



The Florida Senate

Interim Project Report 2000-67

September 1999

Committee on Regulated Industries

Senator Tom Lee, Chairman

REVIEW OF EXTRA CHARITY DAY FOR JAI ALAI PERMITHOLDERS

SUMMARY

In 1996, The Florida Legislature passed a measure allowing certain jai alai permitholders to hold an extra "Retired Jai Alai Players Charity Day." s. 550.0351(9), Florida Statutes. The provision was intended to supplement the allowance since 1992 of one extra day each year that some permitholders had elected not to use. There were indications that some permitholders had elected not to hold the extra day due to administrative uncertainty. Since 1996, only two permitholders have held the supplemental days allowed by subsection 9. The report recommends that subsection 9 of section 550.0351, Florida Statutes, be repealed effective July 1, 2000, as provided by current law. The Legislature may want to consider enacting a new provision to allow jai alai permitholders the option of holding two Retired Jai Alai Players Charity Days per year. The fiscal impact would be minimal.

BACKGROUND

In Florida, pari-mutuel wagering is authorized for horse racing, dog racing, and jai alai. Florida is one of the nation's leading pari-mutuel states. It is the leading state in both dog racing and jai alai. Chapter 550, Florida Statutes, contains Florida's laws governing the taxation and regulation of pari-mutuel wagering on horse racing, dog racing and jai alai. These chapters, which initially were enforced by the former Florida Pari-Mutuel Commission, now are enforced by the Division of Pari-Mutuel Wagering of the Department of Business and Professional Regulation.

Pursuant to chapter 91-197, Laws of Florida, portions of chapters 550 and 551, Florida Statutes, were set to repeal on July 1, 1992. The Legislature intended to set up an orderly and timely review of pari-mutuel laws, eliminate duplication, and provide greater uniformity.

Instead, what occurred was the repeal of virtually all pari-mutuel laws.

The division adopted emergency rules to provide temporary regulation of the industry until December 1992, when chapter 92-348, Laws of Florida, was enacted. Chapter 92-348, Laws of Florida, provides much of today's regulatory scheme. The law reestablished the division's enforcement authority and condensed, clarified, and modernized Florida's pari-mutuel laws.

Chapter 92-348 also first authorized charity racing days for horse racing, dog racing and jai alai permitholders:

The division shall, upon the request of a permitholder, authorize each horse racing permitholder, dog racing permitholder, and jai alai permitholder up to five charity or scholarship days in addition to the regular racing days authorized by law.

Subsection 1 of section 9 of chapter 92-348, Laws of Florida.

One additional day was added for the "Retired Jai Alai Players Charity Fund."

In addition to the eligible charities that meet the criteria set forth in this section, a jai alai permitholder is authorized to conduct one additional charity performance each fiscal year for a fund to benefit retired jai alai players. This performance shall be known as the "Retired Jai Alai Players Charity Day." The administration of this fund shall be determined by rule by the division.

Subsection 8 of section 9 of chapter 92-348, Laws of Florida.

Despite enactment of the extra charity day allowance for the Retired Jai Alai Players Charity Fund in 1992, the Division of Pari-Mutuel Wagering did not promulgate rules regarding the extra day for several years. During that time, permitholders either held the performances and held the monies back or, in some cases, no Retired Jai Alai Players Charity Days were held because of administrative confusion.

The Division eventually promulgated rules for the administration of funds for the Retired Jai Players Charity Fund. The rules are set out in 61D-8.004, Florida Administrative Code. To clarify fund administration, the rule sets out the permitholder's duty to establish and maintain a bank account as follows:

- C A separate interest bearing bank account shall be established upon reaching a balance of \$2,500. Any interest earned by the bank account shall accrue to the fund.
- C For balances of \$2,500 or less, the permitholder shall not be required to maintain a separate interest bearing account.
- C Proceeds derived from the Retired Jai Alai Players Charity Day shall be deposited to the fund within 30 days after the conclusion of the permitholder's playing season.

The rule also provides that "the permitholder shall, within 30 days after the conclusion of its playing season, make payment to any eligible jai alai player who retired during the permitholder's playing season." A jai alai player is eligible for payment by the fund provided:

- C The player has played in the State of Florida no less than 10 consecutive years at the time of retirement.
- C The last 3 years prior to retirement must be consecutive years at the jai alai fronton making the payment, except under certain circumstances.

Finally, the rule provides that the payment made to an eligible jai alai player shall be in a lump sum in the amount of \$1,000 for each year of service with a permitholder in the State of Florida and only upon retirement. A pro rata formula is provided if more than one player retires in a given year and there are

insufficient funds to pay players their respective share. An examination of Retired Jai Alai Players' fund balances for active permitholders is illustrative of the declining pari-mutuel industry.

To alleviate the confusion created by the late promulgation of Division Rules, Chapter 96-364 authorized an additional "Retired Jai Alai Players Charity Day" for certain jai alai permitholders. Codified in subsection 9 of section 550.0351, Florida Statutes, it reads:

Notwithstanding the limitations set forth in subsection (8), any jai alai permitholder who has not conducted one "Retired Jai Alai Players Charity Day" performance per year since the 1992-1993 fiscal year is authorized to conduct up to two performances per fiscal year until the time when the total number of such performances is equivalent to the total number of fiscal years. This subsection shall be repealed on July 1, 2000.

Staff for the Committee on Regulated Industries was directed to review subsection 9 and report to the Senate whether it should be repealed by operation of law or extended to serve a broad public purpose.

METHODOLOGY

This Interim Project Study involved ascertaining, in conjunction with the Division of Pari-Mutuel Wagering, whether allowing jai alai permitholders to conduct additional charity day performances for retired jai alai players served a broad public purpose. Staff conducted meetings with and received materials from Division personnel and representatives of the International Jai-Alai Players Association.

FINDINGS

Jai Alai Industry in Florida

Jai-Alai was first legalized as a pari-mutuel wagering sport in Florida in 1935. The International Jai-Alai Players Association estimates that jai-alai contributes \$200 million annually to the economy of the state. In recent years, however, the continued viability of the jai alai industry has been jeopardized by increased competition from the Florida Lottery, Indian gaming, Internet gaming, and "cruises to nowhere." In fact, the entire pari-mutuel industry has been in a state of

decline for a number of years because of new forms of betting and other entertainment options. Currently, there are five remaining jai alai frontons in Florida (Miami, Dania, Ft. Pierce, Orlando, and Ocala) with just three of them (Miami, Dania, and Orlando) conducting year-round schedules.

Tax Relief and the Retired Jai Alai Players Charity Fund

Like other pari-mutuels, the jai alai industry is regulated and taxed. In recent years, the pari-mutuel industry has been granted tax relief in order to ensure the continued viability of the industry. For example, Jai-alai permitholders are taxed pursuant to Section 550.09511, Florida Statutes. That section begins with the acknowledgment that:

(1)(a) Pari-mutuel wagering at jai alai frontons in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operations of the state. Jai alai permitholders should pay their fair share of these taxes to the state. As further prescribed in paragraph (b), this business interest should not be taxed to such an extent as to cause any fronton which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the jai alai industry to be highly regulated and taxed. The state recognizes that there exists identifiable differences between jai alai permitholders based upon their ability to operate under such regulation and tax system.

Despite these tax relief measures, pari-mutuels and the jai alai industry in particular, remain vulnerable to financial problems. As an indirect consequence of tax relief measures and the health of the industry in general, the funds available for deposit into the Retired Jai Alai Players Charity Fund have diminished significantly.

See Table 1 for an illustration of the state of Retired Jai Alai Players' Fund Balances.

Table 1. Retired Jai Alai Players' Fund Balances

<u>PERMITHOLDER</u>	<u>BALANCE</u>
Dania Jai Alai*	\$11,848
Florida Jai Alai**	\$21,152
Ft. Pierce Jai Alai***	\$1,836
Miami Jai Alai***	\$0
Ocala Jai Alai***	\$16
Summer Jai Alai***	\$0
Summersport Enterprises***	\$1,681
Tampa Jai Alai***	\$2,449
TOTAL	\$38,982

*As of April 30, 1998

**As of May 31, 1998

***As of December 31, 1998

Source: Department of Business & Professional Regulation, Division of Parimutuel Wagering, Bureau of Auditing

How the Fund Works

Section 550.0351 authorizes each horse racing, dog racing, and jai alai permitholder up to five charity or scholarship days in addition to the regular racing days authorized by law. The proceeds of charity performances are paid to qualified beneficiaries selected by the permitholders from an authorized list of charities on file with the division. The amount paid to the selected beneficiary is equal to the state tax that would otherwise be paid to the state if the charity day were conducted as a regular or matinee performance.

Operation of Law to Date

Subsections 8 and 9 have not significantly impacted the viability of the Division's Pari-Mutuel Trust Fund. Since its inception in 1996, subsection 9 has merely raised an extra \$18,453 for the Retired Jai Alai Players Charity Fund. Only two permitholders have exercised their privileges under subsection 9 (Florida Jai Alai and Summersport). Annually, the total fiscal impact of allowing all the charity performances over the last four years has averaged \$42,000. Table 2 shows for each permitholder the contributions to the Retired Jai Alai Players' Fund (and the corresponding adverse fiscal impact) over the last four years.

Table 2. Performances Held to Benefit “Retired Jai Alai Players’ Fund” and Total Due (1996-1999)

PERMITHOLDER	1996-1997		1997-1998		1998-1999	
	DATE	TOTAL DUE	DATE	TOTAL DUE	DATE	TOTAL DUE
Florida Jai Alai	01/18/97*	\$4,009	01/17/98*	\$4,002	01/23/99*	\$3,915
	01/18/97	\$4,931	01/17/98	\$5,216	01/23/99	\$4,917
Tampa Jai Alai	02/22/97	\$5,091	— NONE —		07/03/98	\$2,449
Miami Jai Alai	02/01/97*	\$9,015	01/01/98*	\$7,616	02/06/99	\$12,059
Dania Jai Alai	05/17/97	\$4,984	01/30/98	\$6,739	06/05/99	\$4,919
Ocala Jai Alai	08/31/96	\$88	09/01/97*	\$245	10/31/98*	\$16
Ft. Pierce Jai Alai	01/03/97	\$2,221	01/02/98	\$1,836	01/01/99	\$1,723
Summer Jai Alai	08/10/96*	\$10,263	07/05/97*	\$8,985	07/04/98*	\$8,513
Summersport Ent.	09/01/96*	\$2,729	07/11/97	\$4,552	10/04/98*	\$1,668
			08/31/97	\$3,391		
TOTAL		\$43,330		\$42,581		\$40,179

*Matinee performance

Source: Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering, Bureau of Auditing

Mindful of the declining revenues generated from the taxation of the jai alai industry, it would nevertheless be economically feasible for the Legislature to consider a provision allowing each permitholder the opportunity to hold two charity performances per year without a statutory deadline. Such a provision would perpetuate the Legislature’s intent in 1992 and 1996 to provide some compensation for retiring jai alai players for their service to Florida’s tourism industry without unduly jeopardizing the state’s taxation revenue stream. Table 3 show the maximum negative recurring tax impact of one additional Retired Jai Alai Players Charity Day performance, if exercised by each permitholder.

Table 3. Tax Impact of One Additional Retired Jai Alai Players Charity Day Performance

PERMITHOLDER	FISCAL IMPACT
Dania Jai Alai	(\$364)
Florida Jai Alai, Inc.	(\$2,463)
Ft. Pierce Jai Alai	\$0
Miami Jai Alai	(\$935)
Ocala Jai Alai	(\$466)
Summer Jai Alai	(\$537)
Summersport Enterprises, Ltd.	(\$968)
TOTAL (NEGATIVE RECURRING)	(\$5,723)

Note: Estimated performances and taxes based upon March 1999 Revenue Estimating Conference figures

Source: Department of Business and Professional Regulation, Division of Parimutuel Wagering, Bureau of Auditing

RECOMMENDATIONS

Subsection 9 should be repealed in accordance with the statute. Since 1996, permitholders have been on notice as to the supplemental days and the expiration date of the provision. The fact that only two permitholders have taken advantage of the provision suggests that either non-participating permitholders have already held the allowable number of performances or they have not done so for reasons beyond the focus of this report (e.g. lack of interest in holding more charity events, recognition of frontons inability to generate meaningful charity funds.)

By enacting a new provision to allow each permitholder the ability to hold two performances per year, the Legislature can continue a program that provides some measure of compensation to retired jai alai players and

place the ultimate decision to hold such performances in the hands of the permitholders. The Division of Pari-Mutuel Wagering estimates that allowing each permitholder the opportunity to hold two Retired Jai Alai Players Charity Day performances per year would have a negligible fiscal impact on state revenues. Full participation by the remaining permitholders in such a program would have a negative recurring tax impact of approximately \$6,000. As the last few years have indicated, it is more likely that some permitholders will not elect to hold the additional Retired Jai Alai Players Charity Day performance. Once provision has been made for extra performances, however, Florida's jai alai players and permitholders bear the ultimate responsibility for addressing the needs of retiring players in a declining jai alai industry.

COMMITTEE(S) INVOLVED IN REPORT *(Contact first committee for more information.)*

Committee on Regulated Industries, 404 South Monroe Street, Tallahassee, FL 32399-1100, (850) 487-5957 SunCom 277-5957

MEMBER OVERSIGHT

Senators Roberto Casas and Steven Geller