

By the Committee on Appropriations; and Senator Hutson

576-00042-21A

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1 A bill to be entitled
2 An act relating to the Fantasy Sports Contest
3 Amusement Act; creating s. 546.11, F.S.; providing a
4 short title; creating s. 546.12, F.S.; providing
5 legislative findings and intent; creating s. 546.13,
6 F.S.; defining terms; creating s. 546.14, F.S.;
7 providing for the enforcement and administration of
8 the Fantasy Sports Contest Amusement Act; authorizing
9 the Division of Pari-mutuel Wagering within the
10 Department of Business and Professional Regulation to
11 take certain actions; requiring the division to revoke
12 a contest operator's license under certain
13 circumstances; authorizing the division to adopt
14 rules; creating s. 546.15, F.S.; providing application
15 requirements for fantasy sports contest operator
16 licenses; providing that specified persons or entities
17 are not eligible for licensure under certain
18 circumstances; defining the term "convicted";
19 specifying that a contest operator license is
20 automatically suspended under certain circumstances;
21 providing an exception; creating s. 546.16, F.S.;
22 requiring a contest operator to implement specified
23 consumer protection procedures under certain
24 circumstances; defining the term "relative"; requiring
25 a contest operator to annually contract with a third
26 party to perform an independent audit; requiring a
27 contest operator to submit the audit results to the
28 division within a certain timeframe; requiring a
29 contest operator to use data sources that meet

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30 specified requirements; creating s. 546.17, F.S.;

31 requiring contest operators to keep and maintain

32 certain records for a specified period; providing a

33 requirement for such records; requiring that such

34 records be available for audit and inspection;

35 requiring the division to adopt rules; creating s.

36 546.18, F.S.; providing a civil penalty; providing

37 applicability; exempting fantasy contests from certain

38 provisions in ch. 849, F.S.; amending s. 16.71, F.S.;

39 prohibiting the Governor from soliciting or requesting

40 certain information from a person with a license to

41 conduct fantasy sports contests; amending s. 16.712,

42 F.S.; conforming provisions to changes made by the

43 act; amending s. 16.713, F.S.; revising prohibitions

44 relating to appointment to and employment with the

45 division to include prohibitions relating to fantasy

46 sports contest licenses; amending s. 16.715, F.S.;

47 revising prohibitions relating to former commissioners

48 and employees of the commission to include

49 prohibitions relating to fantasy sports contest

50 licenses; creating s. 849.144, F.S.; specifying that

51 certain activities relating to fantasy sports contests

52 are not subject to certain gambling-related

53 prohibitions; amending SB 4A to include the regulation

54 of fantasy sports contests in a type two transfer

55 occurring on a certain date; providing a contingent

56 effective date.

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58 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 546.11, Florida Statutes, is created to read:

546.11 Short title.—Sections 546.11-546.18 may be cited as the “Fantasy Sports Contest Amusement Act.”

Section 2. Section 546.12, Florida Statutes, is created to read:

546.12 Legislative intent; findings.—It is the intent of the Legislature to ensure public confidence in the integrity of fantasy sports contests and contest operators. This act is designed to regulate the contest operators and individuals who participate in such contests and to enact consumer protections related to fantasy sports contests. Furthermore, the Legislature finds that fantasy sports contests, as that term is defined in s. 546.13, involve the skill of contest participants.

Section 3. Section 546.13, Florida Statutes, is created to read:

546.13 Definitions.—As used in ss. 546.11-546.18, the term:

(1) “Act” means ss. 546.11-546.18.

(2) “Confidential information” means information related to the playing of fantasy sports contests by contest participants which is obtained solely as a result of a person’s employment with, or work as an agent of, a contest operator.

(3) “Contest operator” means a person or entity that offers fantasy sports contests for a cash prize to members of the public, but does not include a noncommercial contest operator in this state.

(4) “Contest participant” means a person who pays an entry fee for the ability to participate in a fantasy or simulation

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88 sports game or contest offered by a contest operator or
89 noncommercial contest operator.

90 (5) "Division" means the Division of Pari-mutuel Wagering
91 of the Department of Business and Professional Regulation.

92 (6) "Entry fee" means the cash or cash equivalent amount
93 that is required to be paid by a person to a contest operator or
94 noncommercial contest operator to participate in a fantasy
95 sports contest.

96 (7) "Fantasy sports contest" means a fantasy or simulation
97 sports game or contest offered by a contest operator or a
98 noncommercial contest operator in which a contest participant
99 manages a fantasy or simulation sports team composed of athletes
100 from a professional sports organization and which meets each of
101 the following requirements:

102 (a) All prizes and awards offered to winning contest
103 participants are established and made known to the contest
104 participants in advance of the game or contest and their value
105 is not determined by the number of contest participants or the
106 amount of any fees paid by those contest participants.

107 (b) All winning outcomes reflect the relative knowledge and
108 skill of the contest participants and are determined
109 predominantly by accumulated statistical results of the
110 performance of individuals, including athletes in the case of
111 sporting events.

112 (c) No winning outcome is based on the score, point spread,
113 or any performance or performances of any single actual team or
114 combination of such teams; solely on any single performance of
115 an individual athlete or player in a single actual event; on a
116 pari-mutuel event, as the term "pari-mutuel" is defined in s.

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117 550.002; on a game of poker or other card game; or on the
118 performances of participants in collegiate, high school, or
119 youth sporting events.

120 (d) No casino graphics, themes, or titles, including, but
121 not limited to, depictions of slot machine-style symbols, cards,
122 dice, craps, roulette, or lotto, are displayed or depicted.

123 (8) "Noncommercial contest operator" means a natural person
124 who organizes and conducts a fantasy or simulation sports
125 contest in which contest participants are charged entry fees for
126 the right to participate; entry fees are collected, maintained,
127 and distributed by the same natural person; the total entry fees
128 collected, maintained, and distributed by such natural person do
129 not exceed \$1,500 per season or a total of \$10,000 per calendar
130 year; and all entry fees are returned to the contest
131 participants in the form of prizes.

132 Section 4. Section 546.14, Florida Statutes, is created to
133 read:

134 546.14 Enforcement and administration; rulemaking.—

135 (1) The division shall enforce and administer this act.

136 (2) The division may:

137 (a) Conduct investigations and monitor the operation and
138 play of fantasy sports contests.

139 (b) Review the books, accounts, and records of any current
140 or former contest operator.

141 (c) Deny, suspend, or revoke any license under this act for
142 any violation of state law or rule.

143 (d) Take testimony, issue summons and subpoenas for any
144 witness, and issue subpoenas duces tecum in connection with any
145 matter within its jurisdiction.

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146 (e) Monitor and ensure the proper collection and
147 safeguarding of entry fees and the payment of contest prizes in
148 accordance with consumer protection procedures enacted pursuant
149 to s. 546.16.

150 (f) Investigate any licensed or unlicensed person or entity
151 when such person or entity is advertising as offering or
152 providing, or is engaged in conducting, a fantasy sports contest
153 that requires licensure under this act or when a contest
154 operator or noncommercial contest operator is engaged in
155 activities that do not comply with or are prohibited by this
156 act. The division shall have the authority to issue an order to
157 such licensed or unlicensed person or entity or contest operator
158 or noncommercial contest operator to cease and desist the
159 further conduct of such activities, to seek an injunction, or to
160 take other appropriate action to enforce the requirements of
161 this act.

162 (3) The division shall revoke a contest operator's license
163 if the contest operator offers fantasy sports contests that
164 violate s. 546.13(6)(c).

165 (4) The division shall adopt rules to implement and
166 administer this act. Such rules may not conflict with, and must
167 be applied, construed, and interpreted in a manner consistent
168 with, the gaming compact ratified, approved, and described in s.
169 285.710(3).

170 Section 5. Section 546.15, Florida Statutes, is created to
171 read:

172 546.15 Licensing.-

173 (1) A contest operator must be licensed by the division to
174 conduct fantasy sports contests within this state.

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175 (2) The application must include:

176 (a) The full name of the applicant.

177 (b) If the applicant is a corporation, the name of the
178 state in which the applicant is incorporated and the names and
179 addresses of the officers, directors, and shareholders who hold
180 15 percent or more equity.

181 (c) If the applicant is a business entity other than a
182 corporation, the names and addresses of each principal, partner,
183 or shareholder who holds 15 percent or more equity.

184 (d) The names and addresses of the ultimate equitable
185 owners of the corporation or other business entity, if different
186 from those provided under paragraph (b) or paragraph (c), unless
187 the securities of the corporation or entity are registered
188 pursuant to s. 12 of the Securities Exchange Act of 1934, 15
189 U.S.C. ss. 78a-78kk, and:

190 1. The corporation or entity files with the United States
191 Securities and Exchange Commission the reports required by s. 13
192 of that act; or

193 2. The securities of the corporation or entity are
194 regularly traded on an established securities market in the
195 United States.

196 (e) The estimated number of fantasy sports contests to be
197 conducted by the applicant annually.

198 (f) A statement of the assets and liabilities of the
199 applicant.

200 (g) If required by the division, the names and addresses of
201 the officers and directors of any creditor of the applicant and
202 of stockholders who hold more than 10 percent of the stock of
203 the creditor.

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204 (h) For each individual listed in the application pursuant
205 to paragraph (a), paragraph (b), paragraph (c), or paragraph
206 (d), a full set of fingerprints to be submitted to the division
207 or to a vendor, entity, or agency authorized by s. 943.053(13).

208 1. The division, vendor, entity, or agency shall forward
209 the fingerprints to the Department of Law Enforcement for state
210 processing, and the Department of Law Enforcement shall forward
211 the fingerprints to the Federal Bureau of Investigation for
212 national processing.

213 2. Fingerprints submitted to the Department of Law
214 Enforcement pursuant to this paragraph shall be retained by the
215 Department of Law Enforcement as provided in s. 943.05(2)(g) and
216 (h) and, when the Department of Law Enforcement begins
217 participation in the program, shall be enrolled in the Federal
218 Bureau of Investigation's national retained print arrest
219 notification program. Any arrest record identified shall be
220 reported to the division by the Department of Law Enforcement.

221 (i) For each foreign national, such documents as necessary
222 to allow the division to conduct criminal history records checks
223 in the individual's home country. The applicant must pay the
224 full cost of processing fingerprints and required documentation.

225 (3) A person or entity is not eligible for licensure as a
226 contest operator or for licensure renewal if an individual
227 required to be listed pursuant to paragraph (2)(a), paragraph
228 (2)(b), paragraph (2)(c), or paragraph (2)(d) is determined by
229 the division, after investigation, not to be of good moral
230 character or is found to have been convicted of a felony in this
231 state, any offense in another jurisdiction which would be
232 considered a felony if committed in this state, or a felony

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233 under the laws of the United States. As used in this subsection,
234 the term "convicted" means having been found guilty, with or
235 without adjudication of guilt, as a result of a jury verdict,
236 nonjury trial, or entry of a plea of guilty or nolo contendere.

237 (4) The license of a contest operator is automatically
238 suspended upon entry of a final order imposing an administrative
239 fine against the contest operator, until the administrative fine
240 is paid, if 30 calendar days have elapsed since the entry of the
241 final order. The license of a contest operator may not be
242 renewed and an application for licensure as a contest operator
243 may not be approved if the contest operator or the applicant for
244 licensure as a contest operator is liable for an outstanding
245 administrative fine imposed under this act. Notwithstanding the
246 provisions of this subsection, a contest operator's license may
247 not be suspended and an application for licensure as a contest
248 operator may not be denied if the contest operator or the
249 applicant has an appeal from a final order pending in any
250 appellate court.

251 Section 6. Section 546.16, Florida Statutes, is created to
252 read:

253 546.16 Consumer protection.-

254 (1) A contest operator must implement procedures for
255 fantasy sports contests which:

256 (a) Prevent its employees, their relatives, or persons
257 living in the same household as the employees from competing in
258 a fantasy sports contest in which a cash prize is awarded.
259 However, a contest operator may offer fantasy sports contests to
260 its employees in which the employees are the sole participants
261 in the contests. For the purposes of this paragraph, the term

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262 "relative" means a spouse, father, mother, son, daughter,
263 grandfather, grandmother, brother, sister, uncle, aunt, cousin,
264 nephew, niece, father-in-law, mother-in-law, son-in-law,
265 daughter-in-law, brother-in-law, sister-in-law, stepfather,
266 stepmother, stepson, stepdaughter, stepbrother, stepsister,
267 half-brother, or half-sister.

268 (b) Prohibit the contest operator from being a contest
269 participant in a fantasy sports contest that he or she offers.

270 (c) Prevent its employees or agents from sharing with a
271 third party confidential information that could affect fantasy
272 sports contest play, until the information has been made
273 publicly available.

274 (d) Verify that contest participants are 21 years of age or
275 older.

276 (e) Restrict an individual who is a player, a game
277 official, or another participant in a real-world game or
278 competition from participating in a fantasy sports contest that
279 is determined, in whole or in part, on the performance of that
280 individual, the individual's real-world team, or the accumulated
281 statistical results of the sport or competition in which he or
282 she is a player, game official, or other participant.

283 (f) Allow individuals to restrict or prevent their own
284 access to fantasy sports contests and take reasonable steps to
285 prevent those individuals from entering a fantasy sports
286 contest.

287 (g) Limit the number of entries a single contest
288 participant may submit to each fantasy sports contest and take
289 reasonable steps to prevent participants from submitting more
290 than the allowable number of entries.

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291 (h) Segregate contest participants' funds from operational
292 funds or maintain a reserve in the form of cash, cash
293 equivalents, payment processor reserves, payment processor
294 receivables, an irrevocable letter of credit, a bond, or a
295 combination thereof in the total amount of deposits in contest
296 participants' accounts for the benefit and protection of
297 authorized contest participants' funds held in fantasy sports
298 contest accounts.

299 (2) (a) A contest operator must annually contract with a
300 third party to perform an independent audit, consistent with the
301 standards established by the American Institute of Certified
302 Public Accountants, to ensure compliance with this act. The
303 contest operator shall submit the results of the independent
304 audit to the division no later than 90 days after the end of
305 each annual licensing period.

306 (b) Any data source and the corresponding data to determine
307 the results of all fantasy sports contests offered by contest
308 operators, other than noncommercial contest operators, must be
309 complete, accurate, reliable, and appropriate to settle the
310 outcome of the fantasy sports contests for which it is used.

311 Section 7. Section 546.17, Florida Statutes, is created to
312 read:

313 546.17 Records and reports.—Each contest operator shall
314 keep and maintain daily records of its operations and shall
315 maintain such records for at least 3 years. The records must
316 sufficiently detail all financial transactions required to
317 determine compliance with the requirements of this act and must
318 be available for audit and inspection by the division or other
319 law enforcement agencies during the contest operator's regular

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320 business hours. The division shall adopt rules to implement this
321 section.

322 Section 8. Section 546.18, Florida Statutes, is created to
323 read:

324 546.18 Penalties; applicability; exemption.-

325 (1) (a) A contest operator, or an employee or agent thereof,
326 who violates this act is subject to an administrative fine, not
327 to exceed \$5,000 for each violation and not to exceed \$100,000
328 in the aggregate. All fines imposed and collected under this
329 subsection must be deposited with the Chief Financial Officer to
330 the credit of the General Revenue Fund. An action to recover
331 such penalties may be brought by the division or the Department
332 of Legal Affairs in the name and on behalf of the state.

333 (b) The penalty provisions established in this subsection
334 do not apply to violations committed by a contest operator which
335 occurred prior to the issuance of a license under this act if
336 the contest operator applies for a license within 90 days after
337 the date the division begins accepting applications, and
338 receives a license within 240 days after such date.

339 (2) Fantasy sports contests conducted by a contest operator
340 or noncommercial contest operator in accordance with this act
341 are not subject to s. 849.01, s. 849.08, s. 849.09, s. 849.11,
342 s. 849.14, or s. 849.25.

343 Section 9. If SB 4A, 2021 Special Session A, becomes a law,
344 paragraph (b) of subsection (3) of section 16.71, Florida
345 Statutes, as created by SB 4A, 2021 Special Session A, is
346 amended to read:

347 16.71 Florida Gaming Control Commission; creation;
348 meetings; membership.-

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349 (3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.—

350 (b) The Governor may not solicit or request any
351 nominations, recommendations, or communications about potential
352 candidates for appointment to the commission from:

353 1. Any person that holds a permit or license issued under
354 chapter 550, or a license issued under chapter 546, chapter 551,
355 or chapter 849; an officer, official, or employee of such
356 permitholder or licensee; or an ultimate equitable owner, as
357 defined in s. 550.002(37), of such permitholder or licensee;

358 2. Any officer, official, employee, or other person with
359 duties or responsibilities relating to a gaming operation owned
360 by an Indian tribe that has a valid and active compact with the
361 state; a contractor or subcontractor of such tribe or an entity
362 employed, licensed, or contracted by such tribe; or an ultimate
363 equitable owner, as defined in s. 550.002(37), of such entity;
364 or

365 3. Any registered lobbyist for the executive or legislative
366 branch who represents any person or entity identified in
367 subparagraph 1. or subparagraph 2.

368 Section 10. If SB 4A, 2021 Special Session A, becomes a
369 law, paragraph (i) of subsection (1) of section 16.712, Florida
370 Statutes, as created by SB 4A, 2021 Special Session A, is
371 amended to read:

372 16.712 Florida Gaming Control Commission authorizations,
373 duties, and responsibilities.—

374 (1) The commission shall do all of the following:

375 (i) Receive and review violations reported by a state or
376 local law enforcement agency, the Department of Law Enforcement,
377 the Department of Legal Affairs, the Department of Agriculture

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378 and Consumer Services, the Department of Business and
379 Professional Regulation, the Department of the Lottery, the
380 Seminole Tribe of Florida, or any person licensed under chapter
381 24, part II of chapter 285, chapter 546, chapter 550, chapter
382 551, or chapter 849 and determine whether such violation is
383 appropriate for referral to the Office of Statewide Prosecution.

384 Section 11. If SB 4A, 2021 Special Session A, becomes a
385 law, paragraph (d) of subsection (1) and paragraph (a) of
386 subsection (2) of section 16.713, Florida Statutes, as created
387 by SB 4A, 2021 Special Session A, are amended to read:

388 16.713 Florida Gaming Control Commission; appointment and
389 employment restrictions.—

390 (1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.—
391 All of the following people are ineligible for appointment to
392 the commission:

393 (d) A person who has had a license or permit issued under
394 chapter 546, chapter 550, chapter 551, or chapter 849 or a
395 gaming license issued by any other jurisdiction denied,
396 suspended, or revoked.

397 (2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS
398 INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE
399 COMMISSION.—

400 (a) A person may not, for the 2 years immediately preceding
401 the date of appointment to or employment with the commission and
402 while appointed to or employed with the commission:

403 1. Hold a permit or license issued under chapter 550 or a
404 license issued under chapter 546, chapter 551, or chapter 849;
405 be an officer, official, or employee of such permitholder or
406 licensee; or be an ultimate equitable owner, as defined in s.

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407 550.002(37), of such permitholder or licensee;

408 2. Be an officer, official, employee, or other person with
409 duties or responsibilities relating to a gaming operation owned
410 by an Indian tribe that has a valid and active compact with the
411 state; be a contractor or subcontractor of such tribe or an
412 entity employed, licensed, or contracted by such tribe; or be an
413 ultimate equitable owner, as defined in s. 550.002(37), of such
414 entity;

415 3. Be or have been a member of the Legislature;

416 4. Be a registered lobbyist for the executive or
417 legislative branch, except while a commissioner when officially
418 representing the commission; or

419 5. Be a bingo game operator or an employee of a bingo game
420 operator.

421 Section 12. If SB 4A, 2021 Special Session A, becomes a
422 law, paragraphs (b) and (c) of subsection (2) of section 16.715,
423 Florida Statutes, as created by SB 4A, 2021 Special Session A,
424 are amended to read:

425 16.715 Florida Gaming Control Commission standards of
426 conduct; ex parte communications.-

427 (2) FORMER COMMISSIONERS AND EMPLOYEES.-

428 (b) A commissioner may not, for the 2 years immediately
429 following the date of resignation or termination from the
430 commission:

431 1. Hold a permit or license issued under chapter 550, or a
432 license issued under chapter 546, chapter 551, or chapter 849;
433 be an officer, official, or employee of such permitholder or
434 licensee; or be an ultimate equitable owner, as defined in s.
435 550.002(37), of such permitholder or licensee;

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436 2. Accept employment by or compensation from a business
437 entity that, directly or indirectly, owns or controls a person
438 regulated by the commission; from a person regulated by the
439 commission; from a business entity which, directly or
440 indirectly, is an affiliate or subsidiary of a person regulated
441 by the commission; or from a business entity or trade
442 association that has been a party to a commission proceeding
443 within the 2 years preceding the member's resignation or
444 termination of service on the commission; or

445 3. Be a bingo game operator or an employee of a bingo game
446 operator.

447 (c) A person employed by the commission may not, for the 2
448 years immediately following the date of termination or
449 resignation from employment with the commission:

450 1. Hold a permit or license issued under chapter 550, or a
451 license issued under chapter 546, chapter 551, or chapter 849;
452 be an officer, official, or employee of such permitholder or
453 licensee; or be an ultimate equitable owner, as defined in s.
454 550.002(37), of such permitholder or licensee; or

455 2. Be a bingo game operator or an employee of a bingo game
456 operator.

457 Section 13. Section 849.144, Florida Statutes, is created
458 to read:

459 849.144 Fantasy sports contest exemptions.—Sections 849.01,
460 849.08, 849.09, 849.11, 849.14, and 849.25 do not apply to
461 participation in or the conduct of fantasy sports contests
462 conducted pursuant to chapter 546.

463 Section 14. If SB 4A, 2021 Special Session A, becomes a
464 law, subsection (1) of section 11 of SB 4A, 2021 Special Session

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465 A, is amended to read:

466 (1) Effective July 1, 2022, all powers, duties, functions,
467 records, offices, personnel, associated administrative support
468 positions, property, pending issues, existing contracts,
469 administrative authority, administrative rules, and unexpended
470 balances of appropriations, allocations, and other funds in the
471 Department of Business and Professional Regulation related to
472 the oversight responsibilities by the state compliance agency
473 for authorized gaming compacts under s. 285.710, Florida
474 Statutes, the regulation of fantasy sports contests under
475 chapter 546, Florida Statutes, the regulation of pari-mutuel
476 wagering under chapter 550, Florida Statutes, the regulation of
477 slot machines and slot machine gaming under chapter 551, Florida
478 Statutes, and the regulation of cardrooms under s. 849.086,
479 Florida Statutes, are transferred by a type two transfer, as
480 defined in s. 20.06(2), Florida Statutes, to the Florida Gaming
481 Control Commission within the Department of Legal Affairs,
482 Office of the Attorney General.

483 Section 15. This act shall take effect on the same date
484 that SB 2A or similar legislation takes effect, if such
485 legislation is adopted in the same legislative session or an
486 extension thereof and becomes a law.