

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1145 Greyhound Racing

**SPONSOR(S):** Business & Consumer Affairs Subcommittee, Young and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1594

| REFERENCE                                   | ACTION           | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|------------------|---------|--|
| 1) Business & Consumer Affairs Subcommittee | 14 Y, 1 N, As CS | Morton  | Creamer                                  |
| 2) Finance & Tax Committee                  | 21 Y, 2 N, As CS | Wilson  | Langston                                 |
| 3) Economic Affairs Committee               |                  |         |  |

### SUMMARY ANALYSIS

The CS/CS/HB 1145 removes the requirement for greyhound permitholders to conduct live greyhound races. It also removes live greyhound racing as a prerequisite to intertrack wager, cardroom and slot machine licensure for current greyhound permitholders and provides for the pooling and sharing of transferrable tax credits currently available to greyhound permit holders.

The Revenue Estimating conference has estimated that the provisions of CS/CS/HB 1145 will have a negative recurring impact on state General Revenue of \$0.8 million and on the Principal State School Trust Fund of \$0.3 million beginning in fiscal year 2011-12.

The bill has an effective date of July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

'Pari-mutuel wagering' refers to a method of wagering in which winners divide the total amount bet in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.<sup>1</sup> In Florida, pari-mutuel wagering is authorized for jai alai, greyhound racing and various forms of horseracing.

Pari-mutuel activities are limited to operators who have received a permit from the Division of Pari-mutuel Wagering (Division) within the Department of Business and Professional Regulation (Department), which authorizes them to conduct the type of activity listed (i.e. greyhound racing) at the location listed.<sup>2</sup> Permitholders apply for licenses annually to conduct pari-mutuel activities,<sup>3</sup> cardrooms<sup>4</sup> and slot machines.<sup>5</sup>

Greyhound racing was authorized in Florida in 1931. Greyhounds race around an oval track, typically chasing a lure, which is usually a mechanical hare or rabbit. There are 21 pari-mutuel wagering permits authorizing greyhound racing. Of these, one (in Key West) is inactive, having not run live racing since 1991. The permitholders run races at 16 greyhound tracks located throughout the state.<sup>6</sup> There are currently 14 cardrooms operated by greyhound permitholders, two of which offer slot machines.

Greyhound permitholders apply annually for a license to conduct live performances. A performance consists of at least 8 live races. A full schedule of live racing is at least 100 live performances.<sup>7</sup>

Certain greyhound permitholders can run their live races at a leased facility and use their prelease facility to operate intertrack wagering and cardrooms.<sup>8</sup> Currently, four greyhound permitholders are conducting their live race meet at leased facilities.<sup>9</sup>

Florida is considered the nation's leader in greyhound racing. However, over the last ten years, the state's pari-mutuel wagering industry in general has experienced a 43.6 percent decline in handle, and total state revenue has decreased 54.6 percent; along with a 9.3 percent decrease in the number of racing days.<sup>10</sup> For greyhound racing in particular:

|                     | FY 1999/2000  | FY 2009/2010  |
|---------------------|---------------|---------------|
| Total Handle        | \$633,230,507 | \$291,794,434 |
| Total State Revenue | \$40,179,142  | \$5,206,187   |
| Live Performances   | 4,239         | 3,857         |
| Racing Days         | 3,058         | 2,974         |

<sup>1</sup> Section 550.002(22), F.S.

<sup>2</sup> Section 550.054, F.S.

<sup>3</sup> Section 550.0115, F.S.

<sup>4</sup> Section 849.086, F.S.

<sup>5</sup> Section 551.104, F.S.

<sup>6</sup> Visit <http://www.myfloridalicense.com/dbpr/pmw/documents/FACILITIESMAP.pdf> for a map of the facilities.

<sup>7</sup> Section 550.002(11), F.S.

<sup>8</sup> Section 550.475, F.S., authorizes leasing at facilities operating under the same class of permit within 35 miles.

<sup>9</sup> Tampa Greyhound leases the track at Derby Lane (St. Petersburg); St. Johns Kennel Club leases the track at Orange Park Kennel Club; Palm Beach Greyhound Racing (formerly Palm Beach Jai Alai) leases the track at Palm Beach Kennel Club; and West Volusia Racing (formerly Volusia Jai Alai) leases the track at Daytona Beach Kennel Club.

<sup>10</sup> Annual Reports of the Division of Pari-mutuel Wagering, available at <http://www.myfloridalicense.com/dbpr/pmw/PMW-Publications.html>.

## Other Gambling Activities

Gambling is generally prohibited in Florida, but exceptions exist for pari-mutuel wagering permitholders who conduct full schedules of live racing and meet other requirements.

Wagering on races hosted at remote tracks is called intertrack (when both tracks are in Florida) or simulcast (when one track is out of state) wagering. In-state 'host tracks' conduct live or receive broadcasts of simulcast races that are then broadcast to 'guest tracks,' which accept wagers. To conduct intertrack or simulcast wagering, permitholders must conduct a full schedule of live racing and meet other requirements.<sup>11</sup>

Cardrooms were authorized at pari-mutuel facilities in 1996.<sup>12</sup> Cardrooms can only be offered at a location where the permitholder is authorized to conduct pari-mutuel activities (which includes wagering on intertrack, simulcast or live performances). To be eligible for a cardroom license, permitholders must conduct at least 90% of the performances conducted the year they applied for the initial cardroom license or the prior year, if the permitholder ran a full schedule of live performances. There are cardrooms at 14 greyhound facilities.<sup>13</sup>

| Greyhound Facilities                     | Initial Year Licensed | Min. Performances |
|--|-----------------------|-------------------|
| Bayard Raceways <sup>14</sup>            | 03/04                 | 100               |
| Bet Miami (H& T Gaming) <sup>14</sup>    | 96/97                 | 100               |
| Daytona Beach Kennel Club <sup>14</sup>  | 96/97                 | 100               |
| Jacksonville Kennel Club <sup>14</sup>   | 08/09                 | 100               |
| Jefferson County Kennel Club             | 03/04                 | 217               |
| Mardi Gras <sup>14</sup>                 | 96/97                 | 100               |
| Melbourne Greyhound Park                 | 04/05                 | 93                |
| Naples-Ft Myers Greyhound                | 97/98                 | 394               |
| Orange Park Kennel Club <sup>14</sup>    | 07/08                 | 100               |
| Palm Beach Kennel Club <sup>14</sup>     | 96/97                 | 100               |
| Palm Beach Racing <sup>14</sup>          | 10/11                 | 100               |
| Pensacola Greyhound                      | 09/10                 | 160               |
| Sarasota Kennel Club                     | 06/07                 | 188               |
| St. Petersburg Kennel Club <sup>14</sup> | 96/97                 | 100               |
| Tampa Greyhound <sup>14</sup>            | 96/97                 | 100               |
| Washington Co. Kennel Club               | 96/97                 | 167               |
| West Flagler                             | 96/97                 | 163               |
| West Volusia <sup>14</sup>               | 10/11                 | 100               |

Slot machines were authorized at certain Miami-Dade County and Broward County pari-mutuel facilities by constitutional amendment in 2004 and statute in 2010.<sup>15</sup> For initial licensure to conduct slot machines, permitholders must have conducted a full schedule of live racing for two consecutive calendar years immediately preceding its application.<sup>16</sup> To continue to offer slot machines, permitholders must conduct a full schedule of live racing.<sup>17</sup> Slot machines are offered at two greyhound facilities.<sup>18</sup>

<sup>11</sup> See s. 550.615, F.S.

<sup>12</sup> Section 20, Chapter 96-364, L.O.F.

<sup>13</sup> Daytona Beach Kennel Club, Derby Lane (St. Petersburg), Ebro Greyhound Park, Flagler Greyhound Track (Miami), Jefferson County Kennel Club, Mardi Gras Racetrack (Hollywood), Melbourne Greyhound Park, Naples/Ft. Myers Greyhound Track, Orange Park Kennel Club, Palm Beach Kennel Club, Pensacola Greyhound Track, Sarasota Kennel Club, St. Johns Kennel Club, and Tampa Greyhound Track.

<sup>14</sup> Permitholder is one of several permits operating at a facility, so is only required to operate a full schedule of live racing (100) for each permit. See 849.086(5)(b), F.S.

<sup>15</sup> Section 23, Art. X, Fla. Const.; s. 551.102(4).

<sup>16</sup> Section 551.102, F.S.

<sup>17</sup> Section 551.104(1)(c), F.S.

<sup>18</sup> Flagler Greyhound Track (Miami) and Mardi Gras Racetrack (Hollywood).

## *Purses*

Purse awards, a race's cash prizes, are paid directly to dog owners. Greyhound permitholders are required to pay minimum purse payments.<sup>19</sup> They must also supplement purses with 75 percent of the daily license fees paid during the 1994-1995 fiscal year. Those conducting at least three live performances during a week must pay purses on wagers they accept as guest tracks on intertrack and simulcast greyhound races. Greyhound permitholders also pay one-third of any tax reduction on live and simulcast handle as purses.

In addition to paying purses on pari-mutuel activity, greyhound permitholders operating cardrooms must pay 4 percent of the cardroom's monthly gross receipts to supplement greyhound purses.<sup>20</sup>

## *Taxation*

Greyhound permitholders pay an \$80 daily license fee on each live and simulcast race, capped at \$500 per day. They also pay taxes on admissions, live, simulcast, intertrack, and intertrack simulcast races.

Each greyhound permitholder that conducts a full schedule of live races is eligible for various annual tax credits and exemptions:

|                          |   |
|--------------------------|---|
| Tax credit               | \$360,000 except for Washington County Kennel Club, Pensacola Greyhound and Jefferson County Kennel Club, which receive \$500,000 |
| Daily license fee credit | Number of live races times the \$80 daily license fee per race  |
| Escheated ticket credit  | 100% of actual amount remitted to the state in the previous year  |

Unused tax credits, with the exception of the escheated ticket credits, are transferrable once per state fiscal year to other permitholders which act as host tracks.

## Proposed Changes

The CS/CS/HB 1145 removes the requirement for current permitholders to perform live greyhound racing in order to qualify for other licenses, including those authorizing intertrack wagering, cardrooms and slot machines. It also allows all permitholders to amend their license application until August 31, 2011.

## *Intertrack Wagering*

The bill adds two classes of greyhound permitholder to those eligible to conduct intertrack wagering:

- Those who have conducted live racing in each of the immediately preceding 10 years.
- Those who have converted jai alai permits.

The bill removes restrictions on greyhound permitholders conducting intertrack wagering, to:

- Allow such a permitholder to accept wagers on live greyhound signals without written consent of any operating greyhound permitholder within its market area.
- Allow such a permitholder operating in a county where there are only two permits, one for dogracing and one for jai alai, to accept wagers during times when the permitholder is not conducting live races or games without written consent of the other permitholder who is conducting live races or games.
- Allows any such permitholder, instead of only those in certain areas, who leases the facility of another to conduct its race meet to conduct intertrack wagering at its prelease facility.

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<sup>19</sup> Section 550.09514, F.S.

<sup>20</sup> Section 849.086(13)(d)1., F.S.

## *Cardrooms*

The bill requires the Division issue a cardroom license to a greyhound permitholder who has conducted live racing during each of the 10 years immediately preceding application or a greyhound permitholder with a permit converted from a jai alai permit under s. 550.054(14), without regard to whether the permitholder is licensed to conduct live racing or has conducted live racing.

The bill removes any requirement for a greyhound permitholder to have a license for or to have actually conducted live performances in order to maintain or renew a cardroom license.

## *Purses*

The bill removes the requirement for greyhound permitholders to pay purses if they do not offer live racing. If greyhound permitholders not offering live racing offer intertrack wagering, they would have to pay 3% of the intertrack handle to the host track for purses at the host track.

## *Taxes*

The bill allows for the transfer of tax credits at any time, instead of once each fiscal year. The bill also provides that each greyhound permit holder that conducts live racing before July 1, 2011, but does not elect to conduct live racing during any preceding fiscal year, will pool their earned \$360,000 or \$500,000 exemption tax credits. The additional tax credits will be distributed to greyhound permitholders that conduct a full schedule of live races based on the permit holders percentage share of live and intertrack wagering handle during the preceding fiscal year.

## B. SECTION DIRECTORY:

- Section 1** amends s. 550.022, F.S., to amend the definition of “full schedule of live racing or games.”
- Section 2** amends s. 550.01215(1), F.S., to allow an amendment for the 2011-12 fiscal year to be filed by August 31, 2011.
- Section 3** amends s. 550.054(14), F.S., to remove the requirement that a permit converted from jai alai to greyhound conduct a full schedule of live racing.
- Section 4** amends s. 550.0951, F.S., to pool and share tax credits currently available to greyhound permit holders.
- Section 5** amends s. 550.09514, F.S., to amend purse requirements.
- Section 6** amends s. 550.26165, F.S., to correct a cross reference.
- Section 7** amends s. 550.475, F.S., to provide that a lessee is entitled to operate pari-mutuel wagering activities.
- Section 8** amends s. 550.615, F.S., to allow greyhound permitholder that do not conduct a full schedule of live racing to receive intertrack wagering broadcasts.
- Section 9** amends s. 550.6305, F.S., to correct a cross references.
- Section 10** amends s. 551.104, F.S., to remove live racing as a prerequisite to slot machine licenses.
- Section 11** amends s. 551.114, F.S., to incorporate changes.
- Section 12** amends s. 849.086, F.S., to remove live racing as a prerequisite for cardroom licenses.
- Section 13** provides an effective date of July 1, 2011.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating conference has estimated that the provisions of CS/CS/HB 1145 will have a negative recurring impact on state General Revenue of \$0.8 million and on the Principal State School Trust Fund of \$0.3 million beginning in fiscal year 2011-12.

#### 2. Expenditures:

See FISCAL COMMENTS.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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

Greyhound permitholders would no longer be required to conduct live racing. The reduction or elimination of live racing could reduce overhead costs. However, to the extent that live racing is decreased or eliminated, greyhound breeders, owners and trainers could see a decrease in demand for racing greyhounds and an associated decrease in revenues.

### FISCAL COMMENTS:

Also, The Division reports:

"To ensure that integrity of the racing and protect the welfare of the greyhounds, the Division collects specimens from a sample of the contestants. The specimens are subsequently sent to the Racing Lab at the University of Florida to test for impermissible substances. This workload requirement is directly dependent on the amount of live racing being conducted. To the extent that greyhound tracks reduce or eliminate live greyhound racing, the Division would realize a corresponding decrease in the need for OPS funds necessary to employ staff to collect such specimens. The amount is indeterminate at this time and would not likely be realized until Fiscal Year 2011-12 when the full impact on greyhound racing can be certain."<sup>21</sup>

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that the counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

#### 2. Other:

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<sup>21</sup> The Department of Business & Professional Regulation – HB 1145 – 2011 Legislative Analysis Form. (last visited on 4/8/2011) On file with the Finance & Tax Committee.

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 22, 2011, the Business & Consumer Affairs Subcommittee adopted one amendment to the bill and reported the bill favorably as a Committee Substitute. The amendment required a greyhound permitholder to either have conducted live racing in each of the ten preceding fiscal years or to have converted the permit from a jai alai permit in order to qualify for intertrack wagering without being licensed to conduct live racing.

On April 12, 2011, the Finance & Tax Committee adopted a strike-all amendment to the bill and reported the bill favorably as a Committee Substitute to the Committee Substitute. The amendment removed changes to the tax on the handle for dogracing and added that each greyhound permit holder that conducts live racing before July 1, 2011, but does not elect to conduct live racing during any preceding fiscal year, will pool their earned \$360,000 or \$500,000 exemption tax credits. The additional tax credits will be distributed to greyhound permitholders that conduct a full schedule of live races based on the permit holders percentage share of live and intertrack wagering handle during the preceding fiscal year. The amendment also made various technical changes.

The analysis is updated to reflect the above changes.