BUSINESS AND PROFESSIONAL REGULATION

SB 332 — Athlete Agents

by Senator King

The bill substantially amends ch. 468, part IX, F.S. The definition of the term "athlete agent" is expanded to include all employees and other persons acting on behalf of an athlete agent; however, spouses, parents, siblings, grandparents, and guardians of the athlete are excluded. The term also excludes individuals acting on behalf of a professional sports team or association.

The bill revises numerous licensing provisions. Applicants for athlete-agent licenses are no longer required to pass an examination, remit a related fee, or post a $15,000 surety bond. Unlicensed individuals are permitted to act as athlete agents provided that contact is first initiated by a student athlete or someone acting on his or her behalf, and the unlicensed individual applies for licensure within seven days of such contact. Temporary licenses may be issued by the Department of Business and Professional Regulation (department) while an application is pending, and the bill provides for reciprocity for out-of-state licensees. For non-resident licensees, the department is designated as the agent for receipt of service of process in civil actions. An examination exemption for members of The Florida Bar is eliminated.

The bill expands contract requirements. The agent contract must be in a signed, or otherwise authenticated, record. The contract must include: (a) the amount and method of calculating the consideration paid by the student athlete to the athlete agent and any other consideration paid to the athlete agent from any source under the contract; (b) the name of any person not listed in the athlete-agent-license application who receives compensation from the agent contract; (c) a description of any expenses the student athlete agrees to reimburse; (d) a description of the services to be provided to the student athlete; (e) the duration of the contract; and (f) the date of execution. The bill modifies contract disclosures to the student-athlete's college or university to require that only the athletic director receive notice of the contract.

The bill reduces from 15 to 14 days the contract-rescission period, and provides the student athlete with additional rights. The student-athlete is not required to pay consideration under the contract or to return any consideration received by the athlete agent to induce the student athlete to enter the contract, in the event the student athlete cancels or voids the contract. This section requires that the athlete agent provide the student athlete with a record of the contract.

The bill increases the cap of the administrative fine assessed by the department from $5,000 to $25,000. It also provides additional grounds for criminal offenses and provides additional civil remedies to educational institutions.

Finally, the bill extends the athlete agent's records-retention period from four to five years and specifies the minimum content of those records.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 117-0

CS/CS/SB 990 — Business Regulation

by Appropriations Committee; Regulated Industries Committee; and Senator Campbell

The bill contains provisions on four subject areas: public lodging and food services establishments, elevator safety, engineers, and security for payment of cigarette taxes.

The public lodging and food services provisions:

- Require only one annual inspection of transient and nontransient apartments.

- Revise the requirements for temporary food vendors, including a requirement that a temporary food service vendor obtain either an individual license, for a fee of no more that $105, for each temporary food event, or an annual license, for a fee of no more than $1,000.

- Revise the statute on food service manager certification, establishing new standards and authorizing the Division of Hotels and Restaurants to contract with an organization offering a training and certification program.

- Clarify that late fees and fees to pay costs associated with initiating regulation of a public lodging or food service establishment are not subject to the aggregate cap on license fees.

- Require that the Secretary of the Department of Business and Professional Regulation and the Division of Hotels and Restaurants periodically review the division's budget and financial status with the advisory council for the purpose of maintaining the financial stability of the division. The council is to make recommendations on adequate funding levels.

- Authorizes the division to increase the annual fee to fund the Hospitality Education Program from $6 to $10.

The elevator safety provisions complete the privatization of elevator inspections begun in 2000 and continue the re-write of the chapter that was begun in 2001. Specifically, the provisions:

- Delete a requirement that the department review service maintenance contracts and determine whether they ensure safe operation of the elevator.

- Provide that temporary operation inspections be done by a private inspector, not a state elevator inspector. As these were the last inspections required of state elevator inspectors, this completes the privatization of elevator inspections.

- Require an annual inspection for all elevators.

- Extend the period of validity of a certificate of operation from one to two years.

- Allow a local government that assumes elevator inspection duties to hire private inspectors to conduct inspections.

The professional engineer provisions provide for licensing, not registration, of engineers. Most of the amendment changes existing language on registration to licensure to correctly reflect this. The amendment also:

- Deletes a statutory provision allowing a student in the final year of an engineering curriculum to be an engineer intern;

- Deletes a statutory provision on credit for passing a foreign national licensing examination; and

- Provides for multiple forms of seals, not just one "impression-type metal seal."

The provisions on security for payment of cigarette taxes authorize use of a certificate of deposit or irrevocable letter of credit as security as an alternative to the current surety bond requirement.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-1; House 111-5

CONDOMINIUMS, COOPERATIVES, TIMESHARES, AND MOBILE HOMES

CS/CS/SB 694 — Condominiums, Cooperatives, and Mobile Homes

by Judiciary Committee; Regulated Industries Committee; and Senator Geller

As to mobile homes in mobile home parks, the bill:

- Requires a park owner who is increasing rent to have a second meeting with the mobile home owner committee and sets a time limit for having the meeting.

- Requires payments from park owners evicting tenants for a change in land use to be made to the Relocation Corporation, not the department, for deposit into the relocation trust fund. It also sets a time limit for making the payment and authorizes the Relocation Corporation to bring an action to enforce these payments.

- Gives the Corporation an additional 30 days to approve payment to a mobile home owner evicted for change in land use.

As to condominiums and cooperatives, the bill includes assessment liens for these associations within the definition of the term "mortgage" for purposes of including them among those liens that are reinstated if a foreclosure judgment is vacated.

As to condominiums, the bill:

- Amends ss. 718.106 and 718.110(4), F.S., to authorize amendments to declarations of condominiums providing for the transfer of use rights with respect to limited common elements. The bill states that this is intended to clarify existing law and to apply to existing associations.

- Amends s. 718.113, F.S., to allow amendment of declarations to provide procedures for amendments to authorize approving material alterations to common elements. It states that the changes are intended to clarify existing law and apply to existing associations.

- Amends s. 718.1255, F.S., to require that arbitration petitions challenging the legality of the election of any director of a board of administrations be handled on an expedited basis.

- Amends a number of statutes to clarify that changes made in the 2000 Regular Session apply only to condominiums created on or after July 1, 2000, including:

    - Amendments to s. 718.104, F.S., providing for a formula to determine the fractional or percentage shares of liability for common expenses and of ownership of the common surplus to be allocated to the units in each condominium to be operated by the association.

    - Amendments to s. 718.405, F.S., providing for creation and operation of multicondominiums.

    - Amendments to s. 718.504(15), F.S., providing multicondominium prospectus or offering circular requirements.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 119-0

CS/SB 2252 — Timeshares

by Regulated Industries Committee and Senator Constantine

The bill provides that when the timeshare managing entity is renting units of delinquent purchasers, it may make a reasonable determination regarding the priority of rentals of timeshare periods to be rented and, in the event that the delinquent purchaser of a timeshare period so rented cannot be specifically determined due to the structure of the timeshare plan, may allocate such net rental proceeds by the managing entity in any reasonable manner. The bill also provides that, as an alternative to the existing requirement that the managing entity use reasonable efforts to secure a rental that is commensurate with other rentals of similar timeshare periods or use rights generally secured at that time, the managing entity may rent such units at a bulk rate that is below the rate described above but not less than $200 per week, which amount may be prorated for daily rentals.

The bill makes a timeshare unit owner who is delinquent in paying assessments liable for any costs of collection, including reasonable attorney's fees, but requires written notice before the purchaser becomes liable for the collection agency fees.

The bill also allows drawings in connection with offering or selling timeshare interests in which no more than 26 prizes are promoted, as opposed to the current limitation of 10 prizes.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

PARI-MUTUELS

CS/SB 160 — Debbie Wasserman Schultz Act of 2002

by Finance & Taxation Committee and Senator Wasserman Schultz

The bill requires each permitholder operating a pari-mutuel greyhound facility to provide for a greyhound-adoption booth to be located at the facility. The booth must be operated on weekends and must be operated by personnel or volunteers from a bona fide organization that promotes or encourages the adoption of greyhounds. The bill requires that information pamphlets and adoption applications be provided to the public upon request. The bill further requires kennel operators and greyhound owners to provide to the permitholders information that a greyhound is available for adoption and that the racing program contain specific adoption information. Permitholders are required to post adoption information at conspicuous locations throughout the greyhound facility and must allow greyhounds to be walked through the facility to publicize greyhound adoption.

A greyhound permitholder may fund the greyhound-adoption program by holding a charity racing day designated as "Greyhound Adopt-A-Pet Day." The profits must be used to fund activities at the facility that promote adoption of greyhounds.

The bill clarifies that the term "bona fide organization that promotes or encourages the adoption of greyhounds" means any organization that provides evidence of compliance with ch. 496, F.S., and possesses a valid exemption from federal income tax issued by the Internal Revenue Service. The bill requires that such organizations provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter. The fee for sterilization may be included in the cost of the adoption.

The bill requires that a percentage of funds collected for thoroughbred breeders' and stallion awards be designated as "special racing" awards to be distributed by permitholders to owners of thoroughbred horses participating in thoroughbred stakes and non-stakes races. The bill requires that thoroughbred permitholders make contributions for special racing awards from monies collected on all pari-mutuel pools and gross revenues derived from broadcasting out-of-state-races.

The bill also addresses cardroom operations by pari-mutuel permitholders. The definition of "authorized game" for the purpose of operating cardrooms refers to a game or series of games of poker. A permitholder that operated a cardroom in the two previous fiscal years but did not renew its request may amend its annual application to include cardroom operations. A harness-racing permitholder may apply for a cardroom license if it conducted a minimum of 140 live performances during the state fiscal year immediately prior to its application. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing; however, the annual cardroom license fee applies to each facility rather than each permitholder.

A cardroom may only be operated at the location specified on the cardroom license, and the location may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to its valid pari-mutuel permit or as otherwise authorized by law. However, cardrooms may be operated during intertrack or simulcast pari-mutuel events, as well as live performances. The cardroom may begin operations within two hours prior to the first wagering event and may continue operations until 2:00 A.M. the following day.

Finally, the bill eliminates the $10-pot limit for cardrooms and provides, instead, for a $2 maximum wager with a maximum of three raises in any round of betting. The fee for playing the game cannot be included in the calculation of the bet size limit.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 21-13; House 86-26

LOTTERY

HB 2011 — Florida Lottery

by Fiscal Responsibility Council and Rep. Dockery and others (CS/SB 1570 by Regulated Industries Committee and Senator Burt)

The bill amends s. 24.121, F.S., to authorize the Department of the Lottery to determine a variable percentage of the gross revenue from the sale of instant lottery tickets that will be returned to players in the form of prizes, with the determination done in a manner designed to maximize the money deposited into the Educational Enhancement Trust Fund. The bill also makes the percentage of revenue required to be deposited into the trust fund from instant lottery ticket sales variable.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 35-0; House 115-0

UTILITY REGULATION

CS/HB 1683 — Switched Network Access Rates

by Ready Infrastructure Council; Utilities & Telecommunications Committee; and Rep. Maygarden (CS/SB 988 by Regulated Industries Committee and Senator Campbell)

The bill delegates to the Florida Public Service Commission (commission) authority to reduce switched network access rates. The bill creates a category of intrastate-switched network access revenues and basic local telecommunications services revenues and requires the total revenues within the category to remain neutral.

Beginning December 1, 2002, a company may petition the commission to reduce its switched network access rates to parity in a revenue neutral manner ("Revenue neutral" means that the total revenue within the revenue category established remains the same before and after the local exchange telecommunications company implements any rate adjustments. "Parity" means that the local exchange telecommunications company's intrastate switched network access rate is equal to its interstate switched network access rate in effect on January 1, 2002, if the company has more that 4 million access lines in service. If the company has 4 million or less and more than 1 million access lines in service, parity means that the company's intrastate switched network access rate is equal to 2 cents per minute, and for companies with less that 1 million access lines, the rate is equal to 8 cents per minute.). Within 90 days, the commission must grant the petition if it finds that granting the petition: (1) results in implementation during a period of between 2 to 5 years; (2) benefits residential consumers by reducing or eliminating the subsidy to

residential basic local telecommunications service rates provided by intrastate switched network access rates; (3) moves intrastate switched network access rates to parity; (4) creates a more favorable competitive environment; (5) is revenue neutral to the local telecommunications company; and (6) will result in benefits to toll customers.

Upon approval of the petition, the company will adjust its rates and prices with 45 days notice. The rates may not be adjusted more than once in any 12-month period, and the adjustments of rates may not be offset entirely by the monthly recurring rate for basic local telecommunications service. The commission is authorized to verify the pricing units to ensure that the company's specific adjustments make the revenue category revenue neutral for each filing. Once the intrastate-switched network access rates reach parity, they are capped for three years afterward.

Long distance companies are required to reduce their revenues to benefit residential and business customers. While the long distance company may determine specific rate decreases, residential and business customers should benefit proportionally. AT&T is required to first reduce its in-state connection fee ($1.95) by March 1, 2004, from offsetting reductions in switched network access rates.

Qualifications for the Lifeline Assistance Program are increased to 125 percent of the federal poverty level and local exchange telecommunications companies are required to provide qualifying agencies with applications, brochures, pamphlets, or other materials to give to eligible clients applying for agency benefits. Rate increases for Lifeline Assistance Plan service are prohibited for customers receiving this benefit until parity is reached or the customer no longer qualifies for the plan. Persons who have applied for assistance at a qualifying state agency must be notified by post card of his or her eligibility for Lifeline Assistance Plan service and the name of the local exchange telecommunications company providing service. The direct costs of production and mailing are to be paid by the large local exchange telecommunications companies. The commission is to report on the number of customers subscribing to the Lifeline Assistance Plan service. Interexchange telecommunications carriers are required to file after March 31, 2003, tariffs providing current Lifeline Assistance Plan benefits and exemptions.

The commission’s jurisdiction over rate adjustments, service quality, and complaint resolution is maintained.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 26-9; House 103-12

OTHER

CS/HB 1475 — Underground Facility Damage

by Ready Infrastructure Council and Rep. Hogan (CS/SB 2084 by Regulated Industries Committee and Senator Holzendorf)

Chapter 556, F.S., is the "Underground Facility Damage Prevention and Safety Act." The act is designed to prevent injury to persons and property resulting from damage to underground facilities caused by excavation or demolition operations. The act provides for a single toll-free telephone number for excavation contractors and the public to call for notification of their intent to engage in excavation or demolition. This notification system allows operators of underground facilities that provide water, sewage, electric, gas, communications, and other services an opportunity to locate and identify their facilities. Chapter 556, F.S., creates a non-profit corporation, Sunshine State One-Call of Florida, Inc. (SSOCF), to administer the notification system. Underground facility operators are required to be members of SSOCF pursuant to s. 556.103, F.S. SSOCF administers the provisions of the act through a board of directors, and revenues are generated through assessed contributions from the member operators. Cities with populations of 10,000 or less are not required to participate in the system until January 1, 2003.

The bill substantially revises ch. 556, F.S. It expands free access to the notification system to take into account other forms of technology, including facsimile transmissions and e-mail. It provides for additional sources of system funding through services performed by the system, such as records searches, and damage prevention and educational activities. It reserves to the state the power to regulate any subject matter specifically addressed in the act, authorizes local code enforcement officers to enforce the act without adopting local codes and ordinances, and clarifies that counties that own underground facilities are required to be members of SSOCF.

The bill revises procedures for excavation and notification. For example, it clarifies that the notice provided by excavators is measured in full business days. It provides that when an excavator cannot provide specific information regarding the location where the excavation or demolition work is going to be performed, and when the excavator and member operator have not agreed otherwise, the excavator is required to premark the proposed area prior to identifying the horizontal route of the facilities, but not beyond 500 feet in length. It provides different marking schedules for facilities under land and beneath water.

The bill also revises liability provisions for non-criminal and criminal offenses. If an underground facility operator fails to become a member of SSOCF, as required by the act, and that failure is a cause of damage to its underground facilities resulting from damage caused by an excavator who has complied with the provisions of the act and has used reasonable care, the underground facility operator has no right of recovery against the excavator. The bill provides for citations to member operators who fail to mark their facilities and provides that citations may be issued to any employee of an excavator or member operator. The bill clarifies that the

removal of valid stakes or physical markings constitutes a second-degree misdemeanor and clarifies what constitutes a valid stake or marking.

The bill prescribes requirements regarding design services to be provided by member operators to design engineers, architects, surveyors, and planners. The bill requires the system to conduct a feasibility study of implementing a notification procedure for design services, and to report its results to the Legislature before January 1, 2004.

The bill provides that it is not the purpose of the act to amend or void any permit issued by a state agency for placement or maintenance of facilities in its right-of-way. Finally, the bill provides that it does not affect existing laws governing the process of state agencies, municipalities, or counties regarding requests for design services from member operators or the responsibility for providing or paying for such services.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 35-0; House 117-0