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# **ECONOMIC AFFAIRS COMMITTEE**

## **MEETING PACKET**

**Monday, March 3, 2014  
1:30 PM – 3:30 PM  
Reed Hall (102 HOB)**

**Will Weatherford  
Speaker**

**Jimmy Patronis  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Economic Affairs Committee

**Start Date and Time:** Monday, March 03, 2014 01:30 pm  
**End Date and Time:** Monday, March 03, 2014 03:30 pm  
**Location:** Reed Hall (102 HOB)  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 7007 Pub. Rec./Payment of Tolls and Associated Charges by Transportation & Highway Safety Subcommittee, Articles

**Consideration of the following proposed committee bill(s):**

PCB EAC 14-02 -- Professional Sports Facility Incentive Program

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Friday, February 28, 2014.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Friday, February 28, 2014.

**NOTICE FINALIZED on 02/24/2014 16:13 by Manning.Karen**



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7007      PCB THSS 14-02      Pub. Rec./Payment of Tolls and Associated Charges  
**SPONSOR(S):** Transportation & Highway Safety Subcommittee, Articles  
**TIED BILLS:**            **IDEN./SIM. BILLS:** SB 616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee	13 Y, 0 N	Thompson	Miller
1) Government Operations Subcommittee	11 Y, 0 N	Stramski	Williamson
2) Economic Affairs Committee		Thompson	Cremer

**SUMMARY ANALYSIS**

Current law provides a public record exemption for personal identifying information provided to, acquired by, or in the possession of the Department of Transportation (DOT), a county, or an expressway authority for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facilities. This prepayment system is the electronic transponder method of toll payment otherwise known as SunPass.

The bill expands the current public record exemption to include personal identifying information of customers who use the post-payment method of toll payment otherwise known as Toll-By-Plate. It also adds municipalities to the current list of public records custodians to whom the exemption applies.

The bill provides for repeal of the exemption on October 2, 2019, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

**Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a current public record exemption; thus, it requires a two-thirds vote for final passage.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

###### Public Records

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.<sup>1</sup>

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person the right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>2</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

###### Electronic Toll Payment

Subject to limited exemptions, current law prohibits persons from using any toll facility without payment.<sup>3</sup> The Department of Transportation (DOT) is authorized to adopt rules relating to the payment, collection, and enforcement of tolls, including, but not limited to, rules for the implementation of video or other image billing and variable pricing.<sup>4</sup> DOT has implemented two electronic toll collection programs, SunPass and Toll-By-Plate.

SunPass<sup>5</sup> is a prepaid system of electronic toll collection that is accepted on all Florida toll roads and nearly all toll bridges. SunPass utilizes a prepaid account system and electronic devices called transponders that attach to the inside of a car's windshield. When a car equipped with SunPass goes through a tolling location, the transponder sends a signal and the toll is deducted from the customer's prepaid account. SunPass account information includes the license plate number, address, and credit card information.<sup>6</sup>

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<sup>1</sup> Section 24(c), Art. I of the State Constitution.

<sup>2</sup> See s. 119.15, F.S.

<sup>3</sup> See s. 338.155(1), F.S. The exemptions generally include toll employees on official state business, state military personnel on official military business, persons authorizing resolution for bonds to finance the facility, persons using the toll facility as a required detour route, law enforcement officers or persons operating a fire or rescue vehicle when on official business, funeral processions of law enforcement officers killed in the line of duty, and handicapped persons.

<sup>4</sup> Section 338.155(1), F.S.

<sup>5</sup> Rule 14-15.0081, F.A.C.

<sup>6</sup> Information on SunPass is available at: <http://www.floridasturnpike.com/all-electronictolling/SunPass.cfm> (last visited Dec. 9, 2013).

The Toll-By-Plate<sup>7</sup> program, established by DOT in 2010, is an image-based system of toll collection available on the southern 47 miles of Florida's Turnpike in Miami-Dade. The Miami-Dade Expressway Authority and the Tampa-Hillsborough Expressway Authority have their own toll-by-plate programs. Toll-By-Plate takes a photo of a license plate as a vehicle travels through a Turnpike tolling location and mails a monthly bill for the tolls, including an administrative charge, to the registered owner of the vehicle. Accounts can be set up as pre-paid or post-paid.<sup>8</sup> Accounts may require name, address, email, driver's license number, day time phone number, and credit and debit card numbers.<sup>9</sup>

#### Public Record Exemption: Electronic Payment of Tolls

Section 338.155(6), F.S., provides that personal identifying information provided to, acquired by, or in the possession of DOT, a county, or an expressway authority for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facilities charges is exempt<sup>10</sup> from public record requirements. This provision was first adopted in 1996.<sup>11</sup>

Recently, DOT has expanded its use of electronic toll collection with the Toll-By-Plate video billing system. The current SunPass public record exemption does not protect the personal identifying information of Toll-By-Plate customers. Also, municipalities are not included in the current list of public records custodians to whom the exemption applies.

#### **Proposed Changes**

The bill amends s. 338.155(6), F.S., to expand the current public record exemption to include personal identifying information of Toll-By-Plate customers. The bill also adds municipalities to the current list of public records custodians to whom the exemption applies.

The bill provides for repeal of the exemption on October 2, 2019, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

#### **B. SECTION DIRECTORY:**

- Section 1. Amends s. 338.155, F.S., to provide an exemption from public record requirements for personal identifying information, and to provide for future legislative review and repeal of the exemption.
- Section 2. Provides a finding of public necessity.
- Section 3. Provides that the bill is effective upon becoming a law.

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

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

<sup>7</sup> Rule 14-100.005, F.A.C.

<sup>8</sup> Information on toll-by-plate is available at: <http://www.floridasturnpike.com/all-electronictolling/TOLL-BY-PLATE.cfm> (last visited Dec. 9, 2013).

<sup>9</sup> Information on toll-by-plate accounts can be found at:

<https://www.tollbyplate.com/displaySelectCustomerTypeRegisterAccountNewAccount> (last visited Dec. 10, 2013).

<sup>10</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Attorney General Opinion 85-62 (August 1, 1985).

<sup>11</sup> Chapter 96-178, L.O.F.; codified as s. 338.155(6), F.S.

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill could create a minimal fiscal impact on state and local agencies with staff responsible for complying with public records requests as staff could require training related to the expansion of the public record exemption. In addition, an agency could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the agency.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill expands the public record exemption to include personal identifying information held by

DOT, a county, a municipality, or an expressway authority for the purpose of paying tolls by any means of payment. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Other Comments: Retroactive Application

The Supreme Court of Florida ruled that a public record exemption is not to be applied retroactively unless the legislation clearly expresses intent that such exemption is to be applied retroactively.<sup>12</sup> The bill does not contain a provision requiring retroactive application. As such, the public record exemption would apply prospectively; however, the Toll-By-Plate program began operating as early as 2010.<sup>13</sup>

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On Thursday, January 9, 2014, the Transportation & Highway Safety Subcommittee adopted two amendments to PCB THSS 14-02. Amendment one revised the public necessity statement to describe the protections the bill provides for information regarding the location, travel patterns, and travel activity of toll customers and the related benefits such protections would provide to public health and safety. Amendment two included municipalities in the current list of toll records custodians to whom the exemption applies.

This analysis is drafted to the bill as amended by the Transportation & Highway Safety Subcommittee.

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<sup>12</sup> *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d. 373 (Fla. 2001).

<sup>13</sup> Information received from the Florida Department of Transportation, March 13, 2013 (email on file with the Transportation and Highway Safety Subcommittee).



1 A bill to be entitled  
 2 An act relating to public records; amending s.  
 3 338.155, F.S., relating to the payment of tolls and  
 4 associated charges; providing an exemption from public  
 5 records requirements for personal identifying  
 6 information; providing for future legislative review  
 7 and repeal of the exemption; providing a statement of  
 8 public necessity; providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12 Section 1. Subsection (6) of section 338.155, Florida  
 13 Statutes, is amended to read:

14 338.155 Payment of toll on toll facilities required;  
 15 exemptions.-

16 (6) (a) Personal identifying information held by ~~provided~~  
 17 ~~to, acquired by, or in the possession of~~ the Department of  
 18 Transportation, a county, a municipality, or an expressway  
 19 authority for the purpose of paying, prepaying, or collecting  
 20 tolls and associated administrative charges due for the use of  
 21 ~~using a credit card, charge card, or check for the prepayment of~~  
 22 ~~electronic toll facilities charges to the department, a county,~~  
 23 ~~or an expressway authority~~ is exempt from s. 119.07(1) and s.  
 24 24(a), Art. I of the State Constitution.

25 (b) This subsection is subject to the Open Government  
 26 Sunset Review Act in accordance with s. 119.15 and shall stand

27 repealed on October 2, 2019, unless reviewed and saved from  
 28 repeal through reenactment by the Legislature.

29 Section 2. The Legislature finds that it is a public  
 30 necessity to exempt from s. 119.07(1), Florida Statutes, and s.  
 31 24(a), Article I of the State Constitution personal identifying  
 32 information about individuals held by the Department of  
 33 Transportation, a county, a municipality, or an expressway  
 34 authority for the purpose of paying, prepaying, or collecting  
 35 tolls and associated administrative charges due for the use of  
 36 toll facilities. The exemption puts individuals who pay for  
 37 tolls by TOLL-BY-PLATE, which is video billed, on equal footing  
 38 with individuals who pay for tolls by check, debit card, or  
 39 credit card, or who pay cash at the toll booth. The exemption  
 40 protects the health and safety of the public by making exempt  
 41 information regarding the locations, travel patterns, and travel  
 42 activity of individuals as they use the toll road system. The  
 43 exemption protects the anonymity of all travelers on toll roads,  
 44 not just cash customers, regardless of the method of payment of  
 45 tolls. The exemption also thereby promotes the use of the  
 46 electronic toll collection system, which is a more efficient and  
 47 effective government collection system for tolls, because paying  
 48 for tolls by TOLL-BY-PLATE, which is video billed, or paying for  
 49 tolls by check, debit card, or credit card not only saves  
 50 individuals time when passing through the toll facilities,  
 51 compared to individuals who pay for tolls with cash, but also  
 52 costs much less to administer. Further, the exemption protects

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53 | the privacy of individuals and promotes their right to be let  
54 | alone from unreasonable government intrusion by prohibiting the  
55 | public disclosure of private information about the finances and  
56 | location of the individual using the toll road system.

57 |       Section 3. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB EAC 14-02 Professional Sports Facility Incentive Program  
**SPONSOR(S):** Economic Affairs Committee  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Affairs Committee		Collins DC	Creamer <i>JC</i>

### SUMMARY ANALYSIS

The bill creates s. 288.11625, F.S., the Professional Sports Facility Incentive Program process (program) to provide state funding for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility. The program will be administered by the Department of Economic Opportunity (DEO). Annual distributions of state funds will be made by the Department of Revenue (DOR).

The program consists of the following:

#### Application Process

- Applicants may be local governments or entities responsible for a facility that is located on land owned by a local government.
- Annually, DEO will accept applications from June 1 – November 1.
- Within 60 days of receiving a completed application, DEO will notify the applicant of its decision to recommend that the Legislature fund the project or deny the application.
- An applicant's request for funding must be approved by the Legislature through general law and signed into law by the Governor.
- DEO may not recommend multiple annual distributions for any single applicant or facility.

#### Evaluation Process

- The applicant must provide an analysis of the expected amount of new incremental state sales taxes that will be generated by sales at the facility.
- DEO must verify that the applicant is eligible to participate in the program and meets all requirements.
- Annually by February 1, DEO will rank the applicants based on each project's ability to produce a significant positive economic impact within the state and provide the ranking to the Legislature for final approval.

#### Certification and Contract

- Each certified applicant must enter into a contract with DEO specifying the terms of the state's investment and providing clawback provisions for certified applicants who fail to meet program requirements.
- Applicants may remain certified for no more than 30 years.

#### Distribution

- DEO will determine the annual distribution a certified applicant may receive based on the expected amount of new incremental state sales taxes that will be generated by sales at the facility.
- Annually, certified applicants may receive up to 75 percent of the expected new incremental sales taxes generated, up to \$2 million.
- DEO may not certify new applicants once total annual distributions reach \$12 million.

#### Repayment of Distributions

- A certified applicant may be required to reimburse the state, with penalties, if it provides false or misleading information, fails to generate the required amount of new incremental state sales taxes, or if the franchise relocates or is no longer the primary tenant of the facility prior to the end of its agreement.

The bill allows municipalities and counties to expend portions of the local government half-cent sales tax for reimbursing the state as required by the program.

The bill adds the program to the list of economic development programs subject to review by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) by January 1, 2015.

The Revenue Estimating Conference has not analyzed the fiscal impact of the bill. However, the bill caps total annual distributions at \$12 million in General Revenue funds.

The bill has an effective date of July 1, 2014.

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

**STORAGE NAME:** pcb02.EAC

**DATE:** 2/24/2014

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Professional Sports in Florida

There are nine major professional sports teams based in Florida covering each of the major professional sports leagues; the National Football League (NFL), Major League Baseball (MLB), National Basketball Association (NBA), and National Hockey League (NHL). The oldest major professional sports franchise in the state is the Miami Dolphins (NFL). The Dolphins franchise began play in 1966. The newest major professional sports team in the state is the Tampa Bay Rays (MLB) baseball franchise. The Rays franchise began play in 1998. The Miami Marlins (MLB), Tampa Bay Buccaneers (NFL), Jacksonville Jaguars (NFL), Orlando Magic (NBA), Miami Heat (NBA), Tampa Bay Lightning (NHL), and Florida Panthers (NHL) all play their home games in the state. MLB's Spring Training Grapefruit League is also based in Florida, with 15 teams claiming the state as their second home for preseason training and exhibition games.<sup>1</sup>

Beginning in 2015, the state will be home to a tenth major professional sports team when the Orlando City Soccer Club begins play as the 21<sup>st</sup> Major League Soccer (MLS) franchise.<sup>2</sup> Plans for a future franchise in Miami have also been announced by the league.<sup>3</sup> MLS is the premier professional soccer organization in the United States, having been launched in 1996 and boasting eight franchises valued at over \$100 million.<sup>4</sup>

Franchise	League	Inaugural Season	Home Facility	County	Facility Opened
Miami Dolphins	NFL	1966	Sun Life Stadium	Miami-Dade	1987
Tampa Bay Buccaneers	NFL	1976	Raymond James Stadium	Hillsborough	1998
Miami Heat	NBA	1988	American Airlines Arena	Miami-Dade	1999
Orlando Magic	NBA	1989	Amway Center	Orange	2010
Tampa Bay Lightning	NHL	1992	Tampa Bay Times Forum	Hillsborough	1996
Florida Panthers	NHL	1993	BB&T Center	Broward	1998
Miami Marlins	MLB	1993	Marlins Park	Miami-Dade	2012
Jacksonville Jaguars	NFL	1995	EverBank Field	Duval	1995
Tampa Bay Rays	MLB	1998	Tropicana Field	Pinellas	1990

<sup>1</sup> Florida Sports Foundation, *Sports in Florida*

[http://www.flasports.com/index.php?option=com\\_content&view=article&id=97&Itemid=211](http://www.flasports.com/index.php?option=com_content&view=article&id=97&Itemid=211) (last accessed January 14, 2014).

<sup>2</sup> Major League Soccer, *Major League Soccer Names Orlando City SC as 21<sup>st</sup> Franchise, Set for 2015 Debut*, November 19, 2013; <http://www.mlssoccer.com/news/article/2013/11/19/major-league-soccer-names-orlando-city-21st-franchise-set-2015-debut> (last accessed February 20, 2014).

<sup>3</sup> Major League Soccer, *David Beckham Exercises MLS Expansion Option on Future Miami Franchise*, February 5, 2014; <http://www.mlssoccer.com/news/article/2014/02/05/david-beckham-exercises-mls-expansion-option-future-miami-franchise> (last accessed February 20, 2014).

<sup>4</sup> Forbes, *Major League Soccer's Most Valuable Teams* November 20, 2013;

<http://www.forbes.com/sites/chris-smith/2013/11/20/major-league-soccer-s-most-valuable-teams/> (last accessed January 14, 2014).

## State Incentives for Professional Sports Teams

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

DEO is responsible for screening and certifying applicants for state funding.<sup>5</sup> An applicant qualifying as a new professional sports franchise must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location.<sup>6</sup> The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.<sup>7</sup>

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

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located.<sup>8</sup>
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise.<sup>9</sup>
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location of a new franchise in the state after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorized location in the state on or before December 31, 1976, for a retained professional sports franchise.<sup>10</sup>
- The applicant has projections demonstrating a paid annual attendance of over 300,000 annually.<sup>11</sup>
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the franchise's facility will equal or exceed \$2 million annually.<sup>12</sup>
- The city where the franchise's facility is located, or the county if the facility is in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.<sup>13</sup>
- The applicant has demonstrated that it has provided, or is capable of providing, financial or other commitments of more than one-half of the costs incurred or related to the improvement or development of the franchise's facility.<sup>14</sup>

Any applicant that meets the above mentioned criteria, as verified by DEO, is eligible to receive monthly payments from the state in the amount of \$166,667 for not more than 30 years totaling \$2,000,004 annually.<sup>15</sup>

State funding may only be used for the public purposes of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds

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<sup>5</sup> Section 288.1162(1), F.S.

<sup>6</sup> Section 288.1162(4)(c), F.S.

<sup>7</sup> Section 288.1162(6), F.S.

<sup>8</sup> Section 288.1162(4)(a), F.S.

<sup>9</sup> Section 288.1162(4)(b), F.S.

<sup>10</sup> Section 288.1162(4)(c), F.S.

<sup>11</sup> Section 288.1162(4)(d), F.S.

<sup>12</sup> Section 288.1162(4)(e), F.S.

<sup>13</sup> Section 288.1162(4)(f), F.S.

<sup>14</sup> Section 288.1162(4)(g), F.S.

<sup>15</sup> Section 212.20(6)(d)6.b., F.S.

issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds.<sup>16</sup> The state may only pursue recovery of funds if the Auditor General finds that the distributions were not expended as required by statute.<sup>17</sup>

No facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by DEO before any funds were disbursed under s. 212.20(6)(d), F.S.<sup>18</sup>

As of February 17, 2014, there were eight certified professional sports franchise facilities in Florida. The facilities and the payment distribution for each, as provided by the Department of Revenue, are listed below:

Facility Name	Certified Entity	Franchise	First Payment	Total <sup>19</sup>
Sun Life Stadium	Dolphin Stadium/South Florida Stadium Corp.	Florida Marlins	06/94	\$41,333,416
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/94	\$39,500,079
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	06/95	\$37,333,408
Tampa Bay Times Forum	Tampa Sports Authority	Tampa Bay Lightning	09/95	\$37,000,074
BB&T Center	Broward County	Florida Panthers	08/96	\$35,166,737
Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/97	\$34,333,402
American Airlines Arena	BPL, LTD	Miami Heat	03/98	\$31,833,397
Amway Center	City of Orlando	Orlando Magic	02/08	\$12,166,691

### Effect of Proposed Changes

The bill creates s. 288.11625, F.S., the Professional Sports Facility Incentive Program process. The purpose of the program is to provide state funding under s. 212.60(6)(d)6.f., F.S., for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility.

### Application Process

Applicants must be a unit of local government or an entity that is responsible for construction, management, or operation of a pro sports facility. A professional sports franchise (beneficiary) is eligible to apply under certain circumstances. DEO is directed to establish procedures and application forms to be used by program applicants and accept applications between June 1 and November 1 of each year. The bill gives DEO 60 days to complete its evaluation and notify the applicant in writing of its decision to recommend that the Legislature fund the project or deny the application. Applicants not approved by the Legislature, but recommended for funding by DEO may update a previously submitted application and re-apply.

The applicant must provide an independent analysis (Expected Sales Tax Analysis) by a state-certified public accountant (CPA) that provides an estimate of the new incremental state sales taxes generated

<sup>16</sup> Section 288.1162(5), F.S.

<sup>17</sup> Section 288.1162(7), F.S.

<sup>18</sup> Section 288.1162(8), F.S.

<sup>19</sup> Total paid as of February 17, 2014.



by sales at the facility above the average annual amount of state sales taxes generated by sales at the facility during the preceding 36-month period (estimate).

### Evaluation Process

Before recommending an applicant for funding to the Legislature, DEO must first verify that all of the following requirements are met:

- The applicant is responsible for the project.
- If the applicant is a beneficiary, then a local government holds title to the property on which the facility is located.
- If the applicant is a local government, then the local government has an exclusive intent agreement to negotiate in this state with the beneficiary.
- The local government in whose jurisdiction the facility is located has passed a resolution after public hearing in support of the project.
- Neither the applicant nor the beneficiary have previously defaulted or failed to meet the requirements of a sports-related program within ch. 288, F.S.
- The applicant is not a Major League Baseball spring training facility, a Professional Golf Hall of Fame facility, or an International Game Fish Association World Center facility.
- The applicant has demonstrated a commitment to employing Florida residents and firms, and purchasing locally available building materials whenever possible.
- If the applicant is a local government, then they have a signed agreement with a beneficiary for use of the facility;
- If the applicant is a beneficiary, then they must enter into an agreement with DEO that requires them to repay any state funds disbursed, plus a five percent penalty should they relocate before their agreement expires, and to pay for VISIT Florida-approved advertising at the facility.
- The total project cost must be at least \$100 million, with more than half the funding coming from private sources.
- The applicant has provided the Expected Sales Tax Analysis. DEO must consult with DOR or EDR to verify the analysis and may consult with DOR or EDR to develop a standard calculation for estimating new incremental state sales taxes generated by sales at the facility and adjustments to annual distributions.

By February 1 of each year, DEO will provide evaluations of all recommended applications, in ranked order, to the Governor, the President of the Senate, and the Speaker of the House of Representatives for final approval. Rankings will be determined by the project's ability to produce a significant positive economic impact within the state based on the following criteria:

- The ability of the project to provide a positive return on the state's investment.
- The proposed use of state funds.
- The length of time that a beneficiary has agreed to use the facility.
- The percentage of total project funds provided by the applicant, the percentage of total project funds provided by the beneficiary, and the total amount of private or in-kind contributions to the project.
- The number and type of "signature events"<sup>20</sup> the facility is likely to attract during the duration of the agreement with the beneficiary.

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<sup>20</sup> Signature events are defined as sporting events that create a significant positive economic impact within the state, and enhances that status of the state as a premier sports tourism destination. Signature events include, but are not limited to, NFL Super Bowls, College Football Playoff games, college football bowl games, professional sports all-star games, international sporting events and tournaments, and professional motorsports events.

- The anticipated increase in average annual ticket sales and attendance at the facility due to the project.
- The potential to attract out-of-state visitors to the facility.
- The multiuse capabilities of the facility.
- The facility's projected employment of state residents, contracts with firms based within the state, and purchases of locally available building materials.
- The amount of positive advertising or media coverage the facility generates.
- The estimate provided in the Expected Sales Tax Analysis.
- The size and scope of the project and number of temporary and permanent jobs that will be created as a direct result of the project.

DEO may not recommend more than one annual distribution for any applicant, facility, or beneficiary at a time.

### Certification and Contract

An applicant approved by the Legislature and certified by DEO must enter into a contract with the department that:

- Specifies the terms of the state's investment.
- States the criteria that the certified applicant must meet in order to remain certified.
- States that the certified applicant is subject to decertification as recommended by DEO and approved by the Legislature.
- Requires the certified applicant to submit both analyses outlined in the bill.
- Specifies information that the certified applicant must report to DEO.
- Requires that the certified applicant reimburse the state each year that the Expected Sales Tax Analysis demonstrates the amount of new incremental state sales taxes generated by sales at the facility is less than the annual distribution amount.
- Includes any other provisions deemed prudent by DEO.

### Annual Distribution of State Funds

DEO shall determine the annual distribution a certified applicant may receive based on the estimate of new incremental states sales taxes provided in the Expected Sales Tax Analysis. A certified applicant may receive up to 75 percent of the estimate or \$2 million, whichever is less.

Before the sixth annual distribution is made by DOR, the certified applicant must submit to DEO an analysis (Initial Comparison Analysis) prepared by an independent CPA comparing the actual amount of new incremental state sales taxes generated by sales at the facility since certification to the sum of the first five annual distributions. DEO may consult with DOR to verify the Initial Comparison Analysis.

Annually, beginning with the sixth annual distribution, the certified applicant must submit to DEO an analysis (Annual Comparison Analysis) prepared by an independent CPA comparing the actual amount of new incremental state sales taxes generated by sales at the facility over the previous 12-month period to the most recent annual distribution. DEO may consult with DOR to verify each Annual Comparison Analysis.

In any 12-month period when total annual distributions for all certified applicants equal \$12 million or more, DEO may not certify new annual distributions for any additional certified applicants.

DOR will begin annual distributions within 60 days of notification from DEO that an applicant is certified.

### Approved Use of Funds

A certified applicant may only use state funds for the following purposes:

- Constructing, reconstructing, renovating, or improving a facility.
- Reimbursing costs associated with constructing, reconstructing, renovating, or improving a facility.
- Paying or pledging for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable associated with bonds issued for the construction or renovation of a facility.

### Reports

By November 1 of each year, a certified applicant must submit to DEO any required information for inclusion in the report the department will provide to the Legislature by February 1. Every three years, DEO must verify that a certified applicant is meeting the program requirements. If they are not, DEO must notify the Governor and Legislature of the requirements not being met and recommend future action as part of the report due February 1. DEO will consider exceptions that may have prevented the certified applicant from meeting the requirements of the program if they include force majeure events or a significant economic downturn.

### Audits

Every five years, beginning in 2020, the Auditor General will conduct audits to verify the Annual Comparison Analyses, and to verify that the annual distributions are being expended as required. The findings will be reported to DEO. If the Auditor General finds that the annual distributions are not expended as required, then DOR must be notified.

### Repayment of Distributions

A certified applicant may be subject to repayment if:

- The beneficiary has broken the terms of its agreement with a local government. A beneficiary must reimburse the state for funds that have been distributed, plus a five percent penalty, if the beneficiary no longer occupies or uses a facility as the facility's primary tenant before the agreement expires.
- DEO has determined that an applicant has submitted any false or misleading information. The applicant must reimburse the state for funds that have been distributed, plus a five percent penalty.
- The amount of new incremental state sales taxes generated by sales at the facility that is less than the sum of the first five annual distributions as demonstrated in the Initial Comparison Analysis. The certified applicant must reimburse the state for the difference between state funds that have been disbursed and actual new state sales taxes generated by sales at the facility, plus a five percent penalty, if such determination is made.
- The actual new incremental sales taxes generated by sales at the facility during the most recent 12-month period was less than the annual distribution as demonstrated in the Annual Comparison Analysis. This applies to the sixth annual distribution and all subsequent annual distributions.

### Halting of Payments

The applicant may request to halt future annual distributions by providing DEO with written notice at least 20 days prior to the next annual distribution payment. DEO must notify DOR to halt future payments.

DEO will direct DOR to halt future disbursements to any certified applicant that has not made reimbursements as required by the program in a timely manner.

### Other Changes

The bill amends s. 212.20, F.S., to allow applicants certified under the program to receive monthly payments from DOR equal to 1/12<sup>th</sup> the amount certified by DEO. It also places a \$12 million cap on the total amount that may be distributed annually by DOR to certified applicants.

The bill amends s. 218.64, F.S., to allow municipalities and counties the option to expend portions of the local government half-cent sales tax for the purpose of reimbursing the state as a condition of the contract terms required for this program.

The bill amends s. 288.0001, F.S., to add this program to the list of economic development programs scheduled to be reviewed by EDR and the OPPAGA by January 1, 2015.

**B. SECTION DIRECTORY:**

- Section 1: Amends s. 212.20, F.S., to allow applicants certified under the Professional Sports Facility Program to receive monthly payments equal to 1/12<sup>th</sup> the annual distribution amount authorized by the program.
- Section 2: Amends s. 218.64, F.S., to allow municipalities and counties the option to expend portions of the local government half-cent sales tax for the purpose of reimbursing the state for funds expended.
- Section 3: Amends s. 288.0001, F.S., to add the Professional Sports Facility Incentive Program to the list of economic development programs scheduled for review by January 1, 2015.
- Section 4: Creates s. 288.11625, F.S., the Professional Sports Facility Incentive Program to provide state funding under s. 212.60(6)(d)6.f., F.S., for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility.
- Section 5: Provides an effective date of July 1, 2014.

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

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

1. Revenues:  
See Fiscal Comments.
2. Expenditures:  
See Fiscal Comments.

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

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

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The provisions of the bill may encourage the owners or operators of pro sports stadiums to undertake major renovations, which could have positive impacts on the construction sector. Additionally, such

renovations could have a positive impact on ticket sales and other sales associated with sporting and other events.

**D. FISCAL COMMENTS:**

The bill prohibits DOR from distributing more than \$12 million to certified applicants in a single year, and prohibits any single certified applicant from receiving an annual disbursement over \$2 million. Certified applicants are subject to reimbursement of state funds if they do not meet all program requirements. Certified applicants may receive annual payments for as long as 30 years.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

DEO may adopt rules to implement this bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to a professional sports facilities  
 3           incentive process; amending s. 212.20, F.S.; providing  
 4           for the distribution of a specified amount of tax  
 5           proceeds to certain applicants of the professional  
 6           sports facility incentive program; prohibiting the  
 7           Department of Revenue from distributing more than a  
 8           specified amount to program applicants; amending s.  
 9           218.64, F.S.; authorizing municipalities and counties  
 10          to use local government half-cent sales tax  
 11          distributions to reimburse the state for funding  
 12          received under the professional sports facility  
 13          incentive program; amending s. 288.0001, F.S.;  
 14          requiring the Office of Economic and Demographic  
 15          Research and the Office of Program Policy Analysis and  
 16          Government Accountability to provide a detailed  
 17          analysis of the professional sports facility incentive  
 18          program; creating s. 288.11625, F.S.; creating the  
 19          professional sports facility incentive program;  
 20          providing definitions; providing application  
 21          requirements and procedures; providing procedures and  
 22          criteria for the evaluation of applications and the  
 23          recommendation of applications for legislative  
 24          approval; providing that an applicant must receive  
 25          legislative approval of its application in order to  
 26          receive state funding; requiring an applicant whose

27 application is approved by the Legislature to enter  
 28 into a contract with the Department of Economic  
 29 Opportunity containing specified terms in order to  
 30 become certified; providing for the duration of  
 31 certain certifications; providing for the distribution  
 32 of state funds to certified applicants; requiring  
 33 certain certified applicants to submit an annual  
 34 analysis including specified information; providing  
 35 for the determination of annual distribution amounts;  
 36 restricting the amount of state funds that may be  
 37 provided to certified applicants in a specified  
 38 period; restricting the use of state funds received by  
 39 a certified applicant to specified purposes; providing  
 40 for the repayment of distributions under certain  
 41 circumstances; requiring the department to submit an  
 42 annual report containing specified information to the  
 43 Governor and Legislature; requiring the Auditor  
 44 General to conduct an audit of the program;  
 45 authorizing the Department of Revenue to recover  
 46 improperly expended distributions at the request of  
 47 the Auditor General; providing for the halting of  
 48 payments; authorizing the Department of Economic  
 49 Opportunity to adopt rules; providing an effective  
 50 date.

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

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Section 1. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

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

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

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

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



79 distributed accordingly.

80 3. After the distribution under subparagraphs 1. and 2.,  
 81 0.095 percent shall be transferred to the Local Government Half-  
 82 cent Sales Tax Clearing Trust Fund and distributed pursuant to  
 83 s. 218.65.

84 4. After the distributions under subparagraphs 1., 2., and  
 85 3., 2.0440 percent of the available proceeds shall be  
 86 transferred monthly to the Revenue Sharing Trust Fund for  
 87 Counties pursuant to s. 218.215.

88 5. After the distributions under subparagraphs 1., 2., and  
 89 3., 1.3409 percent of the available proceeds shall be  
 90 transferred monthly to the Revenue Sharing Trust Fund for  
 91 Municipalities pursuant to s. 218.215. If the total revenue to  
 92 be distributed pursuant to this subparagraph is at least as  
 93 great as the amount due from the Revenue Sharing Trust Fund for  
 94 Municipalities and the former Municipal Financial Assistance  
 95 Trust Fund in state fiscal year 1999-2000, no municipality shall  
 96 receive less than the amount due from the Revenue Sharing Trust  
 97 Fund for Municipalities and the former Municipal Financial  
 98 Assistance Trust Fund in state fiscal year 1999-2000. If the  
 99 total proceeds to be distributed are less than the amount  
 100 received in combination from the Revenue Sharing Trust Fund for  
 101 Municipalities and the former Municipal Financial Assistance  
 102 Trust Fund in state fiscal year 1999-2000, each municipality  
 103 shall receive an amount proportionate to the amount it was due  
 104 in state fiscal year 1999-2000.

105 6. Of the remaining proceeds:

106 a. In each fiscal year, the sum of \$29,915,500 shall be  
 107 divided into as many equal parts as there are counties in the  
 108 state, and one part shall be distributed to each county. The  
 109 distribution among the several counties must begin each fiscal  
 110 year on or before January 5th and continue monthly for a total  
 111 of 4 months. If a local or special law required that any moneys  
 112 accruing to a county in fiscal year 1999-2000 under the then-  
 113 existing provisions of s. 550.135 be paid directly to the  
 114 district school board, special district, or a municipal  
 115 government, such payment must continue until the local or  
 116 special law is amended or repealed. The state covenants with  
 117 holders of bonds or other instruments of indebtedness issued by  
 118 local governments, special districts, or district school boards  
 119 before July 1, 2000, that it is not the intent of this  
 120 subparagraph to adversely affect the rights of those holders or  
 121 relieve local governments, special districts, or district school  
 122 boards of the duty to meet their obligations as a result of  
 123 previous pledges or assignments or trusts entered into which  
 124 obligated funds received from the distribution to county  
 125 governments under then-existing s. 550.135. This distribution  
 126 specifically is in lieu of funds distributed under s. 550.135  
 127 before July 1, 2000.

128 b. The department shall distribute \$166,667 monthly  
 129 pursuant to s. 288.1162 to each applicant certified as a  
 130 facility for a new or retained professional sports franchise

131 pursuant to s. 288.1162. Up to \$41,667 shall be distributed  
 132 monthly by the department to each certified applicant as defined  
 133 in s. 288.11621 for a facility for a spring training franchise.  
 134 However, not more than \$416,670 may be distributed monthly in  
 135 the aggregate to all certified applicants for facilities for  
 136 spring training franchises. Distributions begin 60 days after  
 137 such certification and continue for not more than 30 years,  
 138 except as otherwise provided in s. 288.11621. A certified  
 139 applicant identified in this sub-subparagraph may not receive  
 140 more in distributions than expended by the applicant for the  
 141 public purposes provided for in s. 288.1162(5) or s.  
 142 288.11621(3).

143 c. Beginning 30 days after notice by the Department of  
 144 Economic Opportunity to the Department of Revenue that an  
 145 applicant has been certified as the professional golf hall of  
 146 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
 147 shall be distributed monthly, for up to 300 months, to the  
 148 applicant.

149 d. Beginning 30 days after notice by the Department of  
 150 Economic Opportunity to the Department of Revenue that the  
 151 applicant has been certified as the International Game Fish  
 152 Association World Center facility pursuant to s. 288.1169, and  
 153 the facility is open to the public, \$83,333 shall be distributed  
 154 monthly, for up to 168 months, to the applicant. This  
 155 distribution is subject to reduction pursuant to s. 288.1169. A  
 156 lump sum payment of \$999,996 shall be made, after certification

157 and before July 1, 2000.

158 e. The department shall distribute up to \$55,555 monthly  
 159 to each certified applicant as defined in s. 288.11631 for a  
 160 facility used by a single spring training franchise, or up to  
 161 \$111,110 monthly to each certified applicant as defined in s.  
 162 288.11631 for a facility used by more than one spring training  
 163 franchise. Monthly distributions begin 60 days after such  
 164 certification or July 1, 2016, whichever is later, and continue  
 165 for not more than 30 years, except as otherwise provided in s.  
 166 288.11631. A certified applicant identified in this sub-  
 167 subparagraph may not receive more in distributions than expended  
 168 by the applicant for the public purposes provided in s.  
 169 288.11631(3).

170 f. Beginning 60 days after notice by the Department of  
 171 Economic Opportunity to the Department of Revenue that an  
 172 applicant has been approved by the Legislature, enacted by  
 173 general law approved by the Governor, and certified by the  
 174 Department of Economic Opportunity under s. 288.11625, the  
 175 department shall distribute each month an amount equal to one-  
 176 twelfth the annual distribution amount certified by the  
 177 Department of Economic Opportunity for the applicant. The  
 178 department may not distribute more than \$12 million annually to  
 179 all applicants approved by the Legislature and certified by the  
 180 Department of Economic Opportunity pursuant to s. 288.11625.

181 7. All other proceeds must remain in the General Revenue  
 182 Fund.

183 Section 2. Subsections (2) and (3) of section 218.64,  
 184 Florida Statutes, are amended to read:

185 218.64 Local government half-cent sales tax; uses;  
 186 limitations.—

187 (2) Municipalities shall expend their portions of the  
 188 local government half-cent sales tax only for municipality-wide  
 189 programs, for reimbursing the state as required by a contract  
 190 pursuant to s. 288.11625(6), or for municipality-wide property  
 191 tax or municipal utility tax relief. All utility tax rate  
 192 reductions afforded by participation in the local government  
 193 half-cent sales tax shall be applied uniformly across all types  
 194 of taxed utility services.

195 (3) Subject to ordinances enacted by the majority of the  
 196 members of the county governing authority and by the majority of  
 197 the members of the governing authorities of municipalities  
 198 representing at least 50 percent of the municipal population of  
 199 such county, counties may use up to \$2 million annually of the  
 200 local government half-cent sales tax allocated to that county  
 201 for funding for any of the following purposes ~~applicants~~:

202 (a) Funding a certified applicant as a facility for a new  
 203 or retained professional sports franchise under s. 288.1162 or a  
 204 certified applicant as defined in s. 288.11621 for a facility  
 205 for a spring training franchise. It is the Legislature's intent  
 206 that the provisions of s. 288.1162, including, but not limited  
 207 to, the evaluation process by the Department of Economic  
 208 Opportunity except for the limitation on the number of certified

209 applicants or facilities as provided in that section and the  
 210 restrictions set forth in s. 288.1162(8), shall apply to an  
 211 applicant's facility to be funded by local government as  
 212 provided in this subsection.

213 (b) Funding a certified applicant as a "motorsport  
 214 entertainment complex," as provided for in s. 288.1171. Funding  
 215 for each franchise or motorsport complex shall begin 60 days  
 216 after certification and shall continue for not more than 30  
 217 years.

218 (c) Reimbursing the state as required by a contract  
 219 pursuant to s. 288.11625(6).

220 Section 3. Paragraph (b) of subsection (2) of section  
 221 288.0001, Florida Statutes, is amended to read:

222 288.0001 Economic Development Programs Evaluation.—The  
 223 Office of Economic and Demographic Research and the Office of  
 224 Program Policy Analysis and Government Accountability (OPPAGA)  
 225 shall develop and present to the Governor, the President of the  
 226 Senate, the Speaker of the House of Representatives, and the  
 227 chairs of the legislative appropriations committees the Economic  
 228 Development Programs Evaluation.

229 (2) The Office of Economic and Demographic Research and  
 230 OPPAGA shall provide a detailed analysis of economic development  
 231 programs as provided in the following schedule:

232 (b) By January 1, 2015, and every 3 years thereafter, an  
 233 analysis of the following:

234 1. The entertainment industry financial incentive program

235 established under s. 288.1254.

236 2. The entertainment industry sales tax exemption program  
237 established under s. 288.1258.

238 3. The VISIT Florida Tourism Industry Marketing  
239 Corporation and its programs established or funded under ss.  
240 288.122, 288.1226, 288.12265, and 288.124.

241 4. The Florida Sports Foundation and related programs  
242 established under ss. 288.1162, 288.11621, 288.11625, 288.1166,  
243 288.1167, 288.1168, 288.1169, and 288.1171.

244 Section 4. Section 288.11625, Florida Statutes, is created  
245 to read:

246 288.11625 Professional sports facility incentive program.-

247 (1) PURPOSE.-There is created within the department the  
248 professional sports facility incentive program. The purpose of  
249 the program is to provide for distributions of state funding to  
250 applicants under s. 212.20(6)(d)6.f. for the public purpose of  
251 constructing, reconstructing, renovating, or improving a  
252 facility.

253 (2) DEFINITIONS.-As used in this section, the term:

254 (a) "Beneficiary" means a professional sports franchise of  
255 the National Football League, the National Hockey League, the  
256 National Basketball Association, the National League or the  
257 American League of Major League Baseball, Major League Soccer,  
258 or the National Association for Stock Car Auto Racing, or a  
259 nationally recognized professional sports association that  
260 occupies or uses a facility as the facility's primary tenant. A

261 beneficiary may also be an applicant under this section.

262 (b) "Facility" means a facility used primarily to host  
 263 games or events held by a beneficiary. The term does not include  
 264 any portion of a facility used for transient lodging. The term  
 265 also does not include a Major League Baseball spring training  
 266 facility, a facility certified under s. 288.1168, or a facility  
 267 certified under s. 288.1169.

268 (c) "Project" means the proposed construction,  
 269 reconstruction, renovation, or improvement of a facility or the  
 270 proposed acquisition of land to construct a new facility.

271 (d) "State sales taxes generated by sales at the facility"  
 272 means state sales taxes imposed under chapter 212 and generated  
 273 by admissions to the facility or by sales made by vendors at the  
 274 facility who are accessible to persons attending events  
 275 occurring at the facility.

276 (3) APPLICATION PROCESS.-

277 (a) To apply for a distribution of state funds under s.  
 278 212.20(6)(d)6.f., an applicant must:

279 1. Be a unit of local government, as defined in s.  
 280 218.369, that is responsible for construction, management, or  
 281 operation of a facility; or

282 2. If not a unit of local government, be another entity  
 283 responsible for construction, management, or operation of a  
 284 facility, in which case, a unit of local government must hold  
 285 title to the property on which the facility is or will be  
 286 located.



287 (b) The annual application period is June 1 through  
 288 November 1.

289 (c) The department shall establish procedures and  
 290 application forms deemed necessary pursuant to the requirements  
 291 of this section. The department may notify an applicant of any  
 292 incomplete or additional required information necessary for the  
 293 department to evaluate the application.

294 (d) Each application shall include an independent analysis  
 295 prepared by a certified public accountant licensed in this state  
 296 that demonstrates:

297 1. The average annual amount of state sales taxes  
 298 generated by sales at the facility during the 36-month period  
 299 immediately before the beginning of the application period,  
 300 which shall be known as the "baseline amount."

301 2. The expected amount of new incremental state sales  
 302 taxes generated by sales at the facility in excess of the  
 303 baseline amount to be generated annually as a result of the  
 304 project.

305 (e) Within 60 days after receipt of a completed  
 306 application, the department shall evaluate the application as  
 307 provided in subsection (4) and notify the applicant in writing  
 308 of the department's decision to recommend legislative approval  
 309 of the application or to deny the application.

310 (4) EVALUATION PROCESS.—

311 (a) Before recommending an applicant for a distribution of  
 312 state funds under s. 212.20(6)(d)6.f., the department shall

313 verify:

314 1. That the applicant or beneficiary is responsible for  
 315 construction, reconstruction, renovation, or improvement of the  
 316 facility.

317 2. If the applicant is also the beneficiary, that a unit  
 318 of local government holds title to the property on which the  
 319 facility and project are or will be located.

320 3. If the applicant is a unit of local government within  
 321 whose jurisdiction the facility is or will be located, that the  
 322 unit of local government has an exclusive intent agreement to  
 323 negotiate in this state with the beneficiary.

324 4. That the unit of local government, within whose  
 325 jurisdiction the facility is or will be located, supports the  
 326 application for state funds. Such support must be verified by  
 327 adoption, after a public hearing, of a resolution that the  
 328 project serves a public purpose.

329 5. That the applicant or beneficiary has not previously  
 330 defaulted or failed to meet any statutory requirement of a  
 331 previous state-administered sports-related program under this  
 332 chapter.

333 6. That the applicant or beneficiary has sufficiently  
 334 demonstrated a commitment throughout the project to employ  
 335 residents of this state, contract with Florida-based firms, and  
 336 purchase locally available building materials to the greatest  
 337 extent practicable.

338 7. If the applicant is a unit of local government, that

339 the applicant has a certified copy of a signed agreement with a  
 340 beneficiary for use of the facility. If the applicant is a  
 341 beneficiary, the beneficiary must enter into an agreement with  
 342 the department. The applicant or beneficiary's agreement must  
 343 require the following:

344 a. If, before expiration of the agreement, the beneficiary  
 345 relocates to another venue or no longer occupies or uses the  
 346 facility as the facility's primary tenant, the beneficiary shall  
 347 reimburse the state for state funds distributed under this  
 348 section, plus a 5 percent penalty.

349 b. The beneficiary shall pay for signage or advertising  
 350 within the facility. The signage or advertising shall be placed  
 351 in a prominent location as close to the field of play or  
 352 competition as is practicable, shall be displayed consistent  
 353 with signage or advertising in the same location and be of like  
 354 value, and shall feature Florida advertising approved by the  
 355 Florida Tourism Industry Marketing Corporation.

356 8. That the total project cost is greater than \$100  
 357 million and more than one-half of the funds used to pay for the  
 358 project are from private sources.

359 9. The independent analysis submitted by the applicant  
 360 pursuant to paragraph (3)(d). The department shall consult with  
 361 the Department of Revenue or the Office of Economic and  
 362 Demographic Research to verify the independent analysis. Such  
 363 consultation may include the development of a standard  
 364 calculation for estimating new incremental state sales taxes

365 generated by sales at the facility and adjustments to  
 366 distributions.

367 (b) By February 1 of each year, as part of its annual  
 368 report submitted pursuant to paragraph (10)(a), the department  
 369 shall submit to the Governor, the President of the Senate, and  
 370 the Speaker of the House of Representatives an evaluation of  
 371 each application received during the application period that the  
 372 department recommends for legislative approval to receive a  
 373 distribution of state funds. The department's evaluation shall  
 374 include a list of the recommended projects, ranked in order of  
 375 projects most likely to produce a significant positive economic  
 376 impact within the state based on the following criteria:

377 1. The ability to provide a positive return on the state's  
 378 investment.

379 2. The proposed use of state funds.

380 3. The length of time that a beneficiary has agreed to use  
 381 the facility.

382 4. The percentage of total project funds provided by the  
 383 applicant, the percentage of total project funds provided by the  
 384 beneficiary, and the total amount of private or in-kind  
 385 contributions to the project.

386 5. The number and type of signature events that the  
 387 facility is likely to attract during the duration of the  
 388 agreement with the beneficiary. For purposes of this  
 389 subparagraph, the term "signature event" means a sporting event  
 390 that creates a significant positive economic impact within the

391 state, as determined by the department, and enhances the status  
 392 of the state as a premier sports tourism destination. Such  
 393 events may include, but are not limited to:  
 394 a. National Football League Super Bowls.  
 395 b. College football playoff games  
 396 c. College football bowl games.  
 397 d. Professional sports all-star games.  
 398 e. International sporting events and tournaments.  
 399 f. Professional motorsports events.  
 400 6. The anticipated increase in average annual ticket sales  
 401 and attendance at the facility due to the project.  
 402 7. The potential to attract out-of-state visitors to the  
 403 facility.  
 404 8. The multiuse capabilities of the facility.  
 405 9. The project's projected employment of residents of this  
 406 state, contracts with Florida-based firms, and purchases of  
 407 locally available building materials.  
 408 10. The amount of positive advertising or media coverage  
 409 that the facility generates.  
 410 11. The estimate by an independent certified public  
 411 accountant licensed in this state of the amount of new  
 412 incremental state sales taxes that the facility is expected to  
 413 generate annually as a result of the project provided pursuant  
 414 to subparagraph (3)(d)2.  
 415 12. The size and scope of the project and number of  
 416 temporary and permanent jobs that will be created as a direct

417 result of the facility improvement.

418 (c) The department may recommend no more than one  
 419 distribution under this section for any applicant, facility, or  
 420 beneficiary at a time.

421 (5) LEGISLATIVE APPROVAL.-

422 (a) In order for an applicant to receive a distribution of  
 423 state funds under s. 212.20(6)(d)6.f., its application must be  
 424 approved by the Legislature and enacted by general law approved  
 425 by the Governor in the manner provided in s. 8, Art. III of the  
 426 State Constitution.

427 (b) An applicant whose application is recommended by the  
 428 department but not approved by the Legislature may reapply and  
 429 update any information in the original application as required  
 430 by the department.

431 (6) CERTIFICATION AND CONTRACT.-

432 (a) To be certified by the department to receive a  
 433 distribution of state funds under s. 212.20(6)(d)6.f., an  
 434 applicant whose application is approved by the Legislature must  
 435 enter into a contract with the department that:

436 1. Specifies the terms of the state's investment.

437 2. States the criteria that the applicant must meet in  
 438 order to become and remain certified.

439 3. States that the applicant is subject to decertification  
 440 if recommended by the department and approved by the  
 441 Legislature.

442 4. Requires the applicant to submit the independent

443 analyses required under paragraphs (3)(d), (7)(c), and (7)(d).

444 5. Specifies information that the applicant must report to  
 445 the department.

446 6. Requires the applicant to reimburse the state in an  
 447 amount equal to the sum of the first five annual distributions  
 448 less 75 percent of the actual new incremental state sales taxes  
 449 generated by sales at the facility since the date of  
 450 certification of the applicant, plus a 5 percent penalty.

451 7. Beginning with the sixth annual distribution, requires  
 452 the applicant to reimburse the state each year in an amount  
 453 equal to the annual distribution received less 75 percent of the  
 454 actual new incremental state sales taxes generated by sales at  
 455 the facility during the most recent 12-month period.

456 8. Includes any other provisions deemed prudent by the  
 457 department.

458 (b) An application by a unit of local government which is  
 459 approved by the Legislature, enacted by general law approved by  
 460 the Governor, and subsequently certified by the department  
 461 remains certified for the duration of the beneficiary's  
 462 agreement with the applicant or for 30 years, whichever is less,  
 463 if the certified applicant has an agreement with a beneficiary  
 464 at the time of initial certification by the department.

465 (c) An application by a beneficiary which is approved by  
 466 the Legislature, enacted by general law approved by the  
 467 Governor, and subsequently certified by the department remains  
 468 certified for the duration of the beneficiary's agreement with

469 the unit of local government that owns the underlying property  
 470 or for 30 years, whichever is less, if the certified applicant  
 471 has an agreement with the unit of local government at the time  
 472 of initial certification by the department.

473 (d) An applicant that is certified under this section does  
 474 not require legislative approval in any subsequent year in order  
 475 to continue to receive distributions of state funding authorized  
 476 pursuant to that certification.

477 (7) DISTRIBUTIONS.—

478 (a) The Department of Revenue shall begin distributions  
 479 within 60 days after notification of initial certification by  
 480 the department.

481 (b) The department shall determine annual distribution  
 482 amounts to be disbursed to a certified applicant based on the  
 483 estimate of the amount of new incremental state sales taxes that  
 484 the facility is expected to generate as a result of the project  
 485 provided pursuant to subparagraph (3)(d)2. However, a certified  
 486 applicant may not receive an annual distribution amount under  
 487 this paragraph that exceeds 75 percent of the estimated new  
 488 incremental state sales taxes generated by sales at the facility  
 489 or \$2 million, whichever is less.

490 (c) Before the sixth annual distribution, as near to such  
 491 distribution as determined practicable by the department by  
 492 rule, a certified applicant shall submit to the department an  
 493 analysis prepared by an independent certified public accountant  
 494 licensed in this state demonstrating the actual amount of new



495 incremental state sales taxes generated by sales at the facility  
 496 since the date of certification. The applicant shall certify to  
 497 the department a comparison of the actual amount of state sales  
 498 taxes generated by sales at the facility since the date of  
 499 certification to the sum of the first five annual distributions.  
 500 The department shall verify the analysis. The department may  
 501 consult with the Department of Revenue to verify the analysis.

502 (d) The amount of a sixth or subsequent annual  
 503 distribution to be disbursed to a certified applicant shall be  
 504 determined by the department based on the estimate of the amount  
 505 of new incremental state sales taxes that the facility is  
 506 expected to generate annually as a result of the project  
 507 provided pursuant to subparagraph (3)(d)2. However, a sixth or  
 508 subsequent annual distribution to a certified applicant may not  
 509 exceed 75 percent of the actual amount of new incremental state  
 510 sales taxes generated by sales at the facility or \$2 million,  
 511 whichever is less.

512 (e) The department may not certify new distributions for  
 513 additional certified applicants if total distributions for all  
 514 certified applicants equal or exceed \$12 million in any 12-month  
 515 period.

516 (8) USE OF FUNDS.—A certified applicant may only use state  
 517 funds distributed under this section for the following purposes:

518 (a) Constructing, reconstructing, renovating, or improving  
 519 a facility or reimbursing such costs.

520 (b) Paying or pledging the payment of debt service on, or

521 to fund debt service reserve funds, arbitrage rebate  
 522 obligations, or other amounts payable with respect thereto;  
 523 bonds issued for the construction or renovation of such  
 524 facility; or for the reimbursement of such costs or the  
 525 refinancing of bonds issued for such purposes.

526 (9) REPAYMENT OF DISTRIBUTIONS.—

527 (a) If a beneficiary breaks the terms of its agreement  
 528 with a certified applicant and relocates to another venue or no  
 529 longer occupies or uses the facility as the facility's primary  
 530 tenant, the beneficiary shall reimburse the state for state  
 531 funds that have been distributed, plus a 5 percent penalty.

532 (b) If the department determines that a certified  
 533 applicant has submitted information or made a representation  
 534 that is false, misleading, deceptive, or otherwise untrue, the  
 535 certified applicant shall reimburse the state for state funds  
 536 that have been distributed, plus a 5 percent penalty.

537 (c) A certified applicant shall reimburse the state in an  
 538 amount equal to the sum of the first five annual distributions  
 539 less 75 percent of the actual new incremental state sales taxes  
 540 generated by sales at the facility since certification of the  
 541 applicant, plus a 5 percent penalty.

542 (d) Beginning with the sixth annual distribution, a  
 543 certified applicant shall reimburse the state each year in an  
 544 amount equal to the annual distribution received less 75 percent  
 545 of the actual new incremental state sales taxes generated by  
 546 sales at the facility during the most recent 12-month period.

547 (e) If a certified applicant is unable or unwilling to  
 548 reimburse the state as required by paragraphs (b), paragraph  
 549 (c), or paragraph (d), the department may place a lien on the  
 550 certified applicant's facility. If the applicant is a  
 551 municipality or county, it may reimburse the state using local  
 552 government half-cent sales tax distributions as provided in s.  
 553 218.64(3). Reimbursements shall be sent to the Department of  
 554 Revenue for deposit into the General Revenue Fund.

555 (10) REPORTS.—

556 (a) By February 1 of each year, the department shall  
 557 submit an annual report to the Governor, the President of the  
 558 Senate, and the Speaker of the House of Representatives. The  
 559 report shall include the department's recommendations submitted  
 560 for legislative approval under paragraph (4)(b) and any other  
 561 information required to be submitted pursuant to this  
 562 subsection.

563 (b) On or before November 1 of each year, a certified  
 564 applicant approved to receive state funds under this section  
 565 shall submit to the department any information required by the  
 566 department. The department shall summarize this information for  
 567 inclusion in its annual report submitted under paragraph (a).

568 (c) Every 3 years after the first month that a certified  
 569 applicant receives a monthly distribution, the department shall  
 570 verify that the applicant is meeting the program requirements.  
 571 If the applicant is not meeting program requirements, the  
 572 department shall notify the Governor, the President of the

573 Senate, and the Speaker of the House of Representatives of the  
 574 requirements not being met and shall recommend future action as  
 575 part of the department's annual report submitted under paragraph  
 576 (a). The department shall consider any extenuating circumstances  
 577 that may have prevented the applicant from meeting the program  
 578 requirements, such as a force majeure event or a significant  
 579 economic downturn.

580 (11) AUDITS.—Every 5 years beginning in 2020, the Auditor  
 581 General shall conduct audits pursuant to s. 11.45 to verify the  
 582 independent analyses required under paragraphs (7)(c) and (7)(d)  
 583 to verify that distributions were expended in accordance with  
 584 this section. The Auditor General shall report the findings to  
 585 the department. If the Auditor General determines that a  
 586 distribution was not expended in accordance with this section,  
 587 the Auditor General shall notify the Department of Revenue,  
 588 which may pursue recovery of the distribution under the laws and  
 589 rules that govern the assessment of taxes.

590 (12) HALTING OF PAYMENTS.—

591 (a) A certified applicant may request to halt future  
 592 distributions by providing the department with written notice at  
 593 least 20 days before the next monthly distribution payment. Upon  
 594 receiving such notice, the department shall immediately notify  
 595 the Department of Revenue to halt future payments.

596 (b) If a certified applicant fails to make timely  
 597 reimbursements as required under paragraph (9)(c) or paragraph  
 598 (9)(d), the department shall direct the Department of Revenue to

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599 | halt future distributions to the certified applicant.

600 |       (13) RULEMAKING.—The department may adopt rules to  
601 | administer this section.

602 |       Section 5. This act shall take effect July 1, 2014.