

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 909 Pari-mutuel Permitholders

**SPONSOR(S):** Esposito

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 778

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Thompson	Anstead
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

### SUMMARY ANALYSIS

The Florida Gaming Control Commission (Commission) is responsible for exercising all regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, and slot machine facilities. The Florida Pari-mutuel Wagering Act (Act) provides specific permitting and licensure requirements for the pari-mutuel industry. Pari-mutuel wagering activities are limited to operators who have received a permit from the Commission, which is then subject to ratification by county referendum. Permitholders apply for an operating license annually to conduct pari-mutuel wagering activities. Certain permitholders are authorized to operate cardrooms and slot machines at their facility.

Each permitholder is required to operate all performances at the date and time specified on its license. However, the Commission is authorized to approve minor changes in racing dates after a license has been issued if there is no objection from any operating permitholder that is:

- Conducting live racing or games; and
- Located within 50 miles of the permitholder requesting the changes in operating dates.

Holders of valid pari-mutuel permits for the conduct of any pari-mutuel wagering in this state are entitled to lease any and all of their facilities, as follows:

- The lease may only be to another holder of a same class valid pari-mutuel permit;
- The permitholders must be located within a 35-mile radius of each other; and
- The lessee is entitled to a permit and license to conduct intertrack wagering and operate its race meet or jai alai games at the leased premises.

The bill:

- Revises certain references to pari-mutuel "racing" dates to instead reference "performance" dates, in the provision that authorizes the Commission to approve changes in such dates.
- Removes the restriction that pari-mutuel lease agreements be between holders of the same class permit.

The bill does not appear to have a fiscal impact on state or local government. The bill may have a positive fiscal impact on the private sector.

The effective date of the bill is July 1, 2024.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### General Overview of Gaming in Florida

Gambling is generally prohibited in Florida, unless specifically authorized. Section 7, Art. X, of the Florida Constitution prohibits lotteries, other than pari-mutuel pools, from being conducted in Florida. Chapter 849, F.S., includes prohibitions against slot machines, keeping a gambling house and running a lottery. However, a constitutional amendment approved by voters in 1986 authorized state-operated lotteries, and a constitutional amendment in 2004 authorized slot machines in Miami-Dade and Broward Counties.

The following gaming activities are also authorized by law and regulated by the state:

- Pari-mutuel<sup>1</sup> wagering;<sup>2</sup>
- Gaming on tribal reservations in accordance with the Indian Gaming and Regulatory Act and the 2010 Gaming Compact with the Seminole Tribe of Florida;
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;<sup>3</sup> and
- Cardrooms<sup>4</sup> at certain pari-mutuel facilities.

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,<sup>5</sup> bingo,<sup>6</sup> charitable drawings,<sup>7</sup> game promotions (sweepstakes),<sup>8</sup> bowling tournaments,<sup>9</sup> and skill-based amusement games and machines at specified locations.<sup>10</sup>

In 2013, the legislature clarified that Internet café style gambling machines were illegal in the state. The legislation clarified existing sections of law regarding slot machines, charitable drawings, game promotions, and amusement machines and created a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prizes are prohibited slot machines.<sup>11</sup>

In 2015, the legislature determined that the regulation of the operation of skill-based amusement games and machines would ensure compliance with Florida's limitations on gambling and prevent the expansion of casino-style gambling. The legislature clarified regulations related to the operation and use of amusement games or machines to ensure that regulations would not be interpreted as creating an exception to the state's general prohibitions against gambling.<sup>12</sup>

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<sup>1</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>2</sup> See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

<sup>3</sup> See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

<sup>4</sup> S. 849.086(2)(c), F.S., 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>5</sup> S. 849.085, F.S.

<sup>6</sup> S. 849.0931, F.S.

<sup>7</sup> S. 849.0935, F.S.

<sup>8</sup> S. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>9</sup> S. 849.141, F.S.

<sup>10</sup> S. 546.10, F.S.

<sup>11</sup> Florida House of Representatives Select Committee on Gaming, Final Bill Analysis of 2013 CS/HB 155, p. 1 (Apr. 19, 2013).

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

## **Amendment to Florida Constitution Prohibiting Racing of and Wagering on Greyhounds or Other Dogs**

During the 2018 General Election, the voters approved an initiative constitutional amendment, Amendment 13, Prohibition on Racing of and Wagering on Greyhounds or Other Dogs, which has been codified in the State Constitution as Article X, Section 32.<sup>13</sup>

Article X, Section 32 states:

Prohibition on racing of and wagering on greyhounds or other dogs.—The humane treatment of animals is a fundamental value of the people of the State of Florida. After December 31, 2020, a person authorized to conduct gaming or pari-mutuel operations may not race greyhounds or any member of the *Canis Familiaris* subspecies in connection with any wager for money or any other thing of value in this state, and persons in this state may not wager money or any other thing of value on the outcome of a live dog race occurring in this state. The failure to conduct greyhound racing or wagering on greyhound racing after December 31, 2018, does not constitute grounds to revoke or deny renewal of other related gaming licenses held by a person who is a licensed greyhound permitholder on January 1, 2018, and does not affect the eligibility of such permitholder, or such permitholder's facility, to conduct other pari-mutuel activities authorized by general law. By general law, the legislature shall specify civil or criminal penalties for violations of this section and for activities that aid or abet violations of this section.

As of January 1, 2021, wagering on live greyhound racing in Florida is completely prohibited. However, cardroom and slot machine facilities by such permitholders may continue to operate after the closure of racing activities.

### **Pari-mutuel Wagering**

Since approximately 1931, pari-mutuel wagering has been authorized in Florida for jai alai, greyhound racing, and horseracing. These activities are overseen and regulated<sup>14</sup> by the Division of Pari-Mutuel Wagering (Division) at the Florida Gaming Control Commission (Commission), which is housed within the Department of Legal Affairs, Office of the Attorney General.<sup>15</sup> The Commission is tasked with exercising all regulatory and executive powers of the state on all forms of gambling authorized by the State Constitution or law including pari-mutuel wagering, card rooms, slot machine facilities, and the oversight of gaming compacts under the federal Indian Gaming Regulatory Act but excluding state lottery games authorized by the State Constitution.<sup>16</sup>

### **Pari-mutuel Wagering State Revenue**

License fees and taxes collected by pari-mutuel wagering permitholders, including slot machine and cardroom permitholders, are deposited with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund. Slot machine tax revenue is transferred from the Pari-mutuel Wagering Trust Fund to the Educational Enhancement Trust Fund to supplement public education funding statewide. Taxes collected by cardrooms are split between the Pari-mutuel Wagering Trust Fund and the General Revenue Fund. During the 2022-2023 fiscal year, the pari-mutuel industry operated 447 racing and gaming days, which resulted in state revenue of \$6,291,327, total paid attendance of 61,775, and total pari-mutuel handle of \$469,498,714.<sup>17</sup>

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<sup>13</sup> See the text of Amendment 13, now codified as art. X, s. 32, at <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes#A10S32> (last visited Jan. 27, 2024).

<sup>14</sup> From 1932 to 1969, Florida's pari-mutuel industry was regulated by the State Racing Commission. In 1970, the commission became a division within the Department of Business Regulation, which, in 1993, became DBPR.

<sup>15</sup> See ss. 16.71-16.716, F.S.

<sup>16</sup> S. 16.712, F.S.

<sup>17</sup> Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, <https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf> (last visited Jan. 12, 2024).

## Pari-mutuel Wagering Live Performance Requirements

Currently, only thoroughbred permitholders are required to conduct live racing.<sup>18</sup> Greyhound permitholders may not conduct live racing, and jai alai permitholders, harness horse racing permitholders, or quarter horse racing permitholders may elect not to conduct live racing or games.

A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games:<sup>19</sup>

- Retains its permit;
- Is a pari-mutuel facility as defined in s. 550.002(23), F.S.;
- Is eligible, but not required, to be a guest track, and if the permitholder is a harness horse racing permitholder, is eligible to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305, F.S.; and
- Remains eligible for a cardroom license.

A permitholder or licensee may not conduct live greyhound racing or dogracing in connection with any wager for money or any other thing of value in the state. The Division is authorized to deny, suspend, or revoke any permit or license in ch. 550, F.S., for conducting live greyhound racing or dogracing in violation of this provision. In addition to, or in lieu of, denial, suspension, or revocation of such permit or license, the Division is authorized to impose a civil penalty of up to \$5,000. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.<sup>20</sup>

## Pari-mutuel Wagering Permitting and Licensure

The Florida Pari-mutuel Wagering Act (Act)<sup>21</sup> provides specific permitting and licensing requirements for the conduct of the pari-mutuel industry.<sup>22</sup> Pari-mutuel wagering activities are limited to operators who have received a permit from the Division, which is then subject to ratification by county referendum.<sup>23</sup> Permitholders apply for an operating license annually to conduct pari-mutuel wagering activities.<sup>24</sup> Certain permitholders are also authorized to operate cardrooms<sup>25</sup> and slot machines at their facility.<sup>26</sup>

During Fiscal Year 2021-2022, the following 39 pari-mutuel permitholders were licensed to operate:<sup>27</sup>

- Nineteen Greyhound Racing permits.
- Three Thoroughbred Horse Racing permits.
- One Harness Horse Racing permit.
- Six Quarter Horse Racing permits.
- Ten Jai-Alai permits.

The Division is authorized to revoke or suspend any permit or license upon the willful violation by the permitholder or licensee of any provision of the Act, or any administrative rule adopted by the Division, and may impose a civil penalty against the permitholder or licensee up to \$1,000 for each offense.<sup>28</sup>

During Fiscal Year 2022-2023, the Division issued 22 rulings and five consent orders with assessed fines and/or imposed license suspensions for violations.<sup>29</sup>

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<sup>18</sup> S. 550.01215(1)(b)1., F.S.

<sup>19</sup> *Id.*

<sup>20</sup> S. 550.01215(1)(b)2., F.S.

<sup>21</sup> Ch. 550, F.S.

<sup>22</sup> S. 550.054(1), F.S.

<sup>23</sup> S. 550.054(2), F.S.

<sup>24</sup> S. 550.0115, F.S.

<sup>25</sup> S. 849.086, F.S.

<sup>26</sup> S. 551.104, F.S.

<sup>27</sup> Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, <https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf> (last visited Jan. 12, 2024).

<sup>28</sup> S. 550.054(9)(b), F.S.

## Pari-mutuel Wagering License Restrictions

The Act generally requires that any transfer or assignment of a permit receive prior approval<sup>30</sup> by the commission, which must determine the eligibility<sup>31</sup> of persons and entities to hold a permit. Similarly, if a permit is held by a corporation or business entity other than an individual, the transfer of ten percent or more of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the commission.<sup>32</sup>

The Act provides restrictions on which persons and entities (including but not limited to employees, officers and directors, partners, and owners of the permitholder) may hold permits, based on whether they are of “good moral character,” or have been convicted of a disqualifying felony<sup>33</sup> or for bookmaking.<sup>34</sup>

The Act restricts pari-mutuel permitholders **from being issued an operating license** to conduct pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021.<sup>35</sup>

The Act restricts pari-mutuel permitholders **from holding a permit** to conduct pari-mutuel wagering and associated cardroom or slot machine licenses<sup>36</sup> unless the permitholder, other than a limited thoroughbred permitholder, held an operating license for the conduct of pari-mutuel wagering for Fiscal year 2020-2021.<sup>37</sup>

The Act specifies that permits held on January 1, 2021 are deemed valid,<sup>38</sup> but new permits for pari-mutuel wagering may not be approved or issued.<sup>39</sup>

The commission is required to revoke the permit of any permitholder, other than a limited thoroughbred permitholder, who did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. A permit revoked under this provision is void and may not be reissued.<sup>40</sup>

## Relocation

Certain permitholders may relocate the location listed in their permit to **a new location within 30 miles**. Greyhound and jai alai permitholders operating in counties where they are the only permitholder of that class may relocate.<sup>41</sup> Greyhound permitholders that converted their permit from a jai alai permit

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<sup>29</sup> Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, <https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf> (last visited Jan. 12, 2024).

<sup>30</sup> There is one exception to the prior-approval requirement in s. 550.054(11)(a), F.S., which is that the holder of a permit converted to a jai alai permit “may lease or build anywhere within the county in which its permit is located.” As of 2021, such conversions are prohibited. *See* s. 550.054(15)(d), F.S.

<sup>31</sup> *See* s. 550.1815, F.S.

<sup>32</sup> S. 550.054(11)(b), F.S.

<sup>33</sup> Pursuant to s. 550.1815(1)(b), F.S., the following are disqualifying felonies: (1) a felony in Florida; (2) any felony in any other state which would be a felony if committed in Florida under the laws of this state; (3) any felony under the laws of the United States; or (4) a felony under the laws of another state if related to gambling which would be a felony under Florida law if the offense was committed in Florida.

<sup>34</sup> The term “bookmaking” is defined in s. 849.25, F.S., to mean “the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever.”

<sup>35</sup> S. 550.01215(1)(d), F.S.

<sup>36</sup> Under s. 551.114(4), F.S., designated slot machine gaming areas must be located at the address specified in the licensed permitholder's slot machine license issued for Fiscal Year 2020-2021.

<sup>37</sup> S. 550.054(15)(a), F.S.

<sup>38</sup> S. 550.054(15)(b), F.S.

<sup>39</sup> S. 550.054(15)(c), F.S.

<sup>40</sup> S. 550.054(9)(c), F.S.

<sup>41</sup> S. 550.0555, F.S.

may relocate, and a greyhound permitholder in a county where it is the only permitholder who operates at a leased facility may also relocate.<sup>42</sup>

In each of these cases, **the relocation must not cross county boundaries and must be approved under the local zoning regulations.** Approval by the Division is required for these relocations.

### **Conversion**

A permit to conduct pari-mutuel wagering may not be converted to another class of permit.<sup>43</sup>

### **Changes in Racing Dates**

The Commission is required to issue each license no later than March 15, and each permitholder is required to operate all performances at the date and time specified on its license. However, the Commission is authorized to approve minor changes in racing dates after a license has been issued if there is no objection from any operating permitholder that is:<sup>44</sup>

- Conducting live racing or games; and
- Located within 50 miles of the permitholder requesting the changes in operating dates.

If a permitholder objects, the Commission is required to approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates.<sup>45</sup>

In making the determination to change racing dates, the Commission is required to take into consideration the impact of such changes on state revenues.<sup>46</sup>

### **Lease of Pari-mutuel Facilities**

Holders of valid pari-mutuel permits for the conduct of any pari-mutuel wagering in this state are entitled to lease any and all of their facilities, as follows:<sup>47</sup>

- The lease may only be to another holder of a same class valid pari-mutuel permit;
- The permitholders must be located within a 35-mile radius of each other; and
- The lessee is entitled to a permit and license to conduct intertrack wagering and operate its race meet or jai alai games at the leased premises.

### **Effect of Proposed Changes**

#### **Changes in Racing Dates**

The bill changes references to “racing” dates to instead reference “performance” dates.

#### **Lease of Pari-mutuel Facilities**

The bill removes the requirement that such agreements be between holders of the same class of permit.

## **B. SECTION DIRECTORY:**

Section 1: Amends s. 550.01215, F.S., relating to license application; periods of operation; license fees; bond.

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<sup>42</sup> S. 550.054, F.S.

<sup>43</sup> S. 550.054(15)(d), F.S.

<sup>44</sup> S. 550.01215(3), F.S.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> S. 550.475, F.S.

Section 2: Amends s. 550.475, F.S., relating to lease of pari-mutuel facilities by pari-mutuel permitholders.

Section 3: Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

The bill removes the limitation that the lease of pari-mutuel facilities only be allowed for holders of the same class pari-mutuel permit. This may create a positive fiscal impact to the businesses that are currently restricted from participating in such lease agreements.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**