

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 2012

INTRODUCER: Senator Braynon

SUBJECT: Specialty License Plates

DATE: March 31, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sookhoo	Spalla	TR	Pre-meeting
2.			EP	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to develop the “Go Green” specialty license plate – An annual use fee of \$25 per tag shall be distributed to the Coalition for Renewable Energy Solutions, Inc., to fund programs and projects that publicize renewable energy solutions and encourage a cleaner and safer environmental future. This bill substantially amends ss. 320.008056 and 320.08058 of the Florida Statutes.

II. Present Situation:

Specialty License Plates

The Florida Legislature created the first specialty license plates in 1986, one commemorating 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.

Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization in support of a particular cause or charity signified in the plate’s design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

Section 320.08053, F.S., provides an organization seeking authorization to establish a specialty license plate must meet the following preliminary requirements¹:

¹ Florida Department of Highway Safety and Motor Vehicles RS-20 (<http://www3.flhsmv.gov/DMV/Proc/RS/RS-20.pdf>)

- Contact the Division of Motor Vehicles, Specialty License Plate office for creation information.
- Section 320.08053(1)(a), Florida Statutes, requires a request for the particular specialty license plate being sought, describing the proposed specialty license plate in specific terms.
- Section 320.08053(1)(a), Florida Statutes, requires a sample plate that conforms to the specifications set by the department and chapter 320.08053, Florida Statutes and that is in substantially final form.
- Section 320.08053(1)(b), Florida Statutes, requires an application fee, not to exceed \$60,000, to defray the department's cost for reviewing the application and developing the specialty license plate, if authorized. State funds may not be used to pay the application fee, except for collegiate specialty license plates authorized in s. 320.08058(3) and (13).
- Section 320.08053(1)(c), Florida Statutes, requires a marketing strategy outlining short-term and long-term marketing plans for the requested specialty license plate and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the sale of the requested specialty license plate. The information requested under this subsection must be submitted to the department at least 90 days before the convening of the next regular session of the Legislature.

In 2008, the Legislature passed SB 1992, which included a moratorium on the issuance of specialty plates by DHSMV. The moratorium is effective from July 1, 2008 to July 1, 2011, but contains an exception “for [any] specialty license plate proposal which has submitted a letter of intent to the DHSMV prior to May 2, 2008” or “which was included in a bill filed during the 2008 Legislative Session.”² There were 12 organizations which met the moratorium exceptions; however, only one organization’s specialty license plate was enacted during the 2009 Session³.

Section 320.08056, F.S., provides DHSMV is responsible for developing the specialty license plates and must begin production and distribution within one year after approval of the specialty license plate by the Legislature. Specialty license plates must bear the design required by law for the appropriate specialty plate, and the designs and colors must be approved by DHSMV. In addition, the specialty license plate must bear the imprint of numerals from 1 to 999, inclusive, capital letters “A” through “Z”, or a combination thereof.

DHSMV is authorized to annually retain the first proceeds derived from the annual use fees collected in an amount sufficient to defray each specialty plate’s pro rata (proportionate) share of DHSMV’s costs directly related to issuing the specialty license plate. A person wishing to

² S. 45, 2008-176, Laws of Florida

³ Organizations that have met the moratorium exceptions, but have not been legislatively authorized include: Coalition for Renewable Energy Solutions – “Go Green”, East Coast Surfing Hall of Fame and Museum – “Let’s Go Surfing”, Florida Horse Park – “Discover Florida’s Horses”, Fraternal Order of Police – “Fraternal Order of Police”, Guy Harvey Ocean Foundation – “Catch Me Release Me”, Surfing Evolution and Preservation – “Endless Summer”, St. Johns River Alliance – “St. Johns River”, Florida Biodiversity Foundation – “Save Wild Florida”, Sons of Confederate Veterans – “Confederate Heritage”, Toomey Foundation for the Natural Sciences – “Preserving the Past”, and Toomey Foundation for the Natural Sciences – “Trinity”. The University of Miami - Center for Autism and Related Disabilities – “Autism Awareness” specialty license plate was created during the 2009 Session (see 2009-71, L.O.F.).

purchase a specialty license plate must pay, in addition to the required license plate fee and license tax, a license plate annual use fee (from \$15 to \$25) and a processing fee of \$5.

In an effort to manage the number of specialty license plates and to eliminate those less popular the Legislature during the 2004 Session enacted SB 2020 which provides DHSMV must discontinue the issuance of an approved specialty plate if the number of valid specialty license plates in use falls below 1,000 plates for at least 12 consecutive months. DHSMV is authorized to discontinue the issuance and distribution of specialty plates if the organization no longer exists, if the organization has stopped providing services authorized to be funded, or if the organization requests it. To date, only four plates have ever been discontinued for lack of sales. These plates are the Girl Scouts plate, the Orlando Predators plate, and the Tampa Bay Storm plate, and the Corrections Foundation plate.

Annual use fees, or any interest earned from those fees, may be used by the authorized organization for public or private purposes; however, the annual fees may not be used for commercial or for-profit activities, or for general administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).

Section 320.08058, F.S., lists the approved specialty license plates and specifies funding requirements.

Section 320.08062, F.S., requires all organizations receiving annual use fee proceeds from DHSMV to be responsible for ensuring proceeds are used in accordance with ss. 320.08056 and 320.08058, F.S. Each organization is either subject to an audit or is required to annually attest, under penalties of perjury, that such proceeds were used correctly. DHSMV can examine all records pertaining to the use of specialty license plate revenues.

The Coalition for Renewable Energy Solutions

The Coalition for Renewable Energy Solutions (CRES), based in Palm Beach Gardens, is a Florida nonprofit organization founded to create, encourage and support productive public-private relationships in the pursuit of a sustainable world. CRES has decided to step in and step up to assist in encouraging the development of ideas, informed education and the implementation of programs regarding viable renewable energy and 'Green' solutions, including solar energy.

DHSMV has found the "Go Green" license plate has met the application requirements and falls within the exception from the moratorium on new specialty license plates created by the 2008 Legislature, as the Foundation submitted its materials before May 2, 2008. In 2010, the legislature did not pass CS/SB 1986 which directed DHSMV to create the Go Green license plate. DHSMV sent a fee refund to the Coalition for Renewable Energy Solutions, Inc. on July 6, 2010, for the \$60,000.00 application fee. The check was not cashed and has been voided by the Coalition for Renewable Energy Solutions, Inc., and DHSMV has been notified of the intent to further pursue the application.⁴ According the DHSMV agency analysis of SB 2012, because a

⁴ Correspondence from Michael Towner of the Coalition for Renewable Energy Solutions, Inc. dated April 1, 2011. On file with the Florida Senate Committee on Transportation.

refund was issued and no new application was filed, the Go Green license plate is no longer eligible for the specialty license plate.

III. Effect of Proposed Changes:

The bill authorizes DHSMV to develop and issue a Coalition for Renewable Energy Solutions, Inc., license plate titled “Go Green.” Drivers can purchase the specialty plate upon payment of the appropriate license taxes and fees and a \$25 annual use fee.

The bill creates the “Go Green” specialty license plate. The annual use fee is \$25. The annual use fees will be distributed to the Coalition for Renewable Energy Solutions, Inc. The coalition will retain all revenue from the annual use fees until all startup costs for developing and establishing the plate have been recovered. Thereafter, up to 10% of the annual use fees may be used for administrative costs directly associated with the operation of the coalition and promotion and marketing of the plate. Remaining fees will be used to fund programs and projects that educate the public and implement or publicize renewable energy solutions.

The bill will take effect July 1, 2011.

Other Potential Implications:

On March 30, 2011, United States District Judge John Antoon, II, issued an order that found s. 320.08053, F.S., unconstitutional under the overbreadth doctrine. His ruling was based on the finding that s. 320.08053, F.S., “implicates private speech rights and provides the Legislature with unfettered discretion to engage in viewpoint discrimination when declining to approve a specialty license plate application”.⁵ Section 320.08053, F.S., prescribes the requirements an organization must follow in order to obtain a specialty license plate. In light of this ruling, the requirements for successful completion of an application to DHSMV for a specialty license plate are void.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁵ *Sons of the Confederate Veterans, Florida Division, Inc. v. Jeffrey H. Atwater, et al.*, No. 6:09cv-134-Orl-28KRS (M.D. Fl. Mar. 30, 2011)

D. Other Constitutional Issues:

On March 30, 2011, United States District Judge John Antoon, II, issued an order that found s. 320.08053, F.S., unconstitutional under the overbreadth doctrine. His ruling was based on the finding that s. 320.08053, F.S., “implicates private speech rights and provides the Legislature with unfettered discretion to engage in viewpoint discrimination when declining to approve a specialty license plate application”. Section 320.08053, F.S., prescribes the requirements an organization must follow in order to obtain a specialty license plate. In light of this ruling, the requirements for successful completion of an application to DHSMV for a specialty license plate are void.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Should a person choose to purchase the Go Green license plate they will be assessed an annual fee of \$25.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.