

**STORAGE NAME:** h1453s1.rs

**DATE:** March 17, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
REGULATED SERVICES  
ANALYSIS**

**BILL #:** CS/HB 1453

**RELATING TO:** Video Lottery

**SPONSOR(S):** Committee on Regulated Services and Representative Bitner

**COMPANION BILL(S):** SB 2176 by Senator Silver

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) REGULATED SERVICES YEAS 8 NAYS 0
- (2) GOVERNMENTAL RULES & REGULATIONS
- (3) FINANCE & TAXATION
- (4) GENERAL GOVERNMENT APPROPRIATIONS
- (5)

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**I. SUMMARY:**

General prohibitions and limited exceptions on gambling are provided in the State Constitution and the Florida Statutes. The State Constitution prohibits lotteries [the award of a prize by chance for consideration] except for state operated lotteries and authorized pari-mutuel pools. Chapter 849, F.S., prohibits gambling and gambling houses but provides exceptions for bingo, charitable drawings, penny ante games, and cardrooms.

This bill provides for the establishment and operation by the Department of the Lottery of video lottery terminals [VLTs] at licensed pari-mutuel facilities. VLTs are interactive gaming devices offering a wide variety of game options [traditional line-up games such as three cherries in a row, video bingo, video keno, traditional card games such as black jack and poker, etc.] at which a player places a bet for the chance to be awarded credits which can either be redeemed for cash or be replayed as additional bets. VLT games include games involving chance, elements of chance and skill and also includes progressive games in which a jackpot grows as it is being played and is often played on a network of terminals linked together by a central computer.

The bill allocates 28.5% of the net terminal income [cash in less cash out] to the Public Education Capital Outlay and Debt Service Trust Fund [PECO]; 9.5% to the Department of Elderly Affairs [DEA]; 2% to the Department of the Lottery for administration; 8% shared contributions by all pari-mutuels to the Video Lottery Purse Trust Fund; .25% to the Department of Children and Family Services for the establishment and administration of treatment programs for problem gambling; direct contributions of 6% to purses for live performances at harness tracks; 6% to purses for live performances at jai alai frontons; and 6% to purses for live performances at greyhound tracks. Further, the bill allows the video lottery retailer to retain 51.75% of the net terminal income if the permitholder is a thoroughbred track; 51.75% for Ocala Breeders' Sale; and 45.75% of the net terminal income for other permitholders. The retained income of 51.75% in the case of the thoroughbred tracks and the sales facility would be subject to contract negotiation for purse and award distributions with the horsemen. In addition to these allotments, the bill provides additional funds for pari-mutuel purses, breeders and stallion awards, player compensation, and amends intertrack and simulcast regulations.

The Consensus Revenue Estimating Conference estimated net revenue for FY 1999-2000, which is a partial year of operation, to the PECO TF of \$159.5 million and \$297.3 million for FY 2000-2001. However, when the negative impacts to other tax revenue sources are backed out, the net positive revenue to the state is estimated to be \$145.8 for FY 1999-2000 and \$271.8 for FY 2000-2001. These estimates anticipate facilities to be 50% operational in the first year, 65% operational in the second year, 85% the third year and fully operational in the fourth year. Revenues are expected to increase substantially as more facilities become completely operational and knowledge of the availability of this form of wagering is disseminated. These calculations were based on a 38% allocation of net terminal income to PECO. The CS/HB 1453 reduced that allocation to 28.5% to PECO and 9.5% to the Department of Elderly Affairs. Consequently, the net positive revenue to those funds would be \$119.6 million for PECO and \$39.9 million to DEA for FY 1999-2000 and \$223.0 million for PECO and \$74.3 million to DEA for FY 2000-2001.

The bill would take effect upon becoming a law, conditioned upon the passage of companion measures establishing trust funds and providing a public records exemption.

## II. SUBSTANTIVE ANALYSIS:

### A. PRESENT SITUATION:

#### GAMBLING IN FLORIDA

Section 7 of Article X of the State Constitution prohibits lotteries except for authorized pari-mutuel pools. Section 15, Article X of the Florida Constitution, however, allows the operation of a state lottery and implementing regulations are found in Chapter 24, Florida Statutes. While city-blocks of Las Vegas-style casinos are not found in Florida and, as a matter of public policy, gambling is generally prohibited, we do in fact have many forms of gambling activities: a state-operated lottery, four types of pari-mutuel wagering, cardrooms at pari-mutuel facilities, penny ante poker, bingo, raffles, Indian gaming and, of course, gambling cruises to nowhere.

A lottery is a game comprised of three elements: 1) a prize, 2) awarded by chance, 3) for consideration. Many casino games may fall into this definition, but any game that involves the application of skill to avoid chance may not be a lottery. The Florida Supreme Court has stated that "while the Legislature cannot legalize any gambling device that would . . . amount to a lottery, it has the inherent power to regulate or to prohibit any and all other forms of gambling . . ." Lee v. City of Miami, 163 So. 486, 490 (Fla. 1935). However, the Attorney General in an opinion issued on February 1, 1994 stated that "(t)he Legislature may not authorize those forms of gambling associated with casino operations." The Attorney General's opinion is based on the interpretation that casino games are generally lotteries within the meaning of Section 7, Article X.

Section 849.01, F.S., prohibits the keeping of gambling houses and effectively prevents the operation of land based casinos in Florida. Other provisions of Chapter 849, F.S., prohibit other common aspects of casino gambling. Section 849.14 makes it unlawful to bet on contests of skill and along with section 849.25, making bookmaking illegal, this prohibits the operation of a "sports book," a popular segment of casino operations. Section 849.16 defines slot machines and devices that are prohibited by law.

#### PARI-MUTUELS

Section 7, Article X of the Florida Constitution allows pari-mutuel pools authorized by law. Chapter 550, Florida Statutes, provides for the licensing, operation, regulation and taxation of pari-mutuel wagering. Pari-mutuel wagering is a system of betting where all the money wagered is combined in a single pool from which the house keeps a share and the winners share the remainder. In this manner, bettors wager against one another as opposed to the house. Pari-mutuel wagering is a way to gamble and is not limited by the activity for which wagers are accepted. However, when pari-mutuel wagering is mentioned, it is generally understood to mean wagering on horseracing, dogracing or jai alai games and these groups collectively make up Florida's pari-mutuel industry.

Florida's pari-mutuel industry has historically been a highly regulated industry. The state has traditionally enforced a wide range of regulatory controls over the daily operations of pari-mutuel permitholders. This complicated set of laws and regulations has been primarily designed to protect the gaming public, to protect the state's flow of tax revenues and to help ensure a healthy and viable pari-mutuel industry. Any person meeting the prescribed qualifications may obtain a permit to conduct pari-mutuel wagering, but no pari-mutuel wagering activity may take place until approved in a local option election. Minors, when accompanied by one or both parents or by a legal guardian, may attend pari-mutuel performances. Persons under the age of 18 are prohibited, however, from placing a wager on any pari-mutuel performance.

In the fiscal year ending June 30, 1998, there were 32 active pari-mutuel permitholders in 18 counties operating facilities for thoroughbred horse racing, harness horse racing, greyhound racing, jai alai, and cardrooms. There are currently 28 operating pari-mutuel facilities, including OBS, in Florida. (In some instances, more than one permit operates out of a single facility) During the last ten years, the pari-mutuel industry has experienced a decline in both attendance and in handle with a corresponding reduction in revenue to the state. In FY 1987-88 over 16.5 million people visited a pari-mutuel facility compared to 7.6 million in FY 1997-98. Total handle in FY 1987-88 was over \$2 billion and over \$130 million in tax revenue was paid to the state. In comparison, FY 1997-98 saw a reduction in total handle to \$1.6 billion and similar reduction in revenue to the state to \$71 million. There were 8 inactive pari-mutuel permits as of the fiscal year ending June 1998.

## CARDROOMS

In 1996, s. 849.086, F.S., was created to authorize the play of certain games and wagering on such games by participants, if played in facilities licensed by the state as "cardrooms." Only persons holding a valid and active pari-mutuel permit are eligible for cardroom licenses and such cardrooms may only be operated at a licensed pari-mutuel facility. The cardroom operator may choose to offer any game or combination of games that are authorized under s. 849.085, F.S., the penny-ante game statute. These games are: poker, pinochle, bridge, rummy, canasta, hearts, dominoes, and mah-jongg and that no games may be played as banking games. Banking games are games in which the cardroom operator or his employee is a participant in the game, pays winners, and collects money from losers. There is a \$10 pot limit which is the same as allowed in penny-ante games.

Cardroom operators are required to provide dealers for each game conducted at the cardroom which is of the type which normally requires a dealer. The cardroom operator or his or her employees may not, however, participate in any game, except as a non-playing dealer. No electronic or mechanical devices may be used in playing any game. Only cards or game equipment and chips furnished by the cardroom operator may be used in playing and wagering on such games.

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering is given the authority and responsibility for licensing and regulating cardroom activities in the state. The division is given rule-making and enforcement authority, including the power of suspension, revocation or denial of licenses and permits for violations of this section. It also is given the authority to suspend, revoke, or deny a cardroom license if the licensee's pari-mutuel permit or license is suspended or revoked. Criminal penalties are also provided for violations of this section. Cardrooms are authorized to be operated within two hours prior to the post time of the first live event conducted at the facility on which wagers are accepted to within two hours after the conclusion of the last live event on which wagers are accepted. A permitholder can operate a cardroom on a dark day within its live meet when it is engaging in simulcasting or intertrack wagering, but may do so no more than one day per week. The hours of cardroom operation on dark days are the same as is authorized for live days.

Various percentages of the gross receipts from cardroom operations are allocated to supplemental greyhound purses and jai alai awards, supplemental thoroughbred purses and breeders awards. Additionally, each cardroom must pay to the state 10% of its gross receipts and an admissions tax. The total tax due the state is payable to the Division of Pari-Mutuel Wagering monthly with one half of the revenues deposited into the General Revenue Fund and the other half into the Pari-Mutuel Wagering Trust Fund. Twenty-five percent of the funds deposited into the Pari-mutuel Wagering Trust Fund are disbursed to the municipalities or counties in which the cardrooms are located.

For FY 1997-1998 cardroom operation gross revenue was \$5,450,034 which generated \$652,593 in tax and fee revenue for the state.

## INDIAN GAMING IN FLORIDA

The federal Indian Gaming Regulatory Act of 1988 [IGRA] established the National Indian Gaming Commission to regulate gaming on the lands of recognized tribes. IGRA classifies gaming in three categories. Class I gaming includes traditional tribal or ceremonial games. Class II includes bingo and games similar to bingo, including bingo operated with electronic and technological aides, and card games explicitly authorized or which are not explicitly prohibited by the State. Banking card games where the player plays against the house and slot machines are not Class II games. Class III gaming includes all other gaming. All tribes are permitted Class I gaming. Class II gaming is permitted only to the extent that the State permits such gaming for any purpose, that such gaming is not prohibited by Federal law and the tribal government adopts an ordinance approved by the Chairman of the Commission. Indians are permitted to operate Class III gaming activities, including casino gaming, **only** if the state in which the tribe is located permits such gaming for any purpose by anyone in the state. Thus, Indians could request that the state negotiate a Tribal-State compact allowing them to conduct casino operations on Indian lands if the state were to allow casinos to be operated in the state.

There are five operating Indian gaming facilities on Indian lands in Florida. The Seminole Tribe of Florida operates facilities on reservation lands in Tampa, Hollywood, Immokalee and Brighton offering video gaming machines, poker and high stakes bingo. The Seminoles also have reservation lands in

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Ft. Pierce and Big Cypress. The Miccosukee Tribe of Indians of Florida operates a gaming facility in Miami-Dade County near U.S. Highway 27 and the Tamiami Trail.

#### GAMBLING CRUISES

Federal law regulates gambling cruises through the commerce clause of the U.S. Constitution. At one time, American flagged vessels were forbidden to operate as gambling vessels. However, because foreign flagged vessels were permitted to port, even though they provided gaming while outside of Florida or U.S. jurisdiction and thus could operate as gambling vessels while American vessels could not, an exemption was written into Title XV, U.S.C.A. American flagged vessels are now permitted to operate as gambling vessels on the high seas during voyages or segments of voyages that begin and end in the same state, the so-called cruises-to-nowhere.

Florida has fourteen deep water ports and numerous marinas and docks, both public and private, from which ocean going vessels of all sizes operate. Approximately 28 vessels, cruises-to-nowhere, now operate from those ports taking passengers on cruises to the high seas [beyond the 3 mile limit on the Atlantic coast and 9.1 miles on the Gulf coast]. Because of federal preemption, the effect on Indian Gaming and the inability of the state to tax activities that occur outside of its jurisdiction, Florida does not regulate or tax these cruises on the basis of gaming.

#### LOTTERY

Chapter 24, Florida Statutes, the Florida Education Lottery Act, was passed in 1987 to implement Article X, Section 15 of the Constitution of the State of Florida. The Department of the Lottery [DOL] has specific authority to make rules governing the type of games conducted, the sale price of tickets, the number and sizes of prizes, the method of selecting winning tickets, the manner of prize payment, the number and type of locations at which tickets may be purchased, and the method to be used in selling tickets, the manner and amount of compensation of lottery ticket retailers. The department also has general authority to make rules governing any other matters necessary for the efficient and economical operation of the lottery and the convenience of the public. Stringent security measures are in place to ensure the integrity of all games.

How the revenues generated by the lottery are to be used is specified in the statute. The Act created the Educational Enhancement Trust Fund to hold the revenues generated by the lottery for the benefit of Florida's public educational system and directs 38 percent of the gross revenue to be deposited in the Educational Enhancement Trust Fund. Further, it specifies that as nearly as possible 50 percent of the gross revenue from the sale of lottery tickets is to be returned to the public in the form of prizes and the remaining funds are to be held in the Administrative Trust Fund to cover administrative expenses, including retailer commissions and incentive bonuses, on-line and instant ticket vendor costs, and advertising.

The lottery offers numerous instant lottery tickets and several on-line games including Cash 3, Play 4, Fantasy 5 and Lotto at over 11,000 locations statewide. And, after a 1997-1998 pilot project demonstrated a positive increase in instant ticket sales using electronic player-activated instant ticket vending machines [ITVMs], legislation was enacted which allowed the Department of the Lottery to expand ITVM operations. The department now has over 800 ITVMs in retail locations statewide with plans to expand that number to 1,000.

For FY 1997-98, 38.80% of lottery receipts, or \$801,685,151, was transferred to the Educational Enhancement Trust Fund.

#### VIDEO LOTTERY IN OTHER STATES

Three states, West Virginia, Rhode Island and Delaware, allow video lottery gaming at their licensed pari-mutuel facilities. Lottery departments in each of these states are responsible for VLT operations and each requires similar approvals for retailers, various equipment suppliers, technology providers, background investigations, and centralized computer systems. The demographics of these states are significantly different than in Florida, nevertheless, for purposes of this discussion a brief summary of each state's experience with video lottery is presented. Video lottery operations in states with casino-type operations [riverboats, land-based casinos, etc.] are not, however, discussed.

West Virginia

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Video lottery gaming is restricted to pari-mutuel facilities [2 horse tracks & 2 dog tracks] in West Virginia, population approximately 1.5 million, with each track allocated a maximum number of terminals for a total allocation of 3,455 terminals. Approval must be granted through a local option election before a track may offer video lottery gaming. Operation of video lottery gaming is generally restricted to days when live racing is conducted and/or on televised racing days. This restriction does not apply to any track approved for video lottery gaming prior to November 1993. Video lottery terminals offer a wide variety of games, e.g., video keno, poker, blackjack and video slots. Persons under the age of 18 or persons who are visibly intoxicated may not play video lottery.

The payout rate is 91-92% but may go up to 95% with commission approval. The maximum wager per game may not exceed \$2 and there is no limit on the maximum prize payout per game. The state receives 30% of the net terminal revenue and the racetrack receives 47% with various other percentages distributed to purses, to the county where the facility is located, to a pension plan for track employees, breeders awards, tourism and veterans memorial programs. In 1997, VLT games generated approximately \$30 million for the Lottery. With the addition of the fourth track beginning video lottery gaming in late 1997, 1998 net terminal revenue increased to approximately \$130 million and net revenue to the state increased to \$38.8 million.

#### Rhode Island

Video lottery games are authorized in the State of Rhode Island, population 1 million, at the two pari-mutuel facilities which were in operation on June 30, 1992 [one jai alai and one greyhound track]. Players must be at least 18 years of age and visibly intoxicated persons are prohibited from operating VLTs. The track is required to conspicuously post the name and telephone number of a professional recognized council on problem gambling. Currently, 1,628 VLTs are in operation offering various card and reel games and video keno. VLTs may be operated, with Lottery Commission approval, even if the track is not conducting a pari-mutuel wagering event. The maximum wager allowed is \$10 and the maximum prize payout is \$25,000.

For FY 1997-98, \$64.3 million in tax revenue was generated as a result of the state receiving 46% of the net terminal income. The track receives 31% of the net terminal income and the remainder is distributed in various allocations to owners of dog kennels, technology providers, and to the city where the track is licensed.

#### Delaware

Video lottery games are authorized in the State of Delaware, population 750,000, at the state's three licensed pari-mutuel facilities. Each track is authorized to install up to 2,000 VLTs. A full line of VLT gaming is offered including variations of poker, blackjack, bingo and line-up games. Each track must reimburse the state for the costs of VLT equipment and a proportionate share of the cost of the central computer system. Persons under the age of 21 or persons who are visibly intoxicated are not allowed to operate VLTs. Video lottery machines may not be operated on Christmas, Easter, or between the hours of 2:00 a.m. and 1:00 p.m. on Sundays, or between the hours of 2:00 a.m. and 8:00 a.m. on any day other than Sunday. All advertising, marketing and promotional materials, related to the video lottery must be submitted for review and approval prior to use.

One of the three pari-mutuel facilities is located near the Pennsylvania border within close proximity to two major population centers, Wilmington and Newark. A Delaware Lottery spokesman indicated that as much as two-thirds of the state's total revenue was generated by out-of-state players. Payout odds are 87%-95% and approximately 27.4% of the net terminal revenue [based on a sliding scale] is earmarked for the state with 1% or \$100,000 of those funds dedicated to treatment of compulsive gambling. Remaining revenue is distributed as purses, to breeders programs, to organizations for disabled or retired jockeys, and as commissions to agents. For FY 1997-98, VLTs generated nearly \$90 million in state revenue.

#### COMPULSIVE GAMBLING

The Department of the Lottery contributes \$100,000 annually towards the funding of a toll-free telephone counseling hotline. Individuals with gambling addictions may seek the services of private practicing mental health or counseling professionals through their insurance benefits or personal income. Individuals without such resources may seek church or lay counseling, or may seek services from public mental health centers and be served based upon relative need and available resources.

According to the Department of Children and Families, since persons with compulsive gambling behavior are not considered to be a priority group in Chapter 394, which governs the purchase of state mental health and substance abuse programs, it is unlikely that resources would be available to provide services to these persons in the absence of other mental illness or substance abuse problems.

**B. EFFECT OF PROPOSED CHANGES:**

The bill provides for the establishment and operation by the Department of the Lottery of video lottery terminals [VLTs] at licensed pari-mutuel facilities which meet specified criteria. The bill exempts the installation, rental, or use of any video lottery terminal from state and local taxes.

**QUALIFICATION**

To qualify as a "video lottery terminal retailer" a pari-mutuel facility must have possessed a pari-mutuel permit on July 1, 1998 and have either: conducted a full schedule of live greyhound, horse, or harness racing between July 1, 1997, and June 30, 1998; conducted at least one full schedule of live jai alai games between January 1, 1990 and June 30, 1998; or, be authorized to conduct intertrack wagering on horseraces. VLT retailers must continue to conduct a full schedule of live racing or games or, as is the case with Ocala Breeders Sale [OBS], be authorized to receive broadcasts of horseraces pursuant to s. 550.615, F.S.

**OPERATION**

The bill grants overall control of the video lottery system to the Department of the Lottery and also requires each terminal to be linked, directly or indirectly, to a computer system under the control of the department. The department is authorized to issue licenses; collect and disperse revenue; certify net terminal income by inspecting records, conducting audits, or by other reasonable means; approve vendors and maintain a current list of all contracts, require bonds from video lottery retailers, and adopt rules concerning the regulation of video lottery retailers and products; specifications for video lottery terminals in order to maintain the integrity of the games and terminals; and the licensure and regulation of VLT vendors.

The bill describes video lottery games to include an electronically simulated game involving any element of chance such as "line-up" games, e.g. three cherries in a row; an electronically simulated game involving elements of chance and skill such as traditional card games; and, progressive games where a jackpot grows and accumulates as it is played on a video terminal or on a network of video terminals which are linked by a central network. The bill requires VLT games to pay out a minimum of 88 percent and no more than 94 percent of the amount wagered by the bettor. A video lottery terminal, using spinning reels or video displays, or both, is played upon insertion of cash, tokens, credits or vouchers but may not directly dispense coins, cash or tokens. The bill amends s. 212.02(24), F.S., to specify that the definition for "coin-operated amusement machine" does not include a video lottery terminal as contemplated in this legislation.

To encourage pari-mutuel play, the bill requires video monitors displaying the live races or games and some or all simulcasts of the facility, giving preference to performances by Florida pari-mutuel permitholders, to be displayed in locations where video lottery gaming is conducted. The bill requires the video lottery retailer to provide a means by which patrons may wager on those pari-mutuel activities. Video lottery games may be played at an authorized video lottery retailer's pari-mutuel facility even if such retailer is not conducting a pari-mutuel event and there is no restriction on the number of days or hours of operation. Likewise, alcoholic beverages may be sold on days on which the pari-mutuel facility is open to the public for video lottery play.

**SECURITY**

The bill requires each terminal to be linked, directly or indirectly, to a computer system under the control of the department for the purpose of auditing the operation, financial data and program information. The bill also requires VLTs to be protected against manipulation to affect the probability of winning or obtaining credits and be capable of suspending play, as a result of tampering, until reset at the direction of the Lottery Department. The bill creates a third degree felony for physical or electronic tampering with a video lottery terminal.

Video lottery terminal vendors [suppliers of the terminals] are required to submit a training program for the service and maintenance of terminals and equipment for approval by the department. The bill specifies training program, qualification and certification criteria, including background investigations for employees, provides for revocation of certification and authorizes the department to adopt rules to further that purpose. No person can be licensed as a video lottery terminal vendor if the person has an interest in a video lottery retailer [pari-mutuel permitholder] or a business relationship with a video lottery retailer other than as a vendor or lessor of terminals.

#### AGE RESTRICTIONS

No person under the age of 18 is allowed to play video lottery games and video lottery retailers are required to post a clear and conspicuous sign at the pari-mutuel facility which states the prohibition. Any person, including the VLT retailer, who violates this prohibition commits a second degree misdemeanor.

#### ZONING

The bill provides that the installation, operation or use of a video lottery terminal on any property where pari-mutuel operations were or would have been lawful under a county or municipal zoning ordinance as of July 1, 1997, does not change the character or use of the property and cannot be prohibited by local ordinance.

#### DISBURSEMENTS OF REVENUE

##### Net Terminal Income

Subsection (8) of s. 24.1121, Florida Statutes, is created in Section 8 of the bill and among other requirements allocates net terminal income from video lottery games as follows:

- ▶ **28.5%** to the Public Education Capital Outlay and Debt Service TF [PECO];
- ▶ **9.5%** to the Department of Elderly Affairs;
- ▶ **2%** to the DOL's Video Lottery Administration TF for administration;
- ▶ **8%** to the DBPR's Video Lottery Purse TF; distribution formula for additional purse payments at pari-mutuel facilities from this trust fund is established in Section 18 of this bill;
- ▶ **.25%** to the Department of Children and Family Services for the establishment and administration of treatment programs for gambling addiction;
- ▶ **6%** to purses for live performances at harness tracks;
- ▶ **6%** to purses for live performances at jai alai tracks; and
- ▶ **6%** to purses for live performances at greyhound tracks.
- ▶ To be retained by the video lottery retailer:
  - 51.75%** if a thoroughbred permit to be distributed as follows:
    - 3.3%** as breeders' & stallion awards; **.25%** to Jockey Guild Health & Welfare Trust; and
    - 96.45%** per written agreement between thoroughbred track and FHBPA;
  - 45.75%** if other than thoroughbred permit; and
  - 51.75%** if OBS:
    - 3.3%** for Florida breeders & stallion awards; and
    - 96.7%** distributed as provided by contract between FTBA and OBS.

##### Video Lottery Purse Trust Fund Revenue

Section 18 of the bill creates s. 550.26315, F.S., concerning administration of the Video Lottery Purse Trust Fund and specifies that:

- ▶ **58%** of the proceeds be transferred to the Video Lottery Thoroughbred Trust Fund in the DBPR;
- ▶ **42%** of the proceeds to pari-mutuel permitholders to be distributed as purses, as follows:
  - 8%** to holders of valid harness racing permits;
    - Requires **6.6% of this 8%** and **6.6% of the 6% direct** purse contribution from net terminal income to harness tracks to be distributed for breeders and stallion awards and stakes.
  - 7%** to holders of valid jai alai permits; and
  - 27%** to holders of valid greyhound racing permits.

-- **10%** of these distributions and the **6%** direct contribution from net terminal income to live purses shall be distributed as additional purses on all live races to Florida-bred greyhounds. Requires these percentages to be determined by dividing the amounts paid in purses by the permitholder during FY 1997-1998 by the amount of purses paid by all such permitholders statewide during the same period.

#### Video Lottery Thoroughbred Trust Fund Revenue

Section 19 of the bill creates s. 550.26325, F.S., concerning distribution of funds from the Video Lottery Thoroughbred Trust Fund, and specifies that:

- ▶ **6.6%** of proceeds go to thoroughbred breeders' and stallion awards and allows the deduction of an administration fee by the Breeders' Association;
- ▶ the **remainder** be distributed proportionally among the thoroughbred permitholders for use as purses by dividing the amounts paid in purses by the permitholder during FY 1997-1998 by the amount of purses paid by all such thoroughbred permitholders statewide. Additionally, 8.5%, or a different percentage to be determined by written agreement between the FHBPA and the FTBA, of the purse account generated from a permitholder's proportionate share of funding from the Video Lottery Thoroughbred Trust Fund shall be used as Florida Owners' Awards. However, the bill provides an exemption from this requirement for any thoroughbred permitholder whose average daily purse, excluding sponsorship, entry fees and nominations, exceeded \$225,000 in FY 1997-1998 [currently, Gulfstream].

#### REQUIRED ACCOUNTING FOR PAYMENTS TO PURSES AND AWARDS

The bill amends s. 550.2625(2), F.S., to require each permitholder to file an audited accounting reflecting the receipt and payment of all sums dedicated to purses, breeders' and stallion awards and owners' awards. Any permitholder paying out less than 90 percent of revenue designated for owners and breeders are subject to an administrative fine equal to double the underpayment. A virtually identical accounting of all amounts received or collected by a horsemen's or breeders' association is also required.

#### INTERTRACK AND SIMULCAST

The bill amends s. 550.615(3), F.S., to create a distinction between permitholders who operate as video lottery retailers and those who do not. Video lottery retailers who engage in intertracking by making their live race or game signal available to another permitholder must make that signal available to all permitholders except those located in the 25 mile market area. Other permitholders who are not lottery retailers will continue, as existing law requires, to make their signal available to all permitholders. This change will not apply to the South Florida blackout zone which will continue to be governed by the conditions specified in s. 550.615(6) F.S., which, for example, limits thoroughbred tracks from intertracking with other permitholders in the zone. Also, the lone exception to thoroughbred intertracking of a live signal in the South Florida blackout zone that requires Calder to send its signal to Hialeah would be unaffected by this change. Further, s. 550.615(4), F.S., is amended to require the written consent of an operating permitholder who is receiving simulcast [out-of-state] races or games prior to an in-state permitholder rebroadcasting a simulcast [out-of-state] signal of the same class to another permitholder in the operating permitholder's market area.

In addition, the bill amends s. 550.6305(9), F.S., concerning in-state thoroughbred permitholders broadcasting their simulcast [out-of-state] signals to other in-state permitholders. The distinctions between signals received before or after 6:00 P.M. are deleted in the bill, and instead all simulcast signals received by a thoroughbred track must be made available to any in-state permitholder other than a permitholder located within the 25 mile market area as the thoroughbred track rebroadcasting the simulcast signal. Essentially, this would mean that thoroughbred tracks in the South Florida blackout zone would no longer be required to rebroadcast their simulcast [out-of-state] signals to non-thoroughbred permitholders in the South Florida blackout zone after 6:00 P.M. Again, Calder would still be required to make available its simulcast signal to Hialeah.

#### INDIAN GAMING



In testimony before the committee, Representatives from the Attorney General's Office expressed their belief that approval of video lottery gaming, as proposed in this legislation, will legitimize the operation of similar electronic gaming operations which are presently conducted on Indian reservations in the state.

#### COMPULSIVE GAMBLING

The bill appropriates  $\frac{1}{4}$  of 1 percent of a video lottery retailer's net terminal income to the Department of Children and Family Services and requires the Alcohol, Drug Abuse and Mental Health Program Office to establish a program for public education, awareness and training, for the treatment and prevention of problem or compulsive gambling, including assistance programs for affected family members. Studies to identify at-risk adults and children are required. The bill requires the establishment of a toll-free hotline for crisis counseling and referral services and requires video lottery retailers to post signs with the statement, "IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE" and the toll-free telephone number. Video lottery retailers are also required to print the same message and telephone number on all racing programs. For FY 1999-2000, the Consensus Revenue Estimating Conference anticipates this percentage would generate approximately \$1 million and approximately \$2 million for FY 2000-2001.

#### C. APPLICATION OF PRINCIPLES:

##### 1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill provides for the establishment and operation of video lottery terminals by the Department of the Lottery at licensed pari-mutuel facilities in the state. Implementation of these provisions will necessarily entail significant rulemaking activity at the Department of the Lottery and by the Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation.

The bill appropriates revenue to the Department of Children and Family Services for the establishment of a program for public education, awareness, and training regarding problem and compulsive gambling and the treatment and prevention of problem and compulsive gambling which may also require the adoption of rules.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill provides for the establishment and operation by the Department of the Lottery of VLTs at qualifying pari-mutuel facilities. The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering is charged with the administration and distribution of funds from the Video Lottery Purse Trust Fund and the Video Lottery Thoroughbred Trust Fund.

To the extent the introduction of VLT gaming at qualifying pari-mutuel facilities generates significant increased attendance, the counties with pari-mutuel facilities may experience increased cost for infrastructure maintenance and improvements. Additionally, to the extent the inclusion of video lottery gaming increases either the type or frequency of crime in the areas surrounding pari-mutuel facilities, local law enforcement agencies may experience increased costs.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

No, however, the bill exempts the installation, rental, or use of video lottery gaming terminals from state and local taxes.

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. Video lottery retailers [pari-mutuel facilities] are responsible for the purchase, rental or lease of necessary video lottery terminals and other equipment and security necessary to implement the operation of video lottery gaming.

Additionally, licensed video lottery terminal vendors are responsible for implementing an employee training program for the service and maintenance of all video lottery terminals and equipment.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, the bill affords the state's ailing pari-mutuel industry the ability to offer an additional gaming product which has the potential to greatly increase income for the pari-mutuel facility. Additionally, the bill affords an opportunity to Florida citizens, and visitors to the state, to engage in an additional type of entertainment at locations throughout the state but which is presently only available on cruises, on Indian reservations or out of state.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. STATUTE(S) AFFECTED:**

Sections 24.101, .102, .103, .105, .1055, .108, .111, .1121, .1122, .1123, .1124, .1125, .1126, .117, .118, .120, and .122, Section 212.02, Sections 550.2625, .26315, .26325, .401, .615, and .6305, .6308, and Section 565.02.

**E. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Amends s. 24.101, F.S., to change reference from “act” to “chapter” to reflect expanded authority.

**Section 2.** Amends s. 24.102, F.S., to change reference from “act” to “chapter” to reflect expanded authority as implementing Section 15, Article X of the State Constitution and requires revenues to be used to support improvements in public education.

**Section 3.** Creates new definitions in s. 24.103, F.S., as follows:

- ▶ Video lottery game includes an electronically simulated game involving any element of chance such as “line-up” games; an electronically simulated game involving elements of chance and skill such as traditional card games; and progressive games where a jackpot grows and accumulates as it is played on a video terminal or on a network of video terminals which are linked by a central network. A video lottery terminal may use spinning reels or video displays, or both and may not directly dispense coins, cash or tokens.
- ▶ Video lottery terminal vendor includes the supplier of the terminals to retailers and the provider of computer functions related to the terminals to the department.
- ▶ Net terminal income means currency and other consideration placed into a VLT minus credits redeemed by players.
- ▶ Video lottery retailer means any person who possesses a pari-mutuel permit on July 1, 1998 who has either: conducted a full schedule of live racing or games between July 1, 1997, and June 30, 1998; conducted at least one full schedule of live jai alai games between January 1, 1990 and June 30, 1998; or, who is authorized to conduct intertrack wagering on horseraces.

**Section 4.** Amends s. 24.105, F.S., to expand the powers and duties of the Department of Lottery to:

- ▶ Have in place the capacity to support video lottery games at pari-mutuel facilities no later than October 1, 1999.
- ▶ Hear and promptly decide all license application and proceedings for suspension or revocation.
- ▶ Collect and disperse revenue.
- ▶ Certify net terminal income through inspection of records, audits and other reasonable means.
- ▶ Maintain a list of approved vendors and a current list of all contracts between VLT vendors and retailers.
- ▶ Approve applications for video lottery retailer within 30 days of receipt of the application.
- ▶ Adopt rules concerning the regulation of video lottery retailers and products, the licensure and regulation of video lottery terminal vendors and specifications for video lottery terminals necessary to maintain the integrity of video lottery games and terminals. Initial rules sufficient to permit the operation of video lotteries and the licensing of retailers shall be adopted no later than August 1, 1999. The specifications may not result in reducing to fewer than four the number of video lottery terminal vendors.

**Section 5.** Amends s. 24.1055, F.S., and provides that no person under the age of 18 may play a video lottery game as authorized by this chapter and requires retailers to post signage on each terminal which contains specific language concerning that prohibition. This section also subjects any person under the age of 18 or any video lottery retailer who violates this section to a second degree misdemeanor.

**Section 6.** Amends s. 24.108, F.S., to change the reference from “act” to “chapter” to reflect the expanded authority of the Department of the Lottery’s Division of Security to video lottery operations.

**Section 7.** Amends s. 24.111, F.S., to change reference from “act” to “chapter” to reflect expanded authority to allow DOL to enter into contracts for the purchase, lease, or lease-purchase of necessary goods and services.

**Section 8.** Creates s. 24.1121, F.S., which provides for the operation of video lottery games at pari-mutuel facilities meeting specified criteria.

Subsection (1) requires pari-mutuel facilities to conduct a full schedule of live racing or games or be authorized to conduct intertrack wagering of horseraces in order to offer video lottery games. In the case of a greyhound track or jai alai facility, the permitholder would be authorized to offer video lottery games if the permitholder also conducted, during the prior fiscal year, no fewer than 80 percent of the number of performances and no fewer than 80 percent of the number of live races or games which the same permitholder conducted during FY 1997-1998. These requirements may be waived in the event of a natural disaster or other events which are not under the control of the permitholder. In the event the permitholder fails to conduct the specified number of races or games, the permitholder is required to suspend video lottery operation within 30 days of written notice from the Department of the Lottery [DOL]. The department is authorized to assess an administrative fine not to exceed \$5,000 per video lottery terminal, per day, for a permitholder’s failure to suspend operation. Video lottery retailers are required to post a bond, in an amount to be determined by the department, which is sufficient to cover the retailer’s tax liability.

Subsection (2) requires a pari-mutuel permitholder to notify the DOL prior to operating video lottery games.

Subsection (3) grants overall control of the video lottery system at a pari-mutuel facility to the DOL and also requires each terminal to be linked, directly or indirectly, to a computer system under the control of the department.

Subsection (4) requires the DOL to establish, by rule, the method by which cash receipts will be electronically validated and redeemed.

Subsection (5) prohibits a person under the age of 18 from playing a video lottery game authorized by this chapter. This prohibition is also found in the amendment to s. 24.1055, F.S., found in Section 5 of the bill.

Subsection (6) allows operation of video lottery even if permitholder is not conducting a pari-mutuel event.

Subsection (7) requires payout of a minimum of 88 percent and no more than 94 percent of play. Allows, however, the payout of a lesser amount if the department determines that the minimum payout is not financially viable at that location and if the Public Education Capital Outlay and Debt Service Trust Fund will not be adversely impacted.

Subsection (8) allocates net terminal income from video lottery games as follows:

- ▶ **28.5%** to the Public Education Capital Outlay and Debt Service Trust Fund [PECO];
- ▶ **9.5%** to the Department of the Elderly;
- ▶ **2%** to Department of the Lottery for administration;

- ▶ **8%** to the Video Lottery Purse Trust Fund; distribution formula for additional purse payments at pari-mutuel facilities from this trust fund is established in Section 18 of this bill.
- ▶ **¼ of 1%** to the Department of Children and Family Services for the establishment and administration of treatment program for gambling addiction.
- ▶ **6%** to purses for live performances at harness tracks.
- ▶ **6%** to purses for live performances at jai alai tracks.
- ▶ **6%** to purses for live performances at greyhound tracks.

To be retained by the video lottery retailer as compensation:

- ▶ **51.75%** if a thoroughbred permit to be distributed as follows:
  - 3.3%** as breeders & stallion awards; **.25%** to Jockey Guild Health & Welfare Trust; & **96.45%** per written agreement between thoroughbred track and Florida Horseman's Benevolent and Protective Association [FHBPA].
- ▶ **45.75%** if other than thoroughbred permit;
- ▶ **51.75%** if OBS:
  - 3.3%** for Florida breeders & stallion awards; **96.7%** distributed as provided by contract between FTBA and OBS.

Subsection (9) requires allocations provided in subsection (8) to be made weekly and requires specific funds to be remitted to the department by electronic transfer within 24 hours after the allocation is determined. Further, this subsection specifies timeframes for payment of purses depending upon whether live meets are conducted during that week:

- ▶ If live meets are conducted during the week for which the 6% direct allocation is made, that portion shall be paid as purses for those live meets.
- ▶ If no live meets were conducted during the week for which the 6% direct allocation is made, that portion shall be paid as purses during the next ensuing meet. A formula is provided for that distribution.
- ▶ No less than one-half of the interest income earned, prior to their distribution as purses, on these funds shall be distributed as purses for live performances.

Subsection (10) creates a third degree felony for physical or electronic tampering with a video lottery terminal.

Subsection (11) requires each video lottery retailer to be responsible for payment of video lottery prizes.

Subsection (12) requires the video lottery retailer to place monitors of live or simulcast races or games in all rooms where video lottery play is allowed and also provide a means, in that room or area, by which patrons may wager on that pari-mutuel activity.

**Section 9.** Creates s. 24.1122, F.S., to require video lottery terminal vendors to be licensed by the department and requires the adoption of rules by August 1, 1999. Any person who has an interest in a video lottery retailer or a business relationship with a video lottery retailer [other than as a vendor or lessor] is precluded from licensure as a video lottery terminal vendor.

**Section 10.** Creates s. 24.1123, F.S., to provide that the installation, operation or use of a video lottery terminal on any property where pari-mutuel operations were or would have been lawful under a county or municipal zoning ordinance as of July 1, 1997, does not change the character or use of the property and cannot be prohibited by local ordinance.

**Section 11.** Creates s. 24.1124, F.S., to prohibit the use or play of video lottery terminals unless approved by the department and, further requires that the terminals:

- ▶ be protected against manipulation to affect the probability of winning;
- ▶ have mechanism for accepting coins, etc., in exchange for game credits which mechanism is designed to prevent players from obtaining credits by tampering;
- ▶ be capable of suspending play, as a result of tampering, until reset at the direction of the department; and
- ▶ be capable of being linked to the department's central computer for purposes of auditing the operation, financial data and program information.

**Section 12.** Creates s. 24.1125, F.S., to require video lottery terminal vendors to submit a training program for the service and maintenance of terminals and equipment for approval by the department. This section specifies training program, qualification and certification criteria, including background investigations on each employee, provides for revocation of certification and authorizes the department to adopt rules.

**Section 13.** Amends s. 24.117, F.S., to provide that anyone who *knowingly* permits a minor to use a video lottery terminal commits a first degree misdemeanor.

**Section 14.** Amends s. 24.118, F.S., to change reference from "act" to "chapter" to reflect expanded authority and applicability concerning breaches of confidentiality with intent to defraud. A first degree felony is provided for *knowingly and willingly* disclosing confidential information.

**Section 15.** Amends s. 24.120, F.S., to change reference from "act" to "chapter" to reflect expanded authority to the DOL's Administrative Trust Fund.

**Section 16.** Amends s. 24.122, F.S., to exempt prizes and the installation, rental, or use of any video lottery terminal from state and local taxes and further provides that all matters relating to operation of VLTs are preempted to the state.

**Section 17.** Amends s. 212.02(24), F.S., to specify that the definition for "coin-operated amusement machine" does not include a video lottery terminal approved pursuant to Chapter 24.

**Section 18.** Creates s. 550.26315, F.S., concerning administration of the Video Lottery Purse Trust Fund and specifies that:

- ▶ **58%** of the proceeds be transferred to the Video Lottery Thoroughbred Trust Fund;
- ▶ **42%** of the proceeds to pari-mutuel permitholders to be distributed as purses, as follows:
  - 8%** to holders of valid harness racing permits; requires **6.6% of this 8%** and **6.6% of the 6% direct** purse contribution from net terminal income to harness tracks to be distributed for breeders and stallion awards and stakes.
  - 7%** to holders of valid jai alai permits; and
  - 27%** to holders of valid greyhound racing permits. 10% of these distributions and 10% of the 6% direct purse contribution for net terminal income shall be distributed as additional purses on live races to Florida-bred greyhounds.**Requires** these percentages to be determined by dividing the amounts paid in purses by the permitholder during FY 1997-1998 by the amount of purses paid by all such permitholders statewide during the same period.

The bill requires that all proceeds distributed under this section are in addition to and supplement other funds set forth for use as purses, awards and player compensation. The department is authorized to adopt rules to provide for the equitable distribution of funds for purses, awards and player compensation.

**Section 19.** Creates s. 550.26325, F.S., concerning distribution of funds from the Video Lottery Thoroughbred Trust Fund, and specifies that:

- ▶ **6.6%** of proceeds go to thoroughbred breeders' and stallion awards and allows the deduction of an administration fee by the Breeders' Association;

- ▶ the remainder be distributed proportionally among the thoroughbred permitholders for use as purses and provides for future adjustments. This distribution is to be determined by dividing the amounts paid in purses by the thoroughbred permitholder during FY 1997-1998 by the amount of purses paid by all such thoroughbred permitholders during that period.

**Section 20.** Amends s. 550.2625(2), F.S., to require each permitholder to file an audited accounting reflecting the receipt and payment of all sums dedicated to purses, breeders' and stallion awards and owners' awards. Any permitholder paying out less than 90 percent of revenue designated for owners and breeders is subject to an administrative fine equal to double the underpayment.

Additionally, this section requires that 8.5% of the purse account generated from a permitholder's proportionate share of funding from the Video Lottery Thoroughbred Trust Fund shall be used as Florida Owners' Awards. This amount may be changed by written agreement between the FTBA and FHBPA. Finally, this section provides an exemption for any thoroughbred permitholder whose average daily purse, excluding sponsorship, entry fees and nominations exceeded \$225,000 in that fiscal year [currently, Gulfstream]. This exemption shall apply for up to 73 racing days.

This section also requires a similar accounting of all amounts received or collected by a horsemen's or breeders' association.

**Section 21.** Creates s. 550.401, F.S., and prohibits a greyhound track from terminating a kennel operator, other than for breach of contract which remains in breach for 15 days following notice, for 12 months following the first period that purse payments are made from the Video Lottery Purse Trust Fund. Thereafter, kennel operators may be terminated without cause based on their ranking for total number of wins for two consecutive racing seasons.

**Section 22.** Amends s. 550.615(3), F.S., concerning intertrack wagering to provide that a permitholder who operates as a video lottery retailer and who elects to broadcast its live signal to any other permitholder, must also make such signal available to all other permitholders in the state who are eligible to conduct intertrack wagering, with the exception of an otherwise eligible permitholder located within the 25 mile market area as the broadcasting permitholder. Permitholders who do not operate as video lottery retailers and who elect to broadcast their live signals will continue as required under existing law to make their signal available to all eligible permitholders. A permitholder may elect to make its signal available even to a permitholder in the 25 mile market area pursuant to a contract, but such contract must be approved first by the appropriate horseman's group in the case of a thoroughbred signal. These changes would not apply to intertracking by thoroughbred permitholders in the South Florida blackout zone since they are prevented from intertracking in the zone by s. 550.615(6), F.S. Further, s. 550.615(4), F.S., is amended to require the written consent of an operating permitholder who is receiving simulcast [out-of-state] races or games prior to an in-state permitholder rebroadcasting a simulcast [out-of-state] signal of the same class to another permitholder in the operating permitholder's market area.

**Section 23.** Amends s. 550.6305(9), F.S., concerning in-state thoroughbred permitholders broadcasting simulcast [out-of-state] signals to other in-state permitholders. Deletes the distinctions between signals received before or after 6:00 P.M. and instead requires all simulcast signals received by the thoroughbred track to be made available to any in-state permitholder other than a permitholder located in the 25 mile market area as the thoroughbred track rebroadcasting the simulcast signal. This provision would essentially remove the requirement that thoroughbred tracks in the South Florida blackout zone must make available their simulcast signals taken after 6:00 P.M. to permitholders in the blackout zone. Calder would still be required to send its signal to Hialeah pursuant to 550.615(11), F.S.

**Section 24.** Amends s. 550.6308, F.S., to allow OBS to conduct intertrack wagering on thoroughbred and greyhound racing year-round and also allows OBS to conduct intertrack wagering between May 9 and October 31 at times when a thoroughbred, jai alai or greyhound permitholder in the same county is conducting live performances.

**Section 25.** Amends s. 565.02(5), F.S., to allow alcoholic beverages to be sold on days on which the pari-mutuel facility is open to the public for video lottery play.



**Section 26.** Requires the Alcohol, Drug Abuse and Mental Health Program Office in the Department of Children and Family Services to establish a program for public education, awareness and training for the treatment and prevention of problem or compulsive gambling. The section also requires the maintenance of a toll-free problem gambling telephone number to provide crisis counseling and requires at-risk studies and in-service training.

**Section 27.** Amends s. 24.1126, F.S., to require video lottery retailers to post signs with the statement, "IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE" together with the toll-free telephone number. This section also requires the same message and telephone number to be printed on all racing programs.

**Section 28.** Provides that the act shall take effect upon becoming a law contingent upon the passage of HB's 1455, 1457, 1459, 1461, or similar legislation.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Department of the Lottery and, to a lesser extent, the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering will experience costs associated with implementation of this legislation. This cost is indeterminate at the present time.

2. Recurring Effects:

The Department of the Lottery and, to a lesser extent, the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering will experience the on-going costs associated with supervision of the operation, audit and oversight of video lottery operations. To this end, the bill allocates 2% of net terminal income to the Department of the Lottery for administration. The Lottery Department would not actually operate the video lottery games as it presently operates its on-line games; however, the initial costs associated with implementing the legislation may not be adequately addressed.

The Consensus Revenue Estimating Conference met on March 12, 1999 to assess the potential impact on state revenue with implementation of this legislation. To arrive at these estimates, per capita sales figures, net terminal income and number of terminals from three states [West Virginia, Rhode Island and Delaware] which offer video lottery gaming at their pari-mutuel facilities were obtained and compared to anticipated activity in Florida. The impact of video lottery on other lottery games and on the pari-mutuel industry was also considered. Other lottery games were estimated to be adversely impacted by a reduction in sales of approximately 5% but pari-mutuel handle was not expected to be adversely affected. However, the Consensus Revenue Estimating Conference estimates that as much as 50% of the revenue spent on video lottery will come from money which would have otherwise been spent on sales subject to the state sales and use tax.

The estimated net revenue to the state from the operation of video lottery at existing pari-mutuel facilities was \$145.8 million for the first [partial] year and \$271.8 million for FY 2000-2001. This estimate is net of any negative impacts attributed to pari-mutuel handle, other existing lottery games, and sales tax reductions. These estimates are also net of disbursements to the Video Lottery Purse TF and the Thoroughbred Purse TF since these trust funds are established to disburse money back to segments of the pari-mutuel industry.

Consensus Estimate* Adopted: 3/12/99	FY 1999-2000 Annualized	FY 1999-2000 Cash	FY 2000-2001 Annualized	FY 2000-2001 Cash
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PECO	319.0	119.6	343.0	223.0
Dept. of Elderly Affairs	106.3	39.9	114.4	74.3
Dept. of CFS (Gambling Addiction)	2.8	1.0	3.0	2.0
Lottery Admin TF	15.7	5.9	16.9	11.0
EETF	(21.3)	(8.0)	(22.9)	(14.9)
Solid Waste Mgmt. TF	(.1)	(insignificant)	(.1)	(.1)
Local Gov't Half Cent	(2.7)	(1.0)	(2.9)	(1.9)
Local Option Sales Tax	(1.9)	(0.7)	(2.0)	(1.3)
General Revenue-Sales	(29.1)	(10.9)	(31.3)	(20.4)
<b>Impact to State</b>	<b>388.70</b>	<b>145.80</b>	<b>418.10</b>	<b>271.70</b>
Video Lottery Purse TF <b>Revenue Passed Through to Industry</b>	89.5	33.6	96.3	62.6
<b>Net revenue retained by VLT retailer or for purses</b>	<b>579.5</b>	<b>217.2</b>	<b>622.9</b>	<b>404.9</b>
<b>TOTAL IMPACT</b>	<b>1057.4</b>	<b>396.5</b>	<b>1137.3</b>	<b>739.3</b>

\* These estimates were updated by the Office of Economic & Demographic Research (EDR) to reflect the change in distributions implemented in CS/HB 1453.

The following charts represent the Consensus Revenue Estimating Conference's projection, assumptions and methodology used to arrive at the estimates of impact.

<b>Projected Proceeds from Video Lottery Adopted Estimate [Updated 3/19/99 by EDR to reflect distributions pursuant to CS/HB 1453]</b>				
	1999-2000	2000-2001	2001-2002	2002-2003
Potential Net Terminal Income Per Capita	\$72.39	\$76.59	\$80.80	\$85.25
Population (millions)	15.460	15.717	15.971	16.222
Net Terminal Income Potential (millions)	\$1,119.1	\$1,203.7	\$1,290.5	\$1,382.8
Phase-in Percentage	50%	65%	85%	100%
Net Terminal income (millions)	\$559.6	\$782.4	\$1,096.9	\$1,382.8
Net Terminal Income Per Capita	\$36.20	\$49.78	\$68.68	\$85.25
Number of Terminals	12,984	17,160	22,802	27,248
Net income per terminal	\$43,098	\$45,597	\$48,105	\$50,751
<b>Recurring Impact (millions)</b>				
Net terminal income	\$1,119.1	\$1,203.7	\$1,290.5	\$1,382.8
PECO (28.5%)	\$319.0	\$343.1	\$367.8	\$394.1
Elderly Affairs (9.5%)	\$106.3	\$114.4	\$122.6	\$131.4
Lottery Administrative Trust Fund (2%)	\$22.4	\$24.1	\$25.8	\$27.7
Video Lottery Purse Trust Fund (DBPR) (8%)	\$89.5	\$96.3	\$103.2	\$110.6
Gambling Addiction Program (Dept. of CFS) (.25%)	\$2.8	\$3.0	\$3.2	\$3.5
Retained by retailers or for purses	\$579.1	\$622.9	\$667.8	\$715.7
<b>Cash Impact (millions)</b>				
Net terminal income	\$419.7	\$782.4	\$1,096.9	\$1,382.8
PECO (28.5%)	\$119.6	\$223.0	\$312.6	\$394.1
Elderly Affairs (9.5%)	\$39.9	\$74.3	\$104.3	\$131.4
Lottery Administrative Trust Fund (2%)	\$8.4	\$15.6	\$21.9	\$27.7
Video Lottery Purse Trust Fund (DBPR) (8%)	\$33.6	\$62.6	\$87.8	\$110.6
Gambling Addiction Program (Dept. of CFS) (.25%)	\$1.0	\$2.0	\$2.7	\$3.5
Retained by retailers or for purses	\$217.2	\$404.9	\$567.6	\$715.7

<b>Impact on Current Lottery Games</b>				
	1999-2000	2000-2001	2001-2002	2002-2003
Assumed cannibalization effect	5.00%	5.00%	5.00%	5.00%
<b>Recurring Impact (millions)</b>				
Ticket Sales	(\$56.0)	(\$60.2)	(\$64.5)	(\$69.1)
Educational Enhancement Trust Fund	(\$21.3)	(\$22.9)	(\$24.5)	(\$26.3)
Lottery Administrative Trust Fund	(\$6.7)	(\$7.2)	(\$7.7)	(\$8.3)
<b>Cash Impact (millions)</b>				
Ticket Sales	(\$21.0)	(\$39.1)	(\$54.8)	(\$69.1)
Educational Enhancement Trust Fund	(\$8.0)	(\$14.9)	(\$20.8)	(\$26.3)
Lottery Administrative Trust Fund	(\$2.5)	(\$4.7)	(\$6.6)	(\$8.3)

<b>Impact on Pari-mutuel Wagering Tax</b>				
	1999-2000	2000-2001	2001-2002	2002-2003
Assumed cannibalization effect on handle	0.00%	0.00%	0.00%	0.00%
<b>Recurring Impact (millions)</b>				
Handle	\$0.0	\$0.0	\$0.0	\$0.0
Tax (GR) (4.0%)	\$0.0	\$0.0	\$0.0	\$0.0
<b>Cash Impact (millions)</b>				
Handle	\$0.0	\$0.0	\$0.0	\$0.0
Tax (GR) (4.0%)	\$0.0	\$0.0	\$0.0	\$0.0

Impact on Sales Tax				
	1999-2000	2000-2001	2001-2002	2002-2003
Percentage of net increase in gambling deducted from purchases Of items subject to the Sales Tax	50%	50%	50%	50%
Recurring Sales Tax Impact (including Local Option)	(\$33.8)	(\$36.3)	(\$38.9)	(\$41.7)
Cash Sales Tax Impact (Including Local Option)	(\$12.7)	(\$23.6)	(\$33.1)	(\$41.7)

3. Long Run Effects Other Than Normal Growth:

Unknown.

4. Total Revenues and Expenditures:

See 2. Recurring Effects.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The Consensus Revenue Estimating Conference expects that as much as 50% of the money spent on video lottery gaming will come from dollars which would otherwise have been spent on taxable items. [See chart for impact on all sales tax collections.]

Additionally, the conference estimates that as much as 5% of the net terminal income will be subtracted from current lottery games and estimates a reduction in revenue to the Educational Enhancement Trust Fund of approximately \$8 million for FY 1999-2000. EETF dollars are currently appropriated for Pre-K programs, the Classrooms First Program, the Bright Futures Scholarship Program, as well as discretionary distributions to the public schools, community colleges, and the state university system. Bond covenants and general law require the Classrooms First Program to receive first priority on lottery transfers. Therefore, any reductions in lottery transfers could affect other programs, such as discretionary distributions to local governments, funded from the EETF.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Existing pari-mutuel facilities who opt to include video lottery gaming among their gaming options, will incur substantial costs for equipment, structural changes to the facility, etc., to accommodate the expansion.

2. Direct Private Sector Benefits:

Implementation of this legislation is anticipated to substantially benefit many segments of the state's pari-mutuel industry. The recent Revenue Estimating Conference projected first year revenue of: \$217.2 million to the permitholder and \$33.6 to the Video Lottery Purse Trust Fund.

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

Passage of this legislation by all accounts will result in increased employment opportunities at and near pari-mutuel facilities offering video lottery gaming. Moreover, passage of the legislation may delay the decline of the pari-mutuel wagering industry which directly employs over 25,000 persons and is indirectly responsible for hundreds of other employment opportunities.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

The operational dates specified in this legislation may not give the Department of the Lottery and the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering sufficient time to adequately implement their responsibilities.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Regulated Services considered this legislation on March 17, 1999 and passed the bill unanimously as a committee substitute. Numerous changes made by the committee substitute, dealt with the splits of net terminal income among the various pari-mutuel interests, primarily the thoroughbred track owners and the horsemen, and will not be repeated here.

Other significant changes included:

- ▶ the 38% of net terminal income allocated to PECO in the original bill is reduced to 28.5%;
- ▶ 9.5% of the net terminal income is allocated to the Department of Elderly Affairs;
- ▶ Jai-Alai frontons who operated between 1/90 and 6/98 are made eligible for VLT's;
- ▶ criteria for compulsive gambling treatment programs is provided;
- ▶ Ocala Breeder's Sales is allowed to take intertrack wagering signal year-round on dogs and thoroughbreds even when other permitholders are operating live in the same county.

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

Staff Director:

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Janet Clark Morris

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Paul Liepshutz