

1989

Session Law 89-242

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

Recommended Citation

House of Representatives, Florida Senate &, "Session Law 89-242" (1989). *Staff Analysis*. 1035.
<https://ir.law.fsu.edu/staff-analysis/1035>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

**H 269 GENERAL BILL/CS/CS/1ST ENG by Finance & Taxation;
Regulated Industries; Smith (Similar CS/CS/S 415)**

Dogracing/Permitholders; authorizes use of capital improvement funds for construction of new facility in certain instances; authorizes certain greyhound owners to file certain contracts with Pari-mutuel Wagering Div.; provides that certain amounts withheld from pools by permitholders conducting dograces may be used for purses; requires that specified percentage of such additional amounts be used for purses in addition to purse percentage in 1987-88, etc. Amends Ch. 550. Effective Date: 07/01/89.

02/09/89 HOUSE Prefiled
02/13/89 HOUSE Referred to Regulated Industries
02/15/89 HOUSE Subreferred to Subcommittee on Pari-mutuels
02/17/89 HOUSE On subcommittee agenda—Regulated Industries, 03/08/89, 2:00 pm, 212-HOB—Temporarily passed
04/04/89 HOUSE Introduced, referred to Regulated Industries -HJ 35; Subreferred to Subcommittee on Pari-mutuels; On Committee agenda—Regulated Industries, 04/05/89, 1:15 pm, 212-HOB—For ratification to subcommittee; On subcommittee agenda—Regulated Industries, 04/05/89, 2:15 pm, 212-HOB—Temporarily passed
04/14/89 HOUSE On subcommittee agenda—Regulated Industries, 04/18/89, 8:30 am, 214-C
04/18/89 HOUSE Subcommittee Recommendation: Favorable as a proposed CS
04/25/89 HOUSE On Committee agenda—Regulated Industries, 04/27/89, 8:30 am, 214-C
04/27/89 HOUSE Preliminary Committee Action by Regulated Industries: Favorable as a CS
05/09/89 HOUSE Comm. Report: CS by Regulated Industries, placed on Calendar -HJ 443; CS read first time -HJ 438
05/10/89 HOUSE Withdrawn from Calendar, referred to Finance & Taxation; Appropriations -HJ 454
05/22/89 HOUSE On Committee agenda—Finance & Taxation, 05/23/89, 8:00 am, 413-C—Not considered
05/24/89 HOUSE On Committee agenda—Finance & Taxation, 05/25/89, 8:00 am, 413-C
05/25/89 HOUSE Preliminary Committee Action by Finance & Taxation: Favorable as a CS
05/30/89 HOUSE Comm. Report: CS/CS by Finance & Taxation -HJ 887; CS read first time -HJ 885; Now in Appropriations -HJ 887; Withdrawn from Appropriations -HJ 850; Placed on Calendar; Placed on Special Order Calendar
05/31/89 HOUSE Read second time; Amendments adopted; Read third time; CS passed as amended; YEAS 107 NAYS 6 -HJ 978
06/01/89 SENATE In Messages; Received -SJ 689; Substituted for CS/CS/SB 415; CS passed; YEAS 34 NAYS 1 -SJ 861
06/01/89 Ordered enrolled
06/13/89 Signed by Officers and presented to Governor
06/29/89 Became Law without Governor's Signature; Chapter No. 89-242

B
I
L
L

H
I
S
T
O
R
Y

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: \wp\sa\h0269-f.ri
DATE: June 26, 1989

HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATED INDUSTRIES
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/CS/HB 269

RELATING TO: Greyhound racing; permitting the withholding of additional sums from wagers; permitting the use of certain capital improvement withholdings for advertising; establishing a procedure to provide for purse payments.

SPONSOR(S): The Committee on Finance and Taxation; The Committee on Regulated Industries; and Representative Smith

EFFECTIVE DATE: July 1, 1989 or upon becoming a law, whichever occurs later

DATE BECAME LAW: May 31, 1989

CHAPTER #: 89-242, Laws of Florida

COMPANION BILL(S): Similar to SB 415

OTHER COMMITTEES OF REFERENCE: (1) Finance and Taxation
(2) Appropriations

I. SUMMARY:

This bill allows greyhound tracks to deduct as much as an additional 2% from each exotic wager during fiscal year 1989-90. Such additional withholdings are subject to a 17.5% surtax. The remainder of any such additional withholding will be split evenly between the track and additional purses. The Division of Pari-Mutuel Wagering is directed to study the economic effects of the additional take-out. The bill also permits greyhound tracks to use some of their capital improvement withholdings for purses. Finally, it establishes an expedited procedure for the Division of Pari-Mutuel Wagering to follow in processing claims by a greyhound owner that the racing kennel is not timely paying the owner's purses.

A. PRESENT SITUATION:

Pari-mutuel wagering was legalized in Florida in 1931, primarily to obtain a needed source of state revenues during the depression. Since that time a large and varied pari-mutuel industry has developed in Florida. In the 1987-88 fiscal year the pari-mutuel industry produced \$130 million in tax revenues, of which Florida's 18 greyhound tracks produced \$80 million.

STORAGE NAME: \wp\sa\h0269-f.ri

DATE: June 26, 1989

PAGE: 2

The pari-mutuel industry is and has been highly regulated. Most of these regulations are intended to protect the state's flow of tax revenues or to protect the public.

The state has generally limited the number of performances which any permitholder can conduct. It has also protected established permitholders from new competition. In 1935, a law was enacted which prevented a permit from being granted for a new greyhound track within 20 miles of an established track. In 1945 a similar restriction was implemented for jai alai. In 1947 these restrictions were expanded, so that no new horse or greyhound permit could be granted within 100 miles of any type of existing permit. This is generally the state of the law today. The reason for these restrictions has been the belief that an oversaturation of the market would jeopardize the state's tax flow from pari-mutuels.

Also restricted is the amount which any permitholder can "withhold" (deduct) from the "handle" (the money wagered) prior to distributing the wagering pool to the winning bettors. It is generally believed that an increase in the percentage withheld from wagering pools will have a negative impact on the amount which is wagered. Since tax on handle is the primary source of state pari-mutuel taxes, an increase in the withholding may negatively affect the state's tax receipts.

In the late 1970's greyhound tracks were only permitted to withhold 17.6% from each wager. The state tax was 7.6%. Tracks were paying between 2% and 3% for purses. Thus, they were left with an average of 7 1/2% of the handle for other expenses and profits.

In 1980 there were substantial revisions to the permissible withholding. First, the withholding from exotic wagers, which comprise 90% of all wagers at dog tracks, was increased to 18%, with the tracks permitted to retain the entire .4% increase.

Secondly, a special 1% additional withholding was permitted from triples and trifecta wagers. This change was made because some track owners had been allowing their facilities to deteriorate. The Legislature concluded that this deterioration would be harmful to attendance, handle, and ultimately to state tax revenues. It was specified that if a track elected to deduct this additional sum, it must be spent on capital improvements to the permitholder's track. What constitutes a qualifying capital improvement was defined. Repair and maintenance items were specifically excluded.

Finally in 1980, because the purses at Florida greyhound tracks were less than purses in other states, an additional 1% withholding from triples and trifecta wagers was required. This withholding was to be used to supplement greyhound purses, pursuant to a specified formula, and for awards for Florida bred greyhounds. Any funds from these withholdings which were "in excess of that required" to accomplish these purposes could then be used for capital improvements.

The formula for determining purses outlines both minimum and maximum purse rates. However, in some applications it is apparently impossible to comply with both the minimum and maximum statutory purse rates. Many greyhound owners and kennels complain that because of the superior bargaining power of the tracks, no real purse negotiations take place, and if they want to run their dogs in Florida they must agree to the track's terms and contract. Spokespersons for the tracks deny this. However, it appears that in most instances where the formula for "minimum" purse levels and "maximum" purse levels conflict, the language regarding minimum purse levels is ignored and the balance remaining from this additional withholding is used by the track for capital improvements. According to the Division of Pari-Mutuel Wagering, none of this money has yet been used for special awards for Florida bred greyhounds.

In any event, much of this money did go to supplement purses, and presently the average purse rate in Florida is approximately 2.95%.

In 1984 an additional 1% withholding from all exotic wagers was authorized as an additional source of capital improvement revenues. However, any track electing to take this withholding is required to pay 50% of it as a surtax to the state. Of Florida's 18 greyhound tracks, only 4 have chosen not to take this additional withholding.

Through the 1980's the growth rate of wagering at Florida's greyhound tracks has generally been lower than the growth rate during the late 1970's.

During the past two years there have been two other developments which have had an impact upon the income of Florida's greyhound tracks. The first development was the granting of additional performances.

In 1987, at the request of Florida's pari-mutuel permitholders, the Legislature authorized a substantial increase in greyhound and jai alai performances for many permitholders. Florida's only harness track was also authorized a significant increase in performances. In 1988, more additional performances were authorized.

Between 1986 and 1988 the number of authorized greyhound performances increased by approximately 1/3 and the number of authorized jai alai performances increased by 50%.

However, only half of Florida's 18 greyhound tracks requested additional performances. The three tracks located in the Jacksonville area have common ownership and rotate so as to conduct operations on a year-round basis anyway. They did not request or receive additional performances. Nor did the three tracks in the Dade/Broward market area or the three tracks in the Tampa/St. Petersburg market area, all of which have market agreements and rotate so that only one is open in each area at any time.

STORAGE NAME: \wp\sa\h0269-f.ri

DATE: June 26, 1989

PAGE: 4

In some cases where additional performances were conducted, the additional competition apparently injured all parties.

For instance, in the Orlando area there are two greyhound tracks and one jai alai fronton. Prior to the allocation of additional performances each had previously operated for a reasonable portion of each year with no competition. After the award of additional performances, head to head competition became the rule rather than the exception. The result was that the profits of all three facilities suffered. These facilities have now reached an agreement which allows only minimal head to head competition during the next few years.

In areas of the state where there is less competition among facilities, the additional performances have often enabled permitholders to increase profits significantly.

The second recent factor affecting Florida's greyhound tracks is the commencement of the Florida Lottery in January of 1988. While most states which permit greyhound racing also have state lotteries, this was new for Florida. It is likely that the Florida Lottery has had some negative impact upon Florida greyhound tracks, although this impact may lessen in time.

However, despite the various claims of the extent of the impact, the present impact is difficult to determine because of numerous factors including additional performances and competition.

The only area of the state where there were no additional performances awarded, and absolutely no additional competition, is Jacksonville. There, the three greyhound tracks are under common ownership and rotate seasons so that only one is open at any one time. Taken as a unit, they experienced a decrease in wagering of slightly less than 3.9% during calendar year 1988. This may be attributable to the lottery.

Representatives of Florida's greyhound tracks maintain that the lottery impact was greater than this. A report prepared by Peat Marwick for the Florida greyhound tracks states that the lottery had a negative impact of 8.7% on greyhound handle. In terms of handle retained by the track after taxes and purses, this represents a negative impact of \$8.8 million. However, this report is subject to question for various reasons, including the fact that its author, by his own admission, was unaware of certain areas where there is additional competition within the state.

It can be difficult to determine the precise profitability of Florida's tracks. The only present source of information is the uniform report which tracks are required to file with the Division of Pari-Mutuel Wagering on an annual basis, within 120 days after the close of their fiscal year. Of Florida's 18 greyhound tracks, at the time of the analysis for this report, 3 had apparently not yet filed reports for their 1988 operating period.

However, what follows is the analysis of the tracks which had filed at that time. Excluding Key West, for which no 1986 report is available, and which has historically shown poor results because it is apparently in an inadequate market (in fact, the original Key West permit was given authorization to convert to a harness permit in Pompano Beach because of poor financial results), a comparison of 1988 reports with 1986 reports shows the following. The 14 greyhound permits, as a group, show an average profit per track (prior to income taxes) of approximately \$2 million for their 1988 operating periods. This is an increase of approximately 12% over the 1986 results. These figures have been adjusted for increases or decreases in officer and director compensation, which in some instances are used as another means of distributing profits to the shareholders.

Most tracks which did not obtain additional performances have shown a decrease in profitability between 1986 and 1988. Most which did obtain additional performances have shown an increase in profitability.

However, the extent of any individual increase or decrease varies. Only one of these tracks, Flagler, reported a loss for the 1988 operating period. However, Hollywood shares the same market area with Flagler and did not receive additional performances either. Hollywood apparently remains Florida's most profitable pari-mutuel facility. Its handle during calendar 1988 was less than 2% lower than its handle during calendar 1986. This was despite the fact that it spent approximately 55% less on advertising and promotions in 1988 than it had in 1986.

The owners of Flagler did benefit from additional performances because of numerous additional performances authorized for another track which they own, the Bonita-Fort Myers track. Net profits at the Bonita track increased from \$1.2 million in 1986 to almost \$2.2 million in 1988, and its officers' and directors' compensation increased from \$419,000 to \$891,000.

Florida's greyhound owners and racing kennels maintain that there is a crisis in their portion of the industry. They claim that in recent years their expenses have increased much faster than their incomes. Florida's greyhound breeding industry is one of the largest in the nation, and is reportedly also undergoing difficult times.

These segments of the industry claim that the problem is the result of low purses. The size of purses is determined by two factors, the amount of handle generated, and the percentage of that handle devoted to purses.

The attached chart shows that of the top ten greyhound states in terms of average handle per performance, Florida ranks only eighth. Of the top ten, Florida also has the third lowest purse percentage. Florida does have one of the higher rates of tax on handle, but because it has one of the highest rates of withholding from wagers (only .2% less than the highest) Florida

STORAGE NAME: \wp\sa\h0269-f.ri

DATE: June 26, 1989

PAGE: 6

tracks have the second highest rate of handle retained by the track after purses and taxes.

The attached chart also indicates that of the 15 states which presently have a greyhound racing, 12 also have a state lottery.

Representatives of greyhound owners additionally point out that states which have recently authorized greyhound racing (and which are not reflected on this chart) generally mandate a significantly higher purse rate than is paid in Florida.

Greyhound owners maintain that their present problems are often exacerbated by the fact that racing kennels are increasingly not forwarding their share of the purses. Although the division has financial responsibility rules, and can suspend or revoke the license of a racing kennel which does not pay its owners, greyhound owners maintain that this is not presently a satisfactory deterrent. They claim that even if the division chooses to pursue a claim which is presented to it, the case can take many months prior to hearing, even if the kennel has no defense to the charge. The process involves at least one trip, which can be quite expensive, to division offices to testify. Additionally, even if the dog owner ultimately prevails there is no guarantee that he will ultimately be paid.

B. EFFECT OF PROPOSED CHANGES:

This bill increases the percentage which a greyhound permitholder can withhold from any exotic wagers by up to 2%. Thus, it increases the maximum permissible withholding from 20% or 21% on exotic wagers to 22% or 23%. The funds generated by the increased withholdings are to be split evenly between additional purses and additional revenues to the track. However, this increased takeout is authorized for fiscal year 1989-90 only. Furthermore, a 17.5% surtax is imposed on the additional withholding. It is hoped that this will make up for the taxes lost because of decreased handle.

As noted above, most experts believe that increasing the amount withheld tends to decrease the amount wagered. Even a fractional increase in withholding at Florida greyhound tracks in 1975 was followed by a significant, but temporary, decline in growth of handle. The 1980 increase in withholding was much larger than that of 1975, and was followed by a decline in growth that apparently persisted throughout the decade.

A 1987 report by Thalheimer Research Associates prepared for the Florida Horse Council, stated that as regards horseracing: "As the level of the takeout rate has increased over time, the sensitivity of the bettor to additional changes in the rate has increased." p.ii. "... average daily handle has become much more sensitive to changes in the takeout rate than it has been in the past. Increasing the takeout rate by one percent in 1985, with no changes in other important factors such as purses or level of competition, will result in a two percent or greater decline in average daily handle." p. 51. That report did indicate than an

increase in purses for horses (resulting in improved competition) would have a tendency to increase handle, but an increase of 1% in take-out and 1% in purses would have an overall negative impact on handle.

The recent experience in West Virginia shows the potential effect of a large increase in the withholding at greyhound tracks. In 1986 the maximum withholding was 16.3% on every type of wager. In 1987, primarily at the request of the greyhound tracks, the Legislature increased the withholding on wagers involving two dogs to 19%, on wagers involving 3 dogs to 21%, and on wagers involving four or more dogs to 23%.

In 1988, the first full year that this increase was in effect in West Virginia, gross handle fell over 18% from 1986 levels, and handle per performance fell over 22.5%. Officials in that state indicate that there was no other significant factor in this decline. They also indicate that the decline has tended to accelerate with time, and that the handle in the first quarter of 1989 was down an additional 10% from 1988 levels.

Until recently, Florida greyhound tracks were requesting a 30-40% reduction in taxes, to be split with dog owners and racing kennels. At that time the position of most Florida tracks was that any increase in withholding would decrease handle. In March, spokespersons for most Florida tracks and management of some tracks met with staff of the House, the Senate, and the Department of Business Regulation. At that time this concern was reiterated by track management. Even the Peat Marwick report recently prepared for the greyhound tracks alludes to the detrimental effect on handle which can result from an increase in the rate of withholding.

There are two ways in which an increase in the withholding rate can decrease handle. First, there is concern that some heavy gamblers will cease participating when they learn that their chances of winning have been further decreased. Because these gamblers tend to wager much more than the average patron some track managers consider them to be essential to the health of their businesses.

Secondly, handle tends to decline as a result of the churn or multiplier factor. Dollars brought to the track tend to be wagered over and over. If \$100,000 is wagered on the first race, and the withholding is 25% instead of 20%, \$5,000 less is returned to the public for later wagers. Since greyhound tracks often conduct as many as 13 races during a performance, this multiplier effect is believed by some to have a significant impact. Persons attending the races generally do not have an unlimited bankroll, and will often leave the track when they have lost all of their wagering money, whether that occurs after the tenth race or the sixth race.

This bill also allows a track to use its s. 550.162(3)(b) capital improvement withholding for purses instead of for capital improvements.

STORAGE NAME: \wp\sa\h0269-f.ri

DATE: June 26, 1989

PAGE: 8

The bill also establishes a new procedure for processing complaints of greyhound owners that they have not been timely paid their purses. Under this procedure, the owner may file a sworn complaint with the division. The division will be required to process the complaint and within 7 days notify the kennel of the complaint. The kennel will then have 14 days to present proof that the obligation has been satisfied. If no timely showing is made, the division will be required to suspend the kennel's license until payment in full has been made. If a timely showing is made, the division must have an evidentiary hearing within and render a decision 30 days. License suspensions may result and the division may assess costs of investigation and prosecution.

Finally, the bill provides for the Division of Pari-Mutuel Wagering to prepare a report to the Legislature by March 1, 1990 which shall examine the economic impact of the increased withholding on the private and public sector. The division is directed to recommend whether this legislation should be reenacted, amended or remain repealed.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

According to the Department of Business Regulation, an increase in the amount withheld from wagers is likely to have an effect two times greater upon handle. Thus, a 1% increase is likely to decrease handle by 2%, and a 2% increase is likely to decrease handle by 4%. This is in line with the Thalheimer projection for the Florida horse industry, which stated an effect of at least two times. The surtax of 17.5% is based on this assumption and designed to recover the state's revenues that are lost because of the decreased handle.

This is approximately half the effect actually experienced in West Virginia, but greater than spokespersons for Florida tracks may presently agree likely.

Under a previous version of this bill, a track could have chosen to cease withholding under s. 550.162(3)(b), which is presently split with the state, and instead take more under the new provisions. This bill attempts to keep revenues at current levels by imposing a 50% surtax if a track does not withhold the full amount permitted under s. 550.162(3)(b).

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

If all additional withholdings permitted by this bill are used, Florida greyhound patrons would pay an additional \$18.1m in F.Y. 1989-90.

2. Direct Private Sector Benefits:

If all additional withholdings are used, Florida tracks will receive an additional \$4.1m in F.Y. 1989-90. Greyhound owners and kennels will receive an additional \$6.3m in F.Y. 1989-90.

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

This should assist Florida tracks in competing for better quality racing dogs, and should improve the profits of the above participants in Florida racing. The only exception would be if there were a drop in handle larger than that predicted by the department, in which case all except the greyhound owners and kennels could lose revenue.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

It is debatable whether this bill is beneficial to the goals set forth in the State Comprehensive Plan.

IV. COMMENTS:

As noted above, the tracks which have been experiencing the most significant decrease in profits have been the ones which are located

STORAGE NAME: \wp\sa\h0269-f.ri

DATE: June 26, 1989

PAGE: 10

in areas with the most competition. Thus, the tracks with the strongest claim to some relief may be the very tracks which can least afford to impose the increases in withholding allowed by this bill.

This bill may prove to be relevant to the Mission for the Committee on Regulated Industries, which is to "Support the enhancement of the pari-mutuel industry as a national and international attraction".

This bill does not appear to be relevant to any aspect of the Policy Statement issued by the 1989-90 Legislative Issues Conference.

Legislative History 1989 Session

A. Enacted Bill

House Bill 269 was prefiled by Representative Smith on February 9, 1989. The original version only addressed the problem of untimely purse payments to greyhound owners from racing kennels. It attempted to remedy this problem by requiring direct payment of purses to the owners from the tracks.

On February 13 the bill was referred to the Committee on Regulated Industries. On February 15 it was subreferred to the Subcommittee on Pari-mutuels.

On April 18 the bill was recommended favorably by the Subcommittee on Pari-mutuels as a Proposed Committee Substitute. The PCS addressed only the issue of delayed purse payments, and addressed it in a form substantially similar to the manner in which this issue is addressed in the version which passed.

On April 27 the Committee on Regulated Industries approved the bill as a Committee Substitute. The CS differed significantly from the PCS which had been recommended by the subcommittee. In addition to the provision addressing delayed purse payments, the CS provided that: greyhound tracks could withhold up to an additional 5.4% from each regular wager and up to an additional 5% from each exotic wager; that the additional withholding was to be split evenly between the track and additional purses; and that the tracks could use a portion of their capital improvement withholdings for purses or advertising, instead of for capital improvements.

On May 9 the CS was placed on the Calendar. On May 10 it was withdrawn from the Calendar and referred to the Finance and Taxation Committee and the Appropriations Committee.

On May 25 the Finance and Taxation Committee considered the CS and voted favorably on it as a Committee Substitute for Committee Substitute. At that point the CS/CS was nearly in its final form.

On May 30 the bill was withdrawn from Appropriations, placed on the Calendar, and placed on the Special Order Calendar.

On May 31 it passed as amended by a vote of 107-6. The amendments clarified that a permitholder need not take the entire 2% additional withholding if only a portion is desired, and added a provision allowing certain permitholders which relocate their facility to use capital improvement funds to construct a new facility.

On June 1 the Senate substituted the CS/CS for CS/CS/SB 415 and passed it by a vote of 34-1.

On June 13 the bill was presented to the Governor.

B. Disposition of Companion

Senate Bill 415 was prefiled by Senator Thurman on March 9, 1989. On March 24 it was referred to the Regulated Industries Committee and the Finance, Taxation, and Claims Committee.

On April 25 the Regulated Industries Committee voted favorably on it as a Committee Substitute.

On May 26 the Finance, Taxation, and Claims Committee voted favorably on it, making it a Committee Substitute for Committee Substitute, which was placed on the Calendar later that day.

On May 31 it was placed on the Special Order Calendar.

On June 1 CS/CS HB 269 was substituted for it and passed.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:



Robert B. Beitler

Staff Director:

Wyatt T. Martin

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

COMPARISON OF GREYHOUND RACING BY STATE
 AVERAGE TAKEOUT - % OF HANDLE FOR PURSES - % OF HANDLE FOR GOVERNMENT
 DATA IS FOR CALENDAR YEAR 1988

MAY 8, 1989

STATE	LOTTERY	NUMBER TRACKS	NUMBER PERFORMANCES	TOTAL HANDLE	AVERAGE HANDLE PER PERF.	AVERAGE TAKEOUT BASED ON FLA. BETTING PATTERNS	AVERAGE PERCENT OF HANDLE FOR PURSES	TOTAL TAX	AVERAGE PERCENT OF HANDLE TO GOVERN. AS TAX	AVERAGE PERCENT OF HANDLE RETAINED BY PERMITHOLDER
ARKANSAS	NO	1	258	168,429,688	652,828	18.00%	2.85%	11,706,503	6.95%	8.20%
OREGON	YES	1	122	61,933,534	507,652	17.65%	3.80%	3,713,377	6.00%	7.86%
MASSACHUSETTS	YES	3	986	424,315,808	430,341	19.00%	4.00%	31,126,169	7.34%	7.66%
COLORADO	YES	5	559	208,485,671	372,962	15.00%	3.00%	8,339,427	4.00%	8.00%
RHODE ISLAND	YES	1	464	165,314,365	356,281	18.91%	3.25%	12,216,796	7.39%	8.27%
CONNECTICUT	YES	1	443	132,698,977	299,546	19.00%	3.50%	10,600,807	7.99%	7.51%
ALABAMA	NO	3	1,436	387,798,808	270,055	20.15%	2.70%	20,325,290	5.24%	12.21%
FLORIDA	YES	18	3,830	1,020,303,401	266,398	19.95%	2.95%	80,267,194	7.87%	9.13%
IOWA	YES	3	976	225,508,996	231,054	17.82%	3.00%	15,015,780	6.66%	8.16%
WEST VIRGINIA	YES	2	855	157,146,065	183,797	20.07%	3.75%	12,548,201	7.99%	8.33%
ARIZONA	YES	6	1,225	165,602,622	135,186	23.22%	3.75%	9,549,049	5.77%	13.70%
NEW HAMPSHIRE	YES	3	1,042	109,027,302	104,633	25.37%	4.00%	8,491,413	7.79%	13.59%
VERMONT	YES	1	111	7,620,136	68,650	24.55%	3.00%	165,811	2.18%	19.38%
IDAHO	NO	1	161	10,223,980	63,503	20.00%	3.50%	430,495	4.21%	12.29%
SOUTH DAKOTA	YES	2	256	11,619,526	45,389	19.66%	3.75%	703,525	6.05%	9.86%
FLORIDA PROPOS		18	3,830	1,020,303,401	266,398	24.98%	5.47%	80,267,194	7.87%	11.65%

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>George</u>	<u>Skelton</u>	1. <u>RI</u>	<u>Fav/CS</u>
2. <u>Keating</u>	<u>Beggs</u>	2. <u>FTC</u>	<u>Fav/CS</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Dogracing/Pari-mutuel Pools

BILL NO. AND SPONSOR:

CS/CS/SB 415 by
Committees on FT&C and RI
and Senator Thurman

I. SUMMARY:

A. Present Situation:

Section 550.162(3), F.S., allows a greyhound racing permitholder to withhold certain amounts from pari-mutuel pools for capital improvements or to reduce capital improvement debt. For these purposes, "capital improvements" is defined in s. 550.16(2)(b), F.S., as:

1. The amount paid out for new buildings or for permanent improvements or betterments made to improve the facilities utilized by the permitholder for the conduct of its race meetings; or
2. The amount expended in restoring property or in improving the facility or any part thereof which results in the addition or replacement of a fixed asset.

In general, the amounts referred to as "capital improvements" include amounts paid which add to the value, improve, or substantially prolong the useful life of the racetrack or fronton facility utilized by the permitholder for the conduct of its race meeting.

Under s. 550.162(2), F.S., all greyhound permitholders must withhold a certain percentage of handle from exotic wagers to be used for additional purses and awards for Florida-bred greyhounds. This additional amount for purses and awards may not be less than the percentage of handle paid by contract between the permitholder and racing kennels during the 1978-79 race meet plus this additional withholding. This is provided, however, that the amount does not exceed 3 percent of the total handle for the current race meet. In that instance, a permitholder may use the excess money for capital improvements. The result has been that this additional withholding originally intended to increase purse payments has actually been used for track improvements.

Section 550.09(5), F.S., levies a 50 percent surtax on the 1 percent withheld from pari-mutuel pools for capital improvements authorized in s. 550.162(3)(b).

B. Effect of Proposed Changes:

The bill amends s.550.162(2), F.S., adding a new subsection (d) which provides for the timely payment of a purse to the owner of a greyhound which has run at a Florida track. If such owner is not paid, he may file with the Division of Pari-mutuel Wagering, a complaint against the kennel. If the racing kennel

contests the complaint, the division shall hold a hearing and render a decision within 30 days after the racing kennel's response to the complaint. If the division determines the complaint is valid, the division shall suspend the racing kennel's pari-mutuel wagering occupational license and any registered name under which the kennel is operating until the obligation is paid.

This bill also amends s. 550.162(3), F.S., adding a new subsection (d) to allow the money withheld under subsections (2) and (3) to be used to pay for purses or advertising.

This bill would also create a new subsection (d) of s. 550.162(3), F.S., which would allow greyhound permitholders to withhold additional commissions on all wagering up to 23 percent of total handle. This 23 percent cap represents the maximum sum total of all allowable withholdings. The money from the additional takeout withheld under this new subsection is to be distributed fifty percent to augment purse payments for the current race meet and fifty percent to the permitholders. The additional amount to be paid to purses may not be used for stakes races, and is in addition to the amount of money provided by the contracts in force between a permitholder and kennels during the 1987-88 race meet. These contracts must be filed with the Division of Pari-mutuel Wagering. The amount withheld by the permitholder may not be placed in the permitholder's capital improvement fund but 50 percent must be used to augment purse payments for the current race and 50 percent must be used to augment the permitholder's share of commission.

The bill creates s.550.0955, F.S., which levies an additional surtax at the rate of 17.5 percent, on any funds withheld from handle by a dog racing permitholder that are in excess of withholding authorized on May 15, 1989. In addition, any dogracing permitholder who does not withhold the additional 1 percent on exptic wagering pursuant to s.550.162(3)(b), F.S., shall pay a surtax of 50 percent on the first 1 percent of exotic wagering withheld pursuant to any additional withholdings authorized after May 15, 1989.

The bill directs the Division of Pari-mutuel Wagering to study and prepare a report to the Legislature by March 1, 1990, on the overall impact of this pari-mutuel legislation.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

This bill would allow a maximum total takeout of 23 percent. The difference between the currently authorized takeout and the maximum takeout amount allowable under this bill is as follows:

<u>Type of Wager</u>	<u>Takeout Current Law</u>	<u>Takeout This Bill</u>	<u>Difference</u>
Win\Place\Show	17.6%	23.0%	+5.4%
Doubles	19.0%	23.0%	+4.0%
Trifecta, Triples	21.0%	23.0%	+2.0%
Other Exotics	20.0%	23.0%	+3.0%

It is, however, unlikely that a dogracing permitholder would elect to withhold the maximum 23 percent on each type of wager. The more probable result is that these permitholders would choose to withhold an additional 2 percent on exotic wagers. Fifty percent of this additional 2 percent would go to augment purse payments to the benefit of dogracing kennel owners. The second 50 percent would increase the permitholders' income. In addition, the authorized use for advertising of takeout previously applied to capital improvements would increase

permitholder revenue for profit and expenses, but would reduce the amount of revenue available for capital improvements.

B. Government:

The Division of Pari-mutuel Wagering would need to promulgate rules to define "advertising", and to determine what expenditures of this type could be covered by the money withheld under s. 550.162(2), F.S. It is unclear where the source of funds needed to maintain and improve track facilities would be derived if this money is used for advertising expenses.

It is generally believed that there is a relationship between takeout and total wagering, that total wagering declines with increases in takeout. To compensate for the anticipated decrease in handle and corresponding decrease in state tax revenues, a 17.5% surtax on additional takeout is authorized by the bill.

III. COMMENTS:

This past year, the Florida Pari-mutuel Commission formed an ad-hoc committee to study the issue of purse payments for greyhound racing. The Commission endorsed the conclusion that additional funds were needed to enhance dogracing purses in Florida. This bill is intended as a mechanism to provide additional money to augment purse awards and provide uniform relief to racing kennels. The purse funding levels in effect for the 1987-88 racing meet are to be used as a base. For these purposes, a race "meet" is an entire year of racing as awarded to a permitholder by the Florida Pari-mutuel Commission as reflected on the racing license.

CS/HB 269 is similar to CS/CB/SB 415.

The bill will take effect upon becoming a law.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE
Senate Bill 415

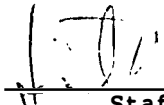
In addition to allowing money withheld under subsection (3) of s.550.162, F.S., to be used to pay for purses or advertising, the bill allows money withheld under subsection (2) of said section to be used for purses or advertising.

The bill provides for the timely payment of a purse to the owner of a greyhound which has run at a Florida track. If such owner is not paid, he may file with the Division of Pari-mutuel Wagering, a complaint against the kennel. If the racing kennel contests the complaint, the division shall hold a hearing and render a decision within 30 days after the racing kennel's response to the complaint. If the division determines the complaint is valid, the division shall suspend the racing kennel's pari-mutuel wagering occupational license and any registered name under which the kennel is operating until the obligation is paid.

The bill creates s.550.0955, F.S., which levies an additional surtax at the rate of 17.5 percent, on any funds withheld from handle by a dog racing permitholder that are in excess of withholding authorized on May 15, 1989. In addition, any dogracing permitholder who does not withhold the additional 1 percent of exotic wagering pursuant to s.550.162(3)(b), F.S., shall pay a surtax of 50 percent on the first 1 percent of exotic wagering withheld pursuant to any additional withholdings authorized after May 15, 1989.

The bill directs the Division of Pari-mutuel Wagering to study and prepare a report to the Legislature by March 1, 1990, on the overall impact of this pari-mutuel legislation.

Committee on Finance, Taxation and Claims



Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)