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Bill No. CS/HB 2217

Amendment No. ____ (for drafter's use only)

| | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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ORIGINAL STAMP BELOW

11 Representative(s) Jones offered the following:

Amendment (with title amendment)

14 Remove from the bill: Everything after the enacting clause
15
16 and insert in lieu thereof:

Section 1. Legislative Findings.--

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

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1 winning lottery numbers and payout information upon request at
2 cost both by mail and at department offices. The department
3 also offers, through a competitively bid contract with a
4 service provider, the winning lottery numbers and payout
5 information via a 1-900 telephone service. The department
6 instituted this service at the direction of proviso language
7 to Specific Appropriation 1893 in the 1995-1996 General
8 Appropriations Act.

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

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

31 (4) This act is no broader than necessary to

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1 accomplish its stated purpose because access to public records
2 has not been impeded or restricted. The department will
3 continue to provide documents containing winning number and
4 payout information as otherwise required by chapter 119,
5 Florida Statutes, and will continue to widely distribute
6 lottery information to the media. This act does nothing
7 greater than to clarify the department's authority under
8 chapter 24, Florida Statutes, and the Legislature's original
9 intent in the passage of proviso language to Specific
10 Appropriation 1893 of the 1995-1996 General Appropriations Act
11 to use 1-900 services under these circumstances and to
12 generate revenue for education. Thus, this act does not create
13 new rights or eliminate previously established rights.

14 Section 2. Section 24.1075, Florida Statutes, is
15 created to read:

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

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

30 Section 4. This act shall take effect upon becoming a
31 law and shall apply to all authorized 1-900 services of the

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1 Department of the Lottery since October 1, 1995.

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4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 Remove from the title of the bill: the entire title

7

8 and insert in lieu thereof:

9

A bill to be entitled

10 An act relating to public records; providing
11 legislative findings of public necessity;
12 creating s. 24.1075, F.S.; providing that fees
13 charged for access to winning lottery numbers
14 and payout information by a 1-900 telephone
15 service is exempt from public records
16 requirements; providing for future legislative
17 review and repeal; providing for severability;
18 providing an effective date.

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