification under this
 131 | section or its affiliates.

132 | (h) Determine that a professional sports franchise forms
 133 | the basis for only one facility certified under this section for
 134 | funding pursuant to s. 212.20(6)(d)7.c.

135 | (5) An applicant certified as a facility for a
 136 | professional sports franchise that is certified for funding
 137 | pursuant to s. 212.20(6)(d)7.c. may use funds provided pursuant
 138 | to that sub-subparagraph only for the public purpose of:

139 (a) Paying for the acquisition, construction,
 140 reconstruction, renovation, capital improvement, or maintenance
 141 of the facility for a professional sports franchise or any
 142 ancillary facilities, such as parking structures; convention
 143 facilities and meeting rooms; retail and concession space;
 144 health, fitness, and training facilities; and youth and amateur
 145 sports facilities, that support the operations of any such
 146 facility;

147 (b) Paying or pledging for the payment of debt service on,
 148 or funding debt service reserve funds, arbitrage rebate
 149 obligations, or other amounts payable with respect to, bonds or
 150 other indebtedness issued for the acquisition, construction,
 151 reconstruction, renovation, or capital improvement of the
 152 facility for a professional sports franchise or ancillary
 153 facilities; or

154 (c) Reimbursing costs for the refinancing of bonds or
 155 other indebtedness, including the payment of any interest and
 156 prepayment premium or penalty thereon, issued for the
 157 acquisition, construction, reconstruction, renovation, or
 158 capital improvement of the facility for a professional sports
 159 franchise or ancillary facilities.

160 (6) The Office of Tourism, Trade, and Economic Development
 161 shall notify the Department of Revenue of any facility certified
 162 as a facility for a professional sports franchise that is
 163 eligible for funding pursuant to s. 212.20(6)(d)7.c. The Office
 164 of Tourism, Trade, and Economic Development may not certify
 165 under this section more than nine facilities as facilities for a

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166 professional sports franchise that are eligible for funding
 167 pursuant to s. 212.20(6)(d)7.c.

168 (7) The Department of Revenue may conduct audits as
 169 provided in s. 213.34 to verify that the distributions made
 170 under this section have been expended as required in this
 171 section. Such information is subject to the confidentiality
 172 requirements of chapter 213. If the Department of Revenue
 173 determines that the distributions made under this section have
 174 not been expended as required by this section, it may pursue
 175 recovery of the funds under the laws and rules governing the
 176 assessment of taxes.

177 Section 2. Paragraph (d) of subsection (6) of section
 178 212.20, Florida Statutes, is amended to read:

179 212.20 Funds collected, disposition; additional powers of
 180 department; operational expense; refund of taxes adjudicated
 181 unconstitutionally collected.--

182 (6) Distribution of all proceeds under this chapter and s.
 183 202.18(1)(b) and (2)(b) shall be as follows:

184 (d) The proceeds of all other taxes and fees imposed
 185 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
 186 and (2)(b) shall be distributed as follows:

187 1. In any fiscal year, the greater of \$500 million, minus
 188 an amount equal to 4.6 percent of the proceeds of the taxes
 189 collected pursuant to chapter 201, or 5 percent of all other
 190 taxes and fees imposed pursuant to this chapter or remitted
 191 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
 192 monthly installments into the General Revenue Fund.

193 2. Two-tenths of one percent shall be transferred to the
 194 Ecosystem Management and Restoration Trust Fund to be used for
 195 water quality improvement and water restoration projects.

196 3. After the distribution under subparagraphs 1. and 2.,
 197 8.814 percent of the amount remitted by a sales tax dealer
 198 located within a participating county pursuant to s. 218.61
 199 shall be transferred into the Local Government Half-cent Sales
 200 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to
 201 be transferred pursuant to this subparagraph to the Local
 202 Government Half-cent Sales Tax Clearing Trust Fund shall be
 203 reduced by 0.1 percent, and the department shall distribute this
 204 amount to the Public Employees Relations Commission Trust Fund
 205 less \$5,000 each month, which shall be added to the amount
 206 calculated in subparagraph 4. and distributed accordingly.

207 4. After the distribution under subparagraphs 1., 2., and
 208 3., 0.095 percent shall be transferred to the Local Government
 209 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
 210 to s. 218.65.

211 5. After the distributions under subparagraphs 1., 2., 3.,
 212 and 4., 2.0440 percent of the available proceeds pursuant to
 213 this paragraph shall be transferred monthly to the Revenue
 214 Sharing Trust Fund for Counties pursuant to s. 218.215.

215 6. After the distributions under subparagraphs 1., 2., 3.,
 216 and 4., 1.3409 percent of the available proceeds pursuant to
 217 this paragraph shall be transferred monthly to the Revenue
 218 Sharing Trust Fund for Municipalities pursuant to s. 218.215. If
 219 the total revenue to be distributed pursuant to this
 220 subparagraph is at least as great as the amount due from the

221 Revenue Sharing Trust Fund for Municipalities and the former
 222 Municipal Financial Assistance Trust Fund in state fiscal year
 223 1999-2000, no municipality shall receive less than the amount
 224 due from the Revenue Sharing Trust Fund for Municipalities and
 225 the former Municipal Financial Assistance Trust Fund in state
 226 fiscal year 1999-2000. If the total proceeds to be distributed
 227 are less than the amount received in combination from the
 228 Revenue Sharing Trust Fund for Municipalities and the former
 229 Municipal Financial Assistance Trust Fund in state fiscal year
 230 1999-2000, each municipality shall receive an amount
 231 proportionate to the amount it was due in state fiscal year
 232 1999-2000.

233 7. Of the remaining proceeds:

234 a. In each fiscal year, the sum of \$29,915,500 shall be
 235 divided into as many equal parts as there are counties in the
 236 state, and one part shall be distributed to each county. The
 237 distribution among the several counties shall begin each fiscal
 238 year on or before January 5th and shall continue monthly for a
 239 total of 4 months. If a local or special law required that any
 240 moneys accruing to a county in fiscal year 1999-2000 under the
 241 then-existing provisions of s. 550.135 be paid directly to the
 242 district school board, special district, or a municipal
 243 government, such payment shall continue until such time that the
 244 local or special law is amended or repealed. The state covenants
 245 with holders of bonds or other instruments of indebtedness
 246 issued by local governments, special districts, or district
 247 school boards prior to July 1, 2000, that it is not the intent
 248 of this subparagraph to adversely affect the rights of those

249 holders or relieve local governments, special districts, or
 250 district school boards of the duty to meet their obligations as
 251 a result of previous pledges or assignments or trusts entered
 252 into which obligated funds received from the distribution to
 253 county governments under then-existing s. 550.135. This
 254 distribution specifically is in lieu of funds distributed under
 255 s. 550.135 prior to July 1, 2000.

256 b. The department shall distribute \$166,667 monthly
 257 pursuant to s. 288.1162 to each applicant that has been
 258 certified as a "facility for a new professional sports
 259 franchise" or a "facility for a retained professional sports
 260 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
 261 distributed monthly by the department to each applicant that has
 262 been certified as a "facility for a retained spring training
 263 franchise" pursuant to s. 288.1162; however, not more than
 264 \$416,670 may be distributed monthly in the aggregate to all
 265 certified facilities for a retained spring training franchise.
 266 Distributions shall begin 60 days following such certification
 267 and shall continue for not more than 30 years. Nothing contained
 268 in this paragraph shall be construed to allow an applicant
 269 certified pursuant to s. 288.1162 to receive more in
 270 distributions than actually expended by the applicant for the
 271 public purposes provided for in s. 288.1162(6).

272 c. The department shall distribute \$166,667 monthly
 273 pursuant to s. 288.11635 to each applicant that has been
 274 certified as a "facility for a professional sports franchise"
 275 pursuant to s. 288.11635. Distributions must begin 60 days after
 276 such certification and must continue for not more than 30 years.

277 | This paragraph does not allow an applicant certified pursuant to
 278 | s. 288.11635 to receive more in distributions than the applicant
 279 | actually expended for the public purposes provided for in s.
 280 | 288.11635(5).

281 | d.e. Beginning 30 days after notice by the Office of
 282 | Tourism, Trade, and Economic Development to the Department of
 283 | Revenue that an applicant has been certified as the professional
 284 | golf hall of fame pursuant to s. 288.1168 and is open to the
 285 | public, \$166,667 shall be distributed monthly, for up to 300
 286 | months, to the applicant.

287 | e.d. Beginning 30 days after notice by the Office of
 288 | Tourism, Trade, and Economic Development to the Department of
 289 | Revenue that the applicant has been certified as the
 290 | International Game Fish Association World Center facility
 291 | pursuant to s. 288.1169, and the facility is open to the public,
 292 | \$83,333 shall be distributed monthly, for up to 168 months, to
 293 | the applicant. This distribution is subject to reduction
 294 | pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be
 295 | made, after certification and before July 1, 2000.

296 | 8. All other proceeds shall remain with the General
 297 | Revenue Fund.

298 | Section 3. Subsection (6) of section 288.1169, Florida
 299 | Statutes, is amended to read:

300 | 288.1169 International Game Fish Association World Center
 301 | facility.--

302 | (6) The Department of Commerce must recertify every 10
 303 | years that the facility is open, that the International Game
 304 | Fish Association World Center continues to be the only

305 international administrative headquarters, fishing museum, and
 306 Hall of Fame in the United States recognized by the
 307 International Game Fish Association, and that the project is
 308 meeting the minimum projections for attendance or sales tax
 309 revenues as required at the time of original certification. If
 310 the facility is not recertified during this 10-year review as
 311 meeting the minimum projections, then funding will be abated
 312 until certification criteria are met. If the project fails to
 313 generate \$1 million of annual revenues pursuant to paragraph
 314 (2)(e), the distribution of revenues pursuant to s.
 315 212.20(6)(d) ~~7.e.d.~~ shall be reduced to an amount equal to
 316 \$83,333 multiplied by a fraction, the numerator of which is the
 317 actual revenues generated and the denominator of which is \$1
 318 million. Such reduction shall remain in effect until revenues
 319 generated by the project in a 12-month period equal or exceed \$1
 320 million.

321 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 445 Tax on Sales, Use, and Other Transactions
SPONSOR(S): Altman and others
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: 1) Committee on Economic Development, McAuliffe, Croom.

SUMMARY ANALYSIS

HB 445 creates an exemption from the state sales and use tax for:

- An aircraft that primarily will be used in a fractional aircraft ownership program;
• Parts or labor used in the completion, maintenance, repair, or overhaul of an aircraft for primary use in a fractional aircraft ownership program; and
• A fractional ownership interest in an aircraft, including amounts paid by the fractional owner as monthly maintenance or management fees.

The term "fractional aircraft ownership program" is defined as a program that:

- Is provided by a business or affiliated group that has at least 25 turbojet or turboprop aircraft, regardless of the maximum certified takeoff weight of the aircraft;
• Provides significant management services;
• Requires one or more fractional owners per aircraft, with at least one aircraft having more than one owner having at least a one-sixteenth interest;
• Has a dry-lease interchange arrangements in effect among the owners; and
• Has multiyear program arrangements in effect for all of the above components of the fractional aircraft ownership program.

The Revenue Impact Estimating Conference estimated the bill will have an annual negative revenue impact on the General Revenue Fund of approximately \$2.4 million and an annual negative revenue impact of \$500,000 on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – The bill creates an exemption from the state sales and use tax for aircraft, parts and labor, and ownership interest related to fractional aircraft ownership programs.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Aviation-related State Tax Exemptions

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of Florida's six-percent sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. The statutes currently provide more than 200 exemptions.

A number of sales and use tax exemptions related to aviation exist in s. 212.08, F.S.:

- Aircraft repair and maintenance labor charges – For qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight.¹
- Equipment used in aircraft repair and maintenance – For qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight.²
- Aircraft sales and leases – For qualified aircraft and for aircraft of more than 15,000 pounds maximum certified takeoff weight used by a common carrier, as defined by federal regulations.³
- Aircraft that is purchased in Florida, but will not be used or stored in this state, qualifies for either a full or partial sales tax exemption, depending on the circumstances.⁴

“Qualified aircraft” is defined in s. 212.02(33), F.S., as:

- Any aircraft having a maximum certified takeoff weight of less than 10,000 pounds;
- Is equipped with twin turbofan engines that meet Stage IV noise requirements;
- Is used by a business operating as an on-demand air carrier under Federal Aviation Administration Regulation Title 14, chapter I, part 135, Code of Federal Regulations; and
- Is used by a business that owns and operates a fleet of at least 25 such aircraft in Florida.

The sales and use tax exemptions for “qualified aircraft,” commonly referred to as Very Light Jets (VLJs), were enacted in 2006 to encourage DayJet Corporation and similar “air taxi” businesses to locate in Florida.

To be eligible to receive the exemption for sales and use tax, the purchaser or lessee of a qualified aircraft must offer to participate in a flight training and research program with two or more universities which offer graduate programs in aeronautical or aerospace engineering and offer flight training through a school of aeronautics or college of aviation.⁵

Fractional Aircraft Ownership Programs

¹ Section 212.08(7)(ee), F.S.

² Section 212.08(7)(rr), F.S.

³ Section 212.08(7)(ss), F.S.

⁴ Section 212.08(11), F.S.

⁵ Section 212.0801, F.S.

In a “fractional aircraft ownership program” individuals or entities purchase an undivided interest in a specific, serial-numbered aircraft, and are guaranteed availability of the plane (or a similar one) within a time-frame specified by contract. Typically, fractional aircraft ownership contracts also require fractional owners to pay management fees for the operation, upkeep, and storage of the planes.

NetJets, based in New Jersey, is generally acknowledged by the industry as the first fractional ownership operation.⁶ It began in 1986 with the creation of a program that offered aircraft owners increased flexibility in the ownership and operation of aircraft, and provided for the management of the aircraft by an aircraft management company. The aircraft owners participating in the program agreed not only to share their own aircraft with others having a shared interest in that aircraft, but also to lease their aircraft to other owners in the program (called a “dry lease exchange”). The aircraft owners used a common management company to provide aviation management services including maintenance of the aircraft, pilot training and assignment, and administration of the leasing of the aircraft among the owners.

During the 1990s, the growth of fractional aircraft ownership programs was substantial in terms of size, numbers, and complexity of operations and issues. In 2001, the Federal Aviation Administration (FAA) adopted new rules on fractional aircraft ownership.⁷ The new rules established that an aircraft’s fractional owners and the aircraft management company share the responsibility for aircraft operations and passenger safety. The new rules also established ownership definitions and clarified certain administrative requirements for fractional aircraft ownership. For example, the rules define “fractional ownership interest” as equal to, or greater than, 1/16th of a subsonic, fixed-winged, or powered-lift program aircraft; for a helicopter, the ownership interest can be as small as 1/32nd.⁸

Fractional aircraft ownership continues to grow in popularity. According to the General Aviation Manufacturers Association, fractional aircraft programs comprised almost 14 percent of the business jets purchased worldwide in 2006.⁹ The number of aircraft operating in fractional programs increased from 949 in 2005 to 984 in 2006 (a 3.7-percent increase) and the number of entities and individuals involved in fractional ownership rose to 4,903 in 2006 (a 4.5-percent increase over 2005 figures).¹⁰ Similarly, the FAA’s Aerospace Forecast for Fiscal Years 2006-2017 noted that flights by fractional aircraft are outpacing the rest of the aviation industry, up nearly 3 percent in the first nine months of 2006 over the same time period in 2005.¹¹

Florida has one fractional aircraft ownership program: Avantair, which relocated from New Jersey to Clearwater, Florida last year. But some of the airplanes typically used in fractional aircraft ownership programs fall between the current 10,000-pound and the 15,000-pound certified takeoff weight thresholds, so Avantair and other fractional companies that have expressed interest in moving to Florida are ineligible for the tax exemptions.

Effects of Proposed Changes

HB 445 creates a 100 percent exemption from the state sales and use tax for:

- An aircraft that primarily will be used in a fractional aircraft ownership program;
- Parts or labor used in the completion, maintenance, repair, or overhaul of an aircraft for primary use in a fractional aircraft ownership program; and
- A fractional ownership interest in an aircraft, including amounts paid by the fractional owner as monthly maintenance or management fees.

⁶ Montgomery Research Institute’s CFO Project website. Available online at: www.cfoproject.com/documents.asp?d_ID=2143.

⁷ Title 14, Chapter I, Part 91, Subpart K, Code of Federal Regulations (CFR).

⁸ Title 14, Chapter I, Part 91, Subpart K, Section 91.1001(b)(10), CFR.

⁹ General Aviation Manufacturers Association annual report; available online at: <http://www.gama.aero/events/air/dloads/2007GAMAAnnualIndustryReview.pdf>.

¹⁰ Ibid.

¹¹ Federal Aviation Administration. Report available online at: http://www.faa.gov/data_statistics/aviation/aerospace_forecasts/2006-2017/.

The term "fractional aircraft ownership program" is defined as a program that:

- Is provided by a business or affiliated group that has at least 25 turbojet or turboprop aircraft, regardless of the maximum certified takeoff weight of the aircraft;
- Provides significant management services;
- Requires one or more fractional owners per aircraft, with at least one aircraft having more than one owner having at least a one-sixteenth interest;
- Has a dry-lease interchange arrangements in effect among the owners; and
- Has multiyear program arrangements in effect for all of the above components of the fractional aircraft ownership program.

To be eligible to receive the exemption for sales and use tax, the purchaser or lessee of the fractional aircraft must offer to participate in a flight training and research program with two or more universities which offer graduate programs in aeronautical or aerospace engineering and offer flight training through a school of aeronautics or college of aviation.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.08, F.S., to exempt aircraft, parts and labor, and ownership interest in a fractional ownership program from sales and use taxes, and defines a fractional ownership program.

Section 2: Amends s. 212.0801, F.S., to require participation in a flight training and research program with two or more universities.

Section 3: Provides the act will take effect July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Impact Estimating Conference estimated the bill will have the following impact on state revenues:

	<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>
General Revenue	(\$2.2M)	(\$2.5M)	(\$3.4M)
Trust Funds	Insignificant	Insignificant	Insignificant

2. Expenditures:

The Department of Revenue may incur expenses administering the program; however the department should be able to absorb these costs with current resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the Revenue Impact Estimating Conference, the bill will have an estimated negative fiscal impact on local government revenues of \$500,000 per year.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies interested in offering fractional aircraft ownership programs in Florida, and individuals or entities wishing to purchase interests in these aircraft, will benefit from not having to pay certain sales taxes related to their purchases and operations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill has a fiscal impact on local governments; however, an exemption applies because the fiscal impact is insignificant.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Department of Revenue, the definition of a "fractional aircraft ownership program" should be clarified.

D. STATEMENT OF THE SPONSOR

The fiscal impact should be zero or even have a positive fiscal impact.

Without this tax exemption it is likely existing fractional aircraft companies will leave Florida and new ones will not move into the State. Under present law existing companies can legally avoid the tax by holding newly purchased aircraft out of the State for a period of six months. If we lose these companies we will lose the tax benefit of having the fastest growing sector of the aircraft industry as a part of our economy.

The impact conference analysis recognizes that the negative fiscal impact "is assuming the planes are initially domiciled (in Florida) in the first 6 months. If legal tax avoidance is 100%, the current revenue impact could be zero." It does not seem reasonable to assume that everyone would voluntarily pay taxes that they can legally avoid.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the tax on sales, use, and other
 3 transactions; amending s. 212.08, F.S.; exempting certain
 4 aircraft, related construction, maintenance, repair, and
 5 overhaul parts and labor, and fractional aircraft
 6 ownership interests; providing a definition; amending s.
 7 212.0801, F.S.; applying certain university flight
 8 training and research program participation requirements
 9 to exemptions for fractional aircraft ownership programs;
 10 providing an effective date.

11
 12 WHEREAS, Florida has identified aviation and aerospace as a
 13 targeted industry for economic development purposes, and

14 WHEREAS, Florida has determined that the synergy in the
 15 space, aerospace, and aviation industry attracts the world's
 16 leading businesses to this state, and

17 WHEREAS, Florida employs approximately 80,000 people in the
 18 aviation and aerospace industry at an average annual wage of
 19 approximately \$52,000, and

20 WHEREAS, Florida has the third largest aviation
 21 maintenance, repair, and overhaul cluster in the United States
 22 and has focused strategies for expanding these aviation support
 23 services, and

24 WHEREAS, Florida intends to remain competitive with other
 25 states as additional innovative commercial air transportation
 26 products are developed, NOW, THEREFORE,

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 28 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (19) is added to section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(19) EXEMPTIONS; FRACTIONAL AIRCRAFT OWNERSHIP.--

(a) Also exempt from the tax imposed by this chapter is the sale or use of:

1. Aircraft for primary use in a fractional aircraft ownership program.
2. Any parts or labor used in the completion, maintenance, repair, or overhaul of aircraft for primary use in a fractional aircraft ownership program.
3. A fractional ownership interest in aircraft pursuant to a fractional aircraft ownership program, including amounts paid by the fractional owner as monthly management or maintenance fees.

(b) For purposes of this subsection, the term "fractional aircraft ownership program" means a program that:

1. Is provided by a business or affiliated group that has at least 25 turbojet or turboprop aircraft, regardless of the maximum certified takeoff weight of the aircraft.
2. Provides significant management services.
3. Requires one or more fractional owners per aircraft,

57 | with at least one aircraft having more than one owner, each
 58 | owner having at least a one-sixteenth interest.

59 | 4. Has dry-lease interchange arrangements in effect among
 60 | all the owners.

61 | 5. Has multiyear program arrangements in effect as to all
 62 | of the components of the program described in subparagraphs 1.-
 63 | 4.

64 | Section 2. Section 212.0801, Florida Statutes, is amended
 65 | to read:

66 | 212.0801 Qualified aircraft exemption; fractional aircraft
 67 | ownership program exemption.--To be eligible to receive an
 68 | exemption under s. 212.08(7) or (19) ~~for a qualified aircraft~~, a
 69 | purchaser or lessee must offer, in writing, to participate in a
 70 | flight training and research program with two or more
 71 | universities based in this state which offer graduate programs
 72 | in aeronautical or aerospace engineering and offer flight
 73 | training through a school of aeronautics or college of aviation.
 74 | The purchaser or lessee shall forward a copy of the written
 75 | offer to the Department of Revenue. No exemption provided in
 76 | this chapter for the lease, purchase, repair, or maintenance of
 77 | an ~~a qualified~~ aircraft shall be allowed unless the purchaser or
 78 | lessee furnishes the dealer with a certificate stating that the
 79 | lease, purchase, repair, or maintenance to be exempted is for
 80 | the exclusive use of the purchaser or lessee of an ~~a qualified~~
 81 | aircraft and that the purchaser or lessee otherwise qualifies
 82 | for the exemption as provided in this section. If a purchaser or
 83 | lessee makes tax-exempt purchases of ~~qualified~~ aircraft or
 84 | leases an ~~a qualified~~ aircraft on a continual basis, the

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85 purchaser or lessee may tender the certificate once and allow
86 the dealer to keep a certificate on file. The purchaser or
87 lessee shall inform the dealer that has a certificate on file
88 when the purchaser or lessee no longer qualifies for the
89 exemption. The department shall determine the format of the
90 certificate. This section applies only to qualified aircraft and
91 aircraft, parts and labor for aircraft repair and maintenance,
92 and ownership interests in aircraft used primarily in a
93 fractional aircraft ownership program.

94 Section 3. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 841 Economic Development Incentives
SPONSOR(S): Flores
TIED BILLS: IDEN./SIM. BILLS: SB 2124

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development	_____	West <i>SRW</i>	Croom <i>SC</i>
2) Economic Expansion & Infrastructure Council	_____	_____	_____
3) Policy & Budget Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill requires the Department of Revenue (DOR) to make monthly payments of one-half of the sales tax generated by qualified convention centers to the local governments that own such convention centers. The funds are generated by the sales tax of a qualified convention center through normal use of the building such as admission, parking, concessions, utility services, and other such services.

This bill requires convention centers to be certified through the Office of Tourism, Trade, and Economic Development (OTTED) to be eligible for this tax refund. A local government may not receive more than \$1 million per fiscal year and total distributions are capped at \$5 million statewide each fiscal year. If the fiscal cap of \$5 million is exceeded, this bill provides for an apportionment process.

This bill will have a negative fiscal impact on the General Revenue Fund up to \$5 million annually. These funds will be distributed to local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—HB 841 bill grants rule-making authority to the Office of Tourism, Trade, and Economic Development for the receipt and processing of applications for the refund of sales tax generated by qualified convention centers.

Ensure Lower Taxes—HB 841 authorizes a monthly distribution from sales tax revenues generated by qualified convention centers to local governments for the purpose of stimulating economic development through tourism.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Currently, Florida permits local governments to use tax reimbursements to construct, acquire, maintain, or expand convention centers in order to stimulate tourism or economic development.

The Convention Development Tax Act created in s. 212.0305, F.S., stimulates tourism by allowing local governments to use sales tax reimbursements to improve and construct convention centers. It states, “[o]ne of the principal purposes of the convention development tax is to promote tourism and the use of hotel facilities by facilitating the improvement and construction of convention centers”. This tax is levied by participating local governments against any person renting or leasing a dwelling for less than 6 months. The tax is 2 percent on every dollar. The full amount of taxes, less administrative costs, is remitted back to the participating local government monthly for use in promoting tourism, improving an existing convention center, or construction of a new convention center.

The Local Option Tourist Development Act created in s.125.0104, F.S., allows local municipalities to levy a tax on transient rentals of hotels, motels, and other similar establishments. This tax is levied by participating local governments against any person renting or leasing a dwelling for less than 6 months. The tax is either 1 percent or 2 percent on every dollar as determined by the local government. The full amount of taxes, less administrative costs, is remitted back to the participating local government monthly for use in construction or renovation of any professional sports franchise or spring training facility, promoting tourism, improving an existing convention center, or construction of a new convention center. Receipts from this tax may be used to stimulate both national and international tourism.

However, s. 212.20, F.S., does not provide for sales tax reimbursements to be distributed to local governments or municipalities owning convention centers.

Current Economic Incentives in Florida

The Florida Legislature has enacted numerous programs designed to encourage economic development throughout the state. Most programs are administered by the Office of Tourism, Trade, and Economic Development. OTTED is tasked with attracting high-technology and research and development industries to Florida. Three reimbursement programs currently available in the state:

Professional Sports Franchises

The Office of Tourism, Trade, and Economic Development offers a reimbursement program (s. 288.1162, F.S.) for sales tax generated by a facility for a new professional sports franchise or a facility for a retained professional sports franchise. Qualified applicants receive up to \$166,667 in monthly installments for a professional sports franchise. A facility must surpass 300,000 in paid attendance

annually to be considered a qualified facility. If a facility is used for spring training, then a qualified applicant can receive up to \$41,667 in monthly installments for that facility. A spring training facility must surpass 50,000 in paid attendance annually to be considered a qualified facility. Funds must be used to build, renovate, or maintain facilities or pay off debt in the acquisition or construction of the qualified facility.

Entertainment Industry Financial Incentive

The Office of Film and Entertainment offers a cash reimbursement program (s. 288.1254, F.S.) for 15 percent of the total budget spent in Florida for qualified film projects. To qualify for this program, a film project must have a Florida budget that exceeds \$850,000 in eligible expenditures. Eligible expenditures include wages, salaries, compensation for technical and production crews, directors, producers, and other staff who are Florida residents. Goods and services purchased from Florida vendors also qualify as eligible expenditures. The maximum allowable reimbursement is \$2 million per film project.¹

Qualified Target Industry (QTI)

The Office of Tourism, Trade, and Economic Development in conjunction with Enterprise Florida have developed a list of targeted industries that offer high-wage jobs that have a large non-Florida customer base. Pursuant to s. 288.106, F.S., qualified businesses receive refunds on taxes paid for creating new jobs in specific industries. Eligible taxes include corporate income, sales, and other taxes. Qualified businesses must engage in an industry that offers high wages and high job growth. QTI requires local financial support through city or county resolution before this incentive is approved. The amount of the QTI award is based on the number of new jobs created and higher awards are given to businesses with higher wages.²

Effect of Proposed Changes:

This bill creates s. 212.20(7)(e), F.S., requiring the Department of Revenue (DOR) to make monthly payments to local governments with qualified convention centers. The funds are generated by the sales tax of a qualified convention center through normal use of the building such as admission, parking, concessions, utility services, and other such services. One-half of the sales tax generated by such centers will go to General Revenue and the remaining one-half is refunded to qualified convention centers. An eligible convention center must be certified through the Office of Tourism, Trade, and Economic Development pursuant to s. 288.1172, F.S., to be eligible for this tax refund.

A local government may not receive more than \$1 million per fiscal year and total distributions are capped at \$5 million statewide. Currently, Orange County is the only local government that exceeds the annual \$1 million cap. The Orange County Convention Center is estimated to generate \$4.4 million in sales tax reimbursements during fiscal year 2007-2008.³ If the fiscal cap of \$5 million statewide is exceeded, this bill provides for an apportionment process. The apportionment process shall distribute proceeds to each eligible convention center through a mathematical equation where the amount remitted by an eligible convention center is the numerator and the total amount remitted by all eligible convention centers is the denominator.

Local governments are required to use the remitted sales tax revenues to stimulate economic development for the attraction and retention of corporate headquarters in high-technology, manufacturing, research and development, entertainment, and tourism industries, as designated by the unit of local government by resolution of its governing body, and to assist the eligible convention

¹ See 2006 Incentives Report: A Progress Report on Programs Funded from the Economic Development Initiatives Account. Produced by Enterprise Florida.

² Id.

³ Revenue Estimating Conference 2007.

centers in attracting more business and expanding their offerings, including developing their own events and shows. Distributions may be used to attract out-of-state businesses for the purpose of relocating within Florida. However, such funds may not be used to encourage or otherwise provide any type of incentives to businesses currently located in the state for the purpose of moving to another location within the state. Distributions may also be used to install renewable energy sources. This bill provides a repeal date of June 30, 2010.

This bill creates s. 288.1172, F.S., requiring OTTED to adopt rules that will allow for the screening of applications to certify eligible convention centers. A convention center must have the following characteristics to be considered an eligible convention center:

- Must be publicly owned by a local government or municipality;
- Must contain at least 30,000 square feet of exhibit space;
- Must be certified by resolution as serving a public purpose; and
- Must be located in a county levying a local option tourist development tax under s. 125.0104, F.S.

Failure to use the proceeds in any of the above mentioned ways is grounds for revoking certification. This section is repealed on June 30, 2010.

Currently, there are at least 16⁴ publicly owned convention centers that contain at least 30,000 feet of exhibit space in Florida⁵:

- Orange County Convention Center (Orange) 2,100,000 sq. ft.
- Miami Beach Convention Center (Miami-Dade) 502,848 sq. ft.
- Greater Ft. Lauderdale/Broward County Convention Center (Broward) 199,526 sq. ft.
- Tampa Convention Center (Hillsborough) 200,000 sq. ft.
- The Lakeland Center (Polk) 100,000 sq. ft.
- Prime F. Osborn III Convention Center (Duval) 100,000 sq. ft.
- Palm Beach County Convention Center (Palm Beach) 100,000 sq. ft.
- Coconut Grove Convention Center (Miami-Dade) 150,000 sq. ft.
- Ocean Center (Volusia) 60,000 sq. ft.
- Donald L. Tucker Center (Leon) 58,000 sq. ft.
- Osceola Heritage Park Exhibition Building (Osceola) 49,000 sq. ft.
- Clearwater Harbor View Center (Pinellas) 30,000 sq. ft.
- Harborside Event Center (Lee) 30,000 sq. ft.
- Manatee Convention & Civic Center (Manatee) 32,400 sq. ft.
- St Johns County Convention Center (St Johns) 36,150 sq. ft.
- Emerald Coast Conference Center (Okaloosa) 35,000 sq. ft.

C. SECTION DIRECTORY:

Section 1: Creates s. 212.20(7)(e), F.S.; sets parameters for distribution of funds; requires monthly distributions to local governments with certified convention centers; defines which sales taxes collected by convention centers are eligible for refund; sets limits and provides methods and timelines for distribution; provides an apportionment process for when the \$5 million cap is exceeded; sets requirements for the use of distributed funds; provides a repeal date of June 30, 2010.

Section 2: Creates s. 288.1172, F.S.; provides a process for certification through the Office of Tourism, Trade, and Economic Development (OTTED); grants OTTED rule-making authority for the certification process; provides a process for distribution of funds; establishes requirements for the use of funds; establishes a repeal date of June 30, 2010.

⁴ The Expo Center (Orange) has renovated the exhibit space and now may not contain at least 30,000 square feet per the Office of Orange County Government.

⁵ Revenue Estimating Conference 2007.

Section 3: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

General Revenue	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
	\$5 million	\$5 million

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

A local government may receive up to \$1 million annually in sales tax reimbursements on sales tax generated from normal use of a qualified convention center such as parking, admission, and concessions though other similar transactions qualify. Please see "Fiscal Comments" below.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown

D. FISCAL COMMENTS:

This bill will have a negative fiscal impact of up to \$5 million annually on the General Revenue Fund. The Florida Revenue Estimating Conference determined this bill will have a negative fiscal impact of \$4.3 million on the General Revenue Fund in fiscal year 2007-2008 and a corresponding positive impact of \$4.3 million on local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue. This bill redirects revenue generated by convention centers from General Revenue back to local governments for the purpose of stimulating economic development.

2. Other:

None

B. RULE-MAKING AUTHORITY:

This bill grants rule-making authority to the Office of Trade, Tourism, and Economic Development for the receipt and processing of applications.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to economic development incentives;
 3 amending s. 212.20, F.S.; providing for distribution of a
 4 portion of revenues from the tax on sales, use, and other
 5 transactions to specified units of local government owning
 6 eligible convention centers; providing limitations;
 7 requiring the Department of Revenue to prescribe certain
 8 forms; providing for future repeal; creating s. 288.1172,
 9 F.S.; providing for certification of units of local
 10 government owning eligible convention centers by the
 11 Office of Tourism, Trade, and Economic Development;
 12 requiring the office to adopt specified rules; providing a
 13 definition; providing requirements for certification;
 14 providing for use of proceeds distributed to units of
 15 local government under the act; providing for revocation
 16 of certification; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:
 19

20 Section 1. Paragraph (d) of subsection (6) of section
 21 212.20, Florida Statutes, is amended to read:
 22 212.20 Funds collected, disposition; additional powers of
 23 department; operational expense; refund of taxes adjudicated
 24 unconstitutionally collected.--
 25 (6) Distribution of all proceeds under this chapter and s.
 26 202.18(1)(b) and (2)(b) shall be as follows:
 27 (d) The proceeds of all other taxes and fees imposed
 28 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)

29 and (2) (b) shall be distributed as follows:

30 1. In any fiscal year, the greater of \$500 million, minus
 31 an amount equal to 4.6 percent of the proceeds of the taxes
 32 collected pursuant to chapter 201, or 5 percent of all other
 33 taxes and fees imposed pursuant to this chapter or remitted
 34 pursuant to s. 202.18(1) (b) and (2) (b) shall be deposited in
 35 monthly installments into the General Revenue Fund.

36 2. Two-tenths of one percent shall be transferred to the
 37 Ecosystem Management and Restoration Trust Fund to be used for
 38 water quality improvement and water restoration projects.

39 3. After the distribution under subparagraphs 1. and 2.,
 40 8.814 percent of the amount remitted by a sales tax dealer
 41 located within a participating county pursuant to s. 218.61
 42 shall be transferred into the Local Government Half-cent Sales
 43 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to
 44 be transferred pursuant to this subparagraph to the Local
 45 Government Half-cent Sales Tax Clearing Trust Fund shall be
 46 reduced by 0.1 percent, and the department shall distribute this
 47 amount to the Public Employees Relations Commission Trust Fund
 48 less \$5,000 each month, which shall be added to the amount
 49 calculated in subparagraph 4. and distributed accordingly.

50 4. After the distribution under subparagraphs 1., 2., and
 51 3., 0.095 percent shall be transferred to the Local Government
 52 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
 53 to s. 218.65.

54 5. After the distributions under subparagraphs 1., 2., 3.,
 55 and 4., 2.0440 percent of the available proceeds pursuant to
 56 this paragraph shall be transferred monthly to the Revenue

57 Sharing Trust Fund for Counties pursuant to s. 218.215.
 58 6. After the distributions under subparagraphs 1., 2., 3.,
 59 and 4., 1.3409 percent of the available proceeds pursuant to
 60 this paragraph shall be transferred monthly to the Revenue
 61 Sharing Trust Fund for Municipalities pursuant to s. 218.215. If
 62 the total revenue to be distributed pursuant to this
 63 subparagraph is at least as great as the amount due from the
 64 Revenue Sharing Trust Fund for Municipalities and the former
 65 Municipal Financial Assistance Trust Fund in state fiscal year
 66 1999-2000, a ne municipality may not ~~shall~~ receive less than the
 67 amount due from the Revenue Sharing Trust Fund for
 68 Municipalities and the former Municipal Financial Assistance
 69 Trust Fund in state fiscal year 1999-2000. If the total proceeds
 70 to be distributed are less than the amount received in
 71 combination from the Revenue Sharing Trust Fund for
 72 Municipalities and the former Municipal Financial Assistance
 73 Trust Fund in state fiscal year 1999-2000, each municipality
 74 shall receive an amount proportionate to the amount it was due
 75 in state fiscal year 1999-2000.
 76 7. Of the remaining proceeds:
 77 a. In each fiscal year, the sum of \$29,915,500 shall be
 78 divided into as many equal parts as there are counties in the
 79 state, and one part shall be distributed to each county. The
 80 distribution among the several counties shall begin each fiscal
 81 year on or before January 5th and shall continue monthly for a
 82 total of 4 months. If a local or special law required that any
 83 moneys accruing to a county in fiscal year 1999-2000 under the
 84 then-existing provisions of s. 550.135 be paid directly to the

85 district school board, special district, or a municipal
 86 government, such payment shall continue until such time that the
 87 local or special law is amended or repealed. The state covenants
 88 with holders of bonds or other instruments of indebtedness
 89 issued by local governments, special districts, or district
 90 school boards prior to July 1, 2000, that it is not the intent
 91 of this subparagraph to adversely affect the rights of those
 92 holders or relieve local governments, special districts, or
 93 district school boards of the duty to meet their obligations as
 94 a result of previous pledges or assignments or trusts entered
 95 into which obligated funds received from the distribution to
 96 county governments under then-existing s. 550.135. This
 97 distribution specifically is in lieu of funds distributed under
 98 s. 550.135 prior to July 1, 2000.

99 b. The department shall distribute \$166,667 monthly
 100 pursuant to s. 288.1162 to each applicant that has been
 101 certified as a "facility for a new professional sports
 102 franchise" or a "facility for a retained professional sports
 103 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
 104 distributed monthly by the department to each applicant that has
 105 been certified as a "facility for a retained spring training
 106 franchise" pursuant to s. 288.1162; however, not more than
 107 \$416,670 may be distributed monthly in the aggregate to all
 108 certified facilities for a retained spring training franchise.
 109 Distributions shall begin 60 days following such certification
 110 and shall continue for not more than 30 years. ~~Nothing contained~~
 111 ~~in This paragraph~~ does not ~~shall be construed~~ to allow an
 112 applicant certified pursuant to s. 288.1162 to receive more in

113 distributions than actually expended by the applicant for the
 114 public purposes provided for in s. 288.1162(6).

115 c. Beginning 30 days after notice by the Office of
 116 Tourism, Trade, and Economic Development to the Department of
 117 Revenue that an applicant has been certified as the professional
 118 golf hall of fame pursuant to s. 288.1168 and is open to the
 119 public, \$166,667 shall be distributed monthly, for up to 300
 120 months, to the applicant.

121 d. Beginning 30 days after notice by the Office of
 122 Tourism, Trade, and Economic Development to the Department of
 123 Revenue that the applicant has been certified as the
 124 International Game Fish Association World Center facility
 125 pursuant to s. 288.1169, and the facility is open to the public,
 126 \$83,333 shall be distributed monthly, for up to 168 months, to
 127 the applicant. This distribution is subject to reduction
 128 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall
 129 be made, after certification and before July 1, 2000.

130 e. The department shall distribute monthly to units of
 131 local government which have been certified as owning eligible
 132 convention centers pursuant to s. 288.1172 an amount equal to 50
 133 percent of the proceeds defined in this subparagraph which are
 134 received and collected in the previous month by the department
 135 under this chapter and are generated by such eligible convention
 136 centers and remitted on the sales and use tax returns of
 137 eligible convention centers. As used in this sub-subparagraph,
 138 the term "proceeds" is further defined as all applicable sales
 139 taxes collected by an eligible convention center for standard
 140 services provided by center staff to users of the center,

141 including parking, admission, ticket sales, food services,
 142 utilities services, space rentals, equipment rentals, security
 143 services, decorating services, business services, advertising
 144 services, communications services, exhibit supply sales and
 145 rentals, locksmith services, and sales of gifts and sundries.
 146 The total distribution to each unit of local government may not
 147 exceed \$1 million per state fiscal year. However, total
 148 distributions to all units of local government may not exceed \$5
 149 million per state fiscal year, and such distribution shall be
 150 limited exclusively to the taxes collected and remitted under
 151 this chapter. If collections and remittances of eligible
 152 convention centers exceed the \$5 million maximum amount
 153 authorized for distribution, the department shall distribute
 154 proceeds to each eligible unit of local government using an
 155 apportionment factor, the numerator of which is the amount
 156 remitted by an eligible convention center and the denominator of
 157 which is the total amount remitted by all eligible convention
 158 centers. The apportionment factor for each eligible convention
 159 center shall be applied to the \$5 million maximum amount
 160 authorized for distribution in order to determine the amount
 161 that shall be distributed to each local government unit. The
 162 department shall prescribe forms required to be filed with the
 163 department by eligible convention centers. Distributions shall
 164 begin 60 days following notification of certification by the
 165 Office of Tourism, Trade, and Economic Development pursuant to
 166 s. 288.1172. Distributions shall be used solely to encourage and
 167 provide economic development for the attraction, recruitment,
 168 and retention of corporate headquarters and of high-technology,

169 manufacturing, research and development, entertainment, and
 170 tourism industries, as designated by the unit of local
 171 government by resolution of its governing body, and to assist
 172 the eligible convention centers in attracting more business and
 173 expanding their offerings, including developing their own events
 174 and shows. Distributions may not be used to encourage or
 175 otherwise provide incentives or payments to existing businesses
 176 that have offices within the state for the purpose of relocating
 177 those offices to another location within the state. This sub-
 178 subparagraph is repealed on June 30, 2010.

179 8. All other proceeds shall remain with the General
 180 Revenue Fund.

181 Section 2. Section 288.1172, Florida Statutes, is created
 182 to read:

183 288.1172 Convention centers owned by units of local
 184 government; certification as owning eligible convention centers;
 185 duties.--

186 (1) The Office of Tourism, Trade, and Economic Development
 187 shall serve as the state agency for screening applicants for
 188 state funding pursuant to s. 212.20(6)(d)7.e. and for certifying
 189 an applicant as owning an eligible convention center.

190 (2) The Office of Tourism, Trade, and Economic Development
 191 shall adopt rules pursuant to ss. 120.536(1) and 120.54 for the
 192 receipt and processing of applications for funding pursuant to
 193 s. 212.20(6)(d)7.e.

194 (3) As used in this section, the term "eligible convention
 195 center" means a publicly owned facility having exhibition space
 196 in excess of 30,000 square feet, the primary function of which

197 is to host meetings, conventions, or trade shows.

198 (4) Before certifying an applicant as owning an eligible
 199 convention center, the Office of Tourism, Trade, and Economic
 200 Development must determine that:

201 (a) The unit of local government, as defined in s.
 202 218.369, owns an eligible convention center.

203 (b) The convention center contains more than 30,000 square
 204 feet of exhibit space.

205 (c) The unit of local government in which the convention
 206 center is located has certified by resolution after a public
 207 hearing that the application serves a public purpose pursuant to
 208 subsection (7).

209 (d) The convention center is located in a county that is
 210 levying a tourist development tax pursuant to s. 125.0104.

211 (5) Upon certification of an applicant, the Office of
 212 Tourism, Trade, and Economic Development shall notify the
 213 executive director of the Department of Revenue of such
 214 certification by means of an official letter granting
 215 certification. The Department of Revenue shall not begin
 216 distributing proceeds until 60 days following notice by the
 217 Office of Tourism, Trade, and Economic Development that a unit
 218 of local government has been certified as owning an eligible
 219 convention center.

220 (6) An applicant that has previously been certified under
 221 any provision of this section and that received proceeds under
 222 such certification is ineligible for an additional
 223 certification.

224 (7) A unit of local government which is certified as

225 owning an eligible convention center may use proceeds provided
 226 pursuant to s. 212.20(6)(d)7.e. for any of the following
 227 purposes or combination thereof:

228 (a) To fund the installation of renewable energy
 229 technologies, as defined in s. 377.803, for use at the
 230 qualifying convention center;

231 (b) To encourage and provide economic development for
 232 attracting, recruiting, and retaining corporate headquarters and
 233 high-technology, manufacturing, research and development,
 234 entertainment, and tourism industries, as designated by the unit
 235 of local government by resolution of its governing body; or

236 (c) To assist the eligible convention center in attracting
 237 more business and expanding its offerings, including developing
 238 its own events and shows.

239 (8) Failure to use the proceeds as provided in this
 240 section is grounds for revoking certification.

241 (9) This section is repealed on June 30, 2010.

242 Section 3. This act shall take effect July 1, 2007.