

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 65 Specialty License Plates/Fallen Law Enforcement Officers

SPONSOR(S): Hooper and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 132

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	14 Y, 0 N	Dugan	Miller
2) Transportation & Economic Development Appropriations Subcommittee	13 Y, 0 N	Perkins	Davis
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill creates the Fallen Law Enforcement Officers specialty license plate, establishes the annual use fee for the plate, and provides for the distribution of the annual use fees received from the sale of the plate.

The bill requires the Department of Highway Safety & Motor Vehicles (DHSMV) to develop the plate, notwithstanding the statutory moratorium on the creation of new specialty license plates, provided the sponsoring organization (Police and Kids Foundation, Inc.) meets the requirements established in s. 320.08053, F.S. Specifically, the Police and Kids Foundation, Inc., (Foundation) must submit the proposed art design of the specialty license plate to the DHSMV no later than 60 days after the bill becomes law and record a minimum of 1,000 pre-sale vouchers within 24 months after the pre-sale specialty license plate voucher is established.

The annual use fee for the Fallen Law Enforcement Officers specialty license plate is \$25, and will be distributed to the Foundation. A maximum of 10 percent of the use fee proceeds may be used to promote and market the specialty license plate. The remainder of the use fee proceeds received by the Foundation must be invested and reinvested, and the interest earnings are designated for operational purposes of the Foundation.

The bill requires that the word "Florida" appear at the top of the specialty license plate, and the words "A Hero Remembered Never Dies" appear at the bottom.

The bill has an insignificant negative fiscal impact on the DHSMV workload as a result of the programming hours needed to implement the provision of the bill.

The bill has an effective date of October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Specialty License Plates

Currently, 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. Sales of specialty license plates generated more than \$31 million in total gross revenues during the Fiscal Year 2013.¹

The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization. As of 2013, the Legislature has authorized 122 specialty license plates. A sponsoring organization wishing to receive a specialty license plate is required to comply with the requirements of s. 320.08053, F.S., which include the following processes:

- Section 320.08053(1), F.S., requires the sponsoring organization to:
 - submit a description of the proposed specialty license plate to the DHSMV;
 - pay an application fee, not to exceed \$60,000; and
 - submit a marketing strategy outlining short-term and long-term marketing plans and a financial analysis outlining anticipated revenues and expenditures;
- Section 320.08053(2), F.S. requires the sponsoring organization, if the proposed specialty license plate is approved by law, to submit the proposed art design for the specialty license plate to the DHSMV; and
- Section 320.08053(3), F.S. requires the sponsoring organization, prior to the manufacture of the proposed specialty license plate, to record with the DHSMV a minimum of 1,000 voucher sales within 24 months after the pre-sale specialty license plate voucher is established.²

In 2009, the constitutionality of s. 320.08053, F.S., was challenged in the U.S. District Court for the Middle District of Florida. The court declared the 2009 version of s. 320.08053, F.S., invalid;³ however, in 2010 the Legislature made changes to that section of the statute.

Moratorium

Currently, there is a moratorium on the issuance of new specialty license plates. Section 45, Ch. 2008-176, L.O.F., as amended by s. 21, Ch. 2010-223, L.O.F., provides that, except for a specialty license plate proposal which has submitted a letter of intent to the DHSMV prior to May 2, 2008, and which has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F. S., prior to October 1, 2008, or which was included in a bill filed during the 2008 Legislative Session, the DHSMV may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, F.S., between July 1, 2008, and July 1, 2014.”

Fallen Law Enforcement Officers

According to the Federal Bureau of Investigation (FBI), 95 law enforcement officers died from injuries incurred in the line of duty in 2012.⁴ On average, one law enforcement officer is killed in the line of duty

¹ DHSMV website, Monthly Revenue Collections Report, available at: <http://services.flhsmv.gov/specialtyplates/> (last viewed March 24, 2014).

² Section 320.08053(3), F.S., provides that if the minimum sales requirement has not been met at the end of the 24-month pre-sale period, the DHSMV will de-authorize the specialty license plate, discontinue development, and discontinue issuance of the pre-sale voucher

³ Case No. 6:09-cv-134-orl-28krs.

⁴ U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, Law Enforcement Officers Killed & Assaulted, 2012 Report, available at: <http://www.fbi.gov/about-us/cjis/ucr/leoka/2012> (last viewed March 24, 2014).

somewhere in the United States every 57 hours.⁵ Since the first known line-of-duty death in 1791, more than 19,000 U.S. law enforcement officers have made the ultimate sacrifice.⁶

Police and Kids Foundation, Inc.

The Foundation is a non-profit 501(c)(3) charity, set up with two objectives: helping children in need and creating a yearly scholarship for at least one senior student at Pinellas Park High School Criminal Justice Academy.⁷

The Foundation generates funding to assist children in and around the Tampa Bay community. Local police officers provide assistance of food, infant supplies, clothing, and any other measures necessary to stabilize a situation and improve a child's life.

Effect of Proposed Changes

The bill amends ss. 320.08056, F.S. and 320.08058, F.S., to develop the Fallen Law Enforcement Officers specialty license plate, establish the annual use fee for the plate, and provide for the distribution of the annual use fees received from the sale of the plate.

The bill requires the DHSMV to develop the plate, notwithstanding the statutory moratorium on the creation of new specialty license plates, provided the Foundation meets the requirements in s. 320.08053(2) and (3), F.S. Specifically, the Foundation must submit the proposed art design to the DHSMV no later than 60 days after the bill becomes law and record a minimum of 1,000 pre-sale vouchers by the conclusion of the 24-month pre-sale period.

The bill requires that the word "Florida" appear at the top of the specialty license plate, and the words "A Hero Remembered Never Dies" at the bottom.

Drivers can purchase the specialty plate upon payment of the appropriate license taxes and fees and the \$25 annual use fee. The annual use fee proceeds will be distributed to the Foundation. A maximum of 10 percent of the use fee proceeds may be used to promote and market the specialty license plate. The remainder of the use fee proceeds received by the Foundation must be invested and reinvested, and the interest earnings are designated for operational purposes of the Foundation.

Effective Date

The bill has an effective date of October 1, 2014.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08056(4), F.S., to provide for the collection of an annual use fee for the Fallen Law Enforcement Officers specialty license plate.

Section 2: Amends s. 320.08058, F.S., to create the Fallen Law Enforcement Officers specialty license plate.

Section 3: Provides and effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁵ National Law Enforcement Officers Memorial Fund, Fats & Figures, available at: <http://www.nleomf.org/facts/> (last viewed March 24, 2014).

⁶ Id.

⁷ Police and Kids Foundation, Inc., available at: <http://www.policeandkids.com/about/> (last viewed March 24, 2014)

None.

2. Expenditures:

The DHSMV's Information Systems Administration Office will require approximately 88 hours of programming in order to implement the provisions of this bill. This workload is nonrecurring and the department is not anticipating any additional appropriation to implement the specialty license plate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who purchase the Fallen Law Enforcement Officers specialty license plate will pay the \$25 annual use fee, in addition to the appropriate license taxes and fees.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The moratorium period prohibiting the DHSMV from establishing new specialty license plates is effective "between July 1, 2008, and July 1, 2014". As such, new specialty license plates will be permissible beginning July 1, 2014. The effective date of the bill is October 1, 2014.

According to the bill's language, and as reflected in this analysis, the DHSMV will be required to create the Fallen Law Enforcement Officers specialty license plate if the Foundation meets the requirements of s. 320.08053(2) and (3), F.S. However, the DHSMV's analysis of the bill indicates that s. 320.08053(1) and (2), F.S., were invalidated. As such, it is unclear whether the Foundation will be required to meet

the requirements of s. 320.08053(2), F.S., which would require the Foundation to submit the proposed art design for the specialty license plate to the DHSMV.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES