

By the Committee on Regulated Services and Representative Jones

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 are exempt from public records
 8 requirements; providing for future legislative
 9 review and repeal; providing for severability;
 10 providing retroactive applicability; providing
 11 an effective date.

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

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

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

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

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

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

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

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

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

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

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

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