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DATE: March 5, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TOURISM
ANALYSIS**

BILL #: HB 345
RELATING TO: Targeted Sports Business Economic Development
SPONSOR(S): Representative(s) Johnson

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TOURISM
 - (2) LOCAL GOVERNMENT AND VETERANS AFFAIRS
 - (3) FISCAL POLICY & RESOURCES
 - (4) COUNCIL FOR COMPETITIVE COMMERCE
 - (5)
-

I. SUMMARY:

Section 212.20, F.S., is amended to authorize the Department of Revenue (DOR), 12 months after the Office of Tourism, Trade, and Economic Development (OTTED) has certified an applicant as a certified sports industry economic development project (project) under the newly created s. 288.113, F.S., to issue a sales tax reimbursement based upon total project cost and newly generated annual sales taxes. The project is to receive 50 percent of the new sales tax revenues it generates. The total sales tax reimbursement cannot exceed 50 percent of the cost of the project, amortized over 20 years. The annual amount cannot be less than \$500,000 or more than \$2,000,000. The amount and duration of the sales tax reimbursement is based upon a sales tax reimbursement agreement (agreement) between the project and OTTED. Certification is valid for 10 years and may be renewed up to two times for five years each with a total certification not to exceed 20 years.

Before being certified, the applicant must prove to OTTED that it has completed an independent analysis demonstrating that the project will generate a minimum of \$1 million annually in new sales tax revenues over a multi-year period; has commitments for amateur sports activities demonstrating that on a multi-year basis the proposed project will bring to the state new amateur sports business activities that will generate a minimum of \$1 million in new sales tax revenues annually; has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the cost incurred in or related to the development of the proposed project.

The bill provides recertification and decertification procedures; adoption of rules by OTTED; performance of an audit by DOR; maintenance of annual records of projects; an annual audit review of the projects to maintain certification; and, an annual report to the Legislature by OTTED.

There is a cap of three projects until June 30, 2006. Thereafter, only one new amateur sports economic development project may be certified by OTTED each year. No sales tax reimbursement is authorized for a project until new taxes are remitted to the state for a 12-month period. Therefore, there would be no impact the first year; a potential maximum impact the second year of \$2,000,000 for each project for a total of \$6,000,000 until June 30, 2006; and, an additional \$2,000,000 annually for each additional project certified thereafter.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- 1. Less Government Yes No N/A
- 2. Lower Taxes Yes No N/A
- 3. Individual Freedom Yes No N/A
- 4. Personal Responsibility Yes No N/A
- 5. Family Empowerment Yes No N/A

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 212.20, F.S., describes how tax revenues collected pursuant to Chapter 212, F.S., are to be distributed. Pursuant to s. 212.20(6)(e), F.S., the Department of Revenue (DOR) distributes tax revenues to professional sports franchise facilities that are certified by the Office of Tourism, Trade, and Economic Development (OTTED) as meeting requirements set forth in s. 288.1162, F.S., to the Professional Golf Hall of Fame as certified pursuant to s. 288.1168, F.S., and to the International Game Fish Association World Center facility as certified pursuant to s. 288.1169, F.S. Each recipient receives a fixed monthly distribution that is set by statute. No other sports-related businesses or facilities are entitled to distributions from DOR of tax revenues collected pursuant to Chapter 212, F.S.

The amounts listed below are the monthly payments currently authorized by law:

- \$166,667.....New professional sports franchise facility*
- \$166,667.....Retained professional sports franchise facility*
- \$ 41,667(up to).....Retained spring training franchise facility*
- \$166,667.....Professional Golf Hall of Fame**
- \$ 83,333.....International Game Fish Association World Center facility**

* Monthly payment is for not more than 30 years.

** Monthly payment is for up to 25 years.

*** Monthly payment is for up to 14 years; however, a lump sum payment of \$999,996 was made after certification and before July 1, 2000 (equating the payments to 15 years)

The law caps the number of new and retained professional sports franchise facilities eligible for funding at eight. Currently, there are six new professional sports franchise facilities and one retained professional sports franchise facility that have been certified and are receiving money. The remaining certification can only be for one specific facility. Section 288.1162, F.S., requires that at least five facilities for retained spring training franchises be certified by OTTED. OTTED cannot certify funding for less than the

requested amount to any applicant certified as a facility for a retained spring training franchise. Both ss. 212.20(20)(6)(e), and 288.1162, F.S., however, cap the total monthly distribution in the aggregate to all facilities for a retained spring training franchise to \$208,335.

Criteria is set forth in Chapter 288, F.S., for certification for each of the above listed types of facilities. Criteria for all includes such things as relationship with and support of a local unit of government, projections for paid attendance, and demonstration of being able to provide or having financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility. As a condition of certification for all, but the retained spring training franchise facility, there must be an independent analysis demonstrating that the amount of revenues projected to be generated by the respective facilities will exceed any money received from the state. Only the Professional Golf Hall of Fame facility and the International Game Fish Association World facility have certification requirements for dedication of specific funding amounts for promotion of the facility and promotion of Florida tourism.

For facilities for professional, retained professional and retained spring training franchises, s. 288.1662, F.S., prohibits an applicant previously certified under any provisions of the section and receiving funding from being eligible for an additional certification. There are no requirements for review and recertification by OTTED or requirements for reduction in funding or decertification by OTTED if not meeting initial certification requirements. Sections 288.1168 and 288.1169, F.S., relating to the Professional Golf Hall of Fame facility and the International Game Fish Association World facility, contain requirements for recertification by OTTED every 10 years as well as mechanisms for imposing monetary sanctions for failure to meet all certification requirements or abatement of funding until certification requirements are met.

For all certified by OTTED, DOR is required to audit to verify that the distributions under the various governing sections have been expended as required by those sections; however, only s. 288.1162, F.S., states that DOR may pursue recovery of funds if they have been determined to have been expended outside the requirements of the law.

Sections 288.1162, 288.1168, and 288.1169, F.S., require OTTED to serve as the state agency for screening applicants for state funding pursuant to s. 212.20, F.S., and for certifying applicant facilities for funding. Section 288.1229, F.S., authorizes the creation of a direct-support organization to assist OTTED in two primary areas, one of which is in the promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida. As part of this assistance, OTTED uses the direct support organization, the Florida Sports Foundation, to carry out the applicant screening duties required under ss. 288.1162, 288.1168, and 288.1169, F.S. The Foundation submits the applications to OTTED which certifies the eligibility of the applicant under the law.

C. EFFECT OF PROPOSED CHANGES:

House Bill 345 amends s. 212.20(6)(e)5., F.S., to require DOR to distribute funds to any "certified sports industry economic development project" as certified by OTTED pursuant to s. 288.113, F.S., created by the bill. OTTED is required to certify that the project is under development or is operational, has generated sales tax revenue for 12 months, and is creating new jobs as agreed in advance with OTTED. DOR is required to distribute up to 50 percent, but not exceeding \$2 million, of the newly generated sales tax revenue monthly, pro rata, to the applicant in an amount and for a duration as agreed to in a written sales tax reimbursement agreement between the project and OTTED. An amateur sports business economic impact is the amount of new sales tax revenues generated by a project as estimated by the Sports Economic Impact Model used by OTTED.

Section 288.113, F.S., is created to establish a sales tax reimbursement program for certified sports industry economic development projects, including a statement of legislative findings and declarations supporting the recruitment of these projects because of importance to the state; including eligibility, certification, recertification, and decertification requirements and procedures; including reimbursement amounts and procedures; and, including requirements for program administration.

An amateur sports business may apply to OTTED to be certified as a "certified sports industry economic development project" which is defined as an amateur sports business that develops, operates, or both develops and operates a project that attracts and retains multiyear amateur sporting events that generate new sales tax revenues for the state, that has submitted a properly completed application to OTTED, and that has subsequently been certified by that office as a certified sports industry economic development project (project). Upon certification, the project is entitled to distributions under s. 212.20, F.S., of new sales taxes generated by increased new business or tourism activity directly attributable to the project. The project must generate sales tax revenues for a 12-month period before a revenue distribution is available. The amount of the monthly reimbursement payment is established by using a model to project the total estimated amount the project would receive over 20 years in order to establish the payment amount. In essence, the project is to receive 50 percent of the new sales tax revenues it is expected to generate. The total cannot exceed 50 percent of the cost of the project amortized over 20 years. The annual amount can be no less than \$500,000 and no more than \$2,000,000. OTTED is required to notify DOR of the initial certification and reimbursement amount and any changes to the certification status and amount to be paid to a project. Purposes for which the funds are to be used are delineated in the section.

OTTED is required to establish certification, recertification, and decertification procedures. OTTED is required to develop a standardized certification application form that must include information about job creation, proposed budgets, contracts for events, and project financing. An applicant must provide an independent analysis showing it will generate at least \$1 million annually in new sales tax revenues over a multiyear period. It must have commitments for amateur sports activities demonstrating that the proposed sports industry economic development projects (proposed project) will bring new amateur sports business activities to the state on a multiyear basis that will generate the minimum \$1 million in new sales tax revenues annually. Additionally, the proposed project must be able to provide at

least 50 percent of its development costs. The applicant amateur sports business is required to enter into a written agreement with OTTED that provides the terms of the certification. Compliance with the agreement is a condition precedent for receiving payments under s. 212.20, F.S.

Initial certification of a project is for ten years with two possible recertifications for five years each. If upon review after the ten-year certification the project is not generating sales tax revenues as projected, its distributions will be reduced until it meets the certification criteria.

Any reduction in distributions will remain in effect until the project generates \$1 million in sales tax revenues in a 12-month period. If the project fails to generate new sales tax revenues of \$1 million for two consecutive years, OTTED has the discretion to decertify the project. OTTED may also decertify a project that is not able to maintain economic development activities in Florida. DOR may suspend payments for six months until the project is either in compliance or is determined to be in default.

OTTED is authorized to verify information provided in applications, including information concerning payment of taxes, to DOR. To facilitate the monitoring and auditing process, OTTED is authorized to request assistance from DOR, the Department of Labor and Employment Security, or any local government or entity regarding a project's compliance with s. 288.113, F.S.

OTTED is granted rulemaking authority to carry out provisions of the bill. DOR is authorized to establish auditing procedures.

Finally, the bill amends s. 288.1229, F.S., to add the attraction of sports economic development projects to the responsibilities of the direct support organization (Florida Sports Foundation) created to assist OTTED with professional and amateur sports responsibilities in the state.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 212.20(6)(e), F.S., by adding a new subparagraph e. to require that beginning 12 months after notice by the Office of Tourism, Trade, and Economic Development OTTED that an applicant has been certified as a certified sports industry economic development project, a monthly sales tax reimbursement payment in the amount set forth in the notice by OTTED shall be distributed to the applicant until the certification expires or notice is received from OTTED of a change in the applicant's certification status or in the certified monthly payment amount. The amount of the monthly sales tax reimbursement distribution shall be adjusted beginning 30 days after notice by OTTED that the applicant is to receive a reduced or increased sales tax reimbursement payment.

Section 2. Amends s. 213.053(7)(k), F.S., extending DOR information sharing with OTTED to include the sales tax reimbursement program authorized by s. 288.113, F.S.

Section 3. Creates s. 288.113, F.S., to establish a tax reimbursement program for "certified sports industry economic development projects.

Findings and Declarations; Definitions

Subsection (1) provides legislative findings and declarations purporting the value of “certified sports industry economic development projects” in providing high-quality employment opportunities for the residents of the state, increasing tourism, and enhancing the economic foundation of the state.

Subsection (2) defines “certified sports industry economic development project” and “sales tax reimbursement”. A “certified sports industry economic development project” or “project” is any amateur sports business that develops, operates, or both develops and operates a project that attracts and retains multiyear amateur sporting events that generate new sales taxes for the state, that has submitted a properly completed application to OTTED, and that has subsequently been certified by that office as a certified sports industry economic development project. A “sales tax reimbursement” is that percentage of new sales taxes that are generated by a project and collected by the state which OTTED, using the Sports Economic Impact Model, estimated to be returned to the project as a reimbursement under the terms of the sales tax reimbursement agreement. The bill provides that the project must first generate new sales tax revenues that have been collected by DOR before any sales tax reimbursement may be provided to the project. The reimbursement may not exceed 50 percent of the total new sales tax revenues generated annually by the project.

Application Eligibility

Subsection (3) specifies that any amateur sports business that promotes multiyear amateur sports industry economic development activities in the state may apply for certification in order to receive a sales tax reimbursement on new sales tax revenue generated by increased new business and tourism activity directly attributable to the proposed amateur sports industry economic development project. The number of certified sports economic development projects shall not exceed three until June 30, 2006, and thereafter only one new certified sports industry economic development project may be certified by OTTED each year.

Tax Reimbursement and Authorized Amount

Subsection (4) provides that the eligible amount of a sales tax reimbursement to a project is up to 50 percent of the amount of eligible new sales tax revenue generated by the project annually. This is certified by OTTED. The total amount of sales tax reimbursements for all fiscal years estimated for each project may not exceed 50 percent of the cost of the project. Sales tax reimbursements per project shall not be less than \$500,000 nor more than \$2 million in a single fiscal year.

Subsection (5) provides that after entering into a sales tax reimbursement agreement, a project may receive a sales tax reimbursement for any or all of the following:

- Developing and implementing any component of the project’s sports events and activities;

- Constructing, reconstructing, renovating, furnishing, equipping, or operating the project's facilities or events;
- Pledging payments or debt service on, or funding, debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds for the project's activities and facilities; and,
- Paying the cost of relocating the project's corporate headquarters into the state.

Certification, Recertification, and Decertification

Subsection (6) requires OTTED to establish a process for certifying a proposed amateur sports industry economic development project to receive a sales tax reimbursement of a percentage of new sales tax revenues that have been generated and remitted to the state as a result of the project. Before certifying an applicant, OTTED must determine that the applicant has:

- Completed a verified independent analysis or study which demonstrates that the proposed amateur sports economic development project will generate a minimum of \$1 million annually in new sales tax revenues over a multiyear period;
- Commitments for amateur sports activities which demonstrate that the proposed amateur sports economic development project will bring to the state on a multiyear basis new proposed amateur sports economic development project activities that will generate a minimum of \$1 million in new sales tax revenues annually; and,
- Demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the cost incurred in or related to the development of the proposed amateur sports industry economic development project activity.

Requires OTTED, upon determining that criteria for certification are met, to send the applicant a letter of certification that stipulates the terms of the sales tax reimbursement agreement and the penalties for failing to comply with those terms. Requires OTTED to deny an application for certification if it determines that the proposed project does not meet the criteria.

Prohibits a project that has previously been certified and has received a reimbursement under that certification from an additional certification.

Requires OTTED to develop a standardized certification application form for amateur sports businesses. Requires the application to include, but not be limited to, relevant information on employment and job creation, proposed budgets, contracts for multiyear events and projects, project financing, and other information requested by OTTED. OTTED shall distribute and process all applications.

Requires initial certification for reimbursement to be valid for ten years with eligibility for two additional periods of recertification for five years each. Requires the applicant to request

recertification 12 months before the expiration of the certification. Limits total certification period to 20 years.

Requires OTTED to recertify, before the end of the first 10-year period, that the project is operational and is meeting the minimum projections for sales tax revenues as required at the time of the original certification. Requires funding to be adjusted until certification criteria are met, if the project is not recertified as meeting minimum projections during the ten-year review. Requires the amount of sales tax reimbursement distributed to the project to be reduced to an amount equal to a pro rata amount of the sales taxes collected times 50 percent, if the project fails to generate annual sales tax revenues pursuant to its sales tax reimbursement agreement with OTTED. Provides that at the discretion of OTTED a project may be decertified if for two consecutive years the amount of sales tax revenues collected falls below a minimum of \$1 million per year. Requires that a reduction remain in effect until the sales tax revenues generated by the project in a 12-month period equal or exceed \$1 million.

Provides that OTTED may decertify a project if the business can no longer maintain its economic activities in the state. Authorizes DOR to suspend payment for a period of 6 months until the project is either in compliance with the sales tax reimbursement agreement or is determined to be in default when the project is no longer in existence, or is no longer viable, as determined by the sales tax reimbursement agreement with OTTED, or the project has the certification for purposes other than authorized. Provides that any person who knowingly falsifies an application for purposes other than those authorized commits a felony of the third degree.

Requires OTTED to develop rules for the receipt and processing of an application for funding pursuant to s. 212.20, F.S.

Sales Tax Reimbursement Agreement

Subsection (7) requires that as a condition for sales tax reimbursement that a project enter into a written agreement with OTTED. Requires that the sales tax reimbursement agreement include, at a minimum, the total number of full-time equivalent jobs created in or transferred to this state as a direct result of the project; the average wage paid for those jobs; the criteria that will apply to measuring the achievement of these terms during the effective period of the agreement; the time schedule or plan for when jobs will be in place and operative in the state; the maximum amount of new sales tax revenue estimated to be generated as a result of the project; the maximum amount of sales tax reimbursement that the project is eligible to receive; the maximum amount of sales tax reimbursement that the project is requesting; and, the budgets, projections, and cost estimates for the amateur sports activities and projects for which a sales tax reimbursement is sought.

Requires compliance with the terms and conditions of the sales tax reimbursement agreement as a condition precedent for receiving a sales tax reimbursement each year. Requires that failure to comply will result in an immediate review by OTTED of the activities of the project. The sales tax reimbursement shall not exceed 50 percent of the total project cost, amortized over a period of years not to exceed 20. The sales tax reimbursement may be provided through direct payment or other means of payment to the certified sports

industry economic development project, as determined in the sales tax reimbursement agreement with approval of DOR.

Administration

Subsection (8) authorizes OTTED to verify information provided in any claim for sales tax reimbursement including information regarding employment, wage levels or the payment of taxes to any agency, including DOR, the Department of Labor and Employment Security (LES), or any local government. Authorizes OTTED to request the assistance of those agencies in monitoring the compliance of the projects with this section. DOR may audit as provided in s. 213.34, F.S., to verify that the distributions have been expended as required.

Information to be Gathered by OTTED; Report to Legislature

Subsection (9) requires that, beginning January 1, 2001, OTTED maintain records based on information provided on taxpayer applications for project reimbursements. Requires the records to include a statement of what percentage of the overall new economic impact generated by projects consists of the amount of funds annually reimbursed to projects. Requires that OTTED maintain data showing the annual growth in Florida-based amateur sports industry companies and the number of persons employed and wages paid by such companies. Requires an annual report to the Legislature on the information gathered pursuant to this subsection be submitted no later than December 1 of each year.

Section 4. Amends s. 288.1229, F.S., to add the attraction of sports economic development projects to the responsibilities of the direct support organization (Florida Sports Foundation) created to assist OTTED with professional and amateur sports responsibilities in the state.

Section 5. Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	<u>FY 2001-2002</u>	<u>FY 2002-2003</u>
	Indeterminate	Indeterminate

The fiscal impact to the state is not able to be determined. Additional revenues, however, could be gained by the state if a new multiyear sports economic development project attracts new sales tax dollars that otherwise would not have been collected.

2. <u>Expenditures:</u>	<u>FY 2001-2002</u>	<u>FY 2002-2003</u>
	\$ 0	See Comments Below

The actual fiscal impact to the state is not able to be determined. Although there is a cap of three projects until June 30, 2006 and a cap of only one new project each year thereafter, there is no way of knowing how many will be certified by OTTED the first year nor in subsequent years.

However, in FY 2001-02 there will be no cost even if projects are certified because reimbursements cannot commence until 12 months after certification. For FY 2002-2003, the sales tax reimbursements would be dependent upon the number of and date of project certifications for the previous fiscal year. A project can receive between \$500,000 and \$2 million per year for up to 20 years. The exact amount is to be determined by OTTED based upon criteria in the bill. Therefore, the amount could range from nothing (zero projects certified) to a maximum of \$6 million (three projects certified at \$2 million each). This minimum and maximum would be possible until June 30, 2006. After that date, if it is assumed that one additional project per year is to be certified, the amount of sales tax reimbursements could continue to grow by a maximum of \$2 million per year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. <u>Revenues:</u>	<u>FY 2001-2002</u>	<u>FY 2002-2002</u>
	Indeterminate	Indeterminate

There may be a slight positive fiscal impact on local government revenues generated by additional local sales tax dollars generated by an amateur sports economic development project that otherwise would not have been collected.

<u>Expenditures:</u>	<u>FY 2001-2002</u>	<u>FY 2002-2003</u>
	\$ 0	\$ 0

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be a positive economic impact due to multiplier effects on private businesses surrounding a new amateur sports business hosting multiyear events in Florida. The amount is indeterminate.

D. FISCAL COMMENTS:

The actual fiscal impact to the state is not able to be determined. Although there is a cap of three projects until June 30, 2006 and a cap of only one new project each year thereafter, there is no way of knowing how many will be certified by OTTED the first year nor in subsequent years.

However, in FY 2001-02 there will be no cost even if projects are certified because reimbursements cannot commence until 12 months after certification. For FY 2002-2003, the sales tax reimbursements would be dependent upon the number of and date of project certifications for the previous fiscal year. A project can receive between \$500,000 and \$2 million per year for up to 20 years. The exact amount is to be determined by OTTED based upon criteria in the bill. Therefore, the amount could range from nothing (zero projects

certified) to a maximum of \$6 million (three projects certified at \$2 million each). This minimum and maximum would be possible until June 30, 2006. After that date, if it is assumed that one additional project per year is to be certified, the amount of sales tax reimbursements could continue to grow by a maximum of \$2 million per year.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill appears to provide sufficient statutory rulemaking authority for OTTED.

C. OTHER COMMENTS:

The bill is similar to CS/HB 1857 passed by the House Tourism Committee in the 2000 legislative session.

In its written comments, the Department of Revenue stated that the operational impact on the department would depend on how many projects are certified and how much assistance OTTED requests from the department. No other written comments were received.

Staff notes a technical error on page 15, line 27 of the bill regarding the beginning date OTTED shall maintain records based on information provided on taxpayer applications for certified sports industry economic development projects that receive sales tax reimbursement. The bill has a beginning date of January 1, 2001. This date should be changed to provide a beginning date of January 1, 2003 to allow OTTED sufficient time to gather information provided on the applications for certified sports industry economic development projects. Additionally, on page 16, line 28, the phrase "sports industry economic development projects" is not clear as to what types of projects it refers. If it is to refer to the projects in HB 345, then it should refer to "amateur sports industry economic development projects" or "certified sports industry economic development projects."

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

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Monique Cheek

Judy C. McDonald