

CHAPTER 2010-140

Council Substitute for House Bill No. 7205

An act relating to professional sports franchises; amending ss. 14.2015, 212.20, and 218.64, F.S., relating to the Office of Tourism, Trade, and Economic Development, the distribution of certain tax proceeds, and the allocation of a portion of the local government half-cent sales tax; conforming provisions to changes made by the act; conforming cross-references; amending s. 288.1162, F.S.; deleting provisions relating to the certification and funding of facilities for spring training baseball franchises; authorizing the Auditor General to conduct audits to verify whether certain funds for professional sports franchises are used as required by law; requiring the Auditor General to notify the Department of Revenue if the funds are not used as required by law; creating s. 288.11621, F.S.; authorizing certain units of local government to apply for certification to receive state funding for a facility for a spring training franchise; providing definitions; providing eligibility requirements; providing criteria to competitively evaluate applications for certification; requiring a certified applicant to use the funds awarded for specified public purposes and place unexpended funds in a trust fund or separate account; authorizing a certified applicant to request a suspension of the distribution of funds for a specified period under certain circumstances; requiring the expenditure of funds by certain certified applicants within a specified period; requiring the completion of certain spring training facility projects within a specified period; requiring certified applicants to submit annual reports to the Office of Tourism, Trade, and Economic Development; requiring the office to decertify applicants under certain circumstances; providing for delay in decertification proceedings for local governments certified before a specified date under certain circumstances; providing for review of the office's notice of intent to decertify an applicant; requiring an applicant to repay unencumbered state funds and interest after decertification; specifying circumstances under which a certified applicant that is a local government may not be decertified under certain circumstances; requiring the office to develop a strategic plan relating to baseball spring training activities; requiring the office to adopt rules; authorizing the Auditor General to conduct audits to verify whether certified funds for baseball spring training facilities are used as required by law; requiring the Auditor General to notify the Department of Revenue if the funds are not used as required by law; amending s. 288.1229, F.S.; providing that the Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist in the retention of professional sports franchises; recognizing the validity of specified agreements under certain circumstances; providing an effective date.

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

Section 1. Paragraph (f) of subsection (2) of section 14.2015, Florida Statutes, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.—

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and Economic Development shall:

(f)1. Administer the Florida Enterprise Zone Act under ss. 290.001-290.016, the community contribution tax credit program under ss. 220.183 and 624.5105, the tax refund program for qualified target industry businesses under s. 288.106, the tax-refund program for qualified defense contractors and space flight business contractors under s. 288.1045, contracts for transportation projects under s. 288.063, the sports franchise facility ~~programs program~~ under ~~ss. 288.1162 and 288.11621~~ s. ~~288.1162~~, the professional golf hall of fame facility program under s. 288.1168, the expedited permitting process under s. 403.973, the Rural Community Development Revolving Loan Fund under s. 288.065, the Regional Rural Development Grants Program under s. 288.018, the Certified Capital Company Act under s. 288.99, the Florida State Rural Development Council, the Rural Economic Development Initiative, and other programs that are specifically assigned to the office by law, by the appropriations process, or by the Governor. Notwithstanding any other provisions of law, the office may expend interest earned from the investment of program funds deposited in the Grants and Donations Trust Fund to contract for the administration of the programs, or portions of the programs, enumerated in this paragraph or assigned to the office by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.

2. The office may enter into contracts in connection with the fulfillment of its duties concerning the Florida First Business Bond Pool under chapter 159, tax incentives under chapters 212 and 220, tax incentives under the Certified Capital Company Act in chapter 288, foreign offices under chapter 288, the Enterprise Zone program under chapter 290, the Seaport Employment Training program under chapter 311, the Florida Professional Sports Team License Plates under chapter 320, Spaceport Florida under chapter 331, Expedited Permitting under chapter 403, and in carrying out other functions that are specifically assigned to the office by law, by the appropriations process, or by the Governor.

Section 2. 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 distributed accordingly.

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

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

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

6. Of the remaining proceeds:

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

b. The department shall distribute \$166,667 monthly pursuant to s. 288.1162 to each applicant ~~that has been certified as a facility for a new or retained professional sports franchise~~ “facility for a new professional sports franchise” or a “facility for a retained professional sports franchise” pursuant to s. 288.1162. Up to \$41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. ~~that has been certified as a “facility for a retained spring training franchise” pursuant to s. 288.1162;~~ However, not more than \$416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for a retained spring training franchises franchise. Distributions ~~must~~ begin 60 days after following such certification and shall continue for not more than 30 years, except as otherwise provided in s. 288.11621. ~~A certified applicant identified in this sub-subparagraph may not~~ This paragraph may not be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(5) or s. 288.11621(3) s. 288.1162(6).

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

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

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

Section 3. Section 218.64, Florida Statutes, is amended to read:

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

(1) The proportion of the local government half-cent sales tax received by a county government based on two-thirds of the incorporated area population shall be deemed countywide revenues and shall be expended only for countywide tax relief or countywide programs. The remaining county government portion shall be deemed county revenues derived on behalf of the unincorporated area but may be expended on a countywide basis.

(2) Municipalities shall expend their portions of the local government half-cent sales tax only for municipality-wide programs or for municipality-wide property tax or municipal utility tax relief. All utility tax rate reductions afforded by participation in the local government half-cent sales tax shall be applied uniformly across all types of taxed utility services.

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

(a) A certified applicant as a facility for a new or retained professional sports franchise under ~~“facility for a new professional sports franchise,”~~ a ~~“facility for a retained professional sports franchise,”~~ or a ~~“facility for a retained spring training franchise,”~~ as provided for in s. 288.1162 or a certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. It is the Legislature’s intent that the provisions of s. 288.1162, including, but not limited to, the evaluation process by the Office of Tourism, Trade, and Economic Development except for the limitation on the number of certified applicants or facilities as provided in that section and the restrictions set forth in s. 288.1162(8) ~~s. 288.1162(9)~~, shall apply to an applicant’s facility to be funded by local government as provided in this subsection.

(b) A certified applicant as a “motorsport entertainment complex,” as provided for in s. 288.1171. Funding for each franchise or motorsport complex shall begin 60 days after certification and shall continue for not more than 30 years.

(4) A local government is authorized to pledge proceeds of the local government half-cent sales tax for the payment of principal and interest on any capital project.

Section 4. Section 288.1162, Florida Statutes, is amended to read:

288.1162 Professional sports franchises; ~~spring training franchises;~~ duties.—

(1) The Office of Tourism, Trade, and Economic Development shall serve as the state agency for screening applicants for state funding ~~under pursuant to s. 212.20~~ and for certifying an applicant as a facility for a new or retained professional sports franchise. ~~“facility for a new professional sports franchise,” a “facility for a retained professional sports franchise,” or a “facility for a retained spring training franchise.”~~

(2) The Office of Tourism, Trade, and Economic Development shall develop rules for the receipt and processing of applications for funding under pursuant to s. 212.20.

(3) As used in this section, the term:

(a) “New professional sports franchise” means a professional sports franchise that was is not based in this state before prior to April 1, 1987.

(b) “Retained professional sports franchise” means a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, and has continuously remained at that location, and has never been located at a facility that has been previously certified under any provision of this section.

(4) ~~Before Prior to~~ certifying an applicant as a facility for a new or retained professional sports franchise, ~~“facility for a new professional sports franchise” or a “facility for a retained professional sports franchise,”~~ the Office of Tourism, Trade, and Economic Development must determine that:

(a) A “unit of local government” as defined in s. 218.369 is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located.

(b) The applicant has a verified copy of a signed agreement with a new professional sports franchise for the use of the facility for a term of at least 10 years, or in the case of a retained professional sports franchise, an agreement for use of the facility for a term of at least 20 years.

(c) The applicant has a verified copy of the approval from the governing authority of the league in which the new professional sports franchise exists authorizing the location of the professional sports franchise in this state after April 1, 1987, or in the case of a retained professional sports franchise, verified evidence that it has had a league-authorized location in this state on or before December 31, 1976. As used in this section, the term “league” means the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.

(d) The applicant has projections, verified by the Office of Tourism, Trade, and Economic Development, which demonstrate that the new or retained professional sports franchise will attract a paid attendance of more than 300,000 annually.

(e) The applicant has an independent analysis or study, verified by the Office of Tourism, Trade, and Economic Development, which demonstrates that the amount of the revenues generated by the taxes imposed under chapter 212 with respect to the use and operation of the professional sports franchise facility will equal or exceed \$2 million annually.

(f) The municipality in which the facility for a new or retained professional sports franchise is located, or the county if the facility for a new or retained professional sports franchise is located in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.

(g) The applicant has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility.

(h) ~~An~~ No applicant previously certified under any provision of this section who has received funding under such certification is not ~~shall be~~ eligible for an additional certification.

~~(5)(a) As used in this section, the term “retained spring training franchise” means a spring training franchise that has been based in this state prior to January 1, 2000.~~

~~(b) Prior to certifying an applicant as a “facility for a retained spring training franchise,” the Office of Tourism, Trade, and Economic Development must determine that:~~

~~1. A “unit of local government” as defined in s. 218.369 is responsible for the acquisition, construction, management, or operation of the facility for a retained spring training franchise or holds title to the property on which the facility for a retained spring training franchise is located.~~

~~2. The applicant has a verified copy of a signed agreement with a retained spring training franchise for the use of the facility for a term of at least 15 years.~~

~~3. The applicant has a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility for a retained spring training franchise. The agreement can be contingent upon the awarding of funds under this section and other conditions precedent to use by the spring training franchise.~~

~~4. The applicant has projections, verified by the Office of Tourism, Trade, and Economic Development, which demonstrate that the facility for a~~

retained spring training franchise will attract a paid attendance of at least 50,000 annually.

5. The facility for a retained spring training franchise is located in a county that is levying a tourist development tax pursuant to s. 125.0104.

(e)1. The Office of Tourism, Trade, and Economic Development shall competitively evaluate applications for funding of a facility for a retained spring training franchise. Applications must be submitted by October 1, 2000, with certifications to be made by January 1, 2001. If the number of applicants exceeds five and the aggregate funding request of all applications exceeds \$208,335 per month, the office shall rank the applications according to a selection criteria, certifying the highest ranked proposals. The evaluation criteria shall include, with priority given in descending order to the following items:

a. The intended use of the funds by the applicant, with priority given to the construction of a new facility.

b. The length of time that the existing franchise has been located in the state, with priority given to retaining franchises that have been in the same location the longest.

c. The length of time that a facility to be used by a retained spring training franchise has been used by one or more spring training franchises, with priority given to a facility that has been in continuous use as a facility for spring training the longest.

d. For those teams leasing a spring training facility from a unit of local government, the remaining time on the lease for facilities used by the spring training franchise, with priority given to the shortest time period remaining on the lease.

e. The duration of the future-use agreement with the retained spring training franchise, with priority given to the future-use agreement having the longest duration.

f. The amount of the local match, with priority given to the largest percentage of local match proposed.

g. The net increase of total active recreation space owned by the applying unit of local government following the acquisition of land for the spring training facility, with priority given to the largest percentage increase of total active recreation space.

h. The location of the facility in a brownfield, an enterprise zone, a community redevelopment area, or other area of targeted development or revitalization included in an Urban Infill Redevelopment Plan, with priority given to facilities located in these areas.

~~i.—The projections on paid attendance attracted by the facility and the proposed effect on the economy of the local community, with priority given to the highest projected paid attendance.~~

~~2.—Beginning July 1, 2006, the Office of Tourism, Trade, and Economic Development shall competitively evaluate applications for funding of facilities for retained spring training franchises in addition to those certified and funded under subparagraph 1. An applicant that is a unit of government that has an agreement for a retained spring training franchise for 15 or more years which was entered into between July 1, 2003, and July 1, 2004, shall be eligible for funding. Applications must be submitted by October 1, 2006, with certifications to be made by January 1, 2007. The office shall rank the applications according to selection criteria, certifying no more than five proposals. The aggregate funding request of all applicants certified shall not exceed an aggregate funding request of \$208,335 per month. The evaluation criteria shall include the following, with priority given in descending order:~~

~~a.—The intended use of the funds by the applicant for acquisition or construction of a new facility.~~

~~b.—The intended use of the funds by the applicant to renovate a facility.~~

~~c.—The length of time that a facility to be used by a retained spring training franchise has been used by one or more spring training franchises, with priority given to a facility that has been in continuous use as a facility for spring training the longest.~~

~~d.—For those teams leasing a spring training facility from a unit of local government, the remaining time on the lease for facilities used by the spring training franchise, with priority given to the shortest time period remaining on the lease. For consideration under this subparagraph, the remaining time on the lease shall not exceed 5 years, unless an agreement of 15 years or more was entered into between July 1, 2003, and July 1, 2004.~~

~~e.—The duration of the future-use agreement with the retained spring training franchise, with priority given to the future-use agreement having the longest duration.~~

~~f.—The amount of the local match, with priority given to the largest percentage of local match proposed.~~

~~g.—The net increase of total active recreation space owned by the applying unit of local government following the acquisition of land for the spring training facility, with priority given to the largest percentage increase of total active recreation space.~~

~~h.—The location of the facility in a brownfield area, an enterprise zone, a community redevelopment area, or another area of targeted development or revitalization included in an urban infill redevelopment plan, with priority given to facilities located in those areas.~~

~~i.—The projections on paid attendance attracted by the facility and the proposed effect on the economy of the local community, with priority given to the highest projected paid attendance.~~

~~(d) Funds may not be expended to subsidize privately owned and maintained facilities for use by the spring training franchise. Funds may be used to relocate a retained spring training franchise to another unit of local government only if the existing unit of local government with the retained spring training franchise agrees to the relocation.~~

~~(5)(6) An applicant certified as a facility for a new or retained professional sports franchise or a facility for a retained professional sports franchise or as a facility for a retained spring training franchise may use funds provided under pursuant to s. 212.20 only for the public purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise, a facility for a retained professional sports franchise, or a facility for a retained spring training franchise or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.~~

~~(6)(7)(a) The Office of Tourism, Trade, and Economic Development shall notify the Department of Revenue of any facility certified as a facility for a new or retained professional sports franchise or a facility for a retained professional sports franchise or as a facility for a retained spring training franchise. The Office of Tourism, Trade, and Economic Development shall certify no more than eight facilities as facilities for a new professional sports franchise or as facilities for a retained professional sports franchise, including in the such total any facilities certified by the former Department of Commerce before July 1, 1996. The number of facilities certified as a retained spring training franchise shall be as provided in subsection (5). The office may make no more than one certification for any facility. The office may not certify funding for less than the requested amount to any applicant certified as a facility for a retained spring training franchise.~~

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

~~(7)(8) The Auditor General Department of Revenue may conduct audits audit as provided in s. 11.45 s. 213.34 to verify that the distributions under pursuant to this section are have been expended as required in this section. Such information is subject to the confidentiality requirements of chapter 213. If the Auditor General Department of Revenue determines that the distributions under pursuant to this section are have not been expended as~~

required by this section, the Auditor General shall notify the Department of Revenue, which it may pursue recovery of the such funds under pursuant to the laws and rules governing the assessment of taxes.

~~(8)(9)~~ An applicant is not qualified for certification under this section if the franchise formed the basis for a previous certification, unless the previous certification was withdrawn by the facility or invalidated by the Office of Tourism, Trade, and Economic Development or the former Department of Commerce before any funds were distributed under pursuant to s. 212.20. This subsection does not disqualify an applicant if the previous certification occurred between May 23, 1993, and May 25, 1993; however, any funds to be distributed under pursuant to s. 212.20 for the second certification shall be offset by the amount distributed to the previous certified facility. Distribution of funds for the second certification shall not be made until all amounts payable for the first certification are have been distributed.

Section 5. Section 288.11621, Florida Statutes, is created to read:

288.11621 Spring training baseball franchises.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Agreement” means a certified, signed lease between an applicant that applies for certification on or after July 1, 2010, and the spring training franchise for the use of a facility.

(b) “Applicant” means a unit of local government as defined in s. 218.369, including local governments located in the same county that have partnered with a certified applicant before the effective date of this section or with an applicant for a new certification, for purposes of sharing in the responsibilities of a facility.

(c) “Certified applicant” means a facility for a spring training franchise that was certified before July 1, 2010, under s. 288.1162(5), Florida Statutes 2009, or a unit of local government that is certified under this section.

(d) “Facility” means a spring training stadium, playing fields, and appurtenances intended to support spring training activities.

(e) “Local funds” and “local matching funds” mean funds provided by a county, municipality, or other local government.

(f) “Office” means the Office of Tourism, Trade, and Economic Development.

(2) CERTIFICATION PROCESS.—

(a) Before certifying an applicant to receive state funding for a facility for a spring training franchise, the office must verify that:

1. The applicant is responsible for the acquisition, construction, management, or operation of the facility for a spring training franchise or holds title to the property on which the facility for a spring training franchise is located.

2. The applicant has a certified copy of a signed agreement with a spring training franchise for the use of the facility for a term of at least 20 years. The agreement also must require the franchise to reimburse the state for state funds expended by an applicant under this section if the franchise relocates before the agreement expires. The agreement may be contingent on an award of funds under this section and other conditions precedent.

3. The applicant has made a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility for a spring training franchise. The commitment may be contingent upon an award of funds under this section and other conditions precedent.

4. The applicant demonstrates that the facility for a spring training franchise will attract a paid attendance of at least 50,000 annually to the spring training games.

5. The facility for a spring training franchise is located in a county that levies a tourist development tax under s. 125.0104.

(b) The office shall competitively evaluate applications for state funding of a facility for a spring training franchise. The total number of certifications may not exceed 10 at any time. The evaluation criteria must include, with priority given in descending order to, the following items:

1. The anticipated effect on the economy of the local community where the spring training facility is to be built, including projections on paid attendance, local and state tax collections generated by spring training games, and direct and indirect job creation resulting from the spring training activities. Priority shall be given to applicants who can demonstrate the largest projected economic impact.

2. The amount of the local matching funds committed to a facility relative to the amount of state funding sought, with priority given to applicants that commit the largest amount of local matching funds relative to the amount of state funding sought.

3. The potential for the facility to serve multiple uses.

4. The intended use of the funds by the applicant, with priority given to the funds being used to acquire a facility, construct a new facility, or renovate an existing facility.

5. The length of time that a spring training franchise has been under an agreement to conduct spring training activities within an applicant's geographic location or jurisdiction, with priority given to applicants having agreements with the same franchise for the longest period of time.

6. The length of time that an applicant’s facility has been used by one or more spring training franchises, with priority given to applicants whose facilities have been in continuous use as facilities for spring training the longest.

7. The term remaining on a lease between an applicant and a spring training franchise for a facility, with priority given to applicants having the shortest lease terms remaining.

8. The length of time that a spring training franchise agrees to use an applicant’s facility if an application is granted under this section, with priority given to applicants having agreements for the longest future use.

9. The net increase of total active recreation space owned by the applicant after an acquisition of land for the facility, with priority given to applicants having the largest percentage increase of total active recreation space that will be available for public use.

10. The location of the facility in a brownfield, an enterprise zone, a community redevelopment area, or other area of targeted development or revitalization included in an urban infill redevelopment plan, with priority given to applicants having facilities located in these areas.

(c) Each applicant certified on or after July 1, 2010, shall enter into an agreement with the office that:

- 1. Specifies the amount of the state incentive funding to be distributed.
- 2. States the criteria that the certified applicant must meet in order to remain certified.
- 3. States that the certified applicant is subject to decertification if the certified applicant fails to comply with this section or the agreement.
- 4. States that the office may recover state incentive funds if the certified applicant is decertified.
- 5. Specifies information that the certified applicant must report to the office.
- 6. Includes any provision deemed prudent by the office.

(3) USE OF FUNDS.—

(a) A certified applicant may use funds provided under s. 212.20(6)(d)6.b. only to:

- 1. Serve the public purpose of acquiring, constructing, reconstructing, or renovating a facility for a spring training franchise.
- 2. Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with

respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

3. Assist in the relocation of a spring training franchise from one unit of local government to another only if the governing board of the current host local government by a majority vote agrees to relocation.

(b) State funds awarded to a certified applicant for a facility for a spring training franchise may not be used to subsidize facilities that are privately owned, maintained, and used only by a spring training franchise.

(c) The Department of Revenue may not distribute funds to an applicant certified on or after July 1, 2010, until it receives notice from the office that the certified applicant has encumbered funds under subparagraph (a)2.

(d)1. All certified applicants must place unexpended state funds received pursuant to s. 212.20(6)(d)6.b. in a trust fund or separate account for use only as authorized in this section.

2. A certified applicant may request that the Department of Revenue suspend further distributions of state funds made available under s. 212.20(6)(d)6.b. for 12 months after expiration of an existing agreement with a spring training franchise to provide the certified applicant with an opportunity to enter into a new agreement with a spring training franchise, at which time the distributions shall resume.

3. The expenditure of state funds distributed to an applicant certified before July 1, 2010, must begin within 48 months after the initial receipt of the state funds. In addition, the construction of, or capital improvements to, a spring training facility must be completed within 24 months after the project’s commencement.

(4) ANNUAL REPORTS.—On or before September 1 of each year, a certified applicant shall submit to the office a report that includes, but is not limited to:

(a) A copy of its most recent annual audit.

(b) A detailed report on all local and state funds expended to date on the project being financed under this section.

(c) A copy of the contract between the certified local governmental entity and the spring training team.

(d) A cost-benefit analysis of the team’s impact on the community.

(e) Evidence that the certified applicant continues to meet the criteria in effect when the applicant was certified.

(5) DECERTIFICATION.—

(a) The office shall decertify a certified applicant upon the request of the certified applicant.

(b) The office shall decertify a certified applicant if the certified applicant does not:

1. Have a valid agreement with a spring training franchise;

2. Satisfy its commitment to provide local matching funds to the facility;
or

However, decertification proceedings against a local government certified before July 1, 2010, shall be delayed until 12 months after the expiration of the local government's existing agreement with a spring training franchise, and without a new agreement being signed, if the certified local government can demonstrate to the office that it is in active negotiations with a major league spring training franchise, other than the franchise that was the basis for the original certification.

(c) A certified applicant has 60 days after it receives a notice of intent to decertify from the office to petition the office's director for review of the decertification. Within 45 days after receipt of the request for review, the director must notify a certified applicant of the outcome of the review.

(d) The office shall notify the Department of Revenue that a certified applicant is decertified within 10 days after the order of decertification becomes final. The Department of Revenue shall immediately stop the payment of any funds under this section that were not encumbered by the certified applicant under subparagraph (3)(a)2.

(e) The office shall order a decertified applicant to repay all of the unencumbered state funds that the local government received under this section and any interest that accrued on those funds. The repayment must be made within 60 days after the decertification order becomes final. These funds shall be deposited into the General Revenue Fund.

(f) A local government as defined in s. 218.369 may not be decertified if it has paid or pledged for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of the facility for which the local government was certified, or for the reimbursement of such costs or the refinancing of bonds issued for the acquisition, construction, reconstruction, or renovation of the facility for which the local government was certified, or for the reimbursement of such costs or the refinancing of bonds issued for such purpose. This subsection does not preclude or restrict the ability of a certified local government to refinance, refund, or defease such bonds.

(6) ADDITIONAL CERTIFICATIONS.—If the office decertifies a unit of local government, the office may accept applications for an additional

certification. A unit of local government may not be certified for more than one spring training franchise at any time.

(7) STRATEGIC PLANNING.—

(a) The office shall request assistance from the Florida Sports Foundation and the Florida Grapefruit League Association to develop a comprehensive strategic plan to:

- 1. Finance spring training facilities.
- 2. Monitor and oversee the use of state funds awarded to applicants.
- 3. Identify the financial impact that spring training has on the state and ways in which to maintain or improve that impact.
- 4. Identify opportunities to develop public-private partnerships to engage in marketing activities and advertise spring training baseball.
- 5. Identify efforts made by other states to maintain or develop partnerships with baseball spring training teams.
- 6. Develop recommendations for the Legislature to sustain or improve this state’s spring training tradition.

(b) The office shall submit a copy of the strategic plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2010.

(8) RULEMAKING.—The office shall adopt rules to implement the certification, decertification, and decertification review processes required by this section.

(9) AUDITS.—The Auditor General may conduct audits as provided in s. 11.45 to verify that the distributions under this section are expended as required in this section. If the Auditor General determines that the distributions under this section are not expended as required by this section, the Auditor General shall notify the Department of Revenue, which may pursue recovery of the funds under the laws and rules governing the assessment of taxes.

Section 6. Subsection (1) of section 288.1229, Florida Statutes, is amended to read:

288.1229 Promotion and development of sports-related industries and amateur athletics; direct-support organization; powers and duties.—

(1) The Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist the office in:

(a) The promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida.

(b) The promotion of amateur athletic participation for the citizens of Florida and the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions.

(c) The retention of professional sports franchises, including the spring training operations of Major League Baseball.

Section 7. An agreement with a spring training franchise relocating from one local government to another local government shall be recognized as a valid agreement under this act if the Office of Tourism, Trade, and Economic Development approved the continuing release of funds to the local government to which the franchise relocated before the effective date of this act. The Legislature recognizes the validity of the agreement and acknowledges the authority of the Office of Tourism, Trade, and Economic Development to provide for the continuing release of funds to the local government under the terms of s. 288.1162, Florida Statutes, which were in effect before the effective date of this act.

Section 8. This act shall take effect upon becoming a law.

Approved by the Governor May 27, 2010.

Filed in Office Secretary of State May 27, 2010.