

STORAGE NAME: h0945a.grr

DATE: April 13, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES & REGULATIONS
ANALYSIS**

BILL #: HB 945

RELATING TO: Pari-Mutuel Wagering; thoroughbreds

SPONSOR(S): Representative Bainter

TIED BILL(S):

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

- (1) REGULATED SERVICES YEAS 10 NAYS 0
 - (2) GOVERNMENTAL RULES & REGULATIONS YEAS 7 NAYS 0
 - (3) FINANCE & TAXATION
 - (4) GENERAL GOVERNMENTAL APPROPRIATIONS
 - (5)
-

I. SUMMARY:

HB 945 reduces the tax on live and simulcast handle for South Florida thoroughbred tracks and establishes a uniform rate of 0.20 percent for the three tracks. The tax rate for live performances at Tampa Bay Downs was unchanged and remains at 0.50 percent.

The bill also reduces the intertrack wager (ITW) tax rate from 3.3 percent to 2.4 percent for thoroughbred and harness tracks, except in cases where both the host track and the guest track are thoroughbred tracks. If both tracks are thoroughbred facilities, the ITW tax rate is 0.20 percent.

The bill removes a prohibition in existing law which prohibits a thoroughbred track from conducting live racing after 7:00 P.M. and also removes the provision prohibiting a permitholder from both operating a cardroom and accepting ITW after 7:00 P.M.

The bill increases some of the tax credits and exemptions for the permitholder conducting the Breeders' Cup Meet as well as any permitholder who may be required to close during the Meet.

The bill prohibits the collection of an admissions tax or a sales tax on programs, parking, or admissions for any pari-mutuel event conducted pursuant to Chapter 550, F.S.

Finally, the bill provides authority for the Division of State Lands to enter into a contract for the purchase of Hialeah Park contingent upon the availability of appropriated funds.

The pari-mutuel tax provisions of this bill are estimated by the Department of Business & Professional Regulation to result in reduced revenue to the state of approximately \$5,400,000. The Department of Revenue (DOR) estimates that eliminating any sales tax on admissions, programs, and parking for all pari-mutuel events will reduce revenue by approximately \$400,000 annually. During any year that the Breeders' Cup Meet is conducted in Florida, the state could realize a negative impact of an additional \$600,000 due to tax credits associated with the Breeders' Cup Meet.

The bill takes effect upon becoming law.

There are two amendments traveling with the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 550, F.S., contains Florida's laws governing the regulation and taxation of pari-mutuel wagering activities in the state. The Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation (division), is the state agency with regulatory authority over these activities.

Over the last decade there has been a steady decline in attendance, wagering handle, and tax collections. Total state revenue collections from all pari-mutuel operations decreased from \$118,466,567 in FY 1988-1989 to \$62,934,837 for FY 1998-1999. Likewise, over the past decade, numerous amendments to the pari-mutuel statutes have been adopted in efforts to mitigate the impact of this decline.

Total state revenue collections from pari-mutuel performances alone (this figure excludes revenue receipts from occupational licenses, escheated tickets, cardroom revenues, etc.) were \$58.8 million for the past fiscal year. Section 550.135, F.S., requires \$29,915,500 of annual pari-mutuel revenue collections to be divided equally between and distributed to all counties in the state. Once this payment to counties and the cost of operation of the division, which is approximately \$15 million (operating and non-operating), is deducted from those receipts, the unencumbered balance from pari-mutuel revenue collections in the General Revenue Fund was approximately \$14 million.

The November 1999 Revenue Estimating Conference (REC) estimates total state revenue collections from pari-mutuel performances, again excluding revenue receipts from occupational licenses, escheated tickets, cardroom revenues, etc., to decrease to approximately \$54.4 million for FY 1999-2000. The REC anticipates those revenue collections to increase to approximately \$55 million for FY 2000-2001, due primarily to an anticipated increase in ITW handle.

Tax Rates

Pari-mutuel taxes are provided by s. 550.0951, F.S. That section establishes a tax rate for live, simulcast and intertrack thoroughbred racing of 3.3 percent of the handle. Over time, exceptions to the general tax provisions have been provided for the various segments of the pari-mutuel industry by creating tax provisions which are less than those provided by

the general tax section. Such tax structure for thoroughbreds was established by Chapter 93-123, Laws of Florida, and codified as s. 550.09515, F.S.

Legislation enacted in 1998 amended s. 550.09515, F.S., and further reduced the tax rates for South Florida thoroughbred permitholders. As amended, the statute establishes the live and simulcast tax rate in the three operating periods as follows: 2.0 percent between January 3 and March 16; 0.2 percent between March 17 and May 22; and 1.25 percent between May 23 and January 3. The tax rate for Tampa Bay Downs is set at 0.5 percent. These tax rates are scheduled to repeal on July 1, 2001, and return to the rates in effect at the time the 1998 amendments were adopted. This statute also provides a penalty for operating in more than one tax period which doubles the sum of the tax rates for the two operating periods.

Section 550.0951(2), F.S., imposes a tax on the charge for admissions for each person attending any pari-mutuel event. The amount of the tax is the higher of either 15 percent of the actual charge or 10 cents. There is no tax imposed on free admissions. Chapter 212, F.S., also imposes the state sales tax on admissions, parking, and pari-mutuel programs.

Remittance of Taxes and Fees

Section 550.0951(5), F.S., requires permitholders to submit their required tax and fee payments twice weekly. Payments for daily license fees, admission taxes, taxes on handle and the breaks tax must be remitted by 3:00 P.M. Friday of each week for taxes and fees imposed and collected for the preceding Sunday, Monday and Tuesday. Taxes imposed and collected for the preceding Wednesday, Thursday, Friday and Saturday are required to be submitted to the division by 3:00 P.M. on Wednesdays.

Hours of Operation

Section 550.5251(4), F.S., prohibits thoroughbred tracks from operating after 7:00 P.M. That subsection, however, allows a thoroughbred permitholder, operating in a county in which cardrooms have been approved but who has elected not to operate a cardroom, to receive and rebroadcast out-of-state races after 7:00 P.M. on any day during which the permitholder conducts live racing. Thoroughbred permitholders are prohibited from both operating a cardroom and simulcasting after 7:00 P.M.

Breeders' Cup

Section 550.26352, F.S., establishes the framework for the operation and conduct of a special 3-day thoroughbred race meet known as the Breeders' Cup. The Breeders' Cup Meet is increasingly recognized as one of the world's premier equine events. With \$10 million in purses and nominator awards, Breeders' Cup Championship Day is the richest day in thoroughbred racing.

This statute provides various tax credits and exemptions, including:

- a tax credit in an amount up to \$500,000 for a permitholder which is required to cease operation during the Breeders' Cup as compensation for their loss of racing days;
- a tax credit in an amount up to \$800,000 for the permitholder conducting the Breeders' Cup Meet for capital improvements and other expenses necessary to operate the meet;

- an exemption from the tax on handle for the permitholder conducting the meet; and
- a tax credit in an amount up to \$800,000 for supplemental purses.

The permitholder conducting the Breeders' Cup Meet is not required to transmit broadcasts of the Meet to any pari-mutuel facility located within 25 miles and, further, is prohibited from transmitting broadcasts of the Meet to any facility located within 25 miles without the consent of all operating permitholders in that market area.

Gulfstream Park in Hallandale has been host to the Breeders' Cup Meet on three occasions: 1989, 1992, and 1999.

Hialeah Park

The 1998 Legislature required the Department of State, in conjunction with the Office of the Mayor of Hialeah, to conduct a comprehensive study of the feasibility of state or municipal ownership of Hialeah Park and the operation of a limited race meet. That study was completed and was presented to the Legislature in January 1999.

The study recommended that the State and/or City of Hialeah purchase Hialeah Park and operate a 21-day race meet. The projected capital cost to acquire and renovate the property, according to that study is as follows:

Property	\$30,650,000
Pari-Mutuel Permit	2,000,000
Renovation Costs	<u>8,350,000</u>
Total Capital Cost	\$41,000,000

C. EFFECT OF PROPOSED CHANGES:

This bill has five primary components: reduction of taxes; revision of the schedule for remittance of taxes; hours of operation; conduct of Breeders' Cup; and, the purchase of Hialeah Park.

Tax Rates

This bill reduces the tax on live and simulcast handle for South Florida thoroughbred tracks and establishes a uniform rate of 0.20 percent for the three tracks. The tax rate for live performances at Tampa Bay Downs was unchanged and remains at 0.50 percent.

The bill also reduces the ITW tax rate from 3.3 percent to 2.4 percent for thoroughbred tracks and harness tracks, except in cases where both the host track and the guest track are thoroughbred tracks. If both tracks are thoroughbred facilities, the ITW tax rate is 0.20 percent.

Notwithstanding provisions of Chapter 212, F.S., or Chapter 550, F.S., to the contrary, the bill prohibits the imposition of a separate pari-mutuel tax on admissions, as well as, any sales tax on admissions, parking, or programs.

Remittance of Taxes and Fees

This bill changes the schedule for remitting taxes and fees imposed at pari-mutuel events from twice weekly to once per week.

Hours of Operation

Current law prohibits any thoroughbred permitholder from beginning any race after 7:00 P.M. In counties which have approved the operation of cardrooms, this statute provides authority for thoroughbred permitholders to elect to either simulcast after 7:00 P.M. or operate a cardroom, but not both. This legislation removes these restrictions and enables thoroughbred permitholders to conduct live races after 7:00 P.M. and enables thoroughbred permitholders to receive and rebroadcast simulcasts after 7:00 P.M. on any day during the race meet, including dark days within the meet regardless of whether they also operate a cardroom. [Please see VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES]

Breeders' Cup Meet

This bill repeals the existing statute and creates a new statutory cite for the statute authorizing the Breeders' Cup Meet. The present statutory requirements for the conduct of the Breeders' Cup remain intact with the following exceptions:

- The present tax credit of \$500,000 received as compensation for loss of racing days for a permitholder which is required to cease operation during the Breeders' Cup is increased to \$950,000;
- The present tax credit of \$800,000 received by the permitholder conducting the Breeders' Cup Meet for capital improvements and other expenses necessary to operate the meet is increased to \$950,000;
- The provision prohibiting the permitholder conducting the Breeders' Cup Meet from transmitting broadcasts of the Meet to any facility located within 25 miles without the consent of all operating permitholders in that market area is deleted; and
- The bill grants authority for the Division of Pari-Mutuel Wagering to waive rules during conduct of the Meet.

Hialeah Park

The bill authorizes the Division of State Lands, Department of Environmental Protection, subject to the availability of appropriated funds, to enter into a contract to purchase Hialeah Park no later than September 30, 2000. The Division is required to utilize the appraisal performed pursuant to s. 550.72, F.S., and may also consider a supplemental appraisal in order to negotiate a purchase price for the fair market value of the property. The purchase price shall not, however, exceed \$30,650,000 for the property and \$2 million for the racing permit. This section requires Hialeah Park to accept the offer and execute a purchase contract by February 1, 2001, or the offer and contract will be voided.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 550.0951, F.S.

Subsection (3) - Deletes statutory language specifying that the tax on handle for thoroughbred racing is 3.3 percent for live and ITW. Establishes ITW tax rate of 2.4

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percent for thoroughbred and harness tracks, except that if both the host and guest tracks are thoroughbred permitholders, the ITW tax rate is 0.20 percent.

Subsection (5) - Amends the schedule for remittance of daily license fees, admissions tax, tax on handle and breaks tax by the permitholder to the division. Requires payments to be made by 3:00 P.M. on Wednesday for taxes imposed and collected the preceding week ending on Sunday.

Technical renumbering of paragraphs.

Section 2. Amends s. 550.09511, F.S.

Technical correction of a cross-reference due to the amendments to s. 550.0951(3)(c), F.S., in Section 1 of the bill.

Section 3. Amends s. 550.6305, F.S.

Technical correction of a cross-reference due to the amendments to s. 550.0951(3)(c), F.S., in Section 1 of the bill.

Section 4. Amends s. 550.09515, F.S.

Subsection (2)(a) - Establishes a tax rate on handle for live and simulcast performances of 0.20 percent and deletes paragraph 1, which established the three thoroughbred racing periods with different tax rates for each period. The tax rate for live performances at Tampa Bay Downs remains 0.50 percent.

Section 5. Amends s. 550.5251, F.S.

Subsection (4) - Deletes provisions prohibiting a thoroughbred permitholder from beginning any live race later than 7 p.m. Also, deletes provisions requiring permitholders to choose between either operating a cardroom or engaging in simulcasting after 7:00 P.M. and allows thoroughbred permitholders to receive and rebroadcast simulcasts after 7:00 P.M. on any day during the permitholder's meet. [Please see VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES]

Section 6. Creates s. 550.73, F.S.

Creates a new statutory cite for the statute authorizing the Breeders' Cup Meet. Increases the present tax credit received as compensation for loss of racing days for a permitholder which is required to cease operation during the Breeders' Cup from \$500,000 to \$950,000 and increases the present tax credit for capital improvements for the permitholder conducting the Meet from \$800,000 to \$950,000.

This section also deletes the provision prohibiting the permitholder conducting the Breeders' Cup Meet from transmitting broadcasts of the Meet to any facility located within 25 miles without the consent of all operating permitholders in that market area.

Section 7. Creates s. 550.74, F.S.

Prohibits the collection of an admissions tax or a sales tax on programs, parking or admissions for pari-mutuel events conducted pursuant to Chapter 550, F.S.

Section 8. Repeals s. 550.26352, F.S.

Repeals present authority for conduct of the Breeders' Cup Meet; however, this authority is reestablished in Section 5 as newly created s. 550.73, F.S.

Section 9. Hialeah Park Race Track

Authorizes the Division of State Lands, Department of Environmental Protection, subject to the availability of appropriated funds, to enter into a contract to purchase Hialeah Park; provides conditions and restrictions.

Section 10. Provides that the act will take effect upon becoming law.

III. **FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

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

1. **Revenues:**

Using projections from the most recent Revenue Estimating Conference, November 1999, the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation estimates the total fiscal impact of this legislation on pari-mutuel wagering revenue collections to be approximately \$5,400,000 in each of the next two fiscal years (FY 2000-2001 & FY 2001-2002). In each year, General Revenue and Pari-mutuel Wagering Trust Fund collections will decrease as follows:

General Revenue Fund	(\$3,231,700)
Pari-mutuel Wagering Trust Fund	(\$2,172,830)

Further, the Department of Revenue estimates that the revenue reduction attributable to exempting pari-mutuel admissions, parking, and programs from the state sales tax is approximately \$400,000.

During any year that the Breeders' Cup Meet is conducted in Florida, the state could realize a negative impact of an additional \$600,000 due to tax credits associated with the Breeders' Cup Meet.

2. **Expenditures:**

The Department of Business and Professional Regulation will be required to make some modifications to their existing audit programs. Estimates of this one-time expense or other expenditures necessary to implement this act are not expected to be significant.

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

1. **Revenues:**

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Thoroughbred and harness permitholders will both realize tax savings from the reduction of the tax rate on intertrack handle from 3.3 percent to 2.4 percent. Their combined savings are estimated by the Department of Business and Professional Regulation to be \$800,000. The remaining tax savings related to tax rate reductions on handle will be realized by thoroughbred permitholders and are estimated to be approximately \$4.2 million. All pari-mutuel permitholders will realize tax savings from the prohibition against imposing a separate pari-mutuel admissions tax and the state sales tax on admissions, parking and programs. The estimate of tax savings relating to the prohibition against imposing a separate pari-mutuel admissions tax is \$410,000. The tax savings associated with exempting admissions, programs, and parking from the state sales tax were estimated by the Department of Revenue to be approximately \$400,000. Therefore, the total combined tax savings to the industry equals approximately \$5.8 million.

During any year that the Breeders' Cup Meet is conducted in Florida, the industry will realize an additional \$600,000 in tax credits associated with the Breeders' Cup Meet.

D. FISCAL COMMENTS:

N/A

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 spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The division is authorized to adopt or waive the adopted rules as necessary to facilitate the conduct of the Breeders' Cup Meet, as authorized in the bill. This is to ensure the integrity of the races, licensing for all participants, special stabling and training requirements for foreign horses, commingling of pari-mutuel pools, and audit requirements for tax credits and other benefits.

C. OTHER COMMENTS:

Comments by the Committee on Regulated Services

Tax Rates

Under current law, there are three different tax rates applicable to the three South Florida thoroughbred tracks, depending upon the time period within which they choose to conduct their meet. In addition, if any permitholder operates in more than one time period or if any track conducts live performances in more than one period, then the tax on handle is increased to double the sum of the tax rates applicable to each period. These provisions were enacted as a deterrent to head-to-head thoroughbred operations. The bill creates a uniform tax rate of .20 percent on live and simulcast handle for the three South Florida thoroughbred tracks and, in doing so, deletes the language which establishes the three time periods. (P.5, lines 20-28) However, the tax penalty for a permitholder or facility operating live racing in more than one period is not amended by the bill. This ambiguity may need to be addressed. Also, if the three time periods are intended to be retained in existing law, then doubling the sum of the uniform tax rate of .20 percent may not deter a permitholder or facility from operating in more than one time period.

Although this legislation creates a uniform rate of .20 percent on live and simulcast handle for the three South Florida thoroughbred tracks, it does not address the current .5 percent rate being paid by Tampa Bay Downs. (P.6, lines 24-28)

Pursuant to legislation passed in the 1998 session, effective July 1, 2001, the current tax rates applicable to the three time periods are scheduled to increase to higher levels. (Section 4, Chapter 98-190, Laws of Florida) If the .20 percent uniform tax rate created by this bill is intended to extend beyond July 1, 2001, then this bill needs to address the legislation passed in the 1998 session.

Sales Tax Exemption

An exemption for the collection of a state sales tax on programs, parking or admissions is created in Section 7 of the bill which creates a new s. 550.74, F.S. Existing s. 212.08(13), F.S., prohibits exemptions from taxes imposed by Chapter 212, F.S., unless expressly exempted in Chapter 212, F.S., or listed in s. 212.08(13), F.S.

The DOR suggests that an amendment to s. 212.08(7), F.S., providing a specific exemption for programs, parking, or admissions for pari-mutuel events licensed and conducted pursuant to Chapter 550, F.S., would remedy this situation.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Regulated Services met on April 3, 2000, and considered this legislation. One amendment was adopted and the bill was passed, as amended, unanimously.

Current law prohibits any thoroughbred permitholder from beginning any race after 7:00 P.M. In counties which have approved the operation of cardrooms, this statute provides authority for thoroughbred permitholders to elect to either simulcast after 7:00 P.M. or operate a cardroom, but not both. As filed, Section 5 of HB 945 removed these restrictions and enabled thoroughbred permitholders to conduct live races after 7:00 P.M. and enabled thoroughbred permitholders to receive and rebroadcast simulcasts after 7:00 P.M. on any day during the race meet, including dark days within the meet, regardless of whether they operated a cardroom or not. The amendment removed Section 5 from the bill which, in effect, reverts the text back to existing law.

On April 12, 2000, the Committee on Governmental Rules & Regulations adopted the following amendment and reported the bill favorably, as amended:

Amendment 1 - Created a cross-reference for provisions regarding tax credit disputes.

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

Janet Clark Morris

Staff Director:

Paul Liepshutz

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

Prepared by:

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Staff Director:

David M. Greenbaum