

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty

The bill provides individuals with additional gaming options.

B. EFFECT OF PROPOSED CHANGES:

Present situation

Section 849.086, F.S., authorizes the operation of cardrooms at licensed pari-mutuel facilities in the state. The division within the DBPR is responsible for licensing and regulating cardroom activities and the operation of a cardroom is conditioned upon the operation of live pari-mutuel events.

As originally enacted in 1996, the cardroom statute defined authorized games to be those games set out in s. 849.085(2)(a), F.S., the penny-ante games statute. The cardroom statute also provided that the winnings of any player in a single round, hand, or game could not exceed \$10. Section 849.085(2)(a), F.S. defined penny-ante games as "poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg." [emphasis added]

The cardroom statute was amended in 2003 to delete the reference to the penny-ante game statute and instead authorize only the game of poker in cardroom facilities. Consequently, poker is the only game that can be conducted in cardrooms. At that time, the statute was also amended to replace the \$10 pot limit with a maximum bet of \$2 and no more than three raises in any round of betting.

The cardroom statute requires games of poker to be played in a non-banking manner; that is, the "house" [licensee/operator] is prohibited from being a participant in the game. As such, the statute requires the cardroom operator to provide a nonplaying dealer for each authorized card table at the cardroom. The dealer may not have any participatory interest in the game and provision of a dealer does not make it a banking game.

Players are not allowed to make wagers with cash. Section 849.086(8), F.S., requires a wagering system to be used at cardrooms whereby the house converts a players' money to tokens or chips which are used for wagering purposes.

Cardroom operators are allowed to charge a fee for the right to participate in games conducted at the cardroom. The fee may be either a flat fee or hourly rate for the use of a seat at the table or a rake subject to the posted maximum amount but may not be based on the amount won by players. These participation fees comprise the gross receipts from cardroom operations from which the state collects a 10 percent tax. For FY 2005-2006 the cardroom gross receipts tax generated approximately \$4.5 million.

Current law allows a cardroom to be open only on days the pari-mutuel operates live. Section 849.086(5)(b) requires that when a permitholder applies for both its annual pari-mutuel license and its annual renewal of a cardroom license, the permitholder must make a request "to conduct at least 90 percent of the total number of live performances conducted . . . during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto." Harness tracks are required to have requested a fixed amount of 140 live performances.

Effect of proposed changes

The bill amends s. 849.086(7)(b), F.S., to permit a horserace, greyhound or jai alai permitholder to operate a cardroom at the pari-mutuel facility on any day for a "cumulative amount of 12 hours per day."

The bill **deletes** the provisions that:

[Provide for the operation of cardrooms at a pari-mutuel facility that is authorized to accept wagers on pari-mutuel events only during its authorized meet];

[Allow the operation of a cardroom between the hours of 12 noon and 12 midnight when live racing or games are being conducted as part of the permitholder's authorized meet];

[Allow the operation of cardrooms between the hours of 12 noon and 12 midnight on any day that live racing of the same class of permit is occurring within 35 miles of its facility, if no other holder of that same class of permit within 35 miles is operating a cardroom at such time and if all holders of the same class of permit within the 35 mile area have given their permission in writing to the permitholder to operate the cardroom during the designated period. (This provision is applicable to the Jacksonville area permitholders and Tampa Greyhound Track and St. Petersburg Kennel Club)].

The bill increases the \$2 bet limit to \$5. The bill allows a cardroom operator to award giveaways, jackpots, or prizes to players who hold certain specified combinations of cards. Games of Texas Hold-em are allowed without a betting limit, if the player's buy-in is no more than \$100.

The bill creates a definition for "Tournament:" to mean a series of games with more than one betting round involving one or more tables, where the winners or others receive a prize or cash award. The bill creates s. 849.086(8)(c), F.S., to describe tournament play. It provides that:

- It shall consist of a series of games;
- The entry fee, including re-buys, may not exceed the maximum amount that could be wagered by a participant in 10 like-kind, nontournament games;
- Tournaments must be played only with tournament chips;
- Players must receive an equal number of tournament chips for their entry fee;
- Tournament chips have no cash value and represent tournament points only;
- There is no limitation on the number of tournament chips that may be used for a bet except as otherwise determined by the cardroom operator;
- Tournament chips may not be redeemed for cash or any other thing of value;
- The distribution of prizes and cash awards is determined by the cardroom operator before entry fees are accepted.

The division is authorized to adopt rules relating to the tournaments.

C. SECTION DIRECTORY:

Section 1. Amends s. 849.086, F.S., to specify when a cardroom may be open, provides for additional awards, and for tournaments.

Section 2. Provides an appropriation.

Section 3. Effective date - July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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1. Revenues:

The March 24, 2007 Revenue Estimating Conference adopted an estimate of FY 2007-08 annual revenues of \$1.7 million to the General Revenue Fund.

2. Expenditures:

The bill contains an appropriation of \$230,722 in recurring funds and \$48,411 in nonrecurring funds to the Department for the regulatory functions provided for in the legislation. The bill also authorizes 4 FTE positions.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments receive disbursements related to the cardroom operations and will see an estimated increase of \$208,290 annually.

2. Expenditures:

Any costs are indeterminate but likely minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Permitholders are likely to see an increase in total revenue. Employment markets where cardrooms are located could also see an increase.

D. FISCAL COMMENTS:

The legislation contains an appropriation of 4 full-time equivalent (FTE) positions with recurring funding of \$230,722 and nonrecurring funding of \$48,411 from the Pari-Mutuel Wagering Trust Fund within the Department of Business and Professional Regulation. The Department and the March 24, 2007 Revenue Estimating Conference projected Fiscal Year 2007-08 annual revenues of approximately \$1.7 million to the General Revenue Fund.

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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None noted.

D. STATEMENT OF THE SPONSOR

The bill will help promote economic development, tourism, jobs, and allow the existing parimutuels to complete on a more level playing field than the unregulated gaming. The bill will also increase tax revenue for card rooms.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 22, 2007, the Committee on Business Regulation adopted a strike all amendment, as amended, and passed the bill out of committee. The amendment [as amended]

1. allows operations during any cumulative 12 hours a day rather than only from 12 noon to 12 midnight;
2. allows a cardroom to operate on any day if an agreement with state associations representing horsemen, dogmen, or jai alai players has been filed with the division thus allowing a possible expansion to 365 days per year verses only operating when live pari-mutuel events are being conducted;
3. provides a definition of tournament, increases the betting limit from \$2 to \$5, allows the game of no bet limit Texas Hold'em with a maximum allowed buy-in of \$100, and allows cardroom to give winners special prizes for "rare" hands, such as 4 of a kind or a straight flush.

On April 12, 2007, the Jobs & Entrepreneurship Council adopted a Council Substitute and reported the CS out of Council. The CS removes provisions noted in 2. above by the Committee on Business Regulation. The CS differs from the original bill by:

- including the provisions noted in 1. and 3. above by the Committee on Business Regulation;
- allowing a permitholder to operate a cardroom at the pari-mutuel facility on any day;
- specifying guidelines for tournament play;
- providing an appropriation of \$279,133 and 4 FTE positions.