

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: SB 1568

INTRODUCER: Senator Hutson

SUBJECT: Fantasy Sports Contest Amusement Act

DATE: January 26, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 1568 creates the Fantasy Sports Contest Amusement Act, which authorizes the offering of fantasy sports contests by contest operators to persons 21 years of age or older, and provides fantasy sports contests, as defined in the bill, involve the skill of contest participants.

The bill also authorizes the offering of fantasy sports contests by non-commercial contest operators, provided participants pay an entry fee and be 21 years of age or older. A noncommercial contest operator must pay all entry fees to participants as prizes, and may not pay fantasy sports contest prize monies exceeding \$1,500 per season or \$10,000 annually.

Contest operators other than noncommercial contest operators must be licensed by the Florida Gaming Control Commission (commission) and meet the requirements specified in the act for fantasy sports contests. The commission must enforce and administer the act, investigate and monitor the operation and play of fantasy sports contests, and may deny, suspend, or revoke any licenses for violation of state law or rule.

The commission must revoke a contest operator's license if the contest operator offers fantasy sports contests that violate s. 546.13(7)(c), F.S., created by the bill, if a winning outcome of a contest is:

[B]ased on the score, point spread, or any performance or performances of any single actual team or combination of such teams; solely on any single performance of an individual athlete or player in a single actual event; on a pari-mutuel event, as the term "pari-mutuel" is defined in s. 550.002 [, F.S.]; on a game of poker or other card game; or on the performances of participants in collegiate, high school, or youth sporting events.

The impact on state revenues and expenditures is indeterminate. There is no impact expected on local government revenues and expenditures. *See* Section V, Fiscal Impact Statement.

The bill takes effect July 1, 2024.

## II. Present Situation:

### Background

In general, gambling is illegal in Florida.<sup>1</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>2</sup> running a lottery,<sup>3</sup> or the manufacture, sale, lease, play, or possession of slot machines.<sup>4</sup> In Florida, if a gaming activity is not expressly authorized by law, then the activity constitutes illegal gambling. In addition to the activities the Seminole Tribe of Florida is authorized by law to conduct pursuant to ch. 285.710, F.S.,<sup>5</sup> the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel<sup>6</sup> wagering at licensed greyhound and horse tracks and jai alai frontons;<sup>7</sup>
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;<sup>8</sup>
- Cardrooms<sup>9</sup> at certain pari-mutuel facilities;<sup>10</sup>
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;<sup>11</sup>
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S, the Family Amusement Games Act;<sup>12</sup> and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
  - Penny-ante games;<sup>13</sup>
  - Bingo;<sup>14</sup>
  - Charitable drawings;<sup>15</sup>

<sup>1</sup> See s. 849.08, F.S.

<sup>2</sup> See s. 849.01, F.S.

<sup>3</sup> See s. 849.09, F.S.

<sup>4</sup> Section 849.16, F.S.

<sup>5</sup> See s. 285.710(3), F.S. The activities currently authorized to be conducted by the Seminole Tribe of Florida subject to limitations described in s. 285.710, F.S., and the 2021 Gaming Compact, include the following: slot machines; banking or banked card games (such as blackjack, limited to the tribal facilities in Broward County, Collier County, and Hillsborough County); raffles and drawings; craps and other dice games; roulette; fantasy sports contests; and sports betting.

<sup>6</sup> “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. See s. 550.002(22), F.S.

<sup>7</sup> See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

<sup>8</sup> See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

<sup>9</sup> Section 849.086, F.S. See s. 849.086(2)(c), F.S., which defines “cardroom” to mean “a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility.”

<sup>10</sup> See Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023* (Annual Report), at p. 15, at <https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf> (last visited Jan. 23, 2024), which states that of 29 licensed permitholders, 26 operated at a pari-mutuel facility.

<sup>11</sup> Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

<sup>12</sup> See s. 546.10, F.S.

<sup>13</sup> See s. 849.085, F.S.

<sup>14</sup> See s. 849.0931, F.S.

<sup>15</sup> See s. 849.0935, F.S.

- Game promotions (sweepstakes);<sup>16</sup> and
- Bowling tournaments.<sup>17</sup>

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.<sup>18</sup>

The 1968 State Constitution states that “[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .” are prohibited.<sup>19</sup> A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.<sup>20</sup>

### **Enforcement of Gaming Laws and Florida Gaming Control Commission**

In 2021, the Legislature updated Florida law for authorized gaming in the state, and for enforcement of the gambling laws<sup>21</sup> and other laws relating to authorized gaming.<sup>22</sup> The Office of Statewide Prosecution in the Department of Legal Affairs is authorized to investigate and prosecute, in addition to gambling offenses, any violation of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), which are referred to the Office of Statewide Prosecution by the Florida Gaming Control Commission (commission).<sup>23</sup>

In addition to the enhanced authority of the Office of Statewide Prosecution, the commission was created<sup>24</sup> within the Department of Legal Affairs. The commission has two divisions, including the Division of Gaming Enforcement (DGE), and the Division of Pari-mutuel Wagering

<sup>16</sup> See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>17</sup> See s. 849.141, F.S.

<sup>18</sup> See s. 550.1625(1), F.S., “...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state.” See also, *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), *review denied*, 412 So.2d 470, which states “Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right,” citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936), and *Zimmerman v. State of Florida, Fla. Gaming Control Comm’n*, \_\_\_ So.3d \_\_\_ (Fla. 5th DCA Jan. 12, 2024) (*Case No. 5D23-1062; not final until disposition of motions as set forth in the opinion*).

<sup>19</sup> The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

<sup>20</sup> The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

<sup>21</sup> See [Special agents confiscate over 70 illegal gambling devices in Gadsden \(tallahassee.com\)](https://www.tcpalm.com/story/news/crime/st-lucie-county/2023/10/24/st-lucie-county-deputies-raid-close-arcade-accused-of-gambling/71302519007/) and <https://www.tcpalm.com/story/news/crime/st-lucie-county/2023/10/24/st-lucie-county-deputies-raid-close-arcade-accused-of-gambling/71302519007/> relating to recent enforcement by local law enforcement and agents of the Florida Gaming Control Commission (both last visited Jan. 23, 2024).

<sup>22</sup> See ch. 2021-268, Laws of Fla., (Implementation of 2021 Gaming Compact between the Seminole Tribe of Florida and the State of Florida); ch. 2021-269, Laws of Fla., (Gaming Enforcement), ch. 2021-270, Laws of Fla., (Public Records and Public Meetings), and 2021-271, Laws of Fla., (Gaming), as amended by ch. 2022-179, Laws of Fla., (Florida Gaming Control Commission). Conforming amendments are made in ch. 2022-7, Laws of Fla., (Reviser’s Bill) and ch. 2023-8, Laws of Fla., (Reviser’s Bill).

<sup>23</sup> Section 16.56(1)(a), F.S.

<sup>24</sup> Section 16.71, F.S.

(DPMW) which was transferred from the Department of Business and Professional Regulation (DBPR) effective July 1, 2022.<sup>25</sup>

The commission must do all of the following:<sup>26</sup>

- Exercise all of the regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the Federal Indian Gaming Regulatory Act, and any other forms of gambling authorized by the State Constitution or law, excluding state lottery games as authorized by the State Constitution.
- Establish procedures consistent with ch. 120, F.S., the Administrative Procedure Act, to ensure adequate due process in the exercise of the commission's regulatory and executive functions.
- Ensure that the laws of this state are not interpreted in any manner that expands the activities authorized in ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling).
- Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribe Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit underage persons from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.
- Evaluate, as the state compliance agency or as the commission, information that is reported by sports governing bodies or other parties to the commission relating to:
  - Any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events;
  - Any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing; suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and
  - The use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission.
- Provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of non-proprietary information that may warrant further investigation of nonproprietary information by such entities to ensure integrity of wagering activities in the state.
- Review any matter within the scope of the jurisdiction of the DPMW.
- Review the regulation of licensees, permitholders, or persons regulated by the DPMW and the procedures used by that division to implement and enforce the law.
- Review the procedures of the DPMW which are used to qualify applicants applying for a license, permit, or registration.

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<sup>25</sup> See ch. 2021-269, s. 11, Laws of Fla., which delineates the transfer of the DPMW to the commission from the DBPR.

<sup>26</sup> Section 16.712, F.S. The commission also administers the Pari-mutuel Wagering Trust Fund. See s. 16.71(6), F.S.

- Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling), and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling) to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.
- Exercise all other powers and perform any other duties prescribed by the Legislature, and adopt rules to implement the above.

### ***Commissioners***

As set forth in s. 16.71, F.S., of the five commissioners appointed as members of the commission, at least one member must have at least 10 years of experience in law enforcement and criminal investigations, at least one member must be a certified public accountant licensed in this state with at least 10 years of experience in accounting and auditing, and at least one member must be an attorney admitted and authorized to practice law in this state for the preceding 10 years. All members serve four-year terms, but may not serve more than 12 years. As of the date of this analysis, there is one vacancy on the commission.

### ***Division of Gaming Enforcement***

Section 16.711, F.S., sets forth the duties of the Division of Gaming Enforcement (DGE) within the commission.<sup>27</sup> The DGE is a criminal justice agency, as defined in s. 943.045, F.S. The commissioners must appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE.<sup>28</sup>

The DGE director and all investigators employed by the DGE must meet the requirements for employment and appointment provided by s. 943.13, F.S., and must be certified as law enforcement officers, as defined in s. 943.10(1), F.S. The DGE director and such investigators must be designated law enforcement officers and must have the power to detect, apprehend, and arrest for any alleged violation of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), or any rule adopted pursuant thereto, or any law of this state.<sup>29</sup>

Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any

<sup>27</sup> For a summary of DGE investigations and actions in Fiscal Year 2022-2023, see Annual Report, *supra* n. 11 at p.5.

<sup>28</sup> Section 16.711(2), F.S.

<sup>29</sup> Section 16.711(3), F.S.

necessary equipment, and such entry does not constitute a trespass. In any instance in which there is reason to believe that a violation has occurred, such officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring.<sup>30</sup>

Further, any such officer may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation. Investigators employed by the commission also have access to, and the right to inspect, premises licensed by the commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the commission.<sup>31</sup>

The DGE and its investigators are specifically authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. The term “contraband” has the same meaning as the term “contraband article” in s. 932.701(2)(a)2., F.S.<sup>32</sup> The DGE is specifically authorized to store and test any contraband that is seized in accordance with the Florida Contraband Forfeiture Act and may authorize any of its staff to implement this provision. The authority of any other person authorized by law to seize contraband is not limited by these provisions.<sup>33</sup>

Section 16.711(5), F.S., requires the Florida Department of Law Enforcement (FDLE) to provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the commission’s executive director and agreed to by the FDLE’s the executive director. Any other state agency, including the DBPR and the Department of Revenue, must, upon request, provide the commission with any information relevant to any investigation conducted as described above, and the commission must reimburse any agency for the actual cost of providing any such assistance.<sup>34</sup>

### **Regulation of Pari-mutuel Wagering and Associated Licenses**

The commission regulates pari-mutuel wagering and has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties.

### **Fantasy Sports Contests**

The operation of fantasy sports activities in Florida has recently received significant publicity, much like the operation of internet cafes in recent years. Many states are now evaluating the status of fantasy gaming activities in their jurisdictions,<sup>35</sup> as there are millions of participants.<sup>36</sup>

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Section 16.711(4), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> Section 16.711(5), F.S.

<sup>35</sup> See Marc Edelman, *A Short Treatise on Fantasy Sports and the Law: How America Regulates its New National Pastime*, *Journal of Sports & Entertainment Law*, Harvard Law School Vol. 3 (Jan. 2012) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1907272](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907272) (last visited Jan. 23, 2024).

<sup>36</sup> According to the Fantasy Sports Trade Association, which states it represents the interests of 57 million fantasy sports players, fantasy sports leagues were originally referred to as “roisserie leagues” with the development of Rotisserie League

A fantasy game typically has multiple players who select and manage imaginary teams whose players are actual professional sports players. Fantasy game players compete against one another in various formats, including weekly leagues among friends and colleagues, season-long leagues, and on-line contests (daily and weekly) entered by using the Internet through personal computers or mobile telephones and other communications devices. There are various financial arrangements among players and game operators.

Florida law does not specifically address fantasy contests. Section 849.14, F.S.,<sup>37</sup> provides that a person who wagers any “thing of value” upon the result of a contest of skill or endurance of human or beast, or who receives any money wagered, or who knowingly becomes the custodian of money or other thing of value that is wagered, is guilty of a second degree misdemeanor.<sup>38</sup> The commission has issued cease and desist correspondence to various companies operating fantasy contests in the state concerning possible violations of Florida’s gambling laws. The letters have generated controversy, concern, and interest from contest operators, elected officials, and the Seminole Tribe of Florida, which has entered into gaming compacts with the state (as discussed below).<sup>39</sup> The legality of various forms of fantasy sports games and contests is being reviewed and addressed in a number of states.<sup>40</sup>

The State of Nevada has regulated gaming for more than 80 years, and its gaming control board was created by its legislature in 1955.<sup>41</sup> In 2015, the Office of the Nevada Attorney General provided the Nevada Gaming Control Board and the Nevada Gaming Commission the following informative summary about fantasy sports, player selection, and the types of simulated games being marketed to participants (referred to as owners in the Memorandum).<sup>42</sup>

### *Description of Fantasy Sports Games*

Fantasy sports are games where the participants, as “owners,” assemble “simulated teams” with rosters and/or lineups of actual players of a professional sport. These games are generally played over the Internet using computer or mobile software applications. Fantasy sports cover a number of actual professional sports leagues, including the NFL, the MLB, the NBA, the NHL, the MLS, NASCAR, as well as college sports such as NCAA football and basketball.

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Baseball in 1980, by magazine writer/editor Daniel Okrent, who met and played it with friends at a New York City restaurant La Rotisserie Francaise. See <https://thefsga.org/history/> (last visited Jan. 23, 2024).

<sup>37</sup> See Fla. AGO 91-03 (Jan. 7, 1991) available at <https://www.myfloridalegal.com/ag-opinions/gambling-fantasy-sports-league> (last visited Jan. 23, 2024).

<sup>38</sup> A conviction for a second degree misdemeanor may subject the violator to a definite term of imprisonment not exceeding 60 days, and a fine not exceeding \$500. See ss. 775.082 and 775.083, F.S.

<sup>39</sup> See <https://www.floridatrend.com/article/38854/questions-swirl-around-fantasy-sports> (last visited Jan. 23, 2024).

<sup>40</sup> See [State Regulators Take Closer Look At Fantasy Sports Operators \(sportshandle.com\)](https://www.nv.gov/gaming/index.aspx?page=2) (last visited Jan. 23, 2024).

<sup>41</sup> See <https://gaming.nv.gov/index.aspx?page=2> (last visited Jan. 21, 2024).

<sup>42</sup> See Memorandum from J. Brin Gibson, Bureau Chief of Gaming and Government Affairs, and Jetan D. Bhirud, Head of Complex Litigation, to A.G. Burnett, Chairman, Nevada Gaming Control Board; Terry Johnson, Member, Nevada Gaming Control Board; Shawn Reid, Member, Nevada Gaming Control Board (Oct. 16, 2015) (on file with the Senate Regulated Industries Committee).

Fantasy sports can be divided into two types: (1) traditional fantasy sports, which track player performance over the majority of a season, and (2) daily fantasy sports, which track player performance over a single game. The owners of these simulated teams compete against one another based on the statistical performance of actual players in actual games. The actual players' performance in specific sporting events is converted into "fantasy points" such that each actual player is assigned a specific score. An owner will then receive a total score that is determined by compiling the individual scores of each player in the owner's lineup. Thus, although the owners select lineups, once the lineup has been selected-----at least in the context of daily fantasy sports-----the owners have basically no ability to control the outcome of the simulated games. [Memorandum footnote 2: Given that lineups on some sites do not "lock" until the start of each individual game, the owners have until the tipoff of each individual game to set each particular lineup spot.]

Specifically, the owners of the simulated teams have no ability to control how many points their simulated teams receive from an actual player's performance. The actual players in the actual games control their own performance. As a result, after an owner places a bet and sets a final lineup, the owner has no ability to influence the outcome of a simulated game. At that point, the owner waits to see what happens based upon the performance of the actual players selected.

### *Player Selection*

The three most common methods of player selection in fantasy sports are (1) a snake draft; (2) an auction draft; and (3) a salary-cap draft. [Memorandum footnote omitted.] In a snake draft, owners take turns drafting actual players for their simulated teams. In an auction draft, each owner has a maximum budget to use to bid for players. Competing owners, however, cannot select the same actual players for their simulated teams as other owners. Daily fantasy sports do not generally utilize a snake draft or an auction draft.

In a salary-cap draft, just like in an auction draft, each owner has a maximum budget. Unlike in an auction draft, however, the owners do not bid against each other. Instead, each actual player has a set fantasy salary. Although (with a few exceptions) [Memorandum footnote 4: For example, most sites require owners to select actual players from at least three different actual teams.], the owners can select any actual player for their teams, the owners cannot exceed their maximum budget. In this format, generally speaking, competing owners can select the same actual players for their simulated teams as other owners.



### *Types of Simulated Games*

Although there are many different types of simulated games offered across the different daily fantasy websites, the simulated games can generally be divided into (1) head-to-head; and (2) tournaments.

In head-to-head simulated games, one owner competes against another owner. The owner with the highest total score will win the entire payout pool.

Tournaments are simulated games that involve more than two owners.

### **Amendment 3 to the State Constitution (Voter Control of Gambling)**

During the 2018 General Election, the electorate approved a constitutional amendment (Amendment 3, Voter Control of Gambling in Florida). The amendment is codified as Section 30 of Article X of the State Constitution.<sup>43</sup>

Amendment 3 requires a vote proposed by a citizen initiative to amend the State Constitution pursuant to Section 3 of Article XI of the State Constitution to authorize “casino gambling” in Florida. Casino gambling is defined in section (b) of Amendment 3 as:

- Any of the “types of games typically found in casinos” and that are:
  - Within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.; and
  - In 25 [Code of Federal Regulations] (C.F.R.) s. 502.4 upon the adoption of the amendment and any that are added to such definition of Class III gaming in the future.

Fantasy sports contests are not typically found in a casino and are not Class III games, and therefore, are likely not impacted by Amendment 3.

Section (b) of Amendment 3 provides that casino gambling includes, but is not limited to, the following:

- Any house banking game, including but not limited to, card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
- Any player-banked game that simulates a house banking game, such as California blackjack;
- Casino games such as roulette, craps, and keno;
- Any slot machines as defined in 15 U.S.C. 1171(a)(1); and
- Any other game not authorized by Article X, section 15 [of the State Constitution, relating to state operated lotteries], whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing.

Section (b) of Amendment 3 also further defines “casino gambling” to include the following:

- Any electronic gambling devices;

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<sup>43</sup> See the text of Amendment 3, now codified as art. X, s. 30, at <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes&CFID=44933245&CFTOKEN=f39b1ca7cab71561-BE329BC7-5056-B837-1A6123F335C4849F#A10S30> (last visited Jan. 23, 2024).

- Simulated gambling devices;
- Video lottery devices;
- Internet sweepstakes devices; and
- Any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under the Indian Gaming Regulatory Act.

Under Amendment 3, the term “casino gambling” does not include:

...pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions.

For the purposes of [Amendment 3], “gambling” and “gaming” are synonymous.

Additionally, Amendment 3 provides:

Nothing [in Amendment 3] shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities. In addition, nothing [in Amendment 3] shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to [the Indian Gaming Regulatory Act].

By its terms, Amendment 3 became effective on November 6, 2018, is self-executing, and no legislative implementation is required. If any part of Amendment 3 is held invalid for any reason, the remaining portion(s) must be severed from the invalid portion and given “the fullest possible force and effect.”

### **Gaming Compacts**

Gaming compacts between states and Indian tribes are regulated by the Federal Indian Gaming Regulatory Act, s. 25 U.S.C. 2701, et seq., and ch. 285, part II, F.S. The State of Florida (state) entered into a gaming compact with the Seminole Tribe of Florida (Seminole Tribe) on April 7, 2010 (the 2010 Compact). In Chapter 2021-268, L.O.F., the Legislature ratified a new Gaming Compact between the Seminole Tribe and the state, which was executed by Governor Ron DeSantis and the Seminole Tribe on April 23, 2021, as amended on May 17, 2021 (the 2021 Compact). The 2021 Compact was approved by the United States Department of the Interior on August 6, 2021, and became effective upon the publication of notice in the Federal Register on August 11, 2021.<sup>44</sup> The 2021 Compact supersedes the 2010 Compact, and has a term of 30 years beginning August 6, 2021.

The 2010 Compact, the 2021 Compact, and any future gaming compact between those parties, are not impacted by Amendment 3, as Amendment 3 expressly exempts such compacts and provides that the amendment does not limit the ability of the state and Native American tribes to:

- Negotiate gaming compacts for the conduct of casino gambling on tribal lands; or

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<sup>44</sup> Fed. Register, Vol. 86, No. 153 at 44037.

- Affect any existing gambling on tribal lands pursuant to existing compacts.<sup>45</sup>

### ***Pending Litigation***

The state received payments due under the 2021 Compact beginning October 2021. The U.S. District Court for the District of Columbia set aside the federal approval of the 2021 Compact on November 22, 2021. The Seminole Tribe continued making revenue sharing payments to the state through February 2022, and then discontinued all payments. Between October 2021 and February 2022, the state received five payments of \$37.5 million, totaling \$187.5 million.<sup>46</sup> Revenue sharing payments from the Seminole Tribe to the state resumed in January 2024.<sup>47</sup>

Litigation relating to the legality of the 2021 Compact is currently pending in the Florida Supreme Court,<sup>48</sup> challenging the off-reservation mobile sports betting authorized in the 2021 Compact and in Florida law<sup>49</sup> as a violation of the Florida Constitution (specifically Amendment 3 adopted in 2018, now Article X, Section 30 to the Florida Constitution, as discussed above). The challenged actions include execution and ratification of the 2021 Compact and enactment of implementing legislation, as it relates to sports betting.

In addition, there is a proceeding pending in the U.S. Supreme Court challenging the legality of the 2021 Compact, but that court has not yet determined to accept the case.<sup>50</sup>

### **The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA) Did Not Legalize Fantasy Sports**

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)<sup>51</sup> was signed into law by President George W. Bush on October 13, 2006.<sup>52</sup> Under this act, internet gambling is not determined to be legal in a state, nor illegal. Instead, UIGEA targets financial institutions in an attempt to prevent the flow of money from an individual to an internet gaming company. Congress found that enforcement of gambling laws through new mechanisms “are necessary

<sup>45</sup> The existing gaming compacts include the 2010 Gaming Compact and the 2021 Gaming Compact with the Seminole Tribe; the latter gaming compact is the subject of pending litigation as discussed in this analysis. The Miccosukee Tribe of Indians of Florida operates a Class II gaming facility in Florida. The Poarch Band of Creek Indians has a one acre tract of land held in trust by the United States Department of the Interior north of Pensacola, Florida.

<sup>46</sup> See the review of the Indian Gaming Revenues by the Revenue Estimating Conference/Impact Conference at <http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf> (last visited Jan. 23, 2024). The Office of Economic and Demographic Research (EDR) is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. At the request of the legislative committees or other members of an estimating conference, EDR conducts impact assessments of proposed policy changes. Often, EDR's estimates are incorporated in the committee bill analysis or fiscal note. In some cases, committees will request EDR to take a particular proposal to a consensus estimating conference to obtain an impact estimate that is formally agreed to by both houses of the Legislature and by the Governor's Office.

<sup>47</sup> The resumption of Indian Gaming Revenues will be reviewed by the Revenue Estimating Conference/Impact Conference.

<sup>48</sup> *West Flagler Associates, et al., v. Ron D. DeSantis, et al.*, SC 2023-1333, Petition for Writ of Quo Warranto.

<sup>49</sup> See s. 285.710(13)(b)7., F.S.

<sup>50</sup> See Order in Pending Case, No. 23A315 (Oct. 25, 2023) in *West Flagler Associates, Ltd., et al. v. Haaland*, Application for Stay Denied with Statement of Justice Kavanaugh, 601 U.S. \_\_\_\_ (2023), available at [23A315 West Flagler Associates, Ltd. v. Haaland \(10/25/2023\) \(supremecourt.gov\)](https://www.supremecourt.gov/opinions/23doctoc1/23a315) (both last visited Jan. 23, 2024).

<sup>51</sup> 31 U.S.C. ss. 5361-5366.

<sup>52</sup> The provisions of UIGEA were adopted in Conference Committee as an amendment to H.R. 4954 by Representative Daniel E. Lungren (CA-3), “The SAFE Ports Act of 2006.”

because traditional law enforcement mechanisms are often inadequate for enforcing gambling prohibitions or regulations on the Internet, especially where such gambling crosses state or national borders.”<sup>53</sup>

“Unlawful internet gambling” prohibited by UIGEA includes the placement, receipt, or transmission of certain bets or wagers.<sup>54</sup> “Bet or wager” is defined by 31 U.S.C. sec. 5362 as:

(1) Bet or wager.—The term “bet or wager”—

(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;

(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

(C) includes any scheme of a type described in section 3702 of title 28 [Unlawful Sports Gambling];

(D) includes any instructions or information pertaining to the establishment or movement of funds by the bettor or customer in, to, or from an account with the business of betting or wagering.

It does not include securities trading, commodity trading (including some trading exclusions), over the counter derivatives, indemnity contracts, insurance contracts, and insured deposits.<sup>55</sup>

Also excluded is:

- Participation in any game or contest in which participants do not stake or risk anything of value other than—
  - Personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or
  - Points or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor.<sup>56</sup>

The definition of the term “bet or wager” also specifically excludes any fantasy game or contest in which a fantasy team is not based on the current membership of a professional or amateur sports team, and:

- All prizes and awards are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of fees by the participants;
- Prize amounts are not based on the number of participants or the amount of entry fees;
- Winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals or athletes in multiple “real-world sporting or other events;” and
- No winning outcome is based:
  - On the score, point-spread, or any performance or performances of any single “real-world” team or combination of teams; or

<sup>53</sup> 31 U.S.C. s. 5361(a)(4).

<sup>54</sup> 31 U.S.C. s. 5362(10).

<sup>55</sup> 31 U.S.C. s. 5362(1)(E)(i)-(vii)

<sup>56</sup> 31 U.S.C. s. 5362(1)(E)(viii)

- Solely on any single performance of an individual athlete in any single “real-world sporting or other event.”<sup>57</sup>

The “unlawful Internet gambling” means to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.<sup>58</sup>

While UIGEA excludes bets or wagers of participants in certain fantasy sports games and contests,<sup>59</sup> fantasy sports contests and activities in Florida are not authorized as a result of such exclusion. UIGEA expressly states that none of its provisions “shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.”<sup>60</sup>

### III. Effect of Proposed Changes:

**Section 1** creates the short title the “Fantasy Sports Contest Amusement Act (act)” for ss. 546.1 through 546.18, F.S. (Sections 1 through 8).

**Section 2** creates s. 542.12, F.S., to state the legislative purpose and intent for the act, which is to “ensure public confidence in the integrity of fantasy sports contests and contest operators” through the regulation of contest operators and participants and the enactment of consumer protections related to fantasy sports contests. The bill includes a legislative finding that fantasy sports contests, as defined in the act, involve the skill of contest participants.

**Section 3** creates s. 546.13, F.S., to provide definitions for the terms used in the act and the requirements for such contests to comply with the act. A “fantasy sports contest” is a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization, and which meets the following requirements:

- Contest operators and their employees and agents may not be participants in a contest;
- Prizes and awards must be established and disclosed by a contest operator or a noncommercial operator to the participants before a game or a contest and the value of such awards is not determined by the number of participants in the contest or the amount of fees paid by those participants;
- All winning outcomes must reflect the relative knowledge and skill of participants and be determined predominantly by accumulated statistical results of the performances of individuals, including athletes in in the case of sporting events; and
- No winning outcome is based on the score, point spread, the performance of any single team or combination of teams; solely on any single performance of an individual athlete or player in a single event; on pari-mutuel events; on poker or other card games; or on performances of those participating in collegiate, high school, or youth sporting events; and

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<sup>57</sup> See 31 U.S.C. s. 5362(1)(E)(ix).

<sup>58</sup> 31 U.S.C. s. 5362(10)

<sup>59</sup> *Id.*

<sup>60</sup> 31 U.S.C. s. 5361(b).

- Casino graphics, themes, or titles, such as slot machine symbols, cards, dice, craps, roulette, or lotto, may not be displayed or depicted.

The term “entry fee” is defined in the bill to mean the cash or cash equivalent amount that a person is required to pay to a contest operator or noncommercial contest operator to participate in a fantasy sports contest, and the term “contest participant” means a person who pays an entry fee in order to participate.

The bill authorizes fantasy sports contests in which participants, who must be 21 years of age or older, pay an entry fee to a person or entity that offers such contests for a cash prize to members of the public, defined as a “contest operator;” however, the term does not include a noncommercial operator in Florida. The term “noncommercial operator” means an individual who organizes and conducts fantasy sports contests for participants 21 years of age or older who pay an entry fee for the contest. A noncommercial contest operator must pay all entry fees to participants as prizes, and may not pay fantasy sports contest prize monies exceeding \$1,500 per season or \$10,000 annually.

Under the bill, the term “commission” means the Florida Gaming Control Commission (commission).

**Section 4** creates s. 546.14, F.S., to require the commission to enforce and administer the act.

The commission may:

- Conduct investigations and monitor the operation and play of fantasy sports contests;
- Review the books, accounts, and records of current and former contest operators;
- Deny, suspend, or revoke licenses for any violation of state law or rule;
- Take testimony, issue witness summonses and subpoenas for matters in its jurisdiction;
- Monitor and ensure the proper collection and safeguarding of entry fees and the payment of contest prizes in accordance with the consumer protection procedures enacted pursuant to the act;
- Investigate any licensed or unlicensed persons or entities when they are:
  - Advertising as offering or providing or are engaged in conducting a fantasy sports contest which requires licensure under the act; or
  - Engaged in activities which do not comply with or are prohibited by the act; and
- Issue orders to licensed or unlicensed persons or entities, or to contest operators or noncommercial contest operators, to stop engaging in activities that require licensure or are prohibited by the act, or to seek an injunction or take other appropriate action to enforce the act.

The commission must:

- Revoke a contest operator’s license if the contest operator offers fantasy sports contests in violation of the prohibition contained in s. 546.13, F.S., against betting on sports or pari-mutuel events, on poker or other card games, or on collegiate, high school, or youth sporting events; and
- Adopt rules to implement and administer the act.

**Section 5** creates s. 546.15, F.S., to require licensure of contest operators by the commission to conduct fantasy sports contests in Florida. Licenses are effective for one year after issuance and must be renewed annually. Applications for licensure must include:

- The full name of the applicant; for a corporate applicant, the name of the state of incorporation, the names and addresses of the officers, directors, and shareholders who hold 15 percent or more equity in the corporation; and for an applicant that is another type of business entity, the names and addresses of:
  - Each principal, partner, or shareholder who holds 15 percent or more equity in the entity; and
  - Any person who individually or in concert with a relative beneficially owns or controls, or has the power to vote or cause the vote of, 15 percent or more equity. For the purposes of the act, the term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.
- The names and addresses of the ultimate equitable owners of the corporation or other business entity, if different from those otherwise provided, unless the securities of the corporation or entity are registered pursuant to the federal Securities Exchange Act of 1934, and either:
- The applicant files reports with the United States Securities and Exchange Commission as required by section 13 of that act; or
- The securities of the corporation or entity are regularly traded on an established securities market in the United States.
- The estimated number of fantasy sports contests to be conducted by the applicant annually;
- A statement of the assets and liabilities of the applicant;
- The names and addresses of the officers and directors of any creditor of the applicant and of stockholders who hold more than 10 percent of the stock of the creditor, if required by the commission;
- For each individual listed in the application, a full set of fingerprints to be submitted to the commission or to a vendor, entity, or agency authorized under s. 943.053(13), F.S., which must be:
  - Forwarded to the Department of Law Enforcement (FDLE) for state processing;
  - Forwarded to the Federal Bureau of Investigation by the FDLE for national processing.
  - Retained by the FDLE as provided in s. 943.05(2)(g) and (h), F.S.; and
  - Enrolled in the Federal Bureau of Investigation’s national retained print arrest notification program when the FDLE begins participation in that program. Any arrest record identified must be reported by the FDLE to the commission.
- For each foreign national, such documents as necessary to allow the commission to conduct criminal history records checks in the individual’s home country; the applicant must pay the full cost of processing fingerprints and required documentation.

The application for renewal of a license issued pursuant to the act must contain all revisions to the information submitted in the prior year’s application which are necessary to maintain such information as both accurate and current, and the applicant must attest that any revisions do not affect the applicant’s qualifications for license renewal.

Upon determination by the commission that an application for renewal is complete and qualifications have been met, including payment of the renewal fee, the fantasy sports contests license must be renewed annually.

Under the bill, a person or entity is not eligible for licensure as a contest operator or for licensure renewal if the commission determines after investigation that an individual required to be listed in the application, is not of good moral character or is found to have been convicted of a felony in Florida, any offense in another jurisdiction which would be considered a felony if committed in Florida, or a felony under the laws of the United States. The term “convicted” means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

In addition, the bill provides the license of a contest operator is automatically suspended 30 calendar days after entry of a final order imposing an administrative fine against the contest operator, if the administrative fine has not been paid. The license of a contest operator may not be renewed, and an application for licensure as a contest operator may not be approved, if the contest operator or an applicant is liable for an outstanding administrative fine imposed under the act. A contest operator’s license remains suspended until the administrative fine is paid. However, a contest operator’s license may not be suspended and an application for licensure may not be denied if the contest operator or the applicant has an appeal from a final order pending in any appellate court.

Changes in ownership of or interest in a fantasy sports contests license of five percent or more of the stock or other evidence of ownership or equity in the contest operator must be approved by the commission before such change, unless the owner is an existing owner of that license who was previously approved by the commission. Changes in ownership of or interest in a fantasy sports contests license of less than five percent must be reported to the commission within 20 days after the change. The commission may then conduct an investigation to ensure that the license is properly updated to show the change in ownership or interest. This provision is similar to s. 550.054(12), F.S., relating to changes in ownership or interest in pari-mutuel permits.

**Section 6** creates s. 546.16, F.S., relating to consumer protections that require a contest operator to implement fantasy sports contests procedures that:

- Prevent the contest operator's employees, their relatives, or persons living in the same household as the employees, from competing in a fantasy sports contest in which a cash prize is awarded. The term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister;
- Allow a commercial contest operator to offer fantasy sports contests to its employees, if the employees are the sole participants in the contest;
- Prevent the contest operator from being a contest participant in a fantasy sports contest that the contest operator offers;



- Prevent the contest operator's employees or agents from sharing with a third party confidential<sup>61</sup> information that could affect fantasy sports contest play until the information has been made publicly available;
- Verify that contest participants are 21 years of age or older;
- Restrict an individual who is a player, a game official, or other participant in a real-world game or competition from participating in a fantasy sports contest that is determined, in whole or in part, on the performance of that individual, the individual's real-world team, or the accumulated statistical results of the sport or competition in which he or she is a player, game official, or other participant;
- Allow individuals to restrict or prevent their own access to fantasy sports contests and take reasonable steps to prevent those individuals from entering a fantasy sports contest;
- Limit the number of entries a single contest participant may submit to each fantasy sports contest and take reasonable steps to prevent participants from submitting more than the allowable number of entries; and
- Segregate contest participants' funds from operational funds or maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof in the total amount of deposits in contest participants' accounts for the benefit and protection of authorized contest participants' funds held in fantasy sports contest accounts.

A contest operator must annually contract with a third party to perform an independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with the act, and submit the results of the independent audit to the commission no later than 90 days after the end of each annual licensing period.

The bill requires the data source used by contest operators to determine fantasy sports contest results to be complete, accurate, reliable, and appropriate to settle the outcome of the fantasy sports contests for which they are used. This requirement does not apply to noncommercial contest operators.

**Section 7** creates s. 546.17, F.S., to require each contest operator to keep and maintain daily records of its operations and to maintain such records for at least three years. The records must sufficiently detail all financial transactions required to determine compliance with the requirements of the act and must be available for audit and inspection by the commission or other law enforcement agencies during the contest operator's regular business hours. The commission must adopt rules to implement s. 547.17, F.S.

**Section 8** creates s. 546.18, F.S., relating to penalties for violations of the act. A contest operator, or its employee or agent, who violates the act is subject to an administrative fine, not to exceed \$5,000 for each violation and not to exceed \$100,000 in the aggregate, for deposit to the state's general revenue fund. An action to recover such penalties may be brought by the commission or the Department of Legal Affairs in circuit court in the name and on behalf of the state.

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<sup>61</sup> Under the bill, the term "confidential information" means "information related to the playing of fantasy sports contests by contest participants which is obtained solely as a result of a person's employment with, or work as an agent of, a contest operator."

However, the penalty provisions do not apply to violations committed by a contest operator which occurred prior to the issuance of a license under the act if the contest operator applies for a license within 90 days after the date the commission begins accepting applications, and receives a license within 240 days after such date.

Under the bill, fantasy sports contests conducted by a contest operator or noncommercial contest operator in compliance with all fantasy sports contest requirements are not subject to certain gambling laws<sup>62</sup> set forth in ch. 849, F.S., relating to Gambling.

**Sections 9, 10, 11, and 12** amend provisions in ss. 16.71, 16.712, 16.713, and 16.715, F.S., relating to the Florida Gaming Control Commission (commission). The commission must receive and review violations of ch. 546, F.S., (Amusement Facilities), which includes fantasy sports contests, and prohibit certain commission candidates, members, employees, or former commissioners or employees from holding a license issued under ch. 546, F.S., prior to, during, and after appointment or employment with the commission, for the time frames described in those provisions.

**Section 13** amends s. 849.142, F.S., relating to activities exempt from certain gambling laws<sup>63</sup> to add fantasy sports contests conducted in accordance with ch. 546, F.S., as an exempted activity; similar exemptions in current law, provided the activity is conducted pursuant to applicable Florida law, include pari-mutuel wagering, slot machine gaming, the operation of cardrooms, and bingo games.

**Section 14** provides the bill takes effect July 1, 2024.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

<sup>62</sup> See ss. 849.01, 849.08, 849.09, 849.11, 849.14, and 849.25, F.S., relating to various activities that are prohibited by or must comply with Florida law.

<sup>63</sup> *Id.*

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who act as fantasy sports contest operators will be required to meet various requirements imposed by the bill, such as auditing and consumer protection measures, that will have associated costs.

C. Government Sector Impact:

According to the Florida Gaming Control Commission (commission), the impact on state revenues and expenditures is indeterminate, and there is no impact expected on local government revenues and expenditures.<sup>64</sup> The commission notes that the number of applicants for licenses “may require additional FTEs and expenses to carry out the regulatory responsibilities” set forth in the bill.<sup>65</sup>

The commission must implement the provisions of the bill and adopt forms and procedures for the licensing of fantasy sports contest operators.

The Florida Department of Law Enforcement (FDLE) notes that the impact of the bill does not necessitate additional FTE or other resources, but “this bill, in combination with additional criminal history record check bills, could rise to the level requiring additional staffing and other resources.”<sup>66</sup>

The Revenue Estimating Conference has not reviewed the fiscal impact of this bill.

**VI. Technical Deficiencies:**

None.

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<sup>64</sup> See Florida Gaming Control Commission, *2024 Agency Legislative Bill Analysis for SB 1568* at 7 (Jan. 19, 2024) (on file with the Senate Committee on Regulated Industries).

<sup>65</sup> *Id.*

<sup>66</sup> See Florida Department of Law Enforcement (FDLE) *2024 Agency Legislative Bill Analysis for SB 1568* at 5 (Jan. 12, 2024) (on file with the Senate Committee on Regulated Industries).

**VII. Related Issues:**

The commission notes concerns with provisions in the bill relating to license application deadlines, clarity of defined terms, and the procedure for automatic suspension of licenses for failure to pay administrative fines.<sup>67</sup>

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 16.71, 16.712, 16.713, and 16.715.

This bill creates the following sections of the Florida Statutes: 546.11, 546.12, 546.13, 546.14, 546.15, 546.16, 546.17, 546.18, and 849.142.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>67</sup> *Id.* at 9.