

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SB 642

INTRODUCER: Senators Altman and Storms

SUBJECT: Autism Programs and Related Disabilities/License Plate

DATE: March 30, 2009

REVISED: 04/06/09

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hansson	Meyer	TR	Fav/1 amendment
2.	Toman	Walsh	CF	Fav/2 amendments
3.			HA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input checked="" type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Senate Bill 642 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to develop an Autism license plate, available to drivers willing to pay an extra \$25 annual use fee. Proceeds from the plate will be distributed to Achievement and Rehabilitation Centers, Inc. (the Achievement Center), to fund service programs for autism and related disabilities throughout Florida and to establish and operate programs to support individuals with autism and related disabilities through direct services, evaluation, training, and awareness.

The bill requires the Achievement Center to establish (1) an Autism Services Grant Council (Grant Council) to provide grants, from available license plate proceeds, to nonprofit organizations for direct services; and (2) an Autism License Plate Fund (the Fund) to provide funds to the Grant Council. The bill specifies how the license plate proceeds must be used.

The Autism license plate has met the statutory application requirements for a new specialty license plate and falls within the exception from the moratorium on new specialty license plates created by the 2008 Legislature, as the Achievement Center submitted its materials before May 2, 2008.

The bill requires DHSMV to include a checkoff for a voluntary contribution to the Fund administered by the Achievement Center, on each application and renewal form for motor vehicle registration. The Achievement Center has not completed the statutory requirements authorizing it to seek Legislative enactment of this voluntary contribution checkoff.

The bill requires DHSMV to include a checkoff for a voluntary contribution to the Fund administered by the Achievement Center, on each driver's license application form and application form for driver's license renewal issuance or renewal extension. The Achievement Center has not completed the statutory requirements authorizing it to seek Legislative enactment of this voluntary contribution checkoff.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 320.08056, 320.08058, 320.02, and 322.08.

II. Present Situation:

Specialty License Plates

The Florida Legislature created the first specialty license plates in 1986, one commemorating the seven astronauts who died when the space shuttle Challenger exploded after lift-off, and one for each of the nine universities then in the state university system.

Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees. Proceeds are distributed to an organization or organization in support of a particular cause or charity as signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

Section 320.08053, F.S., provides that an organization seeking authorization to establish a specialty license plate must submit the following:

- A request for the particular license plate with a description of the proposed plate in specific terms, including a sample plate conforming to the specifications set by DHSMV;
- The results of a scientific sample survey of Florida motor vehicle owners that indicates at least 30,000 motor vehicle owners intend to purchase the proposed specialty license plate at the increased costs;
- An application fee, not to exceed \$60,000, to defray DHSMV's cost for reviewing the application and developing the specialty license plate, if authorized; and
- A marketing strategy outlining both the short and long term marketing plans and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenue from the requested specialty license plate.

The required documentation and fees must be submitted at least 90 days before the convening of the next regular session of the Florida Legislature. If a specialty license plate is approved by law,

the organization must submit a proposed art design for the specialty plate to DHSMV no later than 60 days after the act becomes a law. If the specialty license plate is not approved by the Legislature, the application fee is refunded to the requesting organization.

In 2008, the Legislature passed SB 1992, which imposed a moratorium on the issuance of specialty plates by DHSMV. The moratorium is effective from July 1, 2008 to July 1, 2011, but contains an exception “for [any] specialty license plate proposal which ha[d] submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008.”¹

Section 320.08056, F.S., provides that DHSMV is responsible for developing the specialty license plates and must begin production and distribution within one year after approval of the specialty license plate by the Legislature. Specialty license plates must bear the design required by law for the appropriate specialty plate, and the designs and colors must be approved by DHSMV. In addition, the specialty license plate must bear the imprint of numerals from 1 to 999, inclusive, capital letters “A” through “Z”, or a combination thereof.

The DHSMV is authorized to annually retain the first proceeds derived from the annual use fees collected in an amount sufficient to defray each specialty plate’s *pro rata* (proportionate) share of DHSMV’s costs directly related to issuing the specialty license plate. A person wishing to purchase a specialty license plate must pay, in addition to the required license plate fee and license tax, a license plate annual use fee (from \$15 to \$25) and a processing fee of \$2.

The DHSMV must discontinue the issuance of an approved specialty plate if the number of valid specialty license plates in use falls below 1,000 plates for at least 12 consecutive months. DHSMV is authorized to discontinue the issuance and distribution of specialty plates if the organization no longer exists, if the organization has stopped providing services authorized to be funded, or if the organization requests it. To date, only four plates have ever been discontinued for lack of sales: the Girl Scouts plate, the Orlando Predators plate, the Miami Hooters plate, and the Tampa Bay Storm plate.

Annual use fees or any interest earned from those fees may not be used for commercial or for-profit activities, or for general administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).

Section 320.08058, F.S., lists the approved specialty license plates and specifies funding requirements.

Section 320.08062, F.S., requires all organizations receiving annual use fee proceeds from DHSMV to be responsible for ensuring proceeds are used in accordance with ss. 320.08056 and 320.08058, F.S. Each organization is either subject to an audit or is required to annually attest, under penalties of perjury, that such proceeds were used correctly. DHSMV can examine all records pertaining to the use of specialty license plate revenues.

The Legislature has authorized 111 specialty license plates to date. Sales of specialty license plates generated over \$35 million in annual use fee revenues during FY 2008-09.

¹ 2008-176, s. 45, L.O.F.

The DHSMV has found that the Autism license plate has met the application requirements and falls within the exception from the moratorium on new specialty license plates created by the 2008 Legislature, as the organization submitted its materials before May 2, 2008.

Motor Vehicle Registration Voluntary Checkoff

Section 320.023, F.S., outlines the procedures which an organization must follow prior to seeking Legislative authorization to establish a voluntary checkoff on a motor vehicle registration application. Before the organization is eligible, it must submit the following requirements to DHSMV at least 90 days before the convening of the Regular Session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms;
- An application fee of up to \$10,000 to defray DHSMV's costs for reviewing the application and developing the checkoff, if authorized, and State funds may not be used to pay the application fee; and
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

The DHSMV must discontinue the checkoff if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period.

Section 320.02, F.S., specifies the language that must appear on the State of Florida vehicle's registration and renewal application forms. Included in s. 320.02, F.S., are options for voluntary contributions to the following corporations, trust funds, and organizations:

- Nongame Wildlife Trust Fund (\$1)
- Highway Safety Operating Trust Fund, used to purchase child safety seats (\$2)
- Transportation Disadvantaged Trust Fund (\$1)
- Prevent Blindness Florida (\$1)
- Unspecified monetary contribution to Florida Mothers Against Drunk Driving, Inc.
- Southeastern Guide Dogs, Inc. (\$1)
- Miami Heart Research Institute, Inc. (\$1)
- Children's Hearing Help Fund (\$1)
- State Homes for Veterans Trust Fund (\$1)
- Family First (\$1)

Section 320.02, F.S., requires that an explanation of the purpose of the trust fund to be established be included on the application form. Section 320.02, F.S., further provides none of the contributions are subject to the seven percent trust fund service charge as defined in s. 215.20, F.S., because the funds are not income of a revenue nature.

Driver's License Application Voluntary Checkoff

Section 322.081, F.S., provides the procedures which an organization must follow prior to seeking Legislative authorization to establish a voluntary checkoff on a driver's license application. Before the organization is eligible, it must submit the following requirements to DHSMV at least 90 days before the convening of the Regular Session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms;
- An application fee of up to \$10,000 to defray DHSMV's costs for reviewing the application and developing the checkoff, if authorized, and State funds may not be used to pay the application fee; and
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

The DHSMV must discontinue the checkoff if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent 5-year period.

Pursuant to s. 322.08, F.S., the driver's license application and renewal forms currently include the following six voluntary contribution checkoffs:

- A voluntary contribution of \$1 per applicant, which shall be deposited into the Health Care Trust Fund for organ and tissue donor education and for maintaining the organ and tissue donor registry.
- A voluntary contribution of \$1 per applicant, which shall be distributed to the Florida Council of the Blind.
- A voluntary contribution of \$2 per applicant, which shall be distributed to the Hearing Research Institute, Incorporated.
- A voluntary contribution of \$1 per applicant, which shall be distributed to the Juvenile Diabetes Foundation International.
- A voluntary contribution of \$1 per applicant, which shall be distributed to the Children's Hearing Help Fund.
- A voluntary contribution of \$1 per applicant, which shall be distributed to Family First, a nonprofit organization.

An organization requesting a driver's license checkoff must also provide a statement, which explains the purpose of the trust fund created through the checkoff. Some contributions received through driver's license checkoffs are exempted from the general revenue service charges as established in s. 215.20, F.S.

The Autism license plate failed to meet the statutory requirements for the voluntary motor vehicle registration and voluntary driver's license application checkoffs.

What is Autism?

Autism is a lifelong neurological disability that affects a person's ability to communicate, understand language, play and socially interact with others. The first signs of autism usually appear as developmental delays before age three. Autism is classified as a developmental disability because it interferes with the typical rate and patterns of childhood development. There are diagnoses closely related to autism such as PDD-NOS (pervasive development disorder not otherwise specified), Asperger's syndrome, and Rett's syndrome that are included in the category of Autism Spectrum Disorder (ASD).²

All children with an ASD demonstrate deficits in:

- Social Interaction;
- Verbal and nonverbal communication; and
- Repetitive behaviors or interests.³

Section 393.063(3), F.S., defines autism to mean "...a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests."

Achievement & Rehabilitation Centers, Inc. (the Achievement Center)

The Achievement Center is a nonprofit organization providing support and assistance to children and adults in Broward County who have mental retardation, autism, Down syndrome, cerebral palsy, and other developmental disabilities. The Achievement Center provides a full range of services and supports, including:

- Workforce development services;
- Adult habilitation services;
- Children's services;
- Behavioral health care services; and
- Outpatient health care services.⁴

Centers for Autism and Related Disabilities (CARDS)

Section 1004.55, F.S., establishes seven regional, nonresidential CARDS to provide resource and training services for persons of all ages and of all levels of intellectual functioning who have autism.⁵ The CARDS are established at:

² Center for Autism and related Disabilities, *Fact Sheet 1*, available at <http://autism.fsu.edu/downloads/LITERATURE/factPdf/fact%20sheets/FactSheet1.pdf> (last visited March 26, 2009).

³ Department of Health and Human Services, National Institutes of Mental Health, *Autism Spectrum Disorders: Pervasive Developmental Disorders, With Addendum* (January 2007), available at <http://www.nimh.nih.gov/health/publications/autism/nimhautismspectrum.pdf> (last visited March 26, 2009).

⁴ See Achievement Center website, available at <http://www.arcbroward.com/> (last visited March 26, 2009).

⁵ See, e.g., University of Miami and Nova Southeastern University CARD website, available at <http://www.umcard.org/> (last visited March 31, 2009).

- Florida State University;
- University of Central Florida;
- University of Florida at Gainesville;
- University of Florida Health Science Center at Jacksonville;
- University of South Florida;
- Florida Atlantic University; and
- University of Miami (now also including Nova Southeastern University).⁶

The CARDS are funded by the Legislature and, therefore, services are provided free of charge.

III. Effect of Proposed Changes:

Specialty License Plate

Senate Bill 642 authorizes DHSMV to develop and issue an Autism license plate. Drivers can display this specialty plate upon payment of the appropriate license taxes and fees and a \$25 annual use fee.

This bill directs the Achievement Center to develop an Autism Services Grant Council (Grant Council), to provide grants from available Autism license plate proceeds to nonprofit organizations for direct services and programs for individuals with autism and related disabilities and their families. The individuals served must include those who are on the Agency for Persons with Disabilities' waiting lists for services. The bill also requires the Achievement Center to establish an Autism License Plate Fund (the Fund) to hold moneys to be used by the Grant Council. All funds received must be used in the state.

The Achievement Center is permitted to retain the first \$85,000 of annual use fees to cover the costs of developing and establishing the license plate. Thereafter, annual use fees shall be distributed by the Achievement Center as follows:

- Up to **15 percent** for the administration of the Grant Council, the Fund, and related matters;
- As necessary for annual audit or compliance costs;
- **Thirty-five percent** to establish and operate programs to support individuals with autism and related disabilities and their families through direct services, evaluation, training and, awareness in the state;
- **Fifteen percent** to the CARD at the University of Miami for distribution to the seven regional CARDS, as determined appropriate by the director of that center, to be used to support the services provided by the CARDS; and
- **The remainder** to be made available to the Grant Council for grants to nonprofit organizations to operate direct services and for marketing the license plate.

The bill requires all grant recipients, including the Achievement Center and the CARD, to provide to the Grant Council an annual program and financial report regarding the use of grant funds. Such reports shall be made available to the public.

⁶ Section 1004.55(1), F.S.

Motor Vehicle Registration Checkoff

This bill amends s. 320.02, F.S., to include a voluntary contribution checkoff option of \$25 on motor vehicle registration and renewal forms to the Fund administered by the Achievement Center, a nonprofit organization. The bill requires DHSMV to receive the voluntary contributions and transfer those funds monthly to the Achievement Center. Contributions are not income of a revenue nature for purposes of applying the service charge provided in s. 215.20, F.S.

Driver's License Application and Renewal Checkoff

This bill amends s. 322.08, F.S., to require the DHSMV to include a voluntary contribution checkoff option of \$5 contribution to be distributed to the Fund administered by the Achievement Center, on each driver's license application form. This section also exempts the funds from the general revenue service charge.

The bill provides an effective date of July 1, 2009.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Persons wishing to purchase an Autism license plate can do so for an additional charge of \$25 (plus \$2 processing fee) beyond the normal fees associated with buying a license plate. The Achievement Center has paid the \$60,000 application fee, which will be refunded if the plate is not approved by the Legislature. The Achievement Center will benefit by receiving the donations for distribution.

Applicants for motor vehicle registration and renewals wishing to donate \$25 to Achievement Center would have the option of doing so by selecting the checkoff option on the application form. The Achievement Center will benefit by receiving monthly donations.

Citizens wishing to contribute \$5 to Achievement Center would have the option of doing so by selecting the checkoff option on the driver's license application form or form for renewal issuance or renewal extension. The Achievement Center will benefit by receiving donations.

C. **Government Sector Impact:**

The DHSMV is responsible for developing and distributing the Autism license plate. The cost of this effort is approximately \$60,000. This impact will be offset by the \$60,000 application fee that the organization has already paid.

The organization has not paid either application fee of \$10,000 to defray DHSMV's costs for reviewing the application and developing the motor vehicle registration or driver's license and license renewal or extension application voluntary checkoff.

VI. Technical Deficiencies:

At line 82, the bill requires "the Center for Autism and Related Disabilities" to provide an annual report to the Grant Council. It may be unclear whether this requirement is directed at the CARD at the University of Miami, or to any CARD that receives funding from the Grant Council.

VII. Related Issues:

None.

VIII. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

Barcode 533592 by the Committee on Transportation on March 25, 2009:

This amendment deletes Section 3, the motor registration voluntary checkoff, and Section 4, the driver's license application and renewal voluntary checkoff, and changes the title, accordingly. (WITH TITLE AMENDMENT)

Barcode 182398 by Children, Families, and Elder Affairs on April 6, 2009:

This amendment ensures that the distribution of the proceeds from the Autism license plate will have statewide impact. Specifically, the amendment provides that:

- Up to 10 percent of the proceeds will be used for administrative costs;
- Up to twenty-five percent of the proceeds will be used by Achievement and Rehabilitation Centers, Inc., to establish and operate statewide programs;

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- Fifteen percent of the proceeds will be disbursed (proportionately, to the extent possible) to the seven regional Centers for Autism and Related Disorders; and
 - Fifty percent will be disbursed to the Autism Services Grant Council established by the bill for distribution to nonprofit organizations statewide.

The amendment also clarifies the reporting requirements.

Barcode 597564 by Children, Families, and Elder Affairs on April 6, 2009:

This amendment revises the authorized uses of the proceeds from the United We Stand license plate, providing that up to 10 percent of the proceeds may be used for administration, promotion, and marketing costs. (WITH TITLE AMENDMENT)