

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1101 CS Slot Machine Licenses
SPONSOR(S): Kendrick and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1986

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Business Regulation Committee</u>	<u>9 Y, 6 N, w/CS</u>	<u>Morris</u>	<u>Liepshutz</u>
2) <u>Finance & Tax Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Commerce Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

During the 2005-A Special Session, the Legislature enacted Chapter 2005-362, Laws of Florida, which provided the regulatory framework for implementing Art. X, Sec. 23 dealing with slot machine gaming. The implementing legislation included, as a condition to licensure as a slot machine facility, a provision requiring a binding written agreement for the payment of thoroughbred purses and breeders', stallion, and special racing awards to be filed with the Division of Pari-mutuel Wagering in the Department of Business and Professional Regulation. The statute provides procedures and timelines for arbitration proceedings.

This bill tracks the requirements for thoroughbred facilities in the implementing legislation and requires, as a condition to licensure as a slot machine facility, all greyhound, harness, and jai alai applicants to enter into binding written agreements governing purses and awards, as applicable, with entities representing the breeders and owners of greyhounds and standardbred [harness] horses and with jai alai players. The agreements are subject to binding arbitration proceedings.

The bill appears to have no fiscal impact on state expenditures or revenue collections and will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty – The bill requires, as a condition of licensure as a slot machine facility, greyhound, harness, and jai alai pari-mutuel permitholders to enter into binding written agreements governing purses and awards with entities representing the breeders and owners of greyhounds and standardbred [harness] horses and with jai alai players.

B. EFFECT OF PROPOSED CHANGES:

Background

At the 2004 General Election, voters approved an amendment to the Florida Constitution that permitted two counties, Broward and Miami-Dade, to hold referenda on whether to permit slot machine gaming in certain pari-mutuel facilities within their respective counties. Both Broward and Miami-Dade Counties held local referendums on whether to authorize slot machines in their respective counties on March 8, 2005. Voters in Broward County approved the measure while voters in Miami-Dade County voted against authorizing slot machines at pari-mutuel facilities in that county.

There are four existing pari-mutuel facilities in Broward County which may be able to offer slot machine gaming:

- Dania Jai Alai [the Aragon Group, Inc.] in Dania Beach;
- Gulfstream Park Racing Association, Inc. in Hallandale Beach;
- Mardi Gras Racetrack and Gaming Center [formerly Hollywood Greyhound Track, Hartman and Tyner, Inc.] in Hallandale Beach; and
- Pompano Park Racing [PPI, Inc.] in Pompano Beach.

During the 2005-A Special Session, the Legislature enacted Chapter 2005-362, Laws of Florida, which provided the regulatory framework for implementing Art. X, Sec. 23. This act was codified as chapter 551, Florida Statutes, and took effect January 4, 2006. The Division of Pari-mutuel Wagering [Division] in the Department of Business and Professional Regulation is the regulatory agency charged with oversight of slot machine gaming. The implementing legislation included a provision providing for the payment of thoroughbred purses and breeders', stallion, and special racing awards.

Chapter 550, Pari-mutuel Wagering, also contains numerous provisions specifying purses, players' awards, and breeders' and stallion awards.¹

Present Situation – Purses and Awards

Section 551.104(10), Florida Statutes, provides that as a condition of licensure a slot machine licensee applicant [thoroughbred permitholder] must have on file with the Division a binding written agreement for payment of thoroughbred purses, and a binding written agreement for payment of breeders', stallion, and special racing awards on live thoroughbred races.

The statute specifies detailed procedures and timelines for arbitration proceedings. Among those provisions the statute provides that if the agreements cannot be reached prior to issuance of a slot machine license, or 120 days prior to the scheduled expiration of a slot machine license, either party may request arbitration and an arbitration panel is selected. If an agreement is not in place within 60 days of the request for arbitration, the matter is immediately submitted to mandatory binding arbitration. No later than 90 days thereafter [or 30 days in the case of a license renewal] the arbitration panel must

¹ See for example ss. 550.09514(2), 550.26165(1), 550.2625, 550.26265(1), 550.3551(6), 550.625(1)-(2), 550.6305(1), 550.6345, and 849.086(13), F.S.

present a proposed agreement that a majority of the panel believes equitably balances the rights, interests, obligations, and reasonable expectations of the parties. The agreement will be effective until the parties enter into a new agreement or until the last day of the license or renewal period when the process begins anew.

The agreements may direct the payment of purses and payment of breeders', stallion, and special racing awards from revenues generated by any wagering or gaming the applicant is authorized to conduct. In the event that neither of the agreements is in place by the specified deadlines, arbitration regarding each agreement will proceed independently. If that occurs, the agreement for payment of purses is limited to the payment of purses from slot machine revenues only.

The Division may suspend a slot machine license if one or more of the required agreements are terminated or otherwise cease to operate or if the Division determines that the licensee is in material violation of the agreement.

Monthly payments of breeders', stallion, and special racing awards from thoroughbred racing are made to the Florida Thoroughbred Breeders' Association, Inc. [FTBA]. The FTBA is authorized to retain up to 10 percent of these payments to cover the cost of administration and promotion of the industry.

These purses and awards are subject to the terms of chapter 550.

Effect of Proposed Changes – Purses and Awards

This bill tracks the requirement for thoroughbred applicants in existing s. 551.104(10), F.S., and as a condition to receiving the slot machine license requires any greyhound, jai alai, or standardbred [harness] pari-mutuel facility applying for a license to conduct slot machine gaming to have a binding written agreement between the applicant and the Florida Greyhound Association, Inc., the International Jai Alai Players Association, or the Florida Standardbred Breeders and Owners Association, whichever entity is appropriate to that facility, governing purses or jai alai player awards on live races or games on file with the Division.

The bill also tracks the requirement for a binding written agreement governing the payment of breeders', stallion, and special racing awards from thoroughbred races in s. 551.104(10), F.S., and requires payment of breeders', stallion and special racing awards from harness horse races be paid to the Florida Standardbred Breeders and Owners Association [FSBOA]. The FSBOA is authorized to retain an administration fee from those proceeds.²

The bill specifies that these purse and award payments may be made from revenues generated by any wagering or gaming the applicant is authorized to conduct.

The agreements required by this legislation are subject to the same procedures and timelines for arbitration proceedings as previously established for thoroughbred interests in s. 551.104(10), F.S.

The bill appears to have no fiscal impact on state expenditures or revenue collections and will take effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1 specifies that the act may be cited as the "Equal Treatment Under the Law Act."

Section 2 amends s. 551.104(10)(a), F.S., to require binding written agreements for payment of jai alai, greyhound, and harness horse purses and awards.

Section 3 provides an effective date of July 1, 2006.

² See s. 550.2625(4), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires applicants for slot machine facility licenses to enter into and file with the Division binding written agreements covering purses and awards with entities representing jai alai players, greyhound owners and breeders, and harness horse owners and breeders. The costs and benefits associated with these requirements are indeterminate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action 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:

Agreements between jai alai players and jai alai frontons governing player awards are subject to collective bargaining. Collective bargaining is governed by a complex set of federal, state and constitutional law. In areas where federal and state law overlap, state laws are preempted. The main body of law governing collective bargaining is the National Labor Relations Act [NLRA].³ States may not pass legislation that is contrary to federal law or the guidelines promulgated by agencies established under federal law or by the U.S. Constitution. The NLRA prohibits employers and unions from engaging in specified unfair labor practices and establishes an obligation of both parties to engage in good faith collective bargaining. Opponents of this legislation contend the bill would represent interference with the collective bargaining process between jai alai players and jai alai permitholders and is an unlawful intrusion into an area of federal jurisdiction. Proponents of this legislation contend that this bill establishes a minimum labor requirement, i.e., that a binding

³ 29 U.S.C., ch. 7

agreement be in place in order for the pari-mutuel facility to operate slot machines, and, as such, falls within the realm of a state's legislative authority.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 30, 2006, the Committee on Business Regulation adopted a strike-all amendment offered by the bill's sponsor, Representative Kendrick. That amendment specified that payments for breeders', stallion, and special racing awards from harness horse races must be paid to the Florida Standardbred Breeders and Owners Association. The amendment also made organizational changes necessary to distinguish purses and jai alai player awards applicable to all pari-mutuel interests from "breeders', stallion, and special racing awards" which are applicable only to the horse racing industry.