

**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.)

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Prepared By: The Professional Staff of the Committee on Infrastructure and Security

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BILL: SB 324

INTRODUCER: Senator Stewart

SUBJECT: Fees/Gopher Tortoise License Plate

DATE: January 31, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knights</u>	<u>Miller</u>	<u>IS</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ATD</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 324 provides for an annual use fee of \$25 for the Gopher Tortoise specialty license plate.

Senate Bill 322 (2020), which this bill is linked to, creates the Gopher Tortoise specialty license plate and provides for the design of the plate and the use of the annual fees associated with the specialty license plate.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the bill will have a negative, but insignificant fiscal impact associated with programming costs. These costs can be absorbed within existing resources.

The bill has an effective date on the same date that SB 322 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

**II. Present Situation:**

**Specialty License Plates**

Presently, there are over 100 specialty license plates available for purchase in Florida<sup>1</sup>. Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service

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<sup>1</sup> A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited January 24, 2020).

fees.<sup>2</sup> The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified on the plate's design and designated in statute.<sup>3</sup>

In order to establish a specialty license plate and after the plate is approved by law, s. 320.08053, F.S., requires the following actions within certain timelines:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;
- Within 120 days, the DHSMV must establish a method to issue pre-sale vouchers for the specialty license plate; and
- Within 24 months after the pre-sale vouchers are established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing of the plate may begin.

If the minimum sales requirement has not been met by the end of the 24-month pre-sale period, then the DHSMV will discontinue the plate and issuance of pre-sale vouchers. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.<sup>4</sup>

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.<sup>5</sup> Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.<sup>6</sup>

### ***DHSMV Costs Defrayed***

The DHSMV is authorized to retain a sufficient portion of annual use fees collected from the sale of specialty plates to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.<sup>7</sup>

### ***Discontinuance of Specialty Plates***

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid 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 license plate registrations is below 1,000 plates. Collegiate plates for Florida universities are exempt from the minimum specialty license plate requirement.<sup>8</sup> In addition, the DHSMV is authorized to discontinue any specialty license plate if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.<sup>9</sup>

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<sup>2</sup> Section 320.08056, F.S.

<sup>3</sup> Section 320.08058, F.S.

<sup>4</sup> Section 320.08053(2)(b), F.S.

<sup>5</sup> Section 320.08056(10)(a), F.S.

<sup>6</sup> Section 320.08062, F.S.

<sup>7</sup> Section 320.08056(7), F.S.

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

<sup>9</sup> Section 320.08056(8)(b), F.S.

## Wildlands Conservation

The Wildlands Conservation is a non-profit organization, created in 2003<sup>10</sup>, specializing in conservation planning and policy, land management, land protection, research, education and outreach. The Wildlands Conservation works on conservation projects throughout Florida. They strive to work with landowners and others around the state to maximize conservation and minimize impacts, which can be costly to that landowner<sup>11</sup>. Wildlands offers gopher tortoise relocation in attempt to save tortoises from sites permitting for development. They are committed to ensuring that gopher tortoise survey and relocation work is done thoroughly and professionally as possible to protect gopher tortoises across the state<sup>12</sup>.

### III. Effect of Proposed Changes:

The bill provides for an annual use fee of \$25 for the Gopher Tortoise specially license plate.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

Under the 2018 amendment to the Florida Constitution, Article VII, Section 19 requires “a supermajority vote” of 2/3 of the membership of each house to pass legislation which will impose or authorize a new state tax or fee.<sup>13</sup> A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”<sup>14</sup>

The \$25 annual use fee for the Gopher Tortoise specialty license plate may be a new state fee for purposes of requiring a supermajority vote and a separate bill containing no other subject.

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<sup>10</sup> Florida Department of State, Division of Corporations, Sunbiz, Wildlands Conservation, Inc., <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> (last visited January 24, 2020).

<sup>11</sup> <http://www.wildlandsconservation.org/> (last visited January 24, 2020).

<sup>12</sup> Gopher Tortoise Permitting and Relocating Services available at <http://www.wildlandsconservation.org/gopher-tortoise-services>. (last visited January 24, 2020).

<sup>13</sup> FLA. CONST. art. VII, s. 19(a).

<sup>14</sup> FLA. CONST. art. VII, s. 19(d)(1).

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

Individuals who choose to purchase a Gopher Tortoise specialty license plate will pay an additional use fee of \$25 in addition to required vehicle license taxes and fees.

B. Private Sector Impact:

Revenue from the sale of the Gopher Tortoise license plate will benefit the Wildlands Conservation Inc.

C. Government Sector Impact:

The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.<sup>15</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 320.08056

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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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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<sup>15</sup> Section 320.08056(7), F.S.