

STORAGE NAME: h2103a.go

DATE: April 15, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: HB 2103 (PCB TU 99-07)

RELATING TO: State Athletic Commission

SPONSOR(S): Committee on Tourism, Representative Starks and others

COMPANION BILL(S): CS/SB 2454 (similar)

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

- (1) TOURISM YEAS 10 NAYS 0
- (2) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I.

The State Athletic Commission, created under Chapter 548, F.S., and attached to the Department of Business and Professional Regulation (DBPR), is responsible for providing oversight and regulation of pugilistic exhibitions under Chapter 548, F.S. and for carrying out the provisions of that chapter. House Bill 2103 amends several provisions of Chapter 548, F.S., relating to pugilistic exhibitions. The bill changes the name of the State Athletic Commission to the State Boxing Commission to more clearly indicate what is governed by the Commission which is boxing and kickboxing and changes the name of the executive secretary to executive director. The bill deletes reference to martial arts, other than kickboxing, being under the jurisdiction of the Commission since this has never been regulated by the Commission and there are no professional martial arts matches being held in Florida. Confusing and unnecessary references to amateur events and amateurs are deleted since the chapter pertains to professional events. Additionally, the bill updates the law by deleting outdated terms, increasing minimums for surety bonds, removing the use of bearer bonds in lieu of surety bonds, changing requirements for maintenance of information on distribution of purses, and clarifying rulemaking authority of the Commission.

The bill amends Chapter 548, F.S., to provide greater accountability for the Commission membership, executive secretary of the Commission, and the activities of the Commission. The bill specifies criteria for removal of members and the executive director, provides that the Governor must approve the Commission's selection for the executive director, and provides that the Governor, as well as the Commission, may remove the executive director. Additionally, the bill provides certain procedures for meetings similar to those required for other commissions and boards, including the electronic recording of meetings. With regard to accountability of the actions and activities of the Commission, the bill requires the development of a long-range policy plan that includes performance measures and a long range monitoring process with specific items delineated for evaluation. Concise management reports are required. The plans must be approved by the Governor and annually submitted to the Legislature for review. DBPR is to assist the Commission with the plans and is to provide progress reports to the Commission. The department is also responsible for having oversight of the activities of the Commission.

Provisions of Chapter 548, F.S., are amended to further clarify the relationship between the Commission and DBPR. The Commission is assigned to the department for administrative and fiscal accountability purposes only. The department provides technical assistance and administrative support in areas such as budget preparation and submission, personnel, property management, or other areas necessary for compliance with requirements of the chapter or for protecting the interests of the state. The Commission has the final approval of what its budget request is that is submitted to the Governor. The authority of the Commission to carry out the provisions of Chapter 548, F.S., remains as it currently exists.

Provisions which prohibit toughman and badman competitions are amended to provide that amateur as well as professional competitions are prohibited. Finally, the bill revises the limitations prescribed for acceptable differences in weight classes by resetting the statutory maximum and by providing that the Commission will establish by rule the acceptable difference for each class. Similarly, the bill provides the Commission to establish by rule the appropriate weight of boxing gloves for each match while changing the minimum from 6 to 8 ounces.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The State Athletic Commission was created in 1984 by Chapter 84-246, Laws of Florida, codified as Chapter 548, F.S., which delineates the duties, responsibilities and authority of the Commission and provides for the regulation and licensing of pugilistic exhibitions in Florida. The State Athletic Commission is created under the Department of Business and Professional Regulation (DBPR) and consists of five members, appointed by the Governor to four year terms and confirmed by the Senate. The Commission is staffed by 3 FTE and part-time staff (OPS) hired per event. When compared with other statutorily created commissions, the law governing the State Athletic Commission does not include as detailed provisions relating to organization, meetings, accountability of members or of activities governed by the Commission, budget or administrative assistance.

The Commission's statutory responsibilities, however, are wide ranging and include licensing and regulating all individuals involved in conducting professional boxing and kickboxing matches in the State of Florida, issuing permits for live matches and pay for view matches, establishing and administering medical guidelines, and collecting fees and taxes levied by Chapter 548, F.S. Personnel of the Commission supervise all aspects of all live bouts, including the licensing of participants not previously licensed, the weigh-in of boxers, and also act as the official scorekeeper of all matches. The Commission maintains a data base that contains all relevant information on all individuals licensed by the Commission. Prior to each event, Commission personnel verify that all participants are currently licensed, not under suspension in Florida or any other states, and meet all other requirements to be eligible to participate in boxing in Florida.

During FY 1997/98, approximately \$508,000 was collected by the Commission in fees, fines, and taxes. The number of pugilistic events held in Florida has been increasing for the past several years with 55 events occurring during FY 1997/98.

According to DBPR's Operational and Performance Audit of the State Athletic Commission of December 15, 1998, "the Commission utilizes the services of the Department for matters related to personnel, purchasing, payment of invoices, accounting, property records, and attendance and leave records." Chapter 548, F.S., however, is not definitive on the relationship between the department and the Commission.

By definition in s. 20.03(10), F.S., a "commission" is a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercises limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor. By law, the Commission is not required to report to DBPR or to any other state administrative body on its functions or activities. The Commission is required to submit all fees, fines, forfeitures, and other moneys collected under the provisions of Chapter 548, F.S., to the State Treasurer. The Treasurer is to remit such funds, after the expenses of the Commission are paid, into the Professional Regulation Trust Fund for the purpose of the administration and operation of the Commission and the enforcement of laws and rules under the Commission's jurisdiction. The unexpended balance of any funds in excess of \$250,000 collected under the provisions of Chapter 548, F.S., are to be deposited in the General Revenue Fund. Although Chapter 548, F.S., does provide for the disposition of funds collected, it does not appear to provide a definitive process for the budgetary or accountability relationship between the Commission and DBPR. Currently, the Commission does submit its annual budget request through DBPR which makes the decision on the recommended funding level to be submitted to the Executive Office of the Governor and the Legislature.

Section 548.003, F.S., requires the Commission to maintain an office in Tallahassee and authorizes the commission to establish any other necessary branch offices. In June 1996, the Commission approved a motion to consolidate its offices in Tampa, but leave one clerical position in Tallahassee. In September 1997, the clerical position was also moved to Tampa. Although the Commission continued to maintain office space in Tallahassee, it had no permanent staff in the Tallahassee office. For all practical purposes, the Tampa office became the Commission's only office. At the Commission's meeting on March 18, 1999, the Commission voted to move its office back to Tallahassee.

Section 548.008, F.S., prohibits the holding of any toughman or badman competitions in Florida, and provides that a violation of this provision is punishable as a second degree misdemeanor. The State Athletic Commission reports that there is an increasing number of amateur toughman and badman matches occurring in the state, and due to the no-holds-barred nature of this type of competition, there is a growing public safety concern. Although the Commission has the authority to oversee the prohibition of toughman and badman competitions, s. 548.007, F.S., provides that the Joe Lang Kershaw Act (ss. 548.001-548.079, F.S.) does not apply to amateur matches, nationally chartered veterans' organization matches, Florida National Guard matches, or Olympic competitions.

Other safety issues of concern to the Commission relate to the allowable difference in weight for each class of contestants and the allowable weight of the gloves for each match. Currently, s. 548.043, F.S., establishes 10 pounds as the maximum difference in weight allowable between contestants in any match except the light-heavyweight and heavyweight classes and training exhibitions. These specifications broadly control the allowable class weight differences and glove weight requirements. The commission feels that for safety reasons it would like to have the authority to specifically establish by rule varying weight differences for each class and varying glove weights by match.

B. EFFECT OF PROPOSED CHANGES:

The State Athletic Commission, created under Chapter 548, F.S., and attached to the Department of Business and Professional Regulation (DBPR), is responsible for providing oversight and regulation of pugilistic exhibitions under Chapter 548, F.S., and for carrying out the provisions of that chapter. House Bill 2103 amends several provisions of Chapter 548, F.S., relating to pugilistic exhibitions. The bill changes the name of the State Athletic Commission to the State Boxing Commission to more clearly indicate what is governed by the Commission which is boxing and kickboxing and changes the name of the executive secretary to executive director. The bill deletes reference to martial arts, other than kickboxing, being under the jurisdiction of the Commission since this has never been regulated by the Commission and there are no professional martial arts matches being held in Florida. Confusing and unnecessary references to amateur events and amateurs are deleted since the chapter pertains to professional events. The proposal also updates the law by deleting outdated terms, increasing minimums for surety bonds, removing the use of bearer bonds in lieu of surety bonds, changing requirements for maintenance of information on distribution of purses, and clarifying rulemaking authority of the Commission.

The bill amends Chapter 548, F.S., to provide greater accountability for the Commission membership, executive director of the Commission, and the activities of the Commission. The bill specifies criteria for removal of members and the executive director, provides that the Governor must approve the Commission's selection for the executive director, and provides that the Governor, as well as the Commission, may remove the executive secretary. Additionally, the bill provides certain procedures for meetings similar to those required for other commissions and boards, including the electronic recording of meetings. With regard to accountability of the actions and activities of the Commission, the bill requires the development of a long-range policy plan that includes performance measures and a long range monitoring process with specific items delineated for evaluation. Concise management reports are required. The plans must be approved by the Governor and annually submitted to the Legislature for review. DBPR is to assist the Commission with the plans and is to provide progress reports to the Commission. The department is also responsible for having oversight of the activities of the Commission.

Provisions of Chapter 548, F.S., are amended to further clarify the relationship between the Commission and DBPR. The Commission is assigned to the department for administrative and fiscal accountability purposes only. The department provides technical assistance and administrative support in areas such as budget preparation and submission, personnel, property management, or other areas necessary for compliance with requirements of the chapter or for protecting the interests of the state. The Commission has the final approval of what its budget request is that is submitted to the Governor. The authority of the Commission to carry out the provisions of Chapter 548, F.S., remains as it currently exists. Chapter 548, F.S., is amended to remove the ability of the Commission to have branch offices in addition to an office in Tallahassee.

The bill does amend the language regarding the Medical Advisory Council for the Commission to provide appointment of its membership by the Commission versus the Governor, changing the

appointment terms from 4 years to 2 years, and requiring that members of the council must maintain an unencumbered license in good standing.

Provisions of Chapter 548, F.S., which prohibit toughman and badman competitions are amended to provide that amateur as well as professional competitions are prohibited and subject to 2nd degree misdemeanor charges.

Additionally, the bill amends s. 548.057, F.S., relating to referees and judges at matches and the scoring of matches, to require judges to be appointed by the executive director of the Commission as delegated by the Commission, to require the Commission to ensure qualification of judges, referees, and officials, and to remove the requirement that scorecards be turned in at the end of a contest.

Finally, the bill revises the limitations prescribed for acceptable differences in weight classes by resetting the statutory maximum and by providing that the Commission will establish by rule the acceptable difference for each class. Similarly, the bill provides the Commission to establish by rule the appropriate weight of boxing gloves for each match while changing the minimum from 6 to 8 ounces.

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?

Current law already provides for rulemaking authority for the Commission. The bill does attempt to clarify the rulemaking authority in some areas. Additionally, the bill does authorize the Commission to make rules to specifically set weight differences for each weight class of contestants and to make rules to specifically set the weight of boxing gloves for each match.

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

Yes, the bill authorizes the Commission to have oversight over the prohibition of amateur as well as professional toughman and badman competitions.

Yes. The bill does require the Department of Business and Professional Regulation to perform oversight of the Commission's activities, to assist in the preparation of the long-range plan for the Commission, and to provide other technical assistance and administrative support as delineated in the bill. Some of these activities are being done now or have been done in the past by the department. The bill puts them in law.

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

No.

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

This bill does not eliminate or reduce an agency or program.

(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.

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

No. The bill, however, does increase the floor for the level of certain surety bonds for promoters or foreign copromoters under s. 548.014, F.S.

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

No.

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

The bill does eliminate a \$10 filing fee required under s. 548.014, F.S.

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

No.

3. Personal Responsibility:

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

No.

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?

No.

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

Yes, the bill prohibits amateur as well as professional toughman and badman competitions.

5. Family Empowerment:

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

This bill does not purport 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:

This bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 548.002, 548.004, 548.006, 548.007, 548.008, 548.014, 548.025, 548.041, 548.042, 548.043, 548.045, 548.046, 548.05, 548.053, 548.054, 548.057, 548.071, and 548.077, F.S.

Amends s. 548.003, F.S., 1998 Supplement

Creates ss. 548.005 and 548.0055, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 548.002, F.S., to change the name of the State Athletic Commission to the State Boxing Commission, to more clearly define what is governed by the Commission to be boxing and kickboxing and not martial arts, and to add definitions of "department" and "secretary" relating to the Department of Business and Professional Regulation.

Section 2. Amends s. 548.003, F.S., 1998 Supplement, to clarify the relationship between the Department of Business and Professional Regulation and the Commission. The Commission is assigned to the department for administrative and fiscal accountability purposes only. Also amends the section to specify the continuation of Commission member terms under certain circumstances, to specify how a vacancy is to be filled, to provide for removal based upon unexcused absences, and to provide for accountability of Commission members and for removal for specified reasons. The section is amended to have the office of the Commission in Tallahassee and to remove reference to branch offices. The section is amended to increase the compensation rate from \$25 per day to \$50 per day to make it consistent with other boards and commissions. Finally, s. 548.003, F.S., is amended to clarify rulemaking authority covers the duties and responsibilities conferred upon the Commission.

Section 3. Amends s. 548.004, F.S., to require that the executive secretary of the Commission must be approved by the Governor and to delineate reasons for removal of the executive secretary by the Commission or the Governor.

Amends section to make administrative support and operational clarifications. Department is to provide technical assistance and administrative support in areas such as budget preparation and submission, personnel, property management, contracting, or other areas necessary for compliance with requirements of the chapter or for protecting the interests of the state. Requires electronic recording of proceedings of Commission. Finally, deletes an outdated provision relating to the appointment of deputies to represent Commission at boxing matches.

Section 4. Creates s. 548.005, F.S., requiring the Commission to develop a budget and to provide that the only way the department can change the budget request of the Commission is after consultation with and agreement of the Commission. The Commission has the ultimate say in the budget that is submitted to the Governor for consideration.

Section 5. Creates s. 548.0055, F.S., requiring oversight of the Commission's activities by the department, development of a long-range policy planning, monitoring and reporting process to be handled cooperatively by the department and the Commission, and the submission of reports to the Governor and the Legislature on an annual basis.

Section 6. Amends s. 548.006, F.S., clarifying that matches are to be held in accordance with rules as well as the provisions of the law.

Section 7. Amends s. 548.007, F.S., stating that applicability to amateur matches only involves toughman and badman contests.

Section 8. Amends s. 548.008, F.S., to prohibit all toughman and badman competitions, whether professional or amateur.

Section 9. Amends s. 548.014, F.S., changing the minimum for a surety bond to be filed with the Commission prior to a foreign copromoter receiving a permit or license from \$3000 to \$15,000. This is to cover the obligations that are the responsibility of the promoter/copromoter for such things as the cost of arena, ring, payment to doctor, etc. The increased amount would probably cover the responsibilities in a small club date. The current amount has not been changed since 1984.

Amends the section by removing the use of bearer bonds in lieu of surety bonds by promoters and foreign copromoters to cover their obligations prior to receiving a license or permit. Cash or certified check in lieu of a surety bond is acceptable.

Amends s. 548.014, F.S., by removing requirement for filing of a \$10 fee to accompany surety bond, cash, or security for promoters and copromoters. The Commission asserts that it costs more to process the filing fee than is being received and the original purpose or need for the fee is not known.

Section 10. Amends s. 548.025, F.S., to delete unnecessary references to amateur matches.

Section 11. Amends s. 548.041, F.S., to delete unnecessary references to amateur matches.

Section 12. Amends s. 548.042, F.S., to delete unnecessary reference to amateurs.

Section 13. Amends s. 548.043, F.S., to revise the limitations prescribed for acceptable differences in weight classes by resetting the statutory maximum and by providing that the Commission will establish by rule the acceptable difference for each class. Similarly, provides that the Commission will establish by rule the appropriate weight of boxing gloves for each match while changing the minimum weight of gloves from 6 to 8 ounces.

Section 14. Amends s. 548.045, F.S., relating to the medical advisory council to provide that the Commission, instead of the Governor, shall appoint members of the council, to reduce the term on the council from 4 to 2 years, and to require that members must maintain an unencumbered license in good standing.

Section 15. Amends s. 548.046, F.S., to change the reference to a specified time before entering the ring for an examination to the examination being required at the time of weigh-in. Also, requires the results of an examination to be filed prior to completion of weigh-in versus 72 hours after the match.

Section 16. Amends s. 548.05, F.S., to make conforming changes in the name of the Commission.

Section 17. Amends s. 548.053, F.S., relating to distribution of purses to participants, to require that promoter maintain on file certain information for a length of time as determined necessary by the Commission. The information is required to be given to the Commission upon demand.

Section 18. Amends s. 548.054, F.S., deleting obsolete reference to deputy in charge and replacing it with a representative of the Commission. Provides that the promoter is to surrender the purse to the Commission under certain circumstances.

Section 19. Amends subsections (2) and (3) of s. 548.057, F.S., requiring judges to be appointed by the executive director as delegated by the commission, requiring the Commission to ensure that judges, referees and officials are qualified, and removing a requirement that scorecards be turned in at the end of each contest.

Section 20. Amends s. 548.071, F.S., to make conforming changes in the name of the Commission.

Section 21. Amends s. 548.077, F.S., to make conforming changes in the name of the Commission.

Section 22. Provides the effective date will be upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate at this time. There will be some costs involved in relocating the current office in Tampa to Tallahassee. The legislation requires the office of the Commission to be located in Tallahassee and does not allow for branch offices. Currently, the office of the Commission is in Tampa although the law states that there will be an office in Tallahassee. Current law does allow for branch offices.

2. Recurring Effects:

Indeterminate at this time. Recurring effects, whether positive or negative, will have to be examined to determine if there is any effect based on the office relocation.

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

Indeterminate at this time. There will be some costs associated with relocation of the office in Tampa back to Tallahassee.

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:

N/A

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

N/A

D. FISCAL COMMENTS:

None

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend fund.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

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

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

None

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

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AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

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