

By the Committee on Fiscal Resource and Senator Horne

314-1980-00

1                                   A bill to be entitled  
2           An act relating to public records; providing  
3           legislative findings of public necessity;  
4           creating s. 24.1075, F.S.; providing that fees  
5           charged for access to winning lottery numbers  
6           and payout information by a 1-900 telephone  
7           service is exempt from public records  
8           requirements; providing for future legislative  
9           review and repeal; providing for severability;  
10          providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. Legislative Findings.--

15           (1) Pursuant to Article I, Section 24 of the State  
16 Constitution, the Legislature declares a public necessity to  
17 clarify a legal ambiguity that has developed in relation to  
18 the provision of winning lottery numbers and payout  
19 information through a 1-900 telephone service by the  
20 Department of the Lottery. Currently, the department  
21 disseminates winning-number information on television nightly.  
22 Upon drawing the numbers, the department widely distributes  
23 winning lottery numbers and payout information to the media.  
24 This same information is distributed to all lottery retailers  
25 who make the information available to customers and lottery  
26 players. The information is immediately posted on the  
27 department's website at [www.floridalottery.com](http://www.floridalottery.com). The department  
28 provides the public with copies of documents that contain  
29 winning lottery numbers and payout information upon request at  
30 cost both by mail and at department offices. The department  
31 also offers, through a competitively bid contract with a

1 service provider, the winning lottery numbers and payout  
2 information via a 1-900 telephone service. The department  
3 instituted this service at the direction of proviso language  
4 to Specific Appropriation 1893 in the 1995-1996 General  
5 Appropriations Act.

6 (2) Legal ambiguity has developed in the provision of  
7 this service because of a class action complaint seeking  
8 damages against the state. DeLuise v. Department of the  
9 Lottery, et al., Second Judicial Circuit Court Case No.  
10 99-3999, Leon County, Florida. The complaint demands refunds  
11 for every person who has used the 1-900 service since October  
12 1995, as well as attorneys' fees for alleged violation of  
13 chapter 119, Florida Statutes. This act clarifies that the  
14 department has the legal authority to provide winning lottery  
15 numbers and payout information via a 1-900 service,  
16 notwithstanding chapter 119, Florida Statutes, and that  
17 revenue may be produced by the 1-900 service.

18 (3) Prior to 1995, the department provided winning  
19 lottery number and payout information through a costly 1-800  
20 service. In 1995, the Legislature made a policy decision to  
21 require the users of the instant-access telephone service to  
22 pay for this convenience and to allow the department to  
23 generate revenue by providing the 1-900 service. Since the  
24 1-900 service was instituted, the Educational Enhancement  
25 Trust Fund has received nearly \$8 million in revenue, while  
26 the costs of the 1-800 service to the public have been  
27 avoided.

28 (4) This act is no broader than necessary to  
29 accomplish its stated purpose because access to public records  
30 has not been impeded or restricted. The department will  
31 continue to provide documents containing winning number and

1 payout information as otherwise required by chapter 119,  
2 Florida Statutes, and will continue to widely distribute  
3 lottery information to the media. This act does nothing  
4 greater than to clarify the department's authority under  
5 chapter 24, Florida Statutes, and the Legislature's original  
6 intent in the passage of proviso language to Specific  
7 Appropriation 1893 of the 1995-1996 General Appropriations Act  
8 to use 1-900 services under these circumstances and to  
9 generate revenue for education. Thus, this act does not create  
10 new rights or eliminate previously established rights.

11           Section 2. Section 24.1075, Florida Statutes, is  
12 created to read:

13           24.1075 1-900 telephone service; fees charged for  
14 access not a public record.--Any fee charged for access to  
15 winning lottery numbers and payout information by a 1-900  
16 telephone service is exempt from the fee provisions of chapter  
17 119. This section is subject to the Open Government Sunset  
18 Review Act of 1995 in accordance with s. 119.15, and shall  
19 stand repealed on October 2, 2005, unless reviewed and saved  
20 from repeal through reenactment of the Legislature.

21           Section 3. If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 invalidity does not affect other provisions or applications of  
24 the act which can be given effect without the invalid  
25 provision or application, and to this end the provisions of  
26 this act are severable.

27           Section 4. This act shall take effect upon becoming a  
28 law and shall apply to all authorized 1-900 services of the  
29 Department of the Lottery since October 1, 1995.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 1588

Deletes the language in the bill that exempts from the public records law, information made available to the public by the Department of the Lottery through a 1-900 telephone service and creates instead, a new s. 24.1075, F.S., which exempts any fee charged for access to winning lottery numbers and payout information by a 1-900 telephone service from the fee provisions of ch. 119.