

**STORAGE NAME:** h1171.ric.doc  
**DATE:** February 25, 2002

**HOUSE OF REPRESENTATIVES**  
**COUNCIL FOR READY INFRASTRUCTURE**  
**ANALYSIS**

**BILL #:** HB 1171  
**RELATING TO:** License Plates  
**SPONSOR(S):** Representative(s) Harrell  
**TIED BILL(S):** None

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

- (1) TRANSPORTATION YEAS 11 NAYS 1
  - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT COMMITTEE YEAS 15 NAYS 1
  - (3) COUNCIL FOR READY INFRASTRUCTURE
  - (4)
  - (5)
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I. SUMMARY:

This bill creates the "Protect Florida Whales and Oceans" license plate. A \$25 annual use fee is charged to persons electing to purchase the plate. The fee is distributed to Harbor Branch Oceanographic Institution, Inc. (Harbor Branch) to fund whale research, rehabilitation, and education programs. Harbor Branch is authorized to use up to 15 percent of the funds for administrative costs and up to 10 percent of the funds to cover the costs of marketing the plate. In addition, Harbor Branch must distribute 10 percent of the funds to the Wyland Foundation, Inc. for educational conservation programs. The remainder of the funds are to be used for various research, rehabilitation and education activities related to Florida whale populations.

The bill will take effect July 1, 2002 provided that it is enacted by at least a three-fifths vote of each house.

**[Note: On February 13, 2002, the Committee on Transportation adopted a strike-everything amendment that is traveling with the bill. For details see the AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES section below.]**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

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

Less Government

The bill adds to the large selection of specialty license plates that are manufactured and distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) and local tax collectors offices throughout the state. In addition, the bill creates a new source of voluntary public funding for marine research and conservation.

B. PRESENT SITUATION:

**Specialty License Plates**

The Florida specialty license plate program began in 1986 with legislation authorizing DHSMV to issue a specialty license plate commemorating the Challenger space shuttle and for each university within the State University System. Specialty license plates must be specifically authorized by the Legislature. The State of Florida currently has 53 types of specialty license plates including the recently approved American Red Cross and United We Stand plates. During the calendar year 2001, specialty license plates generated approximately \$23 million in revenues.

Proceeds from specialty license plate annual use fees have been used to fund an astronaut memorial, space technology research, biological research and conservation programs (including manatees, panthers, sea turtles, dolphins and largemouth bass), scholarships, university academic enhancements and numerous other programs and projects. Section 320.08053, F.S., establishes requirements that organizations or agencies must meet in order to create a new specialty license plate. Current law requires that specified information and a \$60,000 application fee be submitted to DHSMV prior to requesting legislative approval for a specialty plate. Information required to be submitted includes:

- The results of a scientific sample survey indicating that at least 15,000 motor vehicle owners intend to purchase the proposed specialty license plate at the increased cost.
- A marketing plan and financial analysis of anticipated revenues and expenditures.

Once a specialty license plate has been approved by the Legislature, it must conform to the uniform requirements established in s. 320.08056, F.S., for all specialty plates including taxes, fees, and design characteristics. This section specifies that the organization that requests the specialty plate may not redesign it unless the inventory of those plates has been depleted. Plates are purchased by DHSMV in lots of 15,000. In addition, section 320.08058, F.S., contains provisions specific to

each specialty plate including content requirements and the method for distributing annual use fees for each approved specialty plate.

Specialty plates may be discontinued by DHSMV under several conditions. Plates may be discontinued if:

- The organization that requested the plate no longer exists;
- The organization has stopped providing the services funded by the plate;
- The organization requests discontinuance;
- Less than 8,000 plates, including annual renewals, are issued for the plate by the end of the 5<sup>th</sup> year of sales; or
- Less than 8,000 plates, including annual renewals, are issued for the plate during any subsequent 5-year period.

In the history of Florida's specialty license plates, only three plates have been discontinued, and three others are scheduled for discontinuance for lack of sales. Of the two plates that have been discontinued, one was the result of the organization ceasing to operate (Miami Hooters), and the others were plates commemorating Florida's hosting of the Super Bowl and the Florida Quincentennial. Because of the commemorative purpose of the latter two plates, they were issued for a limited time.

DHSMV has scheduled the Girl Scouts, Tampa Bay Storm, and Orlando Predators specialty plates for discontinuance based on lack of sufficient sales and renewals. Customers who currently have these plates may keep them through their 5-year cycle and renew them annually until the end of that cycle. New sales of these plates has already ceased, according to DHSMV.

### **Requesting Organization**

According to DHSMV, the Harbor Branch Oceanographic Institute, Inc. (Harbor Branch) and the Wyland Foundation, Inc. have requested establishment of the "Protect Florida Whales and Oceans" license plate and have met the statutorily prescribed conditions within the specified time period.

Harbor Branch is a non-profit research and education organization located in Fort Pierce, Florida, engaged in engineering, marine science, biomedical marine research, aquaculture, marine education, and marine mammal research and conservation activities. The organization maintains an accredited environmental lab and a fleet of research vessels and submersibles.

According to Harbor Branch, through its Division of Marine Mammal Research and Conservation it conducts "multifaceted biomedical research, education and conservation programs involving various marine mammal species around the world." Current research programs are documenting the cause of marine mammal strandings, the harmful effects of algae blooms, and the effects of disease on marine mammal species. In particular, the organization has been studying the health of dolphins in the Indian River Lagoon and has launched clinical research on a treatment for a skin disease in Manatees.

Harbor Branch currently receives distributions from sales of the "Protect Wild Dolphins" specialty plate to fund wild dolphins related research. Up to 25 percent of the fees distributed may be spent on administrative costs and marketing of the plate. The remainder of the funds must be used to:

- Collect, analyze, and archive scientific data regarding the wild dolphin population in Florida waters;
- Provide care and assistance to stranded wild dolphins;

- Distribute information to the scientific community, federal, state, and local government agencies, educational institutions, and the public for the purpose of protecting and preserving wild dolphins;
- Individually identify wild dolphins through a photographic identification program; and
- Advance the research technology associated with tracking and categorizing wild dolphins.

The Wyland Foundation is, according to Foundation literature, a non-profit organization dedicated to “inspir[ing] people to care more about our oceans and the marine life within.” Since 1993, the foundation has worked to encourage involvement in ocean conservation through classroom education programs, art and scientific research scholarships, and life-size public art. The foundation originated from the artwork of the artist known as Wyland, who according to the Foundation, is “recognized by political leaders, scientists, scholars, teachers, and environmentalists around the world for his care and concern for our ocean planet.”

Wyland designed the “Whale Tail” license plate in California for the California Coastal Commission. The proceeds from sales of that plate are deposited into the California Beach and Coastal Enhancement account for maintenance of the coastline and the Environmental License Plate Fund for other environmental programs in California. According to the Foundation, over 40,000 of the “Whale Tail” plates have been sold in California.

#### C. EFFECT OF PROPOSED CHANGES:

The bill directs DHSMV to develop the “Protect Florida Whales and Oceans” license plate. A person choosing to purchase the plate must pay a \$25 annual use fee. The fee will be distributed to Harbor Branch to fund whale research, rehabilitation, and education programs.

Up to 15 percent of the funds received by Harbor Branch may be spent on administrative costs, and up to 10 percent may be spent marketing the plate. The Wyland Foundation will receive 10 percent of the funds which must be used specifically to conduct educational programs in Florida which promote conservation of Florida marine mammals through a combination of science and art.

The remainder of the funds must be used to:

- Collect, analyze, and archive scientific data regarding wild whale populations that inhabit, utilize, or migrate in state waters;
- Provide care and assistance to stranded whales;
- Construct and maintain a Harbor-Branch-based teaching marine mammal hospital;
- Train veterinary students in the rescue, medical and rehabilitation treatment, and release and post-release monitoring of stranded whales;
- Distribute information for the purpose of protecting and preserving whales;
- Identify whale populations;
- Conduct scientific research through genetic, telemetry, bioacoustical, and photographic identification research programs;
- Advance the research technology associated with tracking, monitoring, and categorizing whales; and
- Conduct scientific research to collect, analyze, and monitor water samples from and monitor environmental conditions in waters that whales use.

In addition the bill provides that the marine-life artist Wyland shall design a new “collectors edition” of the plate every 5 years, pending approval by DHSMV.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Provides for a Protect Florida Whales and Oceans specialty license plate and an annual use fee of \$25.

**Section 2.** Provides for creation of the plate and distribution of funds. Also provides that the artist Wyland shall create a new plate design every 5 years.

**Section 3.** Provides an effective date of July 1, 2002 on the condition that the bill shall not take effect unless it is enacted by at least a three-fifths vote of the membership of each house of the Legislature.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Those persons electing to purchase the "Protect Florida Whales and Oceans" license plate will be subject to an annual use fee of \$25 in addition to those license taxes and fees which are otherwise required. In addition, two private non-profit corporations, Harbor Branch and the Wyland Foundation, receive distributions from the sale of this specialty plate.

D. FISCAL COMMENTS:

The start-up cost to DHSMV for a new specialty plate is approximately \$59,000. This cost is offset by the \$60,000 application fee required of organizations seeking a new specialty license plate. As with all license plates, recurring costs to DHSMV in producing and administering this plate are offset by fees collected at the point of sale.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require a city or county to expend funds or to take any action requiring the expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

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

The bill does not reduce the amount of state tax shared with a county or city.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Section 2 of the bill provides: "The marine-life artist Wyland shall design a new 'collectors edition' of the plate every 5 years, pending the required approval of artwork by the department."

This language appears to require a single person to perform a mandatory act of labor at least once every five years. No provision is made for compensation or other consideration. The provision therefore appears to violate the named person's constitutional right to due process of law and the constitutional prohibition against involuntary servitude. This constitutional issue could be resolved by making the provision permissible rather than mandatory.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

1. The bill requires the plate to be redesigned every five years to create a new "collector's edition." This provision may be inconsistent with s. 320.08056, F.S., which prohibits requests for redesign until current inventory of the plate is depleted. The bill should be amended to clarify this issue.
2. The bill provides it must be enacted by at least a three-fifths vote in each house of the Legislature before it can take effect. The Florida Constitution provides that "No trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the legislature in a separate bill for that purpose only." This bill does not create a trust fund of the state or any other public body. Therefore, an extraordinary vote of the Legislature does not appear to be required to enact the bill.

The sponsor has filed an amendment that addresses each of the issues raised in this section and the CONSTITUTIONAL ISSUES section of the analysis.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 13, 2002, the Committee on Transportation adopted a strike-everything amendment offered by the bill's sponsor. The amendment:

- Authorizes the use of money generated from plate sales to be used to develop methods of monitoring whale movements, to provide for methods of early-warning detection systems and advance notification that will help prevent accidental boat strikes in state waters;
- Removes the requirement that the artist Wyland design a new "collector's edition" plate every 5 years; and
- Removes the requirement that the bill be passed by a 3/5 vote in each chamber of the Legislature before it can become law.

The amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

William C. Garner

Staff Director:

Phillip B. Miller

AS REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT  
COMMITTEE:

Prepared by:

Loretta Jones Darity

Staff Director:

Eliza Hawkins

AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

Kim Fedele/C. Scott Jenkins

Council Director:

Thomas J. Randle