

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill provides a new application procedure for the conversion of pari-mutuel wagering permits to be performed by the division.

B. EFFECT OF PROPOSED CHANGES:

Present situation

Chapter 550, F.S., provides limited forms of pari-mutuel wagering that may be conducted under the supervision of the Division of Pari-Mutuel Wagering (division) within the Department of Business and Professional Regulation (DBPR). Section 550.054, F.S., provides permit and “licensure” procedures to conduct horseraces, harness horse races, dog races, and jai alai. Quarter horse racing permit and “licensure” procedures are outlined in s. 550.334, F.S. A permit allows a group to conduct pari-mutuel wagering; a “license” describes the time, number and places of approved performances.

While Florida remains the leader in both jai alai and greyhound racing in the United States, greyhound racing is more widespread, with 18 permitholders conducting 4,896 performances at 15 tracks throughout the state last year.¹ The state is now alone in conducting jai alai in the United States with 8 permitholders conducting 1,363 performances at 6 frontons in the state last year.² Attendance increased by 14% at both types of establishments last year.³

Permit conversion

Currently, pari-mutuel permits are specific to the type of pari-mutuel wagering sanctioned and “licenses” will only be issued for the specific type of game or race authorized by the permit. There are limited circumstances when a permitholder could apply to conduct alternative pari-mutuel activities:

1. Permitholders meeting certain criteria may apply to convert their permit to conduct a summer jai alai fronton during the summer season only;
2. Quarter horse permitholders may substitute races of other breeds of horses under certain restrictions;
3. Harness track permitholders may apply for licensure to conduct quarter horse races during the summer season under certain restrictions.

Aside from these three instances, there is no procedure outlined in the chapter for converting a permit permanently. However, two jai alai permits, held by Golden Crown Corporation (Big Bend Jai Alai) and Sports Palace (Melbourne Kennel Club), have been converted to greyhound permits in the past through legislative means.⁴ Section 550.01215(6), F.S., was passed in 1995 to allow these permitholders to convert back to jai alai permits. The section provides that:

Any permit which was converted from a jai alai permit to a greyhound permit may be converted to a jai alai permit at any time if the permitholder never conducted greyhound racing or if the permitholder has not conducted greyhound racing for a period of 12 consecutive months.

Permit relocation

Currently, greyhound and jai alai permitholders may move their facilities under the procedure outlined in § 550.0555(2):

- Permitholder must be the only jai alai or greyhound permitholder within the county

¹ 76th Annual Report, Division of Pari-mutuel Wagering. Fiscal Year 2006-2007.

² *Id.*

³ *Id.*

⁴ See Ch. 91-197, Laws of Fla., replacing jai alai schedules with greyhound schedules and repealing procedures to convert jai alai permits to greyhound permits. See also, Florida Division of Pari-Mutuel Wagering, 60th Annual Report (1991).

- New location must be within 30-mile radius of original location
- New location must be within the same county
- New location must be approved under the zoning regulations of the county or municipality in which the permit is to be located as a planned development use, consistent with the comprehensive plan
- Move must be approved by DBPR after it is determined at a proceeding pursuant to chapter 120 in the county affected that the move is necessary to ensure the revenue-producing capability of the permittee without deteriorating the revenue-producing capability of any other pari-mutuel permittee within 50 miles; the distance shall be measured on a straight line from the nearest property line of one racing plant or jai alai fronton to the nearest property line of the other.

Leased facility provisions

Currently a permitholder is entitled to lease its facility to another permitholder of the same class (for example, a greyhound permitholder leases the facility of another greyhound permitholder to conduct greyhound racing in the leaser facility). When this happens, s. 550.475, F.S., entitles the lessee to be issued a permit and license to conduct pari-mutuel wagering at the leased facility.

A greyhound permitholder who is one of three greyhound permitholders in three contiguous counties where no other permitholder exists and who runs races at the leased facility of another is further authorized by s. 550.615, F.S., to conduct intertrack wagering at the permitholder's prelease facility. The permitholder may also conduct pari-mutuel wagering and operate a cardroom at the prelease facility.

Simulcasting and intertrack wagering

Section 550.6305 (d) provides:

Any permitholder located in any area of the state where there are only two permits, one for dogracing and one for jai alai, may accept wagers on rebroadcasts of out-of-state thoroughbred horse races from an in-state thoroughbred horse racing permitholder and shall not be subject to the provisions of paragraph (b) if such thoroughbred horse racing permitholder located within the area specified in this paragraph is both conducting live races and accepting wagers on out-of-state horseraces. In such case, the guest permitholder shall be entitled to 45 percent of the net proceeds on wagers accepted at the guest facility. The remaining proceeds shall be distributed as follows: one-half shall be retained by the host facility and one-half shall be paid by the host facility as purses at the host facility.

Section 550.6305(f) provides:

Any permitholder located in any area of the state where there are only two permits, one for dogracing and one for jai alai, may accept wagers on rebroadcasts of out-of-state harness horse races from an in-state harness horse racing permitholder and shall not be subject to the provisions of paragraph (b) if such harness horse racing permitholder located within the area specified in this paragraph is conducting live races. In such case, the guest permitholder shall be entitled to 45 percent of the net proceeds on wagers accepted at the guest facility. The remaining proceeds shall be distributed as follows: one-half shall be retained by the host facility and one-half shall be paid by the host facility as purses at the host facility.

Effect of proposed changes

According to the division, there are currently a half dozen inactive jai alai permits; the provisions of this bill will apply to three: Palm Beach Jai Alai, Daytona Beach Jai Alai and Tampa Jai Alai. There are currently two summer jai alai permits which would come under the provisions of this bill: Summersport Jai-Alai (which operates at Dania Jai Alai) and Summer Jai-Alai (which operates at Miami Jai Alai).

Permit conversion

The bill provides jai alai permitholders meeting certain criteria an avenue to convert their permit to a greyhound racing permit.

The bill sets criteria jai alai permitholders to be eligible for conversion. Either the permitholder:

1. Holds a permit that has not been converted from another type of permit AND has not conducted jai alai games for a period of 10 years before the application to convert OR
2. Holds a permit converted pursuant to 550.0745, which allows certain permitholders to convert their permit to conduct summer jai alai.

The bill directs the division, upon receiving an application meeting the above requirements, to convert a jai alai permit to a permit to conduct greyhound racing and to issue a "license" to conduct greyhound racing to the permitholder. The bill also preserves the ability of the converted permitholders and the other permitholders within their counties to conduct simulcasting and intertrack wagering pursuant to 550.6305.

Currently, new pari-mutuel facilities offering greyhound racing will not be issued a permit if they are within 100 miles of an existing pari-mutuel facility. Because new jai alai frontons are allowed to be as close as 50 miles to the nearest existing pari-mutuel facilities, the bill could result in converted greyhound racing facilities to be located within 100 miles of existing pari-mutuels.

Permit relocation

The bill allows a permitholder who is either:

1. A greyhound permitholder who leased the facility of another, pursuant to s. 550.475, for the preceding state fiscal year OR
2. A permitholder whose permit has been converted to a greyhound permit under this bill who leases the facility of another permitholder, pursuant to s. 550.475.

to move the location listed in their original permit if the move meets the following criteria:

1. Must be within 30 miles of the original location;
2. Must not cross the county boundary; and
3. Is to a location approved under county or municipality zoning regulations.

After a successful move, the permitholder may use the permit for any authorized use, including the conduct of pari-mutuel wagering and the operation of a cardroom.

Leased facility provisions

The bill allows any permitholder who runs races at the leased facility of another to conduct pari-mutuel wagering and other approved activities at its prelease location.

Simulcasting and intertrack wagering

The bill preserves the applicability provisions of s. 550.6305(9)(d) and (f) to converted permits.

C. SECTION DIRECTORY:

Section 1. Creates subsection (14) of s. 550.054, F.S., relating to the conversion and relocation of certain pari-mutuel wagering permits.

Section 2. Creates subsection (3) of s. 550.0555, F.S., relating to the relocation of certain greyhound permitholders.

Section 3. Amends subsection (3) of s. 550.0951, F.S, relating to the tax on handle for live dogracing when handle exceeds certain amounts.

Section 4. Amends subsection (8) of s. 550.615, F.S., relating to the ability to conduct pari-mutuel wagering at prelease facilities.

Section 5. Provides an effective date - July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The department estimates a potential loss of revenue of approximately \$1.2 million in FY 2008-09 and \$1.6 million in subsequent years. The department attributes the loss of revenue to the potential for the maximization of tax credits through the permit conversion provision and the newly adopted tax structure.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

D. FISCAL COMMENTS:

The department anticipates a loss of potential revenue of approximately \$720,000 in FY 2008-09, \$1 million in FY 2009-10, and \$1.1 million in FY 2010-11 through the use of additional greyhound tax credits related to the converted greyhound permits being used as secondary permits that would not be available under the currently dormant jai alai permits. The converted jai alai permits will allow existing greyhound facilities to be leased by the converted permitholder, thereby allowing the use of tax credits by both permitholders. A new tax structure was amended into the bill, and the department estimates an additional loss of \$500,000 annually. The total potential loss of revenue is estimated at \$1.2 million in FY 2008-09 and approximately \$1.6 million in subsequent years.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

The DBPR has expressed a concern that the term “any authorized purpose” is very broad and that if permitholders disagree with DBPR’s interpretation of the term the disagreement could result in litigation.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 13, 2008, the Jobs & Entrepreneurship Council heard the bill, adopted a council substitute and reported the substitute favorably.

The council substitute added provisions to:

- Include tax incentives for greyhound permitholders with handles over \$20 million;
- Allow summer jai alai permitholders to convert their permits;
- Allow certain permitholders to relocate their permits; and
- Remove certain restrictions on intertrack wagering.

As a result of the added tax incentives, the department estimates an additional potential loss of revenue of \$500,000 annually. The total potential for revenue loss is approximately \$1.2 million in FY 2008-09 and \$1.6 in subsequent years.