Workforce Development & Tourism Subcommittee

Tuesday, January 21, 2020
3:00 PM – 5:00 PM
12 HOB

Meeting Packet

Jose Oliva
Speaker

Rene Plasencia
Chair

The Florida House of Representatives

Commerce Committee

Workforce Development & Tourism Subcommittee

Jose R. Oliva
Speaker

Rene Plasencia
Chair

Meeting Agenda

Tuesday, January 21, 2020
3:00 pm – 5:00 pm
12 HOB

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

HB 1011 Vacation Rentals by Fischer

HB 6057 Sports Development Program by Avila

V. Closing Remarks

VI. Adjournment

317 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1011 Vacation Rentals
SPONSOR(S): Fischer
TIED BILLS: **IDEN./SIM. BILLS:** SB 1128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee		Willson MW	Barry MJB
2) Government Operations & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Division of Hotels and Restaurants (Division) in the Department of Business and Professional Regulation (DBPR) licenses and inspects vacation rentals within the state.

A vacation rental is classified as any unit or group of units in a condominium or cooperative or any individually or collectively owned home, not a timeshare project, which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, or advertised to the public as a place regularly rented to guests. The rental of individual rooms within a condominium unit or house is excluded from the licensure and regulation of public lodging establishments by the Division.

Local governments may not prohibit vacation rentals or regulate the duration or frequency of such rentals. Local regulations adopted before June 1, 2011, are not subject to this prohibition.

The bill:

- Defines the term "advertising platform".
- Requires that users of advertising platforms include certain licensure and tax identification information in a vacation rental listing and provide certain information to the Division on a regular basis.
- Authorizes certain enforcement mechanisms relating to unlicensed activities.
- Preempts the regulation of advertising platforms to the state.
- Expressly preempts the regulation of vacation rentals, including their inspection and licensing, to the state.
- Prohibits local regulations which allow or require the inspection or licensing of vacation rentals.
- Clarifies that the bill does not supersede the statutory authority of condominiums, cooperatives, or homeowners' associations to govern the use of their properties.
- Requires vacation rental operators to display licensing and tax information under certain circumstances.

The bill does not preempt local regulations affecting vacation rentals if the regulation applies uniformly to all residential properties.

The bill will have a fiscal impact on state and local government. See Fiscal Analysis for more information.

Except as otherwise provided, the bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Vacation Rentals

The Division of Hotels and Restaurants (Division) within the Department of Business and Professional Regulation (DBPR) is charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. DBPR licenses vacation rentals within the state and has the power to inspect a licensed vacation rental.[1]

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.[2]

The term "public lodging establishments" includes transient and nontransient public lodging establishments.[3] The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

The term "transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.[4]

The term "vacation rental" means any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.[5]

Section 509.013(4)(b)9., F.S., exempts living or sleeping facilities that do not fit within the classification of a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment. Currently, the classification for "vacation rental" only applies to situations where the entire unit or dwelling is offered for rent; therefore the rental of individual rooms within a condominium unit or house is excluded from the licensure and regulation of public lodging establishments by the Division.[6]

Licensure

The Division is authorized to issue vacation rental licenses as follows:

- Single license: issued to an individual person or entity, but not a licensed agent, and may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity.
- Group license: issued to a licensed agent to cover all units within a building or group of buildings in a single complex and only covers units held out to the public as a place regularly rented to guests.

---

[1] S. 509.241, F.S.
[2] S. 509.242(1), F.S.
[3] S. 509.013(4)(a), F.S.
[4] S. 509.013(4)(a)1., F.S.
[5] S. 509.242(1)(c), F.S.
[6] DBPR, Agency Analysis of 2020 Senate Bill 1128, p.2 (Jan. 7, 2020). *See also* 18-06 Fla. Op.Att'y Gen. (2018).

- Collective license: issued to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses per license.[7]

Applicants for licensure must submit the appropriate application and required fee to the Division. The license fees are based on the number of rental units in the establishment. A current license must be conspicuously displayed in the office or lobby of the licensed establishment.[8] If no office or lobby is present on the premises of the licensed establishment, the license must be readily available for inspection upon request.[9]

As of July 1, 2019, there were 47,337 public lodging establishments licensed by the Division. These licenses are distributed as follows:

- Hotels: 2,056 licenses;
- Motels: 2,513 licenses;
- Non-transient apartments: 18,363 licenses;
- Transient apartments: 913 licenses;
- Bed and Breakfast Inns: 260 licenses;
- Vacation rental condominiums: 7,563 licenses;
- Vacation rental dwellings: 15,650 licenses; and
- Vacation rental timeshare projects: 19 licenses.[10]

License Fees

The Division provides the following fee schedule relating to vacation rentals:[11]

- Vacation rentals/collective license.

$150	$10	$10	VARIES

- Vacation rentals/group and single license.

SINGLE UNIT	$150	$10	$10	$170
2-25	$150	$20	$10	$180
26-50	$150	$35	$10	$195
51-100	$150	$50	$10	$210
101-200	$150	$75	$10	$235
201-300	$150	$105	$10	$265
301-400	$150	$135	$10	$295
401-500	$150	$160	$10	$320
OVER 500	$150	$190	$10	$350

Applicants for initial licensure are required to pay the full license fee if the application is made during, or more than six months before, the annual renewal period. A half-year fee is authorized if such application is made 6 months or less before the renewal period.

---

[7] S. 509.241, F.S.
[8] S. 509.241(3), F.S.
[9] R. 61C-1.002(1), F.A.C.
[10] DBPR, *Division of Hotels and Restaurants Annual Report for FY 2018-2019*, http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2018_19.pdf (last visited Jan. 13, 2020).
[11] R. 61C-1.008, F.A.C.
[12] S. 509.302, F.S., establishes the Hospitality Education Program. All public lodging establishments and all public food service establishments licensed under ch. 509, F.S., are required to pay an annual fee of no more than $10, which shall be included in the annual license fee and used for the sole purpose of funding the Hospitality Education Program.

A $50 application fee is required when making the initial application or an application for change of ownership.

Renewal fees are based upon the number of units under the license when the license was either issued or last renewed, whichever is most recent.

A $50 delinquency fee is required to renew a delinquent license filed with the Division after the expiration date.

Sanitation and Safety

Current law requires each public lodging establishment to meet requirements and standards relating to sanitation and safety.[13] These requirements and standards apply to the following:

- Water, plumbing and waste;
- Public bathrooms (vacation rentals are exempt from this requirement);
- Towels;
- Glassware, tableware, and utensils (vacation rentals are exempt from federal and state standards but must sanitize with household cleaning supplies and provide notice of such in guest rooms);
- Kitchens;
- Ice making machines;
- Locking devices;
- Vermin control;
- Storage and labeling of toxic items;
- Structural components, attachments, and fixtures; and
- Attics, basements, boiler rooms, meter rooms, laundry rooms, and storage rooms.

Ventilation and Fire Safety

Each bedroom in a public lodging establishment must be properly ventilated with windows or mechanical ventilation.[14] Specialized smoke detectors for the deaf and hearing-impaired must be made available upon request by guests in transient public lodging establishments without charge.[15]

In addition, smoke alarms must be installed in every living unit[16] and automatic fire sprinklers may be required in public lodging establishments if the rental units are located within a building with three or more stories or greater than 75 feet in height.[17] All local fire authority requirements must be met. Electrical wiring must be in good repair.

Conduct on Premises

The operator of a public lodging establishment is authorized to refuse accommodations or service to undesirable guests.[18] Subject to proper notification, an operator may remove guests who:

- Illegally possess or deal controlled substances;
- Are intoxicated;
- Are profane, lewd, or brawling;
- Disturb the peace and comfort of other guests;
- Injure the reputation, dignity, or standing of the establishment;
- Fail to pay rent on time;

[13] *See generally* s. 509.221, F.S., and R. 61C-1&3, F.A.C.
[14] S. 509.221(3), F.S.
[15] R. 61C-1.004, F.A.C.
[16] S. 509.215(1)(b), F.S.
[17] S. 509.215(1), F.S.
[18] S. 509.142, F.S.

- Fail to check out on time;
- Are generally detrimental to the establishment.[19]

The admission to, or the removal from, a public lodging establishment cannot be based upon race, creed, color, sex, physical disability, or national origin.[20]

Violations for remaining or attempting to remain in an establishment after being requested to leave are a second-degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S.[21]

In addition, an operator is authorized to take a person into custody and detain that person for disorderly conduct that creates a threat to the life or safety of the person or others.[22]

Inspections

The Division is required to inspect all public lodging establishments as often as necessary for the enforcement of the law and protection of the public health, safety and welfare. Each licensed public lodging establishment must be inspected at least biannually (twice per year), except for transient and non-transient apartments, which must be inspected at least annually.[23]

Vacation rentals are not subject to this requirement, but must be available for inspection upon a request by the Division. For inspection purposes, the licensee or operator must, upon request, meet the inspector at the site of a specified establishment with keys to the licensed house or unit being inspected.[24]

Additionally, an applicant for a vacation rental license is required to submit with the license application a signed certificate evidencing the inspection of all balconies, platforms, stairways, railings, and railways from a person competent to conduct such inspections.[25]

The Division also may inspect a vacation rental in response to a consumer complaint related to sanitation issues or unlicensed activity. In Fiscal Year 2018-2019, the Division received 228 consumer complaints related to vacation rentals, of which 14 were confirmed as a violation by the Division.[26]

Registry

The licensee or operator must notify the Division of all houses or units represented in a license application. Any time a change in the address or number of houses or units occurs, the licensee or operator must notify the Division at least 60 days prior to the expiration date of the license. In addition, a list of the included houses or units must be maintained in a written form for inspection by request.[27]

Each operator of a transient public lodging establishment must maintain a register showing the dates each rental unit was occupied by a guest as well as the rates charged to the occupants. This register

---

[19] S. 509.141(1), F.S.
[20] S. 509.141(1), F.S.
[21] S. 509.141(3), F.S.
[22] S. 509.143(1), F.S.
[23] *See generally* s. 509.032, F.S., Rule 61C-1.002, F.A.C.
[24] *Id.*
[25] *See* ss. 509.211(3) and 509.2112, F.S., and form *DBPR HR-7020, Division of Hotels and Restaurants Certificate of Balcony Inspection*, available at: https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1030&clientCode=2007&XACT_DEFN_ID=7694 (last visited Jan. 13, 2020).
[26] DBPR, *Division of Hotels and Restaurants Annual Report for FY 2018-2019*, at 21.
[27] *Id.*

must be maintained in chronological order and available for inspection by the Division at any time. Operators must maintain two years of register data.[28]

Violations

Any public lodging establishment found to be in violation of ch. 509, F.S., or rules adopted by the Division, may be subject to administrative actions including the following penalties:

- Fines not to exceed $1,000 per offense; and
- Suspension, revocation, or refusal of a license.[29]

Licensees with a single license are responsible for all violations of ch. 509, F.S., or rules adopted by the Division.[30] The authorized agent of the licensee is responsible for a violation for licensees holding a collective or group license if the dwelling or unit was listed under the agent or as otherwise reflected in records filed with the Division.[31]

Preemption Authority

Prior to June 1, 2011, local governments regulated vacation rentals (also referred to as resort dwellings in many local ordinances). Local governments could restrict or prohibit vacation rentals up to, and including, banning the use of residential properties as vacation rentals.

Legislation in 2011 preempted the authority to regulate vacation rentals to the state.[32] The preemption prevented local governments from enacting any new law, ordinance, or regulation that:

- restricted the use of vacation rentals;
- prohibited vacation rentals; or
- regulated vacation rentals based solely on their classification, use, or occupancy.

The 2011 preemption did not apply to local regulations enacted on or before June 1, 2011.

Prior to the 2011 preemption, several municipalities had created regulations specifically relating to vacation rentals.[33] As an example, one ordinance prohibited owners of single-family residences in residential zones from renting their properties for durations of less than 30 days, although it grandfathered certain vacation rentals that had already obtained all applicable state and local licenses and permits.[34] Subsequent to the enactment of the 2011 legislation, the vacation rental market experienced growth.[35]

In 2014, the Legislature narrowed the scope of the preemption to preempt only those local regulations which prohibit vacation rentals or regulate the duration or frequency of vacation rentals.[36]

---

[28] S. 509.101(2), F.S.
[29] S. 509.261(1), F.S.
[30] *Id.*
[31] *Id.*
[32] Ch. 2011-119, Laws of Fla., codified in s. 509.032(7), F.S.
[33] *See* City of Venice Code of Ordinances, ch. 86, art. V, div. 9, s. 86-151. *See also* Monroe County Code, No. 004-1997 (2013); Bal Harbour Village Code of Ordinances, s. 21-363.
[34] City of Venice Code of Ordinances, ch. 86, art. V, div. 9, s. 86-151. *See also City of Venice v. Gwynn*, 76 So. 3d 401, 403 (Fla. 2nd DCA 2011).
[35] *See* Melissa Maynard, *As Short-Terms Rentals Boom, Regulation an Issue*, THE PEW CHARITABLE TRUST (June, 6, 2013), http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2013/06/06/as-shortterms-rentals-boom-regulation-an-issue.
[36] Ch. 2014-71, Laws of Fla., codified in s. 509.032(7)(b), F.S.

Recent Activity

Homeowners found to be in conflict with ordinances regulating vacation rentals have taken legal action against their respective local governments through the Bert J. Harris, Jr., Private Property Rights Protection Act.[37] The act provides a cause of action for private property owners whose real property has been inordinately burdened by a specific action of a governmental entity that may not rise to the level of a "taking" under the State or Federal Constitutions. The inordinate burden can apply to either an existing use of real property or a vested right to a specific use.[38]

In November 2015, the City of Anna Maria passed and adopted Ordinance No. 15-807. This ordinance provides a general framework for the regulation of vacation rentals, including maximum occupancy requirements. According to the city's website, since April 2016, approximately 113 Bert Harris Act claims citing Ordinance No. 15-807 amounting to approximately $38 million in damages have been filed.[39]

In March 2016, Miami Beach passed an ordinance making the fine for a first violation for a resident caught renting short-term $20,000. Each subsequent fine increases by $20,000 and can be as high as $100,000. Vacation/short-term rentals that are permitted in certain zoning districts of Miami Beach are required to provide and conspicuously display the city-issued business tax receipt number and the resort tax certificate number in every advertisement or listing of any type in connection with the rental of the residential property.[40]

In June 2018, it was reported that Miami Beach had issued $12.1 million in fines, only $174,000 of which had been paid. Some owners were reported to have accumulated up to $60,000 in fines.[41]

Condominiums, Cooperatives, and Homeowners' Associations

A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., comprised of units which may be owned by one or more persons but have an undivided share of access to common facilities.[42] A condominium is created by recording a declaration in the public records of the county in which the condominium will be located.[43] A declaration governs the relationships among condominium unit owners and the condominium association. All unit owners are members of the condominium association. The condominium association is overseen by an elected board of directors, commonly referred to as a "board of administration." The association enacts condominium association bylaws governing the administration of the association. The declaration as originally recorded or as amended may include covenants and restrictions concerning the use, occupancy, and transfer of the units in the association.

A cooperative is a form of property ownership created pursuant to ch. 719, F.S. The real property is owned by the cooperative association, and individual units are leased to the residents who own shares in the cooperative association.[44] The lease payment amount is the pro-rata share of the operational expenses of the cooperative. Cooperatives operate similarly to condominiums and the laws regulating cooperatives are similar in many ways. A cooperative is created using "cooperative documents" which

---

[37] Kathy Prucnell, *2 more Holmes Beach Bert Harris claims proceed to courthouse*, THE ISLANDER (Feb. 20, 2018), https://www.islander.org/2018/02/2-more-holmes-beach-bert-harris-claims-proceed-to-courthouse/.
[38] S. 70.001, F.S.
[39] CITY OF ANNA MARIA, *Bert J. Harris, Jr., Private Property Rights Protection Act Claim Filings*, http://www.cityofannamaria.com/residents/bert_harris_claim.php (last visited Mar. 16, 2019).
[40] *See* Miami Beach City Code, Sec. 142-1111 and 142-905(b).
[41] Chabeli Herrera, *Miami Beach has the country's highest short-term rental fines. It just got sued,* MIAMI HERALD (June 28, 2018), https://www.miamiherald.com/news/business/article213954174.html.
[42] S. 718.103(11), F.S.
[43] S. 718.104(2), F.S.
[44] S. 719.103(2)(26), F.S.

include articles of incorporation of the association, bylaws, and the ground lease or other underlying lease, if any. The documents may include restrictions, which affect the use of the property.

A homeowners' association (HOA) is an association of residential property owners where voting membership consists of parcel owners, membership is a mandatory condition of parcel ownership, and which may impose assessments that, if unpaid, can become a lien on the parcel.[45] Chapter 720, F.S., only regulates HOAs whose covenants and restrictions include mandatory assessments. Like a condominium or cooperative, an HOA is administered by an elected board of directors. The powers and duties of an HOA includes those provided in ch. 720, F.S., and contained in the governing documents of the association. The governing documents include the recorded covenants and restrictions, bylaws, articles of incorporation, and duly adopted amendments to those documents. The documents may include restrictive covenants governing the use and occupancy of properties.

Based on these laws, condominium, cooperative, and homeowners' associations have enacted provisions that govern the ability of the property owners to rent their properties. Certain condominium, cooperative, and homeowners' associations have taken actions such as prohibiting owners from renting their properties, restricting the duration of the rental term, or limiting the frequency owners are allowed to rent their properties.

Effect of the Bill

Preemption

The bill amends s. 509.032(7), F.S., relating to the preemption of vacation rentals by the state.

The bill specifies that the regulation of vacation rentals and advertising platforms is preempted to the state.

The bill does not preempt local regulations affecting vacation rentals if the regulation applies uniformly to all residential properties, regardless of whether:

- the property is used as a vacation rental,
- the property is used as a long-term rental subject to chapter 83, or
- the property owner chooses not to rent the property.

The bill prohibits local regulations that allow or require the inspection or licensing of vacation rentals.

The bill also provides for the following legislative findings: that vacation rentals are residential in nature, that residential property owners have a constitutionally protected right to use their property as a vacation rental, and that vacation rentals are different from other types of public lodging and play a unique and critical role in the state's tourism industry.

Advertising Platforms

Definition

The bill creates s. 509.013(17), F.S., defining the term "advertising platform" as a person who:

- Provides an online application, software, website, system, or print advertisement through which a transient public lodging establishment located in this state is advertised or held out to the public as available to rent for transient occupancy;
- Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; or
- Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or

[45] S. 720.301(9), F.S.

indirectly, a fee in connection with the reservation or payment service provided for such transaction.

The bill exempts a multiple listing service or an online or print advertisement for the rental of a transient public lodging establishment by a licensed real estate broker or sales associate from the definition of "advertising platform". The bill specifies, however, that a licensed real estate broker or sales associate must comply with s. 509.243(3), F.S., relating to the removal of listings that fail to display valid license numbers.

Platform Requirements

Effective January 1, 2021, the bill creates s. 509.243, F.S., requiring an advertising platform must:

- Require that a person who places an advertisement for a vacation rental include the license number, applicable Florida sales tax registration, and tourist development tax account numbers, and attest to the best of their knowledge that this information is correct.
- Provide to the Division on a quarterly basis, by file transfer protocol or electronic data exchange file, a list of all vacation rental listings in this state on its platform specified information, including the Internet address of the listing, the vacation rental license number, and applicable tax numbers.
- Remove from public view an advertisement or listing from its online application, software, website, or system within 15 business days after being notified by the Division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the Division.

If the Division has probably cause to believe that a person not licensed by the Division has violated ch. 509, F.S., the bill authorizes the Division to issue a notice to cease and desist and to enforce such a notice by injunction or a writ of mandamus. If DBPR is required to seek enforcement of the notice for a penalty pursuant to s. 120.569, F.S.,[46] it is entitled to collect its attorney fees and costs, together with any cost of collection.

Vacation Rental Operators

Effective January 1, 2021, the bill amends s. 509.241, F.S., to require the operator of a vacation rental offered for transient occupancy through an advertising platform to display the vacation rental license number and the applicable Florida sales tax registration and tourist development tax account numbers under which such taxes must be paid for each rental of the property as a vacation rental.

Condominiums, Cooperatives, and Homeowners' Associations

The bill provides that it is not the Legislature's intent to supersede any current or future declaration or declaration of condominium adopted pursuant to ch. 718, F.S., cooperative documents adopted pursuant to ch. 719, F.S., or declaration of covenants or declaration adopted pursuant to ch. 720, F.S.

Except as otherwise provided, the bill takes effect upon becoming law.

B. SECTION DIRECTORY:

Section 1 Amends s. 509.013, F.S., defining the term "advertising platform".

Section 2 Amends s. 509.032, F.S., preempting the regulation of vacation rentals to the state; providing legislative findings; authorizing a local law, ordinance, or regulation to regulate certain activities under certain circumstances; prohibiting a local law, ordinance, or

[46] Section 120.569, F.S., provides the administrative procedures for resolution of agency decisions which affect substantial interests before the Division of Administrative Hearings.

regulation from allowing or requiring inspections or licensing of vacation rentals; preempting the regulation of advertising platforms to the state.

Section 3 Amends s. 509.241, F.S., requiring licenses issued by the Division to be displayed conspicuously to the public inside the licensed establishment; and requiring the operator of certain vacation rentals to also display its vacation rental license number and applicable tax account numbers.

Section 4 Amends s. 509.242, F.S., revising the criteria for a public lodging establishment to be classified as a vacation rental.

Section 5 Creates s. 509.243, F.S., requiring advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements; providing that the advertising platform is not required to verify such information; requiring each advertising platform to quarterly provide the Division with certain information regarding vacation rentals in this state listed on the platform; requiring an advertising platform to remove an advertisement or listing under certain conditions and within a specified timeframe; authorizing the Division to issue and deliver a notice to cease and desist for certain violations; providing that such notice does not constitute agency action for which a certain hearing may be sought; authorizing the Division to file certain proceedings; and authorizing the collection of attorney fees and costs under certain circumstances.

Section 6 Provides for applicability.

Section 7 Provides for effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   There may be an indeterminate increase in revenues due to additional license fees, tourism and sales taxes, fees, and fines.

2. Expenditures:

   According to DBPR, the bill will require an estimated expenditure of approximately $450,000 ($412,000 recurring) for 6 new audit FTEs to administer the changes in the bill, especially the changes relating to the licensing of individual room(s) and other types of hosted stays that were previously unregulated by the Division.[47]

[47] DBPR, Agency Analysis of 2020 Senate Bill 1128, p. 7 (Jan. 7, 2020).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Preempting local governments from regulating vacation rentals will prevent a local government from imposing and collecting fines relating to regulation and enforcement, which will have an indeterminate effect on local revenues, depending on each local government's current practice of vacation rental regulation and enforcement.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide a more predictable and uniform regulatory framework for vacation rentals in Florida. However, certain operators who offer hosted stays or individual room(s) within a larger dwelling or unit will now be subject to regulation by the Division, including certain licensure and fee requirements.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 111-113: "This sub-subparagraph ~~paragraph~~ does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011." It is not clear what effect, if any, this grandfathering clause will have if it is limited to sub-subparagraph 509.032(7)(a)2.c., F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to vacation rentals; amending s. 509.013, F.S.; defining the term "advertising platform"; amending s. 509.032, F.S.; preempting the regulation of vacation rentals to the state; providing legislative findings; authorizing a local law, ordinance, or regulation to regulate certain activities under certain circumstances; prohibiting a local law, ordinance, or regulation from allowing or requiring inspections or licensing of vacation rentals; preempting the regulation of advertising platforms to the state; amending s. 509.241, F.S.; requiring licenses issued by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to be displayed conspicuously to the public inside the licensed establishment; requiring the operator of certain vacation rentals to also display its vacation rental license number and applicable tax account numbers; amending s. 509.242, F.S.; revising the criteria for a public lodging establishment to be classified as a vacation rental; creating s. 509.243, F.S.; requiring advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements; providing that the

advertising platform is not required to verify such information; requiring each advertising platform to quarterly provide the division with certain information regarding vacation rentals in this state listed on the platform; requiring an advertising platform to remove an advertisement or listing under certain conditions and within a specified timeframe; authorizing the division to issue and deliver a notice to cease and desist for certain violations; providing that such notice does not constitute agency action for which a certain hearing may be sought; authorizing the division to file certain proceedings; authorizing the collection of attorney fees and costs under certain circumstances; providing applicability; providing effective dates.

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

Section 1. Subsection (17) is added to section 509.013, Florida Statutes, to read:

509.013 Definitions.—As used in this chapter, the term:

(17) "Advertising platform" means a person who:

(a) Provides an online application, software, website, system, or print advertisement through which a transient public lodging establishment located in this state is advertised or

held out to the public as available to rent for transient occupancy;

(b) Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; or

(c) Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

The term does not include the multiple listing service or an online or print advertisement of a transient public lodging establishment by a real estate broker or sales associate licensed under chapter 475; however, a real estate broker or sales associate licensed under chapter 475 must comply with s. 509.243(3).

Section 2. Subsection (7) of section 509.032, Florida Statutes, is amended to read:

509.032 Duties.—

(7) PREEMPTION AUTHORITY.—

(a) *Public lodging establishments and public food service establishments.*—

1. Preemption.—The regulation of public lodging establishments, including vacation rentals, and public food service establishments, including, but not limited to,

sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This subparagraph ~~paragraph~~ does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.

2.~~(b)~~ Vacation rentals.—

a. The Legislature finds that:

(I) Property owners who choose to use their property as a vacation rental have constitutionally protected property rights and other rights that must be protected, including the right to use their residential property as a vacation rental;

(II) Vacation rentals play a significant, unique, and critical role in this state's tourism industry, and that role is different from other types of public lodging establishments;

(III) There are factors unique to the ownership and operation of a vacation rental; and

(IV) Vacation rentals are residential in nature, a residential use, and thus permitted in residential neighborhoods.

b. Except as provided under this subparagraph, the regulation of vacation rentals, including inspection and

licensing, is expressly preempted to the state.

c. A local law, ordinance, or regulation may regulate activities that arise when a property is used as a vacation rental if the law, ordinance, or regulation applies uniformly to all residential properties without regard to whether the property is used as a vacation rental as defined in s. 509.242, the property is used as a long-term rental subject to chapter 83, or the property owner chooses not to rent the property. However, a local law, ordinance, or regulation may not prohibit ~~vacation~~ rentals or regulate the duration or frequency of ~~rental of vacation~~ rentals. This sub-subparagraph ~~paragraph~~ does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

d. A local law, ordinance, or regulation may not allow or require the inspection or licensing of vacation rentals.

e.~~(c)~~ This subparagraph ~~paragraph (b)~~ does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.

(b) *Advertising platforms.*—The regulation of advertising platforms is preempted to the state and shall be regulated under this chapter.

Section 3. Effective January 1, 2021, subsection (3) of

section 509.241, Florida Statutes, is amended to read:

509.241 Licenses required; exceptions.—

(3) DISPLAY OF LICENSE.—Any license issued by the division must ~~shall~~ be conspicuously displayed to the public inside ~~in~~ the ~~office or lobby of the~~ licensed establishment. Public food service establishments that ~~which~~ offer catering services must ~~shall~~ display their license number on all advertising for catering services. The operator of a vacation rental offered for transient occupancy through an advertising platform must also display the vacation rental license number and the applicable Florida sales tax registration and tourist development tax account numbers under which such taxes must be paid for each rental of the property as a vacation rental.

Section 4. Paragraph (c) of subsection (1) of section 509.242, Florida Statutes, is amended to read:

509.242 Public lodging establishments; classifications.—

(1) A public lodging establishment shall be classified as a hotel, motel, nontransient apartment, transient apartment, bed and breakfast inn, timeshare project, or vacation rental if the establishment satisfies the following criteria:

(c) *Vacation rental.*—A vacation rental is a ~~any~~ unit or group of units in a condominium or cooperative or in an ~~any~~ individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but ~~that is~~ not a

timeshare project.

Section 5. Effective January 1, 2021, section 509.243, Florida Statutes, is created to read:

509.243 Advertising platforms.—

(1)(a) An advertising platform must require that a person who places an advertisement for the rental of a vacation rental:

1. Include in the advertisement the vacation rental license number and the applicable Florida sales tax registration and tourist development tax account numbers under which such taxes must be paid before the advertisement may be listed; and

2. Attest to the best of their knowledge that the license number for the vacation rental property and the applicable tax numbers are current, valid, and accurately stated in the advertisement.

(b) An advertising platform must display the license number and applicable Florida sales tax registration and tourist development tax numbers, but the advertising platform is not required to verify such information.

(2) An advertising platform must provide to the division on a quarterly basis, by file transfer protocol or electronic data exchange file, a list of all vacation rental listings in this state on its platform and all of the following information for each listing:

(a) The uniform resource locator for the Internet address of the listing.

(b) The vacation rental license number provided by the owner or operator.

(c) The applicable Florida sales tax registration and tourist development tax numbers under which taxes will be remitted for rentals commenced through the advertisement.

(3) An advertising platform must remove from public view an advertisement or listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.

(4) If the division has probable cause to believe that a person not licensed by the division has violated this chapter, or any rule adopted pursuant thereto, the division may issue and deliver to such person a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates any provision of the notice. If the department is required to seek enforcement of the notice for a penalty pursuant to s. 120.569, it is entitled to collect its attorney fees and costs, together with

any cost of collection.

Section 6. The Legislature does not intend for the application of this act to supersede any current or future declaration or declaration of condominium adopted pursuant to chapter 718, Florida Statutes, cooperative documents adopted pursuant to chapter 719, Florida Statutes, or declaration of covenants or declaration adopted pursuant to chapter 720, Florida Statutes.

Section 7. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6057 Sports Development Program
SPONSOR(S): Avila
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee		Willson MW	Barry MJB
2) Ways & Means Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Sports Development Program (Program) provides state funding for constructing, reconstructing, renovating, or improving professional sports facilities, as provided under s. 288.11625, F.S. The Program is administered by the Department of Economic Opportunity (DEO). In order to receive funding under the Program, DEO must first recommend the applicant's request for funding to the Legislature and receive approval, then certify the approved request for funding as an annual distribution amount to the Department of Revenue.

The Program is funded by state sales and use tax revenues. Individual facilities may receive up to $3 million annually, and no more than $13 million can be distributed under the Program in a single year. A facility can receive distributions for up to 30 years and up to $90 million per certified facility.

The professional sport franchises that can participate in the program include the National Football League, the National Hockey League, the National Basketball League, Major and Minor League Baseball, Major League Soccer, the North American Soccer League, the Professional Rodeo Cowboys Association, the promoter or host of a signature event administered by the Breeders' Cup Limited or the promotor of a signature event hosted by the National Association of Stock Car Auto Racing (NASCAR).

The Legislature created the Sports Development Program in 2014. To date, no facilities or applicants have been approved to receive funding and no distributions have been made under the Program.

The bill repeals s. 288.11625, F.S., eliminating the Sports Development Program, and updates a number of related sections to conform with the elimination of the Program.

The bill takes effect July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Sports and Facilities

Florida is home to many professional and semi-professional sports teams, organizations and facilities, including professional football, basketball, baseball, hockey, and soccer teams, National Association of Stock Car Racing (NASCAR) sanctioned tracks, and professional equestrian and rodeo events. Generally, team facilities are located on property leased by or purchased from local governments.

The following table provides basic information about Florida's 10 professional sports franchises and their facilities:

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Hard Rock Stadium (originally Joe Robbie Stadium)	1987	Miami-Dade
Tampa Bay Buccaneers	Football	NFL	1976	Raymond James Stadium	1998	Hillsborough
Miami Heat	Basketball	NBA	1988	American Airlines Arena	1999	Miami-Dade
Orlando Magic	Basketball	NBA	1989	Amway Center	2010	Orange
Tampa Bay Lightning	Hockey	NHL	1992	Amalie Arena (previously Tampa Bay Times Forum)	1996	Hillsborough
Florida Panthers	Hockey	NHL	1993	BB&T Center	1998	Broward
Miami Marlins	Baseball	MLB	1993	Marlins Park	2012	Miami-Dade
Jacksonville Jaguars	Football	NFL	1995	EverBank Field	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field (occupied by Rays since 1998)	1990	Pinellas
Orlando City Soccer Club/ "Lions"	Soccer	MLS	2015	Orlando City Stadium	2017	Orange

In addition to the 10 major professional sports teams, Florida is also home to the MLB's Spring Training Grapefruit League, with 15 teams holding preseason training and exhibition games in the state.[1]

State Incentives for Professional Sports Franchises

Professional Sports Franchise Program

The Professional Sports Franchise program allows professional sports franchises in Florida to receive state sales and use tax revenue to pay for the construction or renovation of a facility for a new or

[1] For general information related to professional sports in Florida, see Florida Sports Foundation at http://www.flasports.com/ (last visited Jan. 16, 2020).

retained professional sports franchise.[2] Local governments, non-profit, and for-profit entities may apply to the program. Approved applicants are eligible to receive up to $2,000,004 per year for a period of up to 30 years.[3] No more than eight facilities can be certified under this program at one time.[4]

Currently, eight facilities receive distributions under the Professional Sports Franchise Program. Each facility is currently on track to receive $60 million, which is the maximum distribution allowable under this program ($166,667 per month or $2,000,004 per year, over 30 years), as follows:

Facility name	Location, Certified entity, & Certification Date	Franchise	First and Final Payments	Lease Expiration Date	Total payments as of Feb. 2019
Hard Rock Stadium (formerly Sun Life, Land Shark, Dolphin, Pro Player, Joe Robbie)	Miami, S. FL. Stadium Corp., May 1993	Miami Marlins[5]	06/1994 06/2023	99 year land lease, issued 1987	$51,333,436
TIAA Field (previously EverBank Field)	Jacksonville, City of Jacksonville, April 1994	Jacksonville Jaguars	06/1994 05/2024	2030	$49,500,099
Tropicana Field	St. Petersburg, City of St. Petersburg, May 1995	Tampa Bay Rays	07/1995 06/2025	2027	$47,333,428
Amelie Arena (previously Tampa Bay Times Forum)	Tampa, Tampa Bay Sports Authority, July 1995	Tampa Bay Lightning	09/1995 08/2025	2025	$47,000,094
BB&T Center	Sunrise, Broward County, June 1996	Florida Panthers	08/1996 07/2026	2028	$45,166,757
Raymond James Stadium	Tampa, Hillsborough County, November 1996	Tampa Bay Buccaneers	01/1997 12/2026	2028	$44,333,422
American Airlines Arena	Miami, BPL, LTD, February 1998	Miami Heat	03/1998 03/2028	2030	$41,833,417
Amway Center	Orlando, City of Orlando, November 2007	Orlando Magic	02/2008 01/2038	2036	$22,166,711
				TOTAL:	**$348,667,364**

(Information from the Department of Revenue[6] and OPPAGA[7])

Sports Development Program

Section 288.11625, F.S., allows for distributions of state sales and use tax revenue pursuant to s. 212.20, F.S., to fund professional sports franchise facilities. The Department of Economic Opportunity

[2] S. 288.1162, F.S.
[3] S. 212.20(6)(d)6.b., F.S.
[4] S. 288.1162(6), F.S.
[5] The Marlins franchise relocated from Sun Life Stadium to Marlins Park in 2012.
[6] Email from Lynne Moeller, Office of Legislative & Cabinet Services, Department of Revenue, Pro Sports summary by fiscal year as of 2-28-19 (Feb. 19, 2019).
[7] OPPAGA, Report No. 17-13, Florida Economic Development Program Evaluations-Year 5, p. 56 (Dec. 28, 2017).

(DEO) administers the Program and is responsible for screening applicants[8] for state funding. The purpose of the Program is to provide state funding for the construction, reconstruction, renovation, or improvement of a sports facility,[9] the proposed acquisition of land to construct a new facility, and construction of improvements to state-owned land necessary for the efficient use of the facility.

General Application and Approval Process

DEO accepts applications between June 1 and November 1 each year. Within 60 days of receiving a completed application, DEO is required to evaluate the application and notify the applicant in writing of their decision to recommend or deny approval. DEO provides the Legislature with a list of the recommended applicants, ranked in the order of the project's likelihood to positively impact the state. To receive funding, an application must be approved by the Legislature in a conforming bill or general law approved by the Governor, and DEO must certify the applicant and its approved request for funding and notify the Department of Revenue (DOR) of the initial certification and distribution amount.

An applicant remains certified for 30 years or the length of the agreement between the beneficiary[10] and the local government that owns the facility or the property on which the facility is or will be located, whichever is less.

DEO may only recommend one distribution per applicant, facility or beneficiary. Furthermore, no facility or beneficiary can receive more than one distribution under s. 212.20, F.S., for any state-administered, sports-related program.[11] An exception exists for applicants who can show that the beneficiary that was the subject of a previous distribution under s. 212.20, F.S., no longer plays at the facility that is the subject of the application under the new program.

"Special" Application Process for New Facilities or Projects Commenced Before July 1, 2014[12]

Section 288.11625(11), F.S., provides for an alternative application process to receive state funding under the Program. Under this process, the Legislative Budget Commission (LBC) can approve applications for new facilities or projects that commenced between March 1, 2013, and July 1, 2014, and such applicants are not subject to the competitive evaluation and ranking component. An applicant certified under the special application process remains subject to other provisions and requirements under the Program.

Distribution of State Funds

---

[8] Section 288.11625(2), F.S. An "Applicant" is a unit of local government which is responsible for the construction, management, or operation of a facility; or an entity that is responsible for the construction, management, or operation of a facility if a unit of local government holds title to the underlying property on which the facility is located.
[9] *Id.* A "Facility" is a structure, and its adjoining parcels of local-government-owned land, primarily used to host games or events held by a beneficiary and does not include any portion used to provide transient lodging.
[10] *Id.* A "Beneficiary" is a professional sports franchise of the NFL, NHL, NBA, the National League or American League of MLB, Minor League Baseball, MLS, the North American Soccer League (NASL), the Professional Rodeo Cowboys Association (PRCA), the promoter or host of a signature event administered by Breeders' Cup Limited, or the promoter of a signature event sanctioned by the National Association for Stock Car Auto Racing (NASCAR). A beneficiary may also be an applicant under this program.
[11] Such sports-related programs include Professional Sports Franchises (s. 288.1162, F.S.), Spring Training Baseball Franchises (s. 288.11621, F.S.), Sports Development (s. 288.11625, F.S.), and Retention of MLB Spring Training Franchises (s. 288.11631, F.S.). However, if an applicant for the Sports Development Program is already receiving distributions under the Professional Sports Franchises Program (s. 288.1162, F.S.) for the same facility or beneficiary, the applicant is eligible for an additional distribution of up to $1 million if the total project cost exceeds $100 million.
[12] DEO Memorandum, *Re Sports Development Statute,* http://www.floridajobs.org/docs/default-source/division-of-strategic-business-development/sports-development-program/sports-development-statute-memo.pdf?sfvrsn=6 (last visited Jan. 16, 2020).

The amount that an applicant may receive is based on 75 percent of the average annual new incremental state sales taxes generated by sales at the facility. Such annual distribution are limited by the following tiered system:

- If the total project cost is $200 million or greater, the annual distribution amount may be up to $3 million.
- If the total project cost is at least $100 million, but less than $200 million, the annual distribution amount may be up to $2 million.
- If the total project cost is at least $30 million, but less than $100 million, the annual distribution amount may be up to $1 million.

DEO is required to consult with DOR and the Office of Economic and Demographic Research (EDR) to develop a standard calculation for estimating the average annual new incremental state sales taxes generated by sales at the facility.

Use of Funds

Once certified, applicants may use Sports Development Program funds for the following purposes:

- Constructing, reconstructing, renovating, or improving a facility or reimbursing such costs;
- Paying or pledging for the payment of debt service on bonds issued for the construction or renovation of a facility;
- Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto on bonds issued for the construction or renovation of a facility; and
- Reimbursing the costs associated with debt service payments or refinancing of bonds issued for the construction or renovation of a facility.

Contract

Certified applicants must enter into a contract with DEO that:

- Specifies the terms of the state's investment;
- States the criteria that the certified applicant must meet in order to remain certified;
- Requires the applicant to submit the independent analyses required by the Program;
- Specifies information that the certified applicant must report to DEO; and
- Includes any provisions deemed prudent by DEO.

The contract must also require the applicant to reimburse the state, after all distributions have been made, any amount by which the total distributions made under the program exceed actual new incremental state sales taxes generated by sales at the facility during the contract. Reimbursements due to the state must be made within 90 days after the last distribution. If the applicant is unable or unwilling to reimburse the state, DEO may place a lien on the applicant's facility. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation.

Repayment of Distributions

A certified applicant may be required to repay distributions if:

- An applicant's beneficiary breaks the terms of its agreements and relocates, or no longer occupies or uses the facility as the facility's primary tenant. The beneficiary is required to reimburse the state for such distributed funds, plus a five percent penalty, if the beneficiary relocates before the agreement expires.
- DEO determines that the applicant submitted false, misleading, deceptive, or otherwise untrue information. As above, the applicant is required to reimburse the state, plus a five percent

penalty. Applicants that are a municipality or a county may reimburse the state from their half-cent sales tax allocation.

Applicant History under the Sports Development Program

To date, no applicants have been certified and no funds have been distributed under the Program.

In FY14-15, DEO received four applications: the City of Jacksonville, the City of Orlando, Daytona International Speedway, LLC, and South Florida Stadium, LLC. All applicants qualified for the "special" application process.

In FY15-16, DEO received four applications: Buccaneers Football Stadium Limited Partnership, the City of Jacksonville, Daytona International Speedway, LLC, and South Florida Stadium, LLC. The Buccaneers application was incomplete and not transmitted to the Legislature, the other applications qualified for the special application process.

In FY 16-17, DEO received one application, from Buccaneers Stadium, LLC. DEO reviewed the application under the "general" application process.

DEO did not receive any applications in FY 17-18.[13]

Sales and Use Tax

Chapter 212, F.S., contains the state's statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property and a limited number of services. Additionally, s. 212.20, F.S., contains statutory direction for the schedule of distributions approved pursuant to ss. 288.1162 and 288.11625, F.S.

Local Government Half-cent Sales Tax (Section 218.64, F.S.)

Authorized in 1982, the Local Government Half-cent Sales Tax Program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature.[14] It distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Additionally, the program distributes a portion of communications services tax revenue to eligible local governments. Allocation formulas serve as the basis for these separate distributions. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.[15]

Municipalities are authorized to spend their portion of the local government half-cent sales tax for:
- municipality-wide programs,
- reimbursing the state as required by the Sports Development Program, or
- municipality-wide property tax or municipal utility tax relief.

Counties are authorized to spend their portion of the local government half-cent sales tax for countywide tax relief or countywide programs. Subject to certain conditions, counties may also use up to $3 million annually of the local government half-cent sales tax for the following purposes:
- new or retained professional sports franchises under s. 288.1162, F.S. or a spring training franchise under s. 288.11621, F.S.
- a certified applicant as a motorsport entertainment complex under s. 288.1171, F.S., or
- reimbursing the state as required by the Sports Development Program.

[13] Email from Karis Lockhart, Deputy Director of Legislative Affairs, Department of Economic Opportunity, RE: Sports Development Program information (Feb. 13, 2019).
[14] Ch. 82-154, Laws of Fla.
[15] EDR, 2018 Local Government Financial Information Handbook (September 2018), p. 55.

Additionally, counties and municipalities are authorized to pledge proceeds of the local government half-cent sales tax for the payment of principal and interest on any capital project.

Economic Development Programs Evaluation

Section 288.0001, F.S., requires EDR and OPPAGA to include the Sports Development Program among the list of economic development programs scheduled to be reviewed and analyzed by January 1, 2018, and every three years thereafter. As no applicants have been certified under the Program and no funds have been distributed, neither OPPAGA[16] nor EDR[17] was able to review and analyze the Program in its first three-year reporting cycle.

Effect of Proposed Changes

The bill repeals s. 288.11625, F.S., eliminating the Sports Development Program, and updates a number of related sections, conforming to the elimination of the Program.

The bill takes effect July 1, 2020.

B. SECTION DIRECTORY:

Section 1 Repeals s. 288.11625, F.S., relating to the Sports Development Program.

Section 2 Amends s. 212.20, F.S., conforming provisions to changes made by the act.

Section 3 Amends s. 212.205, F.S.; conforming a cross-reference.

Section 4 Amends s. 218.64, F.S.; conforming provisions to changes made by the act.

Section 5 Amends s. 288.0001, F.S.; conforming provisions to changes made by the act.

Section 6 Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

[16] OPPAGA, Report No. 17-13, Florida Economic Development Program Evaluations-Year 5, p. 45 (Dec. 28, 2017).
[17] EDR, Return on Investment for the Florida Sports Foundation Grants and Related Programs, p. 1 (Jan. 1, 2018).

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. No state funding was authorized and no applicants were ever approved by the Legislature under the program being repealed.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create the need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the Sports Development Program; repealing s. 288.11625, F.S., relating to the Sports Development Program; amending ss. 212.20, 212.205, 218.64, and 288.0001, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 288.11625, Florida Statutes, is repealed.

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 ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is 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

CODING: Words stricken are deletions; words underlined are additions.

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., 8.9744 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., 0.0966 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., 2.0810 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., 1.3653 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 to each applicant certified as a facility for a new or 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. However, not more than $416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and 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 receive more in distributions than expended by the applicant for the public purposes provided in s. 288.1162(5) or s. 288.11621(3).

c. Beginning 30 days after notice by the Department of

Economic Opportunity 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 Department of Economic Opportunity 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.

e. The department shall distribute up to $83,333 monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to $166,667 monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 20 years to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise or not more than 25 years to each certified applicant as defined in s. 288.11631 for a facility used by more

than one spring training franchise. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).

~~f. Beginning 45 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been approved by the Legislature and certified by the Department of Economic Opportunity under s. 288.11625 or upon a date specified by the Department of Economic Opportunity as provided under s. 288.11625(6)(d), the department shall distribute each month an amount equal to one-twelfth of the annual distribution amount certified by the Department of Economic Opportunity for the applicant. The department may not distribute more than $7 million in the 2014-2015 fiscal year or more than $13 million annually thereafter under this sub-subparagraph.~~

f.~~g.~~ Beginning December 1, 2015, and ending June 30, 2016, the department shall distribute $26,286 monthly to the State Transportation Trust Fund. Beginning July 1, 2016, the department shall distribute $15,333 monthly to the State Transportation Trust Fund.

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

Section 3. Section 212.205, Florida Statutes, is amended to read:

212.205 Sales tax distribution reporting.—By March 15 of each year, each person who received a distribution pursuant to s. 212.20(6)(d)6.b.-e. ~~s. 212.20(6)(d)6.b.-f.~~ in the preceding calendar year shall report to the Office of Economic and Demographic Research the following information:

(1) An itemized accounting of all expenditures of the funds distributed in the preceding calendar year, including amounts spent on debt service.

(2) A statement indicating what portion of the distributed funds have been pledged for debt service.

(3) The original principal amount and current debt service schedule of any bonds or other borrowing for which the distributed funds have been pledged for debt service.

Section 4. Subsection (2) and paragraph (c) of subsection (3) of section 218.64, Florida Statutes, are amended to read:

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

(2) Municipalities shall expend their portions of the local government half-cent sales tax only for municipality-wide programs~~, for reimbursing the state as required pursuant to s. 288.11625,~~ 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

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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 $3 million annually of the local government half-cent sales tax allocated to that county for any of the following purposes:

~~(e) Reimbursing the state as required under s. 288.11625.~~

Section 5. Paragraph (e) of subsection (2) of section 288.0001, Florida Statutes, is amended to read:

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

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

~~(e) Beginning January 1, 2018, and every 3 years thereafter, an analysis of the Sports Development Program established under s. 288.11625.~~

Section 6. This act shall take effect July 1, 2020.