

**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 Regulated Industries Committee

**BILL:** CS/SB 382

**INTRODUCER:** Regulated Industries Committee and Senator Sachs and others

**SUBJECT:** Greyhound Racing

**DATE:** January 26, 2012      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Imhof	RI	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

The Committee Substitute (CS) deletes the live racing requirements for greyhound permitholders. It extends the deadline for greyhound permitholders for applying to the Division of Pari-mutuel Wagering (division) of the Department of Business and Professional Regulation (department) for the live racing dates, allowing greyhound permitholders time to amend their completed applications and remove or reduce their live racing schedule.

The CS pools the unused tax credits that result from some greyhound permitholders electing not to conduct live racing. These pooled credits are distributed on a pro rata basis to each greyhound permitholder that does conduct a full schedule of live racing, based on the permitholder's share of live and intertrack wagering handle.

The CS provides that greyhound permitholders may conduct intertrack wagering and may operate a cardroom, regardless of live racing, if the greyhound permitholder has conducted ten years of live racing prior to conducting intertrack wagering or applying for a cardroom license. If applicable, greyhound permitholders may operate slot machine gaming operations regardless of whether they have run live greyhound racing.

The CS also amends the definition of eligible facility for slot machine licensees. Under the CS, any facility in any other county [counties other than those specifically referenced in the definition for eligible facility] may become eligible for slot machine gaming if the county takes action to place the question on a countywide referendum on or before January 31, 2012. The CS defines “county takes action” to mean that the county: (a) adopts an ordinance or resolution setting a countywide referendum; (b) approves a countywide referendum and directs county staff to prepare a resolution or ordinance to implement the approval; or (c) places a resolution or ordinance on the agenda for the county’s next scheduled meeting of its governing body. The CS does not appear to require any countywide referendum vote or approval of slot machine gaming. The CS provides that although a license may be issued to an eligible facility outside of Miami-Dade or Broward Counties, no license may authorize slot machine gaming before July 7, 2015.

The CS becomes effective on July 1, 2012.

This CS amends the following sections of the Florida Statutes: 550.002, 550.01215, 550.054, 550.0951, 550.09514, 550.26165, 550.475, 550.615, 550.6305, 551.102, 551.104, 551.114, and 849.086.

## II. Present Situation:

### Background

The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation provides regulatory oversight to pari-mutuel wagering activities, cardrooms located at pari-mutuel facilities, and slot machines located at pari-mutuel facilities located in Miami-Dade and Broward Counties. The mission of the division is the efficient, effective and fair regulation of authorized gaming at pari-mutuel facilities in Florida.<sup>1</sup>

The division’s primary responsibilities include:

- Ensuring that races and games are conducted fairly and accurately;
- Ensuring the safety and welfare of racing animals;
- Collecting state revenue accurately and timely;
- Issuing occupational and permitholder operating licenses;
- Regulating pari-mutuel, cardroom, and slot machine operations;
- Ensuring that permitholders, licensees, and businesses related to the industries comply with state law; and
- Serving as the State Compliance Agency for the Compact between the Seminole Tribe of Florida and the State of Florida.

The division provides oversight to:

- 35 permitholders operating at 29 facilities:
  - 16 Greyhound
  - 3 Thoroughbred
  - 1 Harness

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<sup>1</sup> <http://www.myflorida.com/dbpr/pmw/index.html> (last visited January 23, 2012).

- 6 Jai-Alai
- 1 track offering limited intertrack wagering and horse sales
- 2 Quarter Horse
- 24 Cardrooms operating at pari-mutuel facilities
- 6 Slot facilities located in Broward and Miami-Dade County pari-mutuel facilities.

**Greyhound Racing**

Greyhound racing was authorized in Florida in 1931.<sup>2</sup> Betting is permitted on the outcome of the races around an oval track. The greyhounds typically chase a “lure,” which is usually a mechanical hare or rabbit. Racing greyhounds are those which are bred, raised, or trained to be used in racing at a pari-mutuel facility and are registered with the National Greyhound Association.<sup>3</sup>

<b>Greyhound Racing Pari-Mutuel Facilities</b>			
<b>Facility</b>	<b>Location</b>	<b>Cardroom</b>	<b>Slots</b>
Daytona Beach Kennel Club	960 South Williamson Blvd. Daytona Beach, FL 32114	Yes	No
Derby Lane (St. Petersburg Kennel Club)	Post Office Box 22099 St. Petersburg, Florida 33742	Yes	No
Ebro Greyhound Park (Washington County Kennel Club)	6558 Dog Track Road Ebro, Florida 32437	Yes	No
Flagler Dog Track and Magic City Casino	Post Office Box 350940 Miami, Florida 33135	Yes	Yes
Jacksonville Kennel Club (racing at Orange Park)	Post Office Box 959 Orange Park, Florida 32067	No	No
Jefferson County Kennel Club	Post Office Box 400 Monticello, Florida 32345	Yes	No
Mardi Gras Racetrack and Gaming Center	Post Office Box 2007 Hollywood, Florida 33022	Yes	Yes
Melbourne Greyhound Park	1100 North Wickham Road Melbourne, Florida 32935	Yes	No
Naples/Ft. Meyers Greyhound Track	Post Office Box 2567 Bonita Springs, Florida 34133	Yes	No
Orange Park Kennel Club	Post Office Box 959 Orange Park, Florida 32067	Yes	No
Palm Beach Kennel Club	1111 North Congress Avenue West Palm Beach, Florida 33409	Yes	No

<sup>2</sup> *Deregulation of Intertrack and Simulcast Wagering at Florida's Pari-Mutuel Facilities*, Interim Report No. 2006-145, Florida Senate Committee on Regulated Industries, September 2005.

<sup>3</sup> Section 550.002(29), F.S.

Pensacola Greyhound Track	Post Office Box 12824 Pensacola, Florida 32591	Yes	No
Sanford Orlando/Penn Sanford	301 Dog Track Road Longwood, Florida 32750	No	No
Sarasota Kennel Club	5400 Bradenton Road Sarasota, Florida 34234	Yes	No
St. Johns Kennel Club (racing at Orange Park)	Post Office Box 959 Orange Park, Florida 32067	Yes	No
Tampa Greyhound Track (racing at Derby Lane)	Post Office Box 8096 Tampa, Florida 33674	Yes	No

**Full Schedule of Live Racing**

Section 550.002(11), F.S., defines what constitutes a full schedule of live racing. Each type of permit has a different requirement.

<b>FULL SCHEDULE OF LIVE RACING OR GAMES</b>	
<b>Type of Facility</b>	<b>Full Schedule</b>
Greyhound Racing	100 live evening or matinee performances
Jai Alai <sup>4</sup>	100 live evening or matinee performances
Harness Racing	100 live regular wagering performances
Thoroughbred Racing	40 live regular wagering performances
Quarter horse Racing <sup>5</sup>	30 live regular wagering performances

<sup>4</sup> Generally a jai alai fronton must conduct 100 performances to constitute a full schedule of games. However, two exceptions exist. 1) For a jai alai permitholder who does not operate slot machines in its pari-mutuel facility, who has conducted at least 100 performances per year for at least 10 years after December 31, 1992, and whose handle on live jai alai games conducted at its facility has been less than \$4 million per state fiscal year for at least 2 consecutive years after June 30, 1992, the conduct of at least 40 live evening or matinee performances constitutes a full schedule of live games. 2) If the fronton operates slot machines in its facility, then the conduct of at least 150 performances constitutes a full schedule.

<sup>5</sup> For year 2011-2012, a full schedule of live racing for a quarter horse facility will be 30 live regular wagering performances. For every year after 2012-2013, a full schedule of live racing for a quarter horse facility will be 40 live regular wagering performances. If the quarter horse facility leases another track, the conduct of 160 events (or 20 performances) will constitute a full schedule of live racing. However, any quarter horse facility running live at its own track may agree to an alternate schedule of 20 live performances if the permitholder and either the Quarter Horse Racing Association or the horsemen’s association representing the majority of the owners and trainers at the facility agree to the reduced racing schedule.

A live performance must consist of no fewer than eight races or games conducted live for a minimum of three performances each week at the permitholder's facility.<sup>6</sup>

### **Intertrack Wagering**

Wagers on live races at other tracks are divided into categories called intertrack and simulcast wagering under the Florida Statutes. Intertrack wagering is defined as "a particular form of pari-mutuel wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal re-broadcast from, another in-state pari-mutuel facility."<sup>7</sup> Simulcast wagering, on the other hand, is defined as "broadcasting events occurring live at an in-state location to an out-of-state location, or receiving at an in-state location events occurring live at an out-of-state location, by the transmittal, retransmittal, reception, and rebroadcast of television or radio signals by wire, cable, satellite, microwave, or other electrical or electronic means for receiving or rebroadcasting the events."<sup>8</sup>

Intertrack and simulcast wagering transactions occur between guest and host tracks. The host track is defined as "a track or fronton conducting a live or simulcast race or game that is the subject of an intertrack wager."<sup>9</sup> A host track transmits signals to a guest track.

Simulcasting may only be accepted between facilities with the same class of pari-mutuel permits. For example, horseracing permitholders may only receive signals from other horseracing permitholders.

Simulcast and intertrack wagering have rules and regulations depending on the market area, which is the area within 25 miles of the track or fronton.<sup>10</sup> For example, guest tracks within the market area of the operating permitholder must receive consent from the host track to receive the same class signal.<sup>11</sup> However, in general, in order for the track or fronton to participate in intertrack or simulcast wagering, the track or fronton must be licensed by the division and must have conducted a full schedule of live racing in the preceding year to receive broadcasts and accept wagers.<sup>12</sup>

### **Purses**

Section 550.09514, F.S., governs greyhound purse payments. Greyhound permitholders are required to pay a minimum purse payment plus a supplement payment of 75 percent of the daily license fees paid during the 1994-1995 fiscal year.<sup>13</sup>

Greyhound permitholders who conduct at least three live performances during a week must pay purses on wagers it accepts as a guest track on intertrack and simulcast greyhound races at the

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<sup>6</sup> Section 550.002(11), F.S.

<sup>7</sup> Section 550.002(17), F.S.

<sup>8</sup> Section 550.002(32), F.S.

<sup>9</sup> Section 550.002(16), F.S.

<sup>10</sup> Section 550.002(19), F.S.

<sup>11</sup> Section 550.615(4), F.S.

<sup>12</sup> Section 550.615(2), F.S.

<sup>13</sup> Sections 550.09514(2)(a)-(b), F.S.

same rate it pays on live races. In addition, greyhound tracks pay one-third of any tax reduction on live and simulcast handle as purses.<sup>14</sup>

The division requires adequate documentation to ensure that the purses paid by greyhound permitholders on live racing does not fall below the amount paid in the 1993-1994 fiscal year.<sup>15</sup> During each race week, the permitholder is required to have a weekly report available to show the division staff and kennel operators the amount of purses paid on live racing, simulcast, and intertrack wagering.<sup>16</sup>

Each greyhound permitholder must pay purse awards directly to the dog owners who have filed proper tax paperwork with the permitholder.<sup>17</sup>

In addition to paying purses on pari-mutuel activity, each greyhound permitholder is also required to pay 4 percent of the cardroom's monthly gross receipts to supplement greyhound purses.<sup>18</sup>

### **Greyhound Taxes and Credits<sup>19</sup>**

Greyhound permitholders pay a tax on handle of 5.5 percent.<sup>20</sup> Each host greyhound track must also pay taxes on the greyhound broadcasts it sends to other tracks.<sup>21</sup> For the dog tracks located in three contiguous counties, the tax on handle for intertrack wagers is 3.9 percent.<sup>22</sup> However, each permitholder has a tax credit of \$360,000 and pays no tax on handle until that credit is utilized.<sup>23</sup> For the three greyhound permitholders that conducted a full schedule of live racing in 1995, and that are closest to another state that authorizes greyhound pari-mutuel wagering, the maximum tax credit per state fiscal year is \$500,000.<sup>24</sup> Each permitholder, who cannot utilize the full tax exemption, may notify the division that the permitholder wishes to transfer their credits to another greyhound permitholder.<sup>25</sup> Each permitholder may only transfer credits once per year, and may only transfer credits to another greyhound permitholder who acted as a host track to the permitholder for intertrack wagering. The track receiving the credits must reimburse the track that transferred the credits the exact monetary value of the transferred credits.<sup>26</sup>

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<sup>14</sup> Section 550.09514(2)(e), F.S.

<sup>15</sup> Section 550.09514(2)(d), F.S.

<sup>16</sup> Section 550.09514(2)(f), F.S.

<sup>17</sup> Section 550.09514(2)(g), F.S.

<sup>18</sup> Section 849.086(13)(d)1., F.S.

<sup>19</sup> In fiscal year 2009-2010, greyhound tracks generated over \$290 million in total handle. The division collected over \$5 million in taxes and fees, over \$2.5 million of which was generated from live greyhound racing. Division of Pari-mutuel Wagering, *79<sup>th</sup> Annual Report*, Fiscal Year 2009-2010.

<sup>20</sup> Section 550.0951(3)(b)1., F.S.

<sup>21</sup> Section 550.09514(2)(c), F.S.

<sup>22</sup> Section 550.0951(3)(c)2., F.S.

<sup>23</sup> *See*, s. 550.09514(1), F.S.

<sup>24</sup> *Id.* The three tracks that receive a \$500,000 credit are Jefferson County Kennel Club, Pensacola Greyhound Track, and Washington County Kennel Club (Ebro Greyhound Park).

<sup>25</sup> Section 550.0951(1)(b), F.S.

<sup>26</sup> *Id.*

### **Occupational License Taxes**

Each person connected with a racetrack or jai alai fronton must purchase an occupational license from the division.<sup>27</sup> The amount paid is in lieu of all license, excise, or occupational taxes to the state or any county or municipality, except that a municipality may levy a tax on persons conducting live racing or games within its corporate limits, not to exceed \$150 per day for horseracing or \$50 per day for greyhound racing or jai alai.<sup>28</sup>

### **Cardrooms**

Pari-mutuel facilities within the state are allowed to operate poker cardrooms under s. 849.086, F.S. A cardroom may be operated only at the location specified on the cardroom license issued by the division and such location may be only where the permitholder is authorized to conduct pari-mutuel wagering activities subject to its pari-mutuel permit. Section 849.086(2)(c), F.S., defines “cardroom” to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility. Authorized games and cardrooms do not constitute casino gaming operations. Instead, such games are played in a non-banking matter, i.e., where the facility has no stake in the outcome. Such activity is regulated by the department and must be approved by ordinance of the county commission where the pari-mutuel facility is located.

Section 849.086(2)(a), F.S., defines an “authorized game” at a cardroom as a game or series of games of poker or dominoes which are played in a non-banking manner.<sup>29</sup> Wagering may only be conducted using chips or tokens; the player’s cash must be converted by the cardroom before the player may participate in a game of poker.<sup>30</sup> The cardroom operator may limit the amount wagered in any game.<sup>31</sup>

A cardroom may operate at the pari-mutuel facility for 18 hours per day on Monday through Friday and 24 hours on Saturday and Sunday and specified holidays.<sup>32</sup> Cardrooms may not be operated beyond the hour limitations regardless of the number of permits located at a single facility.<sup>33</sup>

In order to renew a cardroom operator license, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior to the initial application if the permitholder conducted a full schedule of live racing in the prior year. If the application is for a harness permitholder cardroom, the applicant must have requested authorization to conduct a minimum of 140 live performances during the state fiscal year

<sup>27</sup> Section 550.105(1),(2), F.S.

<sup>28</sup> Section 550.105(9), F.S.

<sup>29</sup> A “banking game” is defined in s. 849.086(2)(b), F.S., as “a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers or in which the cardroom establishes a bank against which participants play.”

<sup>30</sup> Section 849.086(8)(a), F.S.

<sup>31</sup> Section 849.086(8)(b), F.S.

<sup>32</sup> Section 849.086(7)(b), F.S.

<sup>33</sup> Section 849.086(7)(a), F.S.

immediately prior to the application. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing.<sup>34</sup>

### Slot Machines

During the 2004 General Election, the electors approved Amendment 4 to the Florida Constitution, codified as s. 23, Art. X, Florida Constitution, which authorized slot machines at existing pari-mutuel facilities in Miami-Dade and Broward Counties upon an affirmative vote of the electors in those counties. Both Miami-Dade and Broward Counties held referenda elections on March 8, 2005. The electors approved slot machines at the pari-mutuel facilities in Broward County, but the measure was defeated in Miami-Dade County. On January 29, 2008, another referendum was held under the provisions of Amendment 4, in which the slot machines in Miami-Dade County were approved. Under the provisions of the amendment, seven pari-mutuel facilities are eligible to conduct slot machine gaming. Of the seven, six are operating slot machines.<sup>35</sup>

In addition to the seven locations authorized for slot machines under the Florida Constitution, on July 1, 2010, a statutory amendment expanded the locations that were authorized slot machine gaming to include pari-mutuel facilities located in a charter county or a county that has a referendum approving slots where the referendum was held pursuant to a statutory or constitutional authorization after the effective date of the amendment. The facility must have conducted live racing for two calendar years preceding its application and must comply with other requirements for slot machine licensure.<sup>36</sup> Currently, only existing pari-mutuel facilities in Miami-Dade County qualify for slot machine authorization. Under the statutory provision, one additional facility became eligible for slot machine gaming, Hialeah Park (a quarter horse facility).<sup>37</sup> Hialeah Park has been granted a license to conduct slot machine gaming but is not currently operating slot machine gaming.

In order to conduct slot machine gaming, the slot machine applicant must conduct a full schedule of live racing the prior year.<sup>38</sup> Slot machine licensees are required to pay an annual licensure fee of \$2 million.<sup>39</sup>

In addition to the license fees, the tax rate on slot machine revenues at each facility is 35 percent.<sup>40</sup> If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade counties is less than the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine

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<sup>34</sup> Section 849.086(5)(b), F.S.

<sup>35</sup> The Isle at Pompano Park, Mardi Gras Gaming, Gulfstream Park, Calder/Tropical Park, Flagler Dog Track and Magic City, and Miami/Summer Jai Alai are currently operating slot machines.

<sup>36</sup> See, ch. 2010-29, L.O.F. and s 551.102(4), F.S.

<sup>37</sup> Currently the provision is being challenged as violating s. 23, Art. X, Florida Constitution. The trial court upheld the constitutionality in Leon County. That decision was upheld by the First District Court of Appeal. See consolidated cases, *Calder Race Course, Inc. v. Department of Business and Professional Regulation and South Florida Racing Association*, 1D11-130 (Fla. 1<sup>st</sup> DCA) and *Florida Gaming Centers, Inc. v. Department of Business and Professional Regulation and South Florida Racing Association*, 1D10-6780 (Fla. 1st DCA). The case has been appealed to the Florida Supreme Court. See *Florida Gaming Centers, Inc. v. Florida Department of Business and Professional Regulation, et al*, SC11-2182 (Fla.)

<sup>38</sup> Chapter 551.104(4)(c), F.S.

<sup>39</sup> Chapter 551.106(1), F.S. Prior to the effective date of 2010-29, L.O.F., the license fee was \$3 million.

<sup>40</sup> Chapter 551.106(1), F.S. Prior to the effective date of 2010-29, L.O.F., the tax rate was 50 percent.



licensee shall pay to the state within 45 days after the end of the state fiscal year a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year.<sup>41</sup>

### III. Effect of Proposed Changes:

The CS amends the “full schedule of live racing or games” provision pertaining to greyhound racing and deletes the live racing requirement for greyhound permitholders beginning with the 2012-2013 fiscal year. The CS extends to August 31, 2012 the deadline for greyhound permitholders to apply for live performances, to give them time to amend their applications to reduce or remove their live racing performances. The CS removes all references that require a live schedule of racing for greyhound permitholders.

The CS provides that greyhound permitholders who continue to conduct a full schedule of live racing will continue to receive the \$360,000 or \$500,000 tax credit. The CS provides that the \$360,000 and \$500,000 tax credits that would have otherwise been available to greyhound permitholders that elect not to conduct a full schedule of live racing forfeit the tax exemption and the unused exemption must be pooled. Each greyhound permitholder conducting at least 100 live performances of at least eight races during the fiscal year will be entitled to a pro rata share of tax credits available in the pool, based on the permitholder’s share of live and intertrack wagering handle.

The CS provides that greyhound permitholders may elect to transfer unused exemptions at anytime; however, the division must disapprove the transfer when the transferring permitholder did not conduct at least 100 live performances of at least eight races during the fiscal year.

The CS deletes the provision that requires greyhound permitholders in a county where there are only two greyhound permitholders to pay an aggregate daily license fee tax equal to 75 percent of the daily license fees paid by such permitholders for the 1994-1995 fiscal year. Instead, all greyhound permitholders who conduct live racing must pay a daily license fee tax equal to 75 percent of the daily license fees paid by each permitholder for the 1994-1995 fiscal year.

The CS provides that guest greyhound permitholders on simulcast and intertrack broadcasts, who do not conduct live racing during a fiscal year, must pay 3 percent of the greyhound intertrack handle to the host greyhound permitholder for payment of purses at the host track.

The CS amends the lease provisions in s. 550.475, F.S., to provide that a lessee is entitled to a license to operate its race meeting or jai alai games at the leased facility, not a permit.

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<sup>41</sup> Chapter 551.106(2), F.S. The 2008-2009 tax paid on slot machine revenue was \$103,895,349. It does not appear that this provision will be triggered because of the additional facilities beginning slot operations. Calder began slot operations in January 2010 and Flagler began operations in October 2009. During fiscal year 2009-2010, the tax paid on slot machine revenues was \$138,125,105. In 2010-2011, after the tax rate was reduced, the tax paid on slot machine revenues exceeded \$125 million. Miami Jai Alai began slot operations in January 2012. Dania Jai Alai and Hialeah Park have not begun slot operations.

The CS provides that greyhound permitholders may conduct intertrack wagering even if they do not conduct live racing in the prior year provided that the greyhound permitholder held an annual license to conduct pari-mutuel wagering activities in each of the preceding 10 years or was converted pursuant to s. 550.054(14), F.S.

The CS provides that greyhound permitholders who are also slot machine licensees,<sup>42</sup> which accept intertrack wagering on live greyhound signals, are not required to obtain written consent from any operating greyhound permitholder within its market area.

The CS deletes the provision that prohibited intertrack wagering without consent to be conducted in any county where there are only two permits, one for greyhound racing and one for jai alai, except during live racing.

The CS provides that greyhound permitholders that lease the facility of another greyhound permitholder for conducting all or any portion of its race meet may conduct intertrack wagering at its permitted facility throughout the year, including while its race meet is being conducted at the leased facility.

The CS provides that greyhound facilities may conduct slot machine gaming, if authorized, regardless of whether the facility has conducted live racing.

The CS amends the definition of eligible facility for slot machine licensees. Under the CS, any facility in any other county [counties other than those specifically referenced in the definition for eligible facility] may become eligible for slot machine gaming if the county takes action to place the question on a countywide referendum on or before January 31, 2012.

The CS defines “county takes action” to mean that the county: (a) adopts an ordinance or resolution setting a countywide referendum; (b) approves a countywide referendum and directs county staff to prepare a resolution or ordinance to implement the approval; or (c) places a resolution or ordinance on the agenda for the county’s next scheduled meeting of its governing body.

The CS does not appear to require any countywide referendum vote or approval of slot machine gaming. The CS provides that although a license may be issued to an eligible facility outside of Miami-Dade or Broward Counties, no license may authorize slot machine gaming before July 7, 2015.<sup>43</sup>

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<sup>42</sup> Flagler Dog Track and Magic City Casino and Mardi Gras Racetrack and Gaming Center are both greyhound permitholders and slot machine licensees.

<sup>43</sup> *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 38833. (hereinafter *Gaming Compact*). July 7, 2015 is the date of the 5-year look back provision in the Gaming Compact. The Gaming Compact provides that if banked card games are not reauthorized by both the State and Tribe, the authorization to conduct banked card games terminates. The Gaming Compact would continue for an additional 15 years; however, if banked cards are not reauthorized, the Tribe must cease offering banked cards at the tribal facilities and payments from the Tribe exclude revenues generated at the Tribe’s Broward facilities. See Part XVI.B. of the *Gaming Compact*. If slot machine gaming is authorized in non-Broward and non-Miami-Dade Counties, Tribal payments would cease completely once the slot machine gaming begins. See Part XII.A. of the *Gaming Compact*.

The CS amends the requirements for a cardroom, and provides that a greyhound permitholder may operate a cardroom even if it did not run live racing, so long as the permitholder has conducted 10 years of live racing immediately preceding its application for a cardroom license or if the permitholder has converted its permit pursuant to s. 550.054(14), F.S. Greyhound permitholders may renew their cardroom license without running live races. However, if no live racing occurs, no part of the cardroom receipts are required to be used to supplement purses.

The CS takes effect July 1, 2012.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

##### D. Other Constitutional Issues:

The CS may raise potential special law concerns.

A special law, or “local law,” as it is sometimes referred to, does not apply with geographic uniformity across the state. It operates only upon designated persons or discrete regions, and bears no reasonable relationship to differences in population or other legitimate criteria. *State ex rel Landis v. Harris*. Within the contemplation of the Constitution, a special law is one relating to, or designed to operate upon, particular persons or things, *Citizens' Bank & Trust Co. v. Mabry*, 102 Fla. 1084, 136 So. 714, (Fla. 1931), or one that purports to operate upon classified persons or things when classification is not permissible or the classification adopted is illegal, *Knight v. Board of Public Instruction*, 102 Fla. 922, 136 So. 613 (Fla. 1931). A local law is one relating to, or designed to operate only in, a specifically indicated part of the state, *State ex rel. Landis v. Crandon*, 105 Fla. 309, 141 So. 177, (Fla. 1932), or one that purports to operate within classified territory when classification is not permissible or the classification adopted is illegal, *Anderson v. Board of Public Instruction*, 102 Fla. 695, 136 So. 334 (Fla. 1931).

Under Art. III, s. 10 of the Constitution, those types of special laws permitted by the constitution require published notice or a referendum. In this CS, the facilities that could qualify as “eligible facilities” for slot machine gaming is a small group of facilities that has met the proposed criteria prior to January 31, 2012. The courts have found that a statute that applies to a limited class may qualify as a general law if it could apply to other entities or areas in the future. *Department of Business and Professional Regulation*

*v. Gulfstream Park Racing Assn., et al.*, 912 So.2d 616 (Fla. 1<sup>st</sup> DCA 2005). Instead of being applicable to other entities or areas in the future, the facilities that could qualify for slot machine gaming is a closed class of facilities. Under the CS, slot machine gaming could be authorized at pari-mutuel facilities “in which a county takes action to place the question on a countywide referendum on or before January 31, 2012.” “County takes action” includes setting a countywide referendum, approving a countywide referendum, or placing a resolution or ordinance on the agenda for the county’s next scheduled meeting of its governing body. There does not appear to be a referendum requirement in the CS when a county is allowed to place the resolution or ordinance on the governing body’s agenda to qualify as an eligible facility for slot machine gaming.

## **V. Fiscal Impact Statement:**

### **A. Tax/Fee Issues:**

None.

### **B. Private Sector Impact:**

The Revenue Estimating Conference has determined the impact of the reduction in live racing coupled with the tax credit pooling to be a \$1 million reduction beginning in FY 2012-2013, and a \$.9 million reduction recurring beginning in FY 2013-14.

The CS also may allow pari-mutuels located outside of Miami-Dade and Broward Counties to conduct slot machine gaming. This expansion of slot machine gaming would have an impact on payments from the Seminole Tribe. The impact of this provision has not been analyzed by the Revenue Estimating Conference.

### **C. Government Sector Impact:**

The department’s analysis indicates that it may need fewer personnel to inspect the greyhound tracks if live racing is reduced.

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

This CS deletes the live racing requirements for greyhound permitholders but the full schedule of live racing or performance requirements for horse racing and jai alai still exist.

Revenue sharing with the Seminole Indian Compact relies on continued exclusivity of casino style and Class III gaming. Games legal as of February 1, 2010 have no impact on payments from the Tribe. Pari-mutuel wagering activities have no impact on payments from the Tribe.<sup>44</sup> The flexibility in the minimum number of live racing for greyhound permitholders should have

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<sup>44</sup> *Id.* See Parts XII.A. and XII.B.6., *Gaming Compact*.

no impact on revenue sharing with the Tribe as it does not authorize any new facilities or new gaming in the state.

However, the CS does amend the definition of “eligible facility” for slot machine gaming at licensed pari-mutuels to include facilities outside of Miami-Dade and Broward Counties. Although the CS prohibits slot machine gaming at facilities outside those two counties until July 7, 2015, once the slot machine gaming begins, all payments from the Tribe would cease in their entirety.<sup>45</sup>

## VIII. Additional Information:

### A. Committee Substitute – Statement of Substantial Changes:

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

#### **CS by Regulated Industries on January 26, 2012:**

The CS amended the title from greyhound permitholders to pari-mutuel wagering.

The CS removed the additional tax credit created in the bill that was available for greyhound permitholders who continued to conduct live racing for at least five years after the effective date of this act, allowing the permitholders to continue to receive tax credits for up to 10 years after they cease live racing.

The CS removed the provision that would have allowed municipalities to impose the same tax on simulcasts, intertrack wagering, and cardroom games as they may currently impose on greyhound racing.

The CS also included an amendment to the definition of eligible facility for slot machine licensees. Under the CS, any facility in any other county [counties other than those specifically referenced in the definition for eligible facility] may become eligible for slot machine gaming if the county takes action to place the question on a countywide referendum on or before January 31, 2012.

The CS defines “county takes action” to mean that the county: (a) adopts an ordinance or resolution setting a countywide referendum; (b) approves a countywide referendum and directs county staff to prepare a resolution or ordinance to implement the approval; or (c) places a resolution or ordinance on the agenda for the county’s next scheduled meeting of its governing body.

The CS does not appear to require any countywide referendum vote or approval of slot machine gaming. The CS provides that although a license may be issued to an eligible facility outside of Miami-Dade or Broward Counties, no license may authorize slot machine gaming before July 7, 2015.

### B. Amendments:

None.

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<sup>45</sup> *Id.*

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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