

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

The conduct of gambling is controlled by the Florida Constitution and general law.¹ Article X, Section 7 of the Florida Constitution prohibits lotteries, other than the types of pari-mutuel pools authorized by general law on the effective date of the constitutional revision.² Section 849.09, F.S., prohibits the conduct and promotion of lotteries; drawings by chance are lotteries.

Drawings by Chance

The Legislature passed s. 849.0935, F.S., in 1984 as an exception to the general prohibition against conducting a lottery. Section 849.0935, F.S., provides the rules for conducting drawings by chance [raffles] and allows charitable and nonprofit organizations that are exempt from federal income taxation pursuant to 26 U.S.C., section 501(c) (3), (4), (7), (8), (10) or (19) to conduct drawings by chance providing the organization has complied with all applicable provisions of Chapter 496, Florida Statutes, the Solicitation of Contributions Act. There is no state agency responsible for enforcement of the drawings by chance statute and statutory interpretation and enforcement are left to local law enforcement agencies.

A key feature of this authorization is that no donation or other payment can be required as a condition of participating in the drawing for the prize. The organization may suggest, but not require, a minimum donation per raffle ticket and the organization must provide a ticket free of any charge if an entrant makes such a request.

Organizations allowed to conduct charitable drawings by virtue of their tax exempt status include, but are not limited to, 501(c):

- (3) corporations, and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes;
- (4) civic leagues or organizations operated exclusively for the promotion of social welfare; employee associations;
- (7) clubs organized for pleasure or recreation;
- (8) fraternal beneficiary societies, orders, or associations operating under a lodge system providing insurance benefits;
- (10) domestic fraternal societies, orders, or associations operating under a lodge system devoted to religious, charitable, scientific, literary, educational, and fraternal purposes which do not provide insurance benefits; and
- (19) posts or organizations of past or present members of the Armed Forces.³

This list of organizations allowed to conduct charitable drawings pursuant to s. 849.0935, F.S., does not include chambers of commerce which have tax exempt status under s. 501(c) (6) of the Internal Revenue Code.

¹ See Chapters 24, 550, 551 and 849, F.S., and Art. X, sections 7, 15, and 23, Florida Constitution.

² *Greater Loretta Improvement Association v. Boone*, 234 So.2d 665 1970; pari-mutuel activities [horse and dog racing, jai ali games and bingo] were recognized as lotteries but if in existence and lawful under case law or legislative statutes prior to January 7, 1969, were grandfathered in as exceptions to the lottery prohibition.

³ See 26 U.S.C. 501(c)(3), (4), (7), (8), (10), and (19)

26 U.S.C. 501(c) (6) lists the following organizations as tax exempt:

Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

A violation of s. 849.0935, F.S., is a deceptive and unfair trade practice and a second degree misdemeanor.

Effect of Proposed Changes:

The bill amends the list of qualifying organizations that may conduct raffles to include chambers of commerce qualified as tax exempt under 26 U.S.C. s. 501(c) (6) of the Internal Revenue Code. The bill does not include other organizations which have tax exempt status under that section.

C. SECTION DIRECTORY:

Section 1. Amends s. 849.0935 (1) and (2), F.S., to allow chambers of commerce that are tax exempt under s. 501(c)(6) to conduct raffles.

Section 2. Provides an effective date of July 1, 2006.

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:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or cities to spend funds or take an action requiring the expenditure of funds; does not reduce the authority that cities or counties have to raise revenues in the aggregate; and does not reduce the percentage of a state tax shared with cities or counties

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES