

STORAGE NAME: h1747z.rs
DATE: May 13, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
REGULATED SERVICES
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1747, 3rd Engrossed
RELATING TO: Pari-Mutuel Wagering
SPONSOR(S): Representatives Fasano, Thrasher, Morroni, and others
COMPANION BILL(S): SB 436, SB 438, SB 440

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) REGULATED SERVICES YEAS 10 NAYS 1
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

Codified as chapter 98-217, Laws of Florida. (See AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES, Section VII.)

II. SUMMARY:

The tax rates for certain pari-mutuel permitholders are scheduled to rise with the July 1, 1998 expiration of tax rate reductions. In the absence of action by the Legislature, tax rates for the affected persons will revert to the higher rates which existed prior to the reductions provided by the 1996 legislation and, in the case of harness horses, to the rates in effect prior to 1993. This bill temporarily maintains those tax rate increases by postponing the increases until July 1, 2000.

This bill removes from the July 1, 1998, reversion of sections 550.0951(3), 550.0951(2) & (3), and 550.2625(2), F.S., to those in existence prior to the passage of CS/HB 337 as provided by section 26 of chapter 96-364, Laws of Florida. Those sections contain the reduced tax rate for intertrack wagering (ITW) on the rebroadcasts of simulcast horserace signals; the reduced ITW tax rate for greyhound and jai alai permitholders conducting ITW within their market areas; the reduced tax rate for live jai alai performances; the reduced rate for jai alai permitholders that share facilities; and a requirement for additional thoroughbred purse payments. The bill postpones until July 1, 2000, the changes to these subsections. It postpones until July 1, 2000 the repeal of s. 550.09512, F.S., relating to harness horse taxes, provided by s. 1 of ch. 93-288, L.O.F.

The bill reestablishes the Florida Owners' Awards provision which was set to repeal July 1, 1998 pursuant to ch. 96-364, L.O.F. It allows a stallion standing in the state during a specified period of each year to be eligible for stallion awards. The bill addresses greyhound issues relating to pro rata payment of purses and a clarification of purse payments required during a "live meet."

The bill has an estimated negative fiscal impact to the state of approximately \$5.7 million for FY 1998-1999.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

During the 1996 legislative session, the Legislature considered and passed an omnibus pari-mutuel bill, the Committee Substitute for House Bill 337 by the Committee on Regulated Industries and Representative Geller (Chapter 96-364, Laws of Florida). Among the changes included in the legislation were tax reductions for the greyhound, jai alai, and horseracing industries and additional purse payment requirements for thoroughbred permitholders.

More specifically, the changes to section 550.0951, Florida Statutes, reduced the tax rate for intertrack wagering (ITW) on the rebroadcast of simulcast horserace signals from 3.3 percent to 2.4 percent. The tax rate for greyhound and jai alai intertrack wagering was reduced from 7.6 percent and 7.1 percent, respectively, to 6 percent and 6.1 percent respectively for facilities located in Jacksonville, Tampa Bay, or South Florida when conducting ITW within the market area. Further, when the tax payments of such jai alai permitholders exceed the total tax paid on ITW handle during the 1992-1993 state fiscal year, the tax rate on such ITW activity shall be 2.3 percent of the handle.

Section 550.09511, F.S., provides jai alai tax rates. The changes made in 1996 reduced the tax rate on handle for live jai alai performances from five percent to 4.25 percent and, when the total of admissions tax, daily license fee, and tax on live handle paid to the division by a permitholder exceeds the total state taxes paid by that permitholder in the 1991-1992 state fiscal year, the tax on live handle for that jai alai permitholder is reduced to 2.55 percent. Jai alai permitholders who share facilities - those permitholders who are prohibited from operating live performances year-round pursuant to 550.0745, F.S. - were provided a live tax rate of 3.85 percent.

The 1996 amendments to s. 550.09515, F.S., reduced the rates for the South Florida thoroughbred permitholders operating in the three tax periods. The tax rate was reduced from 3 percent to 2.25 percent for the January 3 through March 16 period; from 1.15 to .7 percent for the March 17 through May 22 period; and from 2.4 to 1.5 percent for the May 23 through January 2 period. The tax penalty for operating in more than one tax period was increased from the sum of the tax percentages for the periods in which the permitholder operates to double the sum of those tax percentages.

A portion of the tax reduction received by thoroughbred permitholders is required to be paid as additional purses. In the three periods, the additional purse rate is .375 percent, .225 percent, and .6 percent, respectively, pursuant to s. 550.2625(2), F.S. That section also provides for 8.5 percent of the purse account generated through intertrack wagering and interstate simulcasting to be used for Florida Owners' Awards.

Section 26 of chapter 96-364, Laws of Florida, provided an expiration of certain provisions of ss. 550.0951(3), 550.09511(2) &(3), 550.09515(2), and 550.2625(2), F.S. That provision states that, effective July 1, 1998, the amendments made to those sections by CS/HB 337 will expire and that those sections will revert to the provisions which existed prior to the 1996 legislation.

Greyhound permitholders are required to pay as purses an amount equal to 75 percent of the daily license fees paid for the 1994-1995 fiscal year in addition to minimum purse payments established by law. The two greyhound permitholders located in the same county in South Florida shall pay 75 percent of the aggregate amount of daily license fees paid by such permitholders in the 1994-1995 fiscal year.

Thoroughbred horses winning stakes races are eligible for stallion awards only if the stallion is located permanently in this state or, if the stallion is dead, was located in this state for at least one year prior to its death. The removal of a stallion from the state renders the owners of that horse ineligible to receive a stallion award.

B. EFFECT OF PROPOSED CHANGES:

The tax rates for certain pari-mutuel permitholders are scheduled to rise with the July 1, 1998 expiration of tax rate reductions. In the absence of action by the Legislature, tax rates for the affected persons will revert to the higher rates which existed prior to the reductions provided by the 1996 legislation and, in the case of harness horses, to the rates in effect prior to 1993. This bill temporarily maintains those reduced tax rates by postponing the increases until July 1, 2000.

Section 26 of chapter 96-364, Laws of Florida, provided an expiration of specified amendments to ss. 550.0951(3), 550.09511(2) &(3), 550.09515(2), and 550.2625(2), F.S. Effective July 1, 1998, the amendments made to those sections by CS/HB 337 will expire and those sections will revert to the provisions which existed prior to the 1996 legislation.

This bill removes from the reversion sections 550.0951(3), 550.09511(2) & (3), and 550.2625(2), F.S. Those sections contain the reduced tax rate for intertrack wagering (ITW) on the rebroadcasts of simulcast horserace signals; the reduced ITW tax rate for greyhound and jai alai permitholders conducting ITW within their market areas; the reduced tax rate for live jai alai performances; the reduced rate for jai alai permitholders that share facilities; and a requirement for additional thoroughbred purse payments. The bill postpones until July 1, 2000, the changes to these subsections. It postpones until July 1, 2000 the repeal of s. 550.09512, F.S., relating to harness horse taxes, provided by s. 1 of ch. 93-288, L.O.F.

The bill addresses two thoroughbred breeders' issues. The first relates to stallion awards and would allow a horse standing in the state between February 1 and July 1 of each year to be eligible for such awards. Such horse could be taken outside of the state under certain conditions and remain eligible for stallion awards. The bill also reestablishes Florida Owners' Awards. These awards were created during the 1996 legislative session and were included in the provisions slated to expire on July 1, 1998. These awards are maintained by removing them from the scheduled repeal.

The bill addresses two greyhound issues. The first requires additional purse payments required by law to be prorated and paid weekly during a permitholder's live meet. The second clarifies a requirement regarding the payment of purses. It requires a guest permitholder to pay purses when it accepts wagers on ITW and simulcast greyhound races when it is conducting its live meet, rather than when conducting live races.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No. The tax rates for certain pari-mutuel permitholders are scheduled to rise with the July 1, 1998 expiration of tax rate reductions. In the absence of action by the Legislature, tax rates for the affected persons will revert to the higher rates which existed prior to the reductions provided by the 1996 legislation and, in the case of harness horses, to the rates in effect prior to 1993. This bill temporarily maintains those tax rate increases by postponing the increases until July 1, 2000.

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 550.0951, 550.09511, 550.09512, 550.09514, and 550.2625, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Postpones the reversion of the tax reduction for ITW on rebroadcasts of simulcast horseraces and the tax reduction for greyhound and jai alai permitholders conducting ITW within their market areas until July 1, 2000. Amends s. 550.0951(3), F.S.

Section 2. Postpones the reversion of tax reductions for jai alai permitholders until July 1, 2000. Amends s. 550.09511(2)(a) & (b) and (3)(a), F.S.

Section 3. Codifies the expiration of additional thoroughbred purse payments which were tied to thoroughbred tax reductions scheduled to expire on July 1, 1998. Reestablishes Florida Owners' Awards provisions scheduled to expire on that same date. Amends s. 550.2625(2), F.S.

Section 4. Allows a horse to be removed from the state under specified conditions and remain eligible for stallion awards. Amends s. 550.2625(3)(d), F.S.

Section 5. Postpones the repeal of reduced harness horse taxes from July 1, 1998, to July 1, 2000. Amends s. 550.09512(5), F.S.

Section 6. Requires additional purse payments required by law to be prorated and paid weekly during a permitholder's live meet. Requires a guest permitholder to pay purses when it accepts wagers on ITW and simulcast greyhound races when it is conducting its live meet, rather than when conducting live races. Amends s. 550.09514(2)(b) & (c), F.S.

Section 7. Removes the affected provisions of ss. 550.0951, 550.09511, and 550.2625, F.S., from the July 1, 1998 repeal. Makes technical changes. Amends s. 26 of chapter 96-364, L.O.F.

Section 8. Effective date - Except as otherwise provided in the bill, the act shall take effect upon becoming a law.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

This bill would maintain the current tax rates provided in the specified sections by removing these provisions from the repeal scheduled for July 1, 1998. The bill has no impact on currently collected taxes, but would eliminate an increase in tax rates applicable during the 1998-1999 state fiscal year due to the repeal scheduled for July 1, 1998.

Figures from the Division of Pari-Mutuel Wagering and the Senate Regulated Industries Committee interim report on pari-mutuel laws scheduled to repeal July 1, 1998 (Interim Project Report 97-P-15) indicate that the removal of these sections from repeal will result in a loss of approximately \$5.7 million to the state. The division estimates that the impact of not repealing the ITW of horseracing simulcast signals would result in a loss of \$1,158,404; the impact of retaining the current rate on greyhound and jai alai ITW within market areas would be \$1,216,885 and for the intertrack wagering of simulcast signals within those market areas would be \$224,874; and the impact of maintaining the reduced jai alai live tax and the reduced tax rate for shared facility permitholders would be \$1,130,358. Maintaining the current tax rate on harness horse racing would cost the state \$1,977,925 in lost revenue compared to allowing the reduced rate to expire. The aggregate estimated fiscal impact for this bill as amended is \$5,708,446 for the 1998-1999 state fiscal year. The fiscal impact for each succeeding fiscal year is estimated to be similar to that of the 1998-1999 FY and is dependent upon the handle generated by the pari-mutuel industry in those years.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Affected pari-mutuel permitholders would not be subject to the repeal of the lower, more favorable tax rates currently in effect. Greyhound permitholders and owners would have certain provisions regarding purse payments clarified. Thoroughbred owners and breeders would realize the continued benefits of the Florida Owners' Awards provisions and the revision of the standing stallion provisions.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. **FISCAL COMMENTS:**

N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

N/A

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

N/A

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

N/A

VI. COMMENTS:

In 1993, House Bill 2297 (Chapter 93-123, Laws of Florida) created section 550.09515, Florida Statutes, to provide thoroughbred tax rate reductions. That law created three thoroughbred racing periods with a different tax rate for each period; a tax penalty for operating in multiple tax periods equal to the sum of the tax percentages for each tax period in which a permitholder operates; and a lower tax rate for Tampa Bay Downs. The tax rates for the three periods are all lower than the tax rate previously provided in s. 550.0951, F.S. The 1993 legislation provided a repeal of the reduced thoroughbred tax provisions, s. 550.09515, F.S. That section was scheduled to repeal on July 1, 1998, after review by the Legislature.

Three years later, the Committee Substitute for House Bill 337 (Chapter 96-364, L.O.F.) provided additional reductions for thoroughbred permitholders operating in those three tax periods by reducing the tax rate for each of the periods; increased the penalty for operating in multiple tax periods to double the sum of the tax rates for the periods in which a permitholders operates; and maintained the reduced tax rate for Tampa Bay Downs. The 1996 bill directed that the tax reductions which it provided would expire and that the changes it made would revert back to the law as it existed prior to the adoption of the legislation. One of the effects of the reversion is that thoroughbred tax rates would increase to the levels established by the 1993 legislation.

There exists some question of what will happen on July 1, 1998. The repeal of s. 550.09515, F.S., as envisioned by the 1993 legislation would have the effect of raising the thoroughbred tax rates to the level that existed prior to the 1993 bill. In that case, the tax rate would be 3.3 percent for all thoroughbred permitholders. It may be contended that the repeal of the section provided by the 1993 law is not superseded by the 1996 legislation.

However, it may also be argued that the amendments to that section in the course of an omnibus pari-mutuel bill such as CS/HB 337 constitutes a "review by the Legislature" as directed by the 1993 law and that the latest action of the Legislature prevails. The result would be that the three racing periods would be maintained along with the tax rates provided for those periods by the 1993 legislation. In such case, the tax structure would consist of three tax periods for the South Florida permitholders with tax rates higher than those currently in effect; a tax penalty for operating in more than one tax period equal to the sum of the tax percentages for the periods in which a permitholder operates; and a lower tax rate for Tampa Bay Downs.

If no action is taken by the Legislature prior to July 1, 1998, it is unclear which of these two tax mechanisms would govern the thoroughbred industry.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The bill was heard by the Committee on Regulated Services on April 16, 1997. One amendment and two amendments to that amendment were adopted. The strike-everything amendment changed the bill to include a repeal of the expiration date on harness horse provisions. The amendments to the amendment dealt with greyhound purse issues. The first provided that the additional purse payments required by 550.0951(2)(b), F.S., would be prorated and paid weekly during a permitholder's live meet. The second provided that a guest greyhound permitholder must pay purses when it accepts wagers on intertrack and simulcast greyhound races when conducting its live meet rather than when conducting live races.

The strike-everything amendment adopted by the committee:

- * Moved to July 1, 2000, the repeal on reduced tax rates for ITW of ISW, inter-market-area ITW for greyhound and jai alai permitholders, and harness horse permitholders.
- * Established thoroughbred tax rates identical to those in existence prior to the 1996 changes.

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- * Removed additional purse payments which were connected to the thoroughbred tax reductions.
- * Addressed internal greyhound issues relating to pro rata payment of purses and a clarification of "live meet."
- * Repealed s. 26 of ch. 96-364, L.O.F., the repeal provisions of the 1996 law.

On April 24, 1997, the bill was taken up on the floor, read for the second time, and amended. Four amendments were taken up and adopted as follows:

- * The repeal of the chapter law is removed. Instead, the chapter law is amended to remove all repealed provisions except for the thoroughbred tax provisions.
- * A "standing stallion" provision was added.
- * The Florida Owners' Awards provision, which had been repealed by the original amendment, was reestablished.

On April 28, the bill was read the third time and temporarily postponed. The bill was carried over to 1998 Session pursuant to House Rule 96 and placed on the Economic Impact Council Calendar. It was read for the third time and amendments were adopted on March 12, 1998. The bill passed the House with a vote of 114 yeas, 0 nays.

The Senate Regulated Industries Committee passed the bill with 1 amendment on April 2, 1998. The Committee on Ways and Means adopted three amendments and favorably reported the bill on April 4. On May 1, the bill was read for the second time, amendments were adopted, and the bill was read for the third time. The Senate voted in favor of passage, 37 yeas, 1 nay.

The bill was returned to the House in messages on May 1. The House concurred with the Senate amendments and passed the bill as amended by a vote of 116 yeas, 0 nays.

The bill, as amended:

- * Allows greyhound permitholders that are not able to utilize a statutory tax credit to transfer the credit to a host greyhound track for credits on intertrack wagering. The host track is to reimburse the greyhound permitholder for the amount of the tax credit. (Affects panhandle tracks and Melbourne)
- * Maintains current tax rates for jai alai and harness permitholders, for intertrack wagering on rebroadcasts of simulcast horseraces, and for intertrack wagering within the market area for greyhounds and jai alai permitholders.
- * Provides purse and reporting requirements for host greyhound tracks sending simulcast and ITW broadcasts outside the market area.
- * Provides a formula for the weekly disbursement of purses.
- * Requires weekly purse payment reports.

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- * Provides a voluntary deduction of at least 1% from purses to fund local kennel operator associations.
- * Provides for the direct payment of greyhound owners.
- * Requires a greyhound permitholder to provide the division and kennel operators with sufficient documentation to ensure the proper payment of purses.
- * Clarifies that greyhound permitholders must pay purses when conducting ITW on dark days within a race meet.
- * Allows a stallion standing in the state during a specified period of each year to be eligible for stallion awards.
- * Provides a limited intertrack wagering license for a thoroughbred sales facility (Ocala Breeders' Sales).

VIII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

Legislative Research Director:

J Paul Whitfield Jr

Paul Liepshutz

FINAL RESEARCH PREPARED BY COMMITTEE ON REGULATED SERVICES:

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