

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 663 Specialty License Plates/Support Our Constitution

**SPONSOR(S):** Cortes and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1180

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	10 Y, 0 N, As CS	Whittaker	Smith
2) Economic Affairs Committee	15 Y, 0 N	Whittaker	Pitts

### SUMMARY ANALYSIS

The bill directs the Department of Highway Safety and Motor Vehicles (DHSMV) to create a new specialty license plate designated as the "Support Our Constitution" license plate, with an annual use fee of \$25 to be distributed to The Constitution Foundation, Inc., and shall be used as follows:

- A maximum of 15 percent for administrative costs of the organization.
- A maximum of 10 percent for promotion and marketing costs of the license plate.
- The remainder to fund the activities, programs, projects, and mission of The Constitution Foundation to increase awareness and understanding of the United States Constitution in Florida's public schools, recruit and train school leaders to make presentations in each school district, and provide to each student, at no charge, with learning materials and a pocket Constitution.

The new plate will display the word "Florida" at the top of the plate and the words "Support Our Constitution" at the bottom of the plate.

The bill authorizes The Constitution Foundation, Inc., to retain all annual use fees from the sale of the "Support Our Constitution" specialty license plate until all startup costs for developing and issuing the plate have been recovered.

According to DHSMV, the bill will have a negative but insignificant fiscal impact to state expenditures.

An effective date of October 1, 2016, is provided in the bill.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### **Specialty License Plates in General**

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and ten Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.<sup>1</sup> The collected fees are distributed by the DHSMV to statutorily designated organizations in support of a particular cause or charity. Vehicles registered under the International Registration Plan, a commercial truck required to display two license plates, or truck tractors are not eligible for specialty license plates.<sup>2</sup>

Only the Legislature may create new specialty license plates. If a specialty license plate is created by law, the following requirements must then be met:

- Within 60 days, the organization must submit an art design, in a medium prescribed by DHSMV.<sup>3</sup>
- Within 120 days, DHSMV must establish a method to issue a specialty license plate voucher to allow for the pre-sale of the specialty plate.<sup>4</sup>
- Within 24 months after the voucher is established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin. If this requirement is not met, the plate is deauthorized and DHSMV must discontinue development of the plate and issuance of the vouchers.<sup>5</sup>

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 1,000 plates (does not apply to collegiate license plates).<sup>6</sup>

Organizations in receipt of specialty license plate revenue must adhere to certain accountability requirements found in statute. These requirements include an annual attestation document affirming, under penalty of perjury, that funds received have been spent in accordance with applicable statutes.<sup>7</sup>

A moratorium on the issuance of specialty license plates was imposed by lawmakers in 2008, originally set to expire in 2011. The moratorium has subsequently been extended to July 1, 2016.<sup>8</sup>

##### **Effect of Proposed Changes**

##### **Support Our Constitution License Plate**

The bill directs the DHSMV to create a new specialty license plate designated as the "Support Our Constitution" license plate, with an annual use fee of \$25 to be distributed to The Constitution Foundation, Inc., and shall be used as follows:

- A maximum of 15 percent may be used for administrative costs of the organization.

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<sup>1</sup> Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plates Index*, <http://www.flhsmv.gov/dmv/specialtytags/> (last visited January 15, 2016).

<sup>2</sup> s. 320.08056(2), F.S.

<sup>3</sup> s. 320.08053(1), F.S.

<sup>4</sup> s. 320.08053(2)(a), F.S.

<sup>5</sup> s. 320.08053(2)(b), F.S.

<sup>6</sup> s. 320.08056 (8)(a), F.S.

<sup>7</sup> s. 320.08062, F. S.

<sup>8</sup> Ch. 2008-176, Laws of Fla., as amended by Ch. 2010-223 and Ch. 2014-216, Laws of Fla.

- A maximum of 10 percent may be used for promotion and marketing costs of the license plate.
- The remainder shall be used to fund the activities, programs, projects, and mission of The Constitution Foundation to increase awareness and understanding of the United States Constitution in Florida's public schools, recruit and train school leaders to make presentations in each school district, and provide to each student, at no charge, with learning materials and a pocket Constitution.

The new plate will display the word "Florida" at the top of the plate, and the words "Support Our Constitution" at the bottom of the plate.

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### **The Constitution Foundation, Inc.**

According to corporate filings with the Department of State, the principal address for The Constitution Foundation, Inc., is in Kissimmee, Florida. The articles of incorporation of the organization state that it is a not-for-profit corporation whose purpose is to:

- Promote a constructionist view of the constitution;
- Transform legal and public policy debates through education, the legislature, courts, and media; and
- Help provide assistance to individuals victimized by constitutional violations.<sup>9</sup>

## **B. SECTION DIRECTORY:**

**Section 1** Amends s. 320.08056, F.S., establishing an annual use fee of \$25 for the Support Our Constitution specialty license plate.

**Section 2** Amends s. 320.08058, F.S., directing the Department of Highway Safety and Motor Vehicles to create a Support Our Constitution specialty license plate and provides for the distribution of the annual use fees collected.

**Section 3** Provides an effective date of October 1, 2016.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### 1. Revenues:

None

#### 2. Expenditures:

There is a negative but indeterminate cost to DHSMV for the programming of new specialty license plates. These costs can be absorbed within existing resources.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### 1. Revenues:

None

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<sup>9</sup> Florida Department of State Division of Corporations, *Document Images*, <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2011%5C0720%5C80058818.tif&documentNumber=N11000006800> (last visited December 17, 2015)

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Revenue generated from the sale of specialty license plates are distributed to various organizations as provided in statute.

D. FISCAL COMMENTS:

None

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 20, 2016, the Highway and Waterway Safety Subcommittee adopted one amendment to HB 663 and reported the bill favorably as a committee substitute. The amendment:

- Provides that the Constitution Foundation, Inc. "shall" use the proceeds instead of "may" use the proceeds

This analysis is drafted to the committee substitute as reported by the Highway and Waterway Safety Subcommittee.