

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1779 (formerly PCB TR 03-01) Specialty License Plates
SPONSOR(S): Transportation
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Highway Safety (Sub)	10 Y, 0 N	Garner	Miller
2) Transportation	21 Y, 0 N	Garner	Miller
3) Finance & Taxation		Levin	Diez-Arguelles
4)			
5)			

SUMMARY ANALYSIS

HB 1779 amends provisions in the law relating to the pre-approval procedure organizations must follow before they may seek Legislative approval of a new specialty license plate. The bill also amends provisions relating to discontinuation of specialty license plates. Specifically, the bill:

- Requires requesting organizations to submit a description of the proposed plate in specific terms and a sample plate as it will appear in its completed form;
- Requires requesting organizations to submit 8,000 pre-paid applications to the Department of Highway Safety and Motor Vehicles (DHSMV) prior to seeking legislative approval of a new specialty license plate;
- Provides oversight over the organizations' handling of prepayments;
- Provides for the return of prepayments if an organization fails to collect a sufficient number in the prescribed amount of time, or if the Legislature fails to approve the proposed plate;
- Provides for discontinuation of a specialty license plate in the event that, after the first two years of sales, the number of outstanding and valid plates remains below 8,000 for one year; and
- Deletes a provision exempting collegiate specialty license plates from the minimum threshold to avoid discontinuation.

In addition, the bill creates three new specialty license plates for organizations that have submitted an application to DHSMV and completed the current statutory pre-approval process. These plates are:

- The Unity license plate – submitted by the British-American Foundation, Inc.
- The Family Values license plate – submitted by the Sheridan House, Inc.
- The Parents Make a Difference license plate – submitted by the Gathering/USA, Inc.

The bill takes effect October 1, 2003, and is expected to have a minor fiscal impact to the state.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1779b.ft.doc
DATE: April 19, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

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

Reduce Government?

Although minimum issuance requirements contained in the bill may result in the retention of fewer specialty license plates, the bill creates three new specialty plates requiring DHSMV to provide for their issuance and manufacture. In addition, both DHSMV and local tax collectors will be required to maintain inventories of the new plates.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida’s Department of Highway Safety and Motor Vehicles (DHSMV) administers the state’s specialty license plate program through its Division of Motor Vehicles. Through this program, an owner of a motor vehicle registered in Florida can satisfy tag and registration requirements by placing a specially-themed license plate on his or her motor vehicle instead of the regular Florida license plate. The vehicle owner qualifies for this privilege upon payment of an annual use fee in addition to the required license tax.

The vehicle owner need not meet any special qualifications as with other special types of Florida plates like the Disabled Veterans license plate, the Medal of Honor recipient’s license plate, or the Amateur Radio Operator’s license plate. Specialty license plates support a variety of causes and organizations ranging from state universities, to environmental causes such as manatee and panther preservation. Each specialty plate has a unique design that is relevant to the cause or organization it supports.

Specialty license plates are created by the Legislature, either on its own initiative, or at the request of an organization or group that wishes to sponsor the plate. An organization wishing to sponsor a license plate usually follows a statutory procedure contained in s. 320.08053, F.S. However, specialty plates are sometimes created by the Legislature on behalf of independent organizations without adherence to this qualification procedure.

Florida currently offers 54 specialty license plates for sale, and 77 have been approved by the Legislature. Their sales generated more than \$22 million in 2001, and nearly \$24 million in 2002 to fund the various causes associated with them. Since the program’s inception, the DHSMV has collected annual use fees for the plates totaling more than \$203.3 million.

The Florida Legislature created the first specialty license plates in 1986 – one memorializing 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. The Legislature continued to approve new specialty license plates at a fairly slow pace in the years that followed. Only six new plates emerged over the next seven years, though this pace of growth was perceived as rapid by some in the Legislature at the time, and it prompted the development of a House policy guiding specialty plate

creation. However, with the addition of five new plates in 1994, the pace of new specialty plate introduction increased more dramatically despite the policy, and has continued to do so since.

The House policy developed in 1991 outlined five conditions to be met before the House would consider legislation authorizing plates that raise revenue for special purposes. Those conditions included requirements that:

- the requesting organization or agency collect 8,500 signatures from prospective buyers;
- the requesting organization or agency provide short and long term marketing plans; and
- the proposed bill provide for recovery of administrative cost, for de-authorization, and for proceeds to go to a state agency program.

Despite the hope among some Legislators that House policy guidelines would slow the pace of new plate creation, 1994 saw the legislative authorization of five new specialty license plates. Furthermore, the House Policy failed to address the fiscal impact felt by DHSMV in developing the specialty plates prior to recovery of its costs through plate sales, and failed to ensure that a sufficient number of willing purchasers existed.

The following year, the legislature enacted Chapter 95-282, L.O.F., which consolidated redundant statutory provisions, and enacted a pre-qualification process similar to that contained in the House policy. Despite the codification of the House policy into law, specialty license plates continued to proliferate at a rapid pace. From 1996 to 2002, the Legislature authorized 26 specialty plates, averaging more than four new plates per year.

The 1995 codification included provisions requiring DHSMV to continue producing plates for as long as revenues generated by plate sales exceeded department costs. In 1998, the legislature amended the law to provide for discontinuation in the event less than 8,000 plates were issued in the first and subsequent 5-year sales periods. Both the old and new provisions required the discontinuation of plates in the event the related organization ceased to exist. However, despite concerns over the ever-growing number of specialty license plates, in 2001, the Legislature passed a provision that included the number of annual renewals in the tally of plate sales. This provision was designed to help sports teams maintain sufficient sales to avoid discontinuation of their specialty plates without a specific exemption. With this provision in effect, DSHMV is not required to discontinue a plate unless the number issued *and* the number of subsequent renewals falls below 8,000 in a five-year period.

Under these statutory schemes, only three plates have been discontinued for lack of sales. In 2002, pursuant to law, DHSMV discontinued the Girl Scouts, Tampa Bay Storm, and Orlando Predators specialty plates for lack of sales and renewals. A number of other plates have been discontinued, but only because the plate was intended to be issued for a limited time only, or because the organization ceased to exist.

Current Situation

Automobiles, SUV's, and light trucks are all eligible to carry a specialty license plate, and are all taxed by weight. Car owners pay a license tax that ranges from \$14.50 to \$32.50, and passenger truck owners pay a license tax that ranges from \$14.50 to \$65.00. This license tax must be paid by every owner of a motor vehicle regardless of the type of plate attached to the vehicle. In addition to the license tax, a number of surcharges may apply, depending on the type of motor vehicle licensed. In order to obtain a specialty license plate instead of the regular Florida license plate, the motor vehicle owner must pay an annual use fee in addition to the applicable license tax and surcharges.

Typically, once the development and implementation of a newly created specialty plate is paid for, either by an application fee submitted by the sponsoring organization or by retention of annual use fees by DHSMV, all annual use fees are distributed to organizations or government agencies for the

purposes supported by the plate, and specified by the Legislature in the plate's enacting language. The annual use fees associated with various specialty license plates range from \$15.00 to \$25.00.

All organizations receiving annual use fee proceeds are responsible for ensuring that the proceeds are used in accordance with legislative direction, and are subject to audit pursuant to the Florida Single Audit Act, which establishes a uniform process to audit non-state entities that receive state money to carry out state projects.

As discussed above, the Legislature set up a statutory pre-qualification procedure for new specialty license plates. Usually, a sponsoring group or organization proposing a new specialty license plate must meet statutory requirements before the Legislature will consider enacting the plate. The group or organization must submit:

- a request for the particular plate being sought describing it in general terms;
- an independent scientific sample survey of Florida motor vehicle owners conducted by a DHSMV-approved surveyor, indicating that at least 15,000 owners intend to purchase the proposed plate at the increased cost;
- an application fee of no more than \$60,000 in non-state funds to defray DHSMV's cost for reviewing the application and manufacturing the first run of plates; and
- a marketing strategy outlining the short and long-term marketing plans for the plate, and a financial analysis outlining the anticipated revenues and the planned expenditures of the plate revenues.

Once these requirements have been met, DHSMV notifies legislative staff, and the organization seeking the plate seeks legislative approval.

On occasion, the Legislature has departed from the statutory requirements and approved proposed specialty plates despite the fact that they have not completed the pre-approval process. Recently, during the 2001 Special Session B, the Legislature created the American Red Cross and the United We Stand specialty plates in this manner. Although the Florida Statutes require organizations to submit to the pre-approval process, it is a long-standing and recognized legal doctrine that no legislative action can tie the hands of future legislatures acting within their constitutional powers. See *Thomas v. Askew*, 270 So.2d 707, 709 (Fla. 1972). Any Legislature may thus enact new specialty plates without first requiring adherence to the pre-approval process.

A number of plates have been created without meeting pre-approval criteria, and without subsequent legislative action, through a time-limited statutory exemption. The exemption applies to collegiate license plates. As discussed above, at the inception of the specialty license plate program, the Legislature provided for specialty license plates for state and independent colleges and universities. Under the original specialty plate provisions, any newly created colleges or universities needed only apply to DHSMV to obtain a specialty plate supporting the particular school. However, in 1997, the Legislature in one of its efforts to slow the proliferation of specialty plates restricted the ability of colleges and universities to obtain a plate. That law exempted from the pre-qualification requirements only those college or university plates already in process as of January 1, 1997. This measure effectively cut off more than a score of organizations from obtaining a plate without meeting the statutory pre-qualification requirements.

However, in 2002, New College in Sarasota ended its affiliation with the University of South Florida and became a separate entity. In accommodating the new school, the Legislature moved the restriction date from January 1, 1997 to October 1, 2002, with the unintended consequence of automatically authorizing the creation of 21 new specialty plates for independent colleges and universities that immediately started the application process upon amendment of the law. With this unintended surge in new plates, coupled with the potential addition of at least 10 others proposed for the coming session, Florida could be offering as many as 87 specialty plates for sale next year, and probably more since at

least seven more have been proposed in the Legislature this session that have not met statutory requirements. Currently, Florida sells 54 specialty plates. That change, if it occurs, would represent an unprecedented one-year increase.

Once the Legislature authorizes a new specialty plate, DHSMV initiates new programming at their data center expanding and programming the necessary identifiers on the database to accommodate the new license plate. During programming, the art design is submitted to DHSMV and reviewed for compliance with state license plate specifications. Once this review is completed, the department delivers the art work to the bill sponsors for initial approval.

Once the art work is approved, DHSMV delivers it to the 3M Company where sample plates are prepared. After 3M Company delivers sample plates to DHSMV, they are approved and submitted to PRIDE at Union Correctional Institution for embossing and painting. When the samples are ready, DHSMV sends copies to the sponsoring organization and the primary bill sponsors for final approval. If anyone does not approve, the process starts over.

If DHSMV, the organization, and the bill sponsors give their approval, the plate design must next be approved by the Governor and Cabinet. After final approval, a copy of the plate is submitted to the 3M Company who manufactures the sheeting for delivery to PRIDE. PRIDE uses the sheeting to manufacture the specialty plates and delivers them directly to the county tag agencies.

Plate production, from beginning to end, can be long and costly. A plate authorized by the Legislature may not be ready for sale for up to six months. During the interim from enactment to sales, considerable agency staff time is spent in the development process. DHSMV estimates that the cost for programming and designing specialty plates is approximately \$22,560 per new specialty plate. It typically costs an additional \$36,900 to purchase the first order of 15,000 plates, though smaller a smaller order of plates may be submitted when DHSMV believes the demand for the plate will be minimal, as is the case with many of the college and university plates.

In an effort to manage the number of specialty plates and to cull those that don't perform well, the Legislature has also provided for the discontinuation of plates that sell fewer than 8,000 plates, including renewals, in the first five years of sales, and in each five-year period thereafter. As discussed above, only three specialty plates have ever been discontinued for lack of sales and renewals. Although many college and university plates are not among the top sellers, these plates are exempt from the minimum sales requirements, and are not subject to discontinuation if sales and renewals fall below 8,000 in the first five years, or during subsequent five-year periods.

With so many specialty license plates administered by DHSMV and the local tax collectors offices, inventory maintenance problems arise. In addition, to the current compliment of 54 specialty license plates available for sale, tax collectors must also maintain inventories of an additional 23 types of special plates, vehicle-specific plates, and the regular license plates displayed on most vehicles. DHSMV must inventory an additional 27 types of plates that include the various agency plates and plates specific to political jurisdictions.

The continually increasing roster of specialty plates may also be creating problems for organizations that currently sponsor a plate. As more plates are added to the roster, the rate of specialty plate issuance and renewal, expressed as percentage of total plates issued and renewed, continues to decline. According to DHSMV, in FY 1995-96 Florida offered 30 specialty license plates, and their sales and renewals constituted 15.3 percent of all plates issued and renewed. By FY 2000-01 the number of plates had increased to 57 (including the three that are now discontinued), but the percentage they represented among all plate issuances and renewals had fallen to only 8.95 percent.

In addition, the increase in variety of specialty plates available appears to have cut into sales of some of the more popular specialty plates. According to DHSMV, Between FY 1996-96 and FY 2000-01, the U.S. Olympic plate issuances and renewals have declined 51 percent, Challenger plate issuances and

renewals have declined 42 percent. Manatee plate issuances and renewals have declined 31 percent, and Panther plate issuances and renewals have declined 23 percent.

Effect of Proposed Changes

HB 1779 amends the pre-approval processes and other provisions governing specialty license plates.

Requirements for Requests to Establish Specialty License Plates

The bill deletes the current pre-authorization requirements and requires the organization to:

- Submit a request for the particular plate describing it in specific, rather than general, terms, and including a sample plate as it will appear in final form and conforming to DHSMV and statutory specifications;
- Submit a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the sale of the plate; and
- Submit, within 24 months of acknowledgement of the request, 8,000 pre-paid applications collected by the organization. The pre-paid applications must: include the applicants' names, addresses, and current Florida license plate numbers to be replaced by the proposed specialty plate; be forwarded to DHSMV together in an electronic format determined by DHSMV; and must be accompanied by all prepayments collected by the organization.

Once the organization has submitted all of the required documents and collections, it may seek Legislative authorization. DHSMV must begin issuing the specialty plate within one year following Legislative approval, and it is authorized to retain enough of the pre-paid amounts to defray its costs up to \$60,000. If the proposed plate is not approved by the Legislature, DHSMV must return all applications and pre-payments to the organization for immediate refund.

After it submits a request to establish a new specialty license plate, the requesting organization must submit quarterly reports to DHSMV accounting for all pre-paid applications received. DHSMV has the authority to perform any audits required to verify the accuracy of the reports. All pre-payments collected by the organization must be kept in a separate account, and may not be commingled with other funds of the organization.

Specialty License Plate Provisions Relating to Discontinuation

The bill deletes current provisions governing the discontinuance of specialty license plates and provides that DHSMV must discontinue the issuance of an approved specialty license plate if, after the second year of sales, less than 8,000 plates are outstanding, and the number outstanding does not rise above 8,000 within one year of notice to the organization.

Currently, collegiate specialty plates are exempt from provisions requiring a minimum number of sales and renewals to avoid discontinuance. The bill deletes this provision and requires the number of outstanding collegiate license plates to remain above 8,000, as discussed above.

The Unity License Plate

The bill creates a "Unity" license plate, and establishes a \$25 annual use fee to be paid by purchasers in addition to license taxes and fees. Annual use fees are distributed to the British-American Foundation, Inc., to be used to:

- Assist Florida agencies and other organizations with their efforts to eliminate identity theft and other frauds perpetrated against Florida residents, businesses, and visitors;
- Provide assistance to individuals in adapting to living and working in Florida;

- Encourage ethical behavior among those providing services to individuals residing and working in Florida, and establish centers that will provide affordable or free business advice and related services to protect Florida residents from fraudulent business practices; and
- Assist other organizations that protect Florida residents from fraudulent business practices.

The British-American Foundation, Inc., must use up to 25 percent of the proceeds for marketing the “UNITY” concept and license plate.

The British-American Foundation, Inc., is a non-profit organization. According to the organization’s Articles of Incorporation, its primary purposes are:

- To provide advice to assist individuals in adapting to living and working in the State of Florida.
- To procure inexpensive or free access to products and services to assist individuals living and working in the State of Florida.
- To encourage ethical practices and procedures in the business community with respect to services rendered to individuals residing and working in the State of Florida.
- To assist those individuals and organizations whose efforts are directed towards assisting individuals living and working in the State of Florida and promoting ethical practices and procedures in the business community.
- To establish business advice centers that will provide affordable or free business advice and related services.
- To facilitate the provision of assistance to low-income taxpayers in controversies with the Internal Revenue Service and inform individuals for whom English is a second language or their tax rights and responsibilities.

According to documents submitted to DHSMV in the pre-approval process, the British-American Foundation, Inc., was created to protect British expatriates from “scams” targeting incoming immigrants. Later, the Foundation broadened its objective to protect all individuals, particularly incoming immigrants.

The Family Values License Plate

The bill creates a “Family Values” license plate, and establishes a \$25 annual use fee to be paid by purchasers in addition to license taxes and fees. Annual use fees are distributed to the Sheridan House, Inc., to fund residential care programs, family counseling, social services for single parents and their children, resource materials, and facility construction. The Sheridan House, Inc., will distribute the proceeds in the following manner:

- Initial proceeds will be retained until startup costs are recovered;
- Up to 5 percent of the proceeds will be spent on administrative costs, and up to 20 percent will be spent on promotion and marketing of the plate;
- All remaining proceeds must be spent furthering the programs described above.

The Parents Make a Difference License Plate

The bill creates a “Parents Make a Difference” license plate, and establishes a \$25 annual use fee to be paid by purchasers in addition to license taxes and fees. Annual use fees are distributed to the Gathering/USA, Inc., to fund personal counseling for parents, marriage seminars, Dads & Moms That Make a Difference seminars, father/son and mother/daughter retreats, and personal parenting behavioral assessments. The proceeds will be re-distributed in the following manner:

- Initial proceeds will be retained until startup costs are recovered;
- Up to 5 percent of the proceeds will be spent on administrative costs, and up to 20 percent will be spent on promotion and marketing of the plate;

- All remaining proceeds must be spent furthering the programs described above.

Each of the specialty license plates proposed in this bill have met the current statutory pre-approval requirements.

The bill has an effective date of October 1, 2003.

C. SECTION DIRECTORY:

Section 1. Amends s. 320.08053, F.S., deleting existing requirements regarding the pre-approval process for specialty license plates and providing new requirements.

Section 2. Amends s. 320.08056, F.S., deleting existing requirements for the discontinuation of specialty license plates and providing new requirements; and providing annual use fees for the Unity, Family Values, and Parents Make a Difference license plates.

Section 3. Amends s. 320.08058, F.S., creating the Unity, Family Values, and Parents Make a Difference license plates, and providing for annual use fee distribution.

Section 4. Provides an effective date of October 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>
1. Revenues:			
HS Op. TF (App. Fee):	\$ 180,000	\$ -0-	\$ -0-
2. Expenditures:			
GR (Data Proc.):	\$ 160,650	\$ -0-	\$ -0-
HS Op. TF (Salaries/Bene.):	\$ 45,000	\$ -0-	\$ -0-
(Purch. Plates):	\$ 110,700	\$ -0-	\$ -0-
TOTAL:	\$ 316,350	\$ -0-	\$ -0-

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill eliminates the requirement that organizations submit to DHSMV a scientific sample survey of Florida residents indicating that 15,000 vehicle owners intend to purchase the proposed specialty plate, and may impact businesses dedicated to conducting these scientific sample surveys or otherwise assisting organizations in meeting current requirements.

Those persons electing to purchase a specialty plate created in this bill would be required to pay a \$25 annual use fee in addition to the license taxes and fees that are due annually. In addition, the annual use fees would be distributed to the organizations sponsoring those plates. Because it is impossible to forecast the demand for each specialty plate, the precise impact is indeterminate.

D. FISCAL COMMENTS:

Section 320.08053, F.S., provides that an organization seeking a new plate must pay an application fee not to exceed \$60,000. This fee is paid to DHSMV to defray the costs of reviewing the application and developing the specialty license plate. This fee has been paid by the sponsoring organization for each of the three specialty plates proposed in this bill.

In the first year, DHSMV must modify the Motor Vehicle License Software Systems to accommodate the new license plates and the changes in the specialty plate process. This requires an estimated 1,190 hours of contracted programming at \$135 per hour, or a non-recurring expenditure of \$160,650. According to DHSMV, the department incurs annualized costs of \$15,000 for personnel and \$36,900 for license plates. Specialty license plates cost DHSMV \$2.46 each under the current contract, and it generally places a standard order of 15,000 plates. For the three plates proposed in this bill, DHSMV estimates personnel costs and license plate purchasing costs to be \$45,000 and \$110,700 respectively.

DHSMV indicates that it can meet these costs with existing agency resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 12, 2003, the Highway Safety Subcommittee recommended three amendments:

- Amendment 1 by Rep. Robaina – deleted provisions creating a Go Army license plate;
- Amendment 2 by Rep. Bucher – deleted provisions creating a Family Values license plate and a Parents make a difference license plate;
- Amendment 3 by Rep. Bucher – deleted provisions creating a Unity license plate.

On March 18, 2003, the Committee on Transportation considered five amendments adopting four, and another was withdrawn prior to consideration.

- Amendment 1 by Rep. Brummer – creates a Go Army specialty license plate. This amendment was withdrawn.
- Amendment 2 by Rep. Brummer – creates a Family Values specialty license plate. This amendment was adopted.
- Amendment 3 by Rep. Brummer – creates a Parents Make a Difference specialty license plate. This amendment was adopted.
- Amendment 4 by Rep. Kottkamp – creates a Unity specialty license plate. This amendment was adopted.
- Amendment 5 by Rep. Culp – changed permissive language relating to administrative aspects of DHSMV auditing duties to mandatory language. This amendment was adopted.
- Amendment 6 by Reps. Gannon and Bucher – creates a Pro Choice specialty license plate. This amendment failed to be adopted.