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**DATE:** February 27, 2002

**HOUSE OF REPRESENTATIVES**  
**COUNCIL FOR SMARTER GOVERNMENT**  
**ANALYSIS**

**BILL #:** HB 631  
**RELATING TO:** Pari-Mutuel Wagering/Greyhound Adoptions  
**SPONSOR(S):** Representative(s) Gottlieb and others  
**TIED BILL(S):**

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

- (1) BUSINESS REGULATION YEAS 10 NAYS 1
  - (2) COUNCIL FOR SMARTER GOVERNMENT YEAS 7 NAYS 5
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The bill requires greyhound racing permitholders to provide greyhound adoption booths at their racing facilities. The bill requires and specifies the criteria by which greyhound-racing permitholders are to provide information at each facility concerning the adoption of a greyhound including that the racing program contain adoption information and identify greyhounds in a race that will become available for adoption.

Greyhound racing permitholders are authorized to hold an additional charity day, designated as "Greyhound Adopt-A-Pet Day," and to use the profits from the charity day to support activities promoting greyhound adoptions.

The bill defines the term "bona fide organization that promotes or encourages the adoption of greyhounds" and requires that such organization provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter.

The bill is not expected to have a significant fiscal impact on state revenue expenditures or collections.

The bill provides that the act will take effect July 1, 2002.

**[Two amendments are traveling with the bill. Please see VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES for an explanation of both amendments.]**

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 checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input 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:

The bill places an additional statutory requirement on greyhound permitholders by requiring the establishment of greyhound adoption booths at their licensed pari-mutuel facilities.

B. PRESENT SITUATION:

Section 550.1647, F.S., authorizes a tax credit for greyhound permitholders for unclaimed prizes from pari-mutuel wagering events that are paid to the state in an amount equivalent to the amount that was remitted to the state in the prior fiscal year. In addition, this section requires the greyhound permitholder to pay an amount that equals at least 10% of that credit to a bona fide organization that promotes or encourages the adoption of greyhounds.

Pursuant to s. 550.0351, F.S., the Department of Business and Professional Regulation, Division of Pari-mutuel Wagering (division) may authorize each horseracing, dogracing, and jai alai permitholder up to five charity racing or scholarship days in addition to the regular racing days authorized by law. The section provides that the profits from charity performances are paid to qualified beneficiaries selected by the permitholder. In determining profit, subsection (5) of this statute authorizes permitholders to distribute as proceeds only the amount equal to the state tax that would otherwise be paid to the state if the charity day performance were conducted as a regular or matinee performance.

According to the Division, since charity performances were authorized in 1985, nearly \$45 million has been distributed to charitable organizations. During FY 2000-2001, pari-mutuel permitholders conducted approximately 218 charity/scholarship performances and the distribution to charitable organizations exceeded \$3 million.

C. EFFECT OF PROPOSED CHANGES:

The bill requires each greyhound permitholder to provide for a greyhound-adoption booth to be located at the facility and operated on weekends by personnel or volunteers from a bona fide organization that promotes or encourages the adoption of greyhounds pursuant to s. 550.1647, F.S. The term "weekends" includes the hours during which live greyhound racing is conducted on Friday, Saturday, or Sunday. The bill requires that information pamphlets and adoption applications be provided to the public upon request.

The bill further requires kennel operators and greyhound owners to provide to the permitholders information that a greyhound is available for adoption and that the racing program contain specific adoption information. Permitholders are required to post adoption information at conspicuous locations throughout the dogracing facility and must allow greyhounds to be walked through the facility to publicize greyhound adoption.

In addition to the charity days authorized under section 550.0351, F.S., a greyhound permitholder may fund the greyhound-adoption program by holding a charity racing day designated as "Greyhound Adopt-A-Pet Day." The profits from this charity day performance must be placed into a fund and used to support activities at that facility that promote the adoption of greyhounds. The division is authorized to adopt rules for administering the fund.

The bill specifies that the proceeds from the Greyhound Adopt-A-Pet Day charity day may not be used when calculating the amount to be paid to a greyhound organization pursuant to s. 550.1647, F.S.

Upon violation of these provisions by a permitholder or licensee, the division may impose a penalty as provided in s. 550.0251(10), F.S.<sup>1</sup> The bill specifies that a penalty imposed under this subsection will not exclude a prosecution for cruelty to animals for any other criminal act.

The bill amends s. 550.1647, F.S., clarifying that the term "bona fide organization that promotes or encourages the adoption of greyhounds" means any organization that provides evidence of compliance with ch. 496, F.S., and possesses a valid exemption from federal income tax issued by the Internal Revenue Service. The bill also amends s. 550.1647, F.S., to require that such organization provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter. The fee for sterilization may be included in the cost of the adoption.

**D. SECTION-BY-SECTION ANALYSIS:**

Section 1. Creates an undesignated section of Florida Statutes, and requires each greyhound racing permitholder to provide a greyhound adoption booth at the facility on weekends when live racing is conducted. This section also authorizes a greyhound permitholder to conduct a charity racing day designated as "Greyhound Adopt-A-Pet Day" and requires that the funds from this charity event be placed into an account which is used to support activities at the facility that promote the adoption of greyhounds.

This section also specifies requirements for information pamphlets and postings, race program content, notifications, allowances for greyhounds to be walked through the facility to publicize the adoption program, and provides penalties for violations.

Section 2. Amends s. 550.1647, F.S., to define the term "bona fide organization that promotes or encourages the adoption of greyhounds" and limits the applicability of the definition to s. 550.1647. This section also requires the organization to provide sterilization of the greyhounds by a licensed veterinarian before relinquishing custody of the animal and authorizes the fee for sterilization to be included in the cost of adoption.

Section 3. Provides that the act will take effect July 1, 2002.

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<sup>1</sup> Section 550.0251(10), F.S., authorizes the imposition of an administrative fine of not more than \$1,000 for each count or separate offense and authorizes the division to suspend or revoke a permit, a pari-mutuel license, or an occupational license.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, the "Greyhound Adopt-A-Pet-Day" could possibly reduce revenues to the Pari-Mutuel Wagering Trust Fund by one day's receipts, which would equal approximately \$150,000. The division notes, however, that such reduction would only occur in the event that each facility reduced one regularly scheduled racing day to accommodate the "Greyhound Adopt-A-Pet-Day."

2. Expenditures:

The Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, indicates that the additional audit and inspection responsibilities provided for in this bill can be accomplished with existing personnel and within the existing budget.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Permitholders will incur costs associated with the setup and operation of the greyhound adoption booths. The division estimates, however, that proceeds from the "Greyhound Adopt-A-Pet-Day" will defray such costs. In addition, many greyhound permitholders already provide space for an adoption booth and/or actively participate in greyhound adoption programs.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None noted.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Division of Pari-Mutuel Wagering to implement rules for the operation of a fund established to receive the proceeds from the Greyhound Adopt-A-Pet Day charity day.

C. OTHER COMMENTS:

Technical

The definition for a "bona fide organization that promotes or encourages the adoption of greyhounds" in Section 2 of the bill, limits its applicability to s. 550.1647, F.S. Since this term is also used in Section 1 of the bill, the sponsor may wish to amend the bill so that the definition applies to the entire chapter.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

**Action by the Committee on Business Regulation**

The Committee on Business Regulation adopted one amendment to the bill relating to the operation of cardrooms at pari-mutuel facilities and voted to report the bill favorably, 10 Yeas, 1 Nay. The amendment changes existing cardroom operation restrictions as follows:

- Allows thoroughbred permitholders to operate cardrooms and receive and rebroadcast out-of-state races after 7:00 PM; previously they could elect to do one or the other.
- Expands hours of operation so that cardrooms may begin operations two hours before a pari-mutuel event and may continue operations until 2:00 A.M. the following day; previously permitholders were required to stop cardroom operations two hours after pari-mutuel wagering had ceased.
- Eliminates the \$10 pot limit and replaces it with a \$2 bet limit with a maximum of three raises in any round of betting.
- Authorizes cardrooms to award prizes to players who hold combinations of cards specified by the cardroom operator, e.g., a royal flush. The amendment does not place a cap on the value of the prize awards; previously prize awards were prohibited.
- Allows a permitholder to amend its annual application to include the operation of a cardroom if the permitholder operated a cardroom in either of the two previous fiscal years but did not request renewal for its cardroom operation in its most recent annual application.
- Provides that if a harness track makes application for renewal of its cardroom license, the track must have requested authorization to conduct a minimum of 140 live performances during the fiscal year immediately prior thereto. Present law provides that in order for a cardroom license [for any class permitholder] to be renewed, the applicant must have requested to conduct at least 90% of the number of live performances during either the fiscal year in which its initial cardroom license was issued or the fiscal year immediately prior thereto.

- Requires that if more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing. Since this language refers to "live racing," it is unclear whether it is intended to include jai alai permitholders.
- Amends the definition of "authorized games" to actually list each of the games that were included by reference to s. 849.085(2)(a).
- Increases the percentage each greyhound and jai alai permitholder is required to dedicate to supplemental purses and prize money from 4% to 10% of monthly gross receipts.
- Reduces the tax paid to the state from 10% of gross receipts to 2% of gross receipts.
- Provides that the annual cardroom license fee [which is based on the number of tables] applies to each "facility" rather than each permitholder; some pari-mutuel facilities have more than one permit operating from that facility, e.g., Dania Jai Alai and Summersport Jai Alai both operate from one facility.

#### Fiscal Impact of Amendment

The amendment eliminates the \$10 pot limit and provides for a \$2 maximum wager with no more than three raises per round. In addition, the cardroom will be allowed to operate more frequently and for longer periods of time. Elimination of the \$10 cap on winnings could cause pot sizes to be several times larger than the \$10 cap, and potentially pot sizes could grow to as much as \$200, depending on the type of card game and the number of rounds of play. The Division estimates the total cardroom gross receipts may increase from the projected \$3,100,000 to approximately \$10,500,000 for FY 2002-03. However, due to the reduction of the gross receipts tax percentage from 10% to 2%, state revenues would decline by approximately \$100,000 [\$50,000 reduction in Pari-Mutuel Trust Fund receipts and \$50,000 reduction in General Revenue receipts].

Application of cardroom license fees to each facility rather than each permitholder will reduce table fee revenues by approximately \$13,000.

#### **Action by the Council for Smarter Government**

On February 26, 2002, the Council for Smarter Government adopted one amendment to the bill and voted to report the bill favorably, 7 Yeas, 5 Nays. The amendment allows the operation by the Department of the Lottery of video lottery terminals [VLTs] at licensed pari-mutuel facilities.

VLTs, often referred to as slot machines, are interactive gaming devices offering a wide variety of game options [traditional line-up games such as three cherries in a row, video bingo, video keno, traditional card games such as black jack and poker, etc.] at which a player places a bet for the chance to be awarded credits which can either be redeemed for cash or be replayed as additional bets. VLT games include games involving chance, elements of chance and skill and also include progressive games in which a jackpot grows as it is being played and is often played on a network of terminals linked together by a central computer.

The amendment requires the VLTs to pay out a minimum of 88% of the gross terminal income as prizes and allocates the remainder as follows:

- 36% of the net terminal income [cash in less cash out] to the Public Education Capital Outlay and Debt Service Trust Fund [PECO];
- 2% equally divided between the counties in which pari-mutuel facilities with VLTs are located; if the permitholder is located in an incorporated municipality, the municipality receives 20% of that county's 2%;
- 2% to the Department of the Lottery for administration;

- 0.25% to the Department of Children and Family Services for the establishment and administration of treatment programs for problem gambling; and
- 8% shared contributions by all pari-mutuels to the Video Lottery Purse Trust Fund.

Further disbursement of net terminal income for video lottery retailers depends on the type of permit held by the retailer.

If the permit holder is a greyhound or harness track or a jai alai fronton, 6% of the net is distributed as purses for live performances and 45.75% of the net terminal income is retained by the permit holder.

If the permit holder is a thoroughbred track or thoroughbred sales facility [OBS], the bill allows the video lottery retailer to retain 51.75% of the net terminal income which is subject to contract negotiation for purse and award distributions with the horsemen. In addition to these allotments, the bill provides additional funds for pari-mutuel purses, breeders and stallion awards, player compensation, and amends intertrack and simulcast regulations.

### Qualification

To qualify as a "video lottery terminal retailer" a pari-mutuel facility must have possessed a pari-mutuel permit on July 1, 2001 and must have either:

- conducted a full schedule of live greyhound, horse, or harness racing between July 1, 2000 and June 30, 2001;
- conducted at least one full schedule of live jai alai games between January 1, 1990 and June 30, 2001; or,
- be authorized to conduct intertrack wagering on horseraces [Ocala Breeders Sale].

VLT retailers must continue to conduct a full schedule of live racing or games or, as is the case with Ocala Breeders Sale, continue to be authorized to receive broadcasts of horseraces.

### Operation

The amendment grants overall control of the video lottery system to the Department of the Lottery and requires each terminal to be linked, directly or indirectly, to a computer system under the control of the department. The department is authorized to adopt rules necessary to: issue licenses; collect and disperse revenue; certify net terminal income through inspecting records, conducting audits, or by other reasonable means; approve vendors and maintain a current list of all contracts; require bonds from video lottery retailers, and adopt rules concerning the regulation of video lottery retailers and products; and adopt specifications for video lottery terminals in order to maintain the integrity of the games and terminals.

To encourage pari-mutuel play, the bill requires video monitors displaying the live races or games and some or all simulcasts of the facility, giving preference to performances by Florida pari-mutuel permit holders, to be displayed in locations where video lottery gaming is conducted. The bill requires the video lottery retailer to provide a means by which patrons may wager on those pari-mutuel activities. Video lottery games may be played at an authorized video lottery retailer's pari-mutuel facility even if such retailer is not conducting a pari-mutuel event and there is no restriction on the number of days or hours of operation. Alcoholic beverages may be sold on days on which the pari-mutuel facility is open to the public for video lottery play.

### Security

The bill requires each terminal to be linked, directly or indirectly, to a computer system under the control of the Lottery Department for the purpose of auditing the operation, financial data and program information. The bill also requires VLTs to be protected against manipulation to affect the probability of winning or obtaining credits and be capable of suspending play, as a result of tampering, until reset at the direction of the department. The bill creates a third-degree felony for physical or electronic tampering with a video lottery terminal.

Video lottery terminal vendors [suppliers of the terminals] are required to submit a training program for the service and maintenance of terminals and equipment for approval by the department. The bill specifies training program, qualification and certification criteria, including background investigations for employees, provides for revocation of certification and authorizes the department to adopt rules to further that purpose. No person can be licensed as a video lottery terminal vendor if the person has an interest in a video lottery retailer [pari-mutuel permitholder] or a business relationship with a video lottery retailer other than as a vendor or lessor of terminals.

#### Age Restrictions

No person under the age of 18 is allowed to play video lottery games and video lottery retailers are required to post a clear and conspicuous sign on the terminal that states the prohibition. The amendment establishes a second-degree misdemeanor for violation of either prohibition.

#### Zoning

The amendment provides that the installation, operation or use of a video lottery terminal on any property where pari-mutuel operations were or would have been lawful under a county or municipal zoning ordinance as of July 1, 2000, does not change the character or use of the property and cannot be prohibited by local ordinance.

#### Fiscal Impact of Amendment

As of the date of publication of this analysis, the Consensus Revenue Estimating Conference has not met to assess the potential economic impact of this legislation. Similar legislation was, however, filed in 1999 and a review of the bill analysis<sup>2</sup> prepared on that bill indicated the following estimates of impact.

To arrive at an estimate the Conference obtained and compared per capita sales figures, net terminal income, and number of terminals from three states [West Virginia, Rhode Island and Delaware] which offered video lottery gambling at their pari-mutuel facilities to the anticipated VLT activity in Florida.

The Conference also considered the impact of video lottery on other lottery games and on the pari-mutuel industry. Other lottery games were estimated to be adversely impacted by a reduction in sales of approximately 5% but pari-mutuel handle was not expected to be adversely affected. The Conference further estimated that as much as 50% of the revenue spent on video lottery gaming would come from money that would have otherwise been spent on sales subject to the state sales and use tax.

The net positive revenue to the state was estimated to be \$145.8 for FY 1999-2000 and \$271.8 for FY 2000-2001. This estimate was net of any negative impacts attributed to the items mentioned above. Further, these estimates anticipated facilities would be 50% operational in the first year, 65% operational in the second year, 85% the third year and not fully operational until the fourth year. Revenues were expected to increase substantially as more facilities became completely operational and knowledge of the availability of this form of wagering was disseminated. These calculations were based on a 38%

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<sup>2</sup> See Bill Analysis CS/HB 1453 by the Committee on Regulated Services, as revised by the Committee on Governmental Rules and Regulations, March 29, 1999.



allocation of net terminal income to PECO; this amendment allocates 36% of net terminal income to PECO.

Finally, this estimate of impact projected *first year* revenue of \$217.2 million to the pari-mutuel permitholder and \$33.6 to the Video Lottery Purse Trust Fund.

Other Comments

The authorization of gambling at pari-mutuel facilities by way of video lottery machines may legitimize the operation of similar electronic gambling devices that are presently in operation on Indian lands in the state and that are the subject of on-going litigation between the Attorney General and the Tribes.

Technical Comments

This amendment refers to three trust funds [Video Lottery Administrative Trust Fund; Video Lottery Thoroughbred Trust Fund, and Video Lottery Purse Trust Fund] that will need to be established to effectively implement this proposed legislation. [See HB's 1499, 1501, and 1503 for proposed implementing legislation.] Additionally, the department may desire that various sensitive information concerning security measures, procedures, or systems, etc. remain confidential in order to protect the integrity of the games. If an exemption from the state's public records requirement is necessary, legislation similar to that proposed in HB 1505 will need to be considered.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Janet Clark Morris

Staff Director:

M. Paul Liepshutz

AS REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Janet Clark Morris

Council Director:

Don Rubottom