

STORAGE NAME: h3663.rs

DATE: March 3, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
REGULATED SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3663

RELATING TO: Pari-Mutuel Wagering; Jai Alai Taxes

SPONSOR(S): Representative Westbrook and others

COMPANION BILL(S): SB 1080

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

- (1) REGULATED SERVICES
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill would provide tax relief to certain jai alai permitholders. The bill would provide to a jai alai permitholder whose tax payments exceed its operating earnings in any fiscal year a tax credit equal to the amount of taxes paid in excess of its operating earnings. The tax credit would be applied to the pari-mutuel taxes due during its next ensuing meet. The bill would also allow jai alai permitholders to apply for a license or amend its license for the 1998-1999 fiscal year.

The bill is estimated to have an annual negative fiscal impact to the state of approximately \$6.5 million.

The act would take effect on July 1, 1998.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

During the 1996 legislative session, the Legislature considered and passed an omnibus pari-mutuel bill, the Committee Substitute for House Bill 337 by the Committee on Regulated Industries and Representative Geller (Chapter 96-364, Laws of Florida). Among the changes included in the legislation were tax reductions for jai alai

Section 550.09511, F.S., provides jai alai tax rates. The changes made in 1996 reduced the tax rate on handle for live jai alai performances from five percent to 4.25 percent. When the live handle of a jai alai permitholder was less than \$15 million in the preceding state fiscal year, the first \$30,000 per performance per day is exempt from such taxation. When the total of admissions tax, daily license fee, and tax on live handle paid to the division by a permitholder exceeds the total state taxes paid by that permitholder on live jai alai performances in the 1991-1992 state fiscal year, the tax on live handle for that jai alai permitholder is reduced to 2.55 percent for the remainder of the state fiscal year. Such tax payments include admissions tax, tax on handle, surtaxes on handle, and daily license fees.

A jai alai permitholder which did not operate in FY 1991-1992 pays 4.25 percent of the handle as taxes until the taxes paid during the current state fiscal year exceeds that paid or due by the permitholder in the last state fiscal year in which the permitholder operated. At such time, the permitholder pays 3.3 percent of the handle for the remainder of the fiscal year. Such tax payments include admissions tax, tax on handle, surtaxes on handle, and daily license fees.

A jai alai permitholder which obtained a new permit subsequent to FY 1991-1992 or has converted a permit to a jai alai permit shall pay 3.3 percent of the handle as taxes when the taxes paid during the current state fiscal year exceeds the average total state tax revenues from wagering on live jai alai performances for the first three consecutive jai alai seasons paid or due the division by the permitholder when the permitholder has conducted a full schedule of live games.

Jai alai permitholders who share facilities - those permitholders who are prohibited from operating live performances year-round pursuant to s. 550.0745, F.S. - pay a live tax rate of 3.85 percent. Such a permitholder is also entitled to conduct intertrack wagering (ITW) as a host permitholder on live jai alai games at its fronton at a tax rate of 3.3 percent of handle at such time as the total tax on ITW handle paid during the state fiscal year exceeds the total tax on ITW handle paid during the 1992-1993 state fiscal year.

Jai alai permitholders in the South Florida area which conduct ITW with other jai alai permitholders within their market areas are subject to a tax on such handle of 6.1 percent except that the rate will be reduced to 2.3 percent at such time as the total tax on ITW handle paid during the current state fiscal year exceeds the total tax on handle paid during the 1992-1993 state fiscal year.

Section 26 of chapter 96-364, Laws of Florida, provided an expiration of s. 550.09515(2). Effective July 1, 1998, the amendments made to those sections by the 1996 legislation will expire and that those sections will revert to the provisions which existed prior to the 1996 legislation. After that date, the tax rate for jai alai performances

will revert from 4.25 percent to five percent, the reduced tax rate of 2.55 which is due when certain conditions are met will increase to 3.3 percent, and the 3.85 percent tax rate for shared facility permitholders will increase to five percent.

B. EFFECT OF PROPOSED CHANGES:

This bill would provide tax relief to certain jai alai permitholders. The bill would provide to a jai alai permitholder whose tax payments exceed its operating earnings in any fiscal year a tax credit equal to the amount of taxes paid in excess of its operating earnings. The tax credit would be applied to the pari-mutuel taxes due during its next ensuing meet.

The bill defines operating earning as net revenues from pari-mutuel operations minus state taxes and fees and total expenses. Total expenses exclude:

- * Deductions for interest, depreciation, and amortization;
- * Payments to affiliated entities (other than for pari-mutuel related expenses); and
- * Increases in officers' or directors' salaries above the amounts paid during the 1997 calendar year.

The bill authorizes a jai alai permitholder to apply for a license or amend its license to conduct performances for the 1998-1999 fiscal year within ten days after the effective date of this act. It requires the division to issue such license within 15 days after the receipt of the application.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes. The bill would reduce the tax current obligation of certain jai alai permitholders by providing tax credits for tax payments in excess of a permitholder's operating earnings.

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

- N/A

- (2) Who makes the decisions?

- N/A

- (3) Are private alternatives permitted?

- N/A

- (4) Are families required to participate in a program?

- N/A

- (5) Are families penalized for not participating in a program?

- N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 550.01215 and 550.09511, F.S.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The division reports that its computer system would require reprogramming to facilitate the accounting for tax credits provided by the bill. The costs of reprogramming are currently indeterminate.

2. Recurring Effects:

This bill would provide tax relief to certain jai alai permitholders. It would provide a jai alai permitholder whose tax payments exceed its operating earnings in any fiscal year a tax credit equal to the amount of taxes paid in excess of its operating earnings. The tax credit would be applied to the pari-mutuel taxes due during its next ensuing meet.

The jai alai industry reports paying over \$8.3 million in state pari-mutuel taxes and fees and an industry-wide operating income loss of \$3.1 million. If the tax credit provision in this bill was currently in effect, the operating losses reported by the jai alai industry would equate to a tax credit of approximately \$3.1 million. Preliminary

figures from the division indicate that state revenues would experience an estimated reduction of \$6.5 million per state fiscal year.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

This bill would provide tax relief to jai alai permitholders whose tax payments exceed its operating earnings equal to the amount of the excess taxes paid. The tax credit would be applied to the pari-mutuel taxes due during its next ensuing meet. The division estimates that the jai alai industry would benefit by approximately \$6.5 million per year.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

According to the division's analysis, administration of this bill would be difficult. The fiscal years used by the eight operating jai alai permitholders do not all correspond with that of the state. The requirement that audited fiscal information be filed with the division within 120 days of the end of permitholder's fiscal year may mean that the tax credit is not available to the permitholder at the beginning of the state fiscal year in some cases.

The division is also concerned that the July 1, 1998 effective date of this act does not provide them sufficient time to reprogram their computers to make the necessary calculations. Reprogramming changes typically require coordination with the Department of Management Services and take at least three months to complete.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

Legislative Research Director:

J Paul Whitfield Jr

Paul Liepshutz