

By the Committee on Regulated Industries and Senator Saunders

315-1486-01

1                                   A bill to be entitled  
2           An act relating to the State Lottery  
3           Commission; repealing ss. 24.103(3), 24.106,  
4           F.S., relating to the State Lottery Commission;  
5           abolishing the commission; amending ss. 24.105,  
6           24.108, 24.123, F.S.; deleting references to  
7           the commission, to conform; providing an  
8           effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

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12           Section 1. Subsection (3) of section 24.103, Florida  
13 Statutes, and section 24.106, Florida Statutes, are repealed.

14           Section 2. Subsections (4) through (21) of section  
15 24.105, Florida Statutes, are amended to read:

16           24.105 Powers and duties of department.--The  
17 department shall:

18           ~~(4) Make available to the commission any record or~~  
19 ~~other information relating to the lottery that the commission~~  
20 ~~requests.~~

21           (4)(5) Submit monthly and annual reports to the  
22 ~~commission~~, the Governor, the Treasurer, the President of the  
23 Senate, and the Speaker of the House of Representatives  
24 disclosing the total lottery revenues, prize disbursements,  
25 and other expenses of the department during the preceding  
26 month. The annual report shall additionally describe the  
27 organizational structure of the department, including its  
28 hierarchical structure, and shall identify the divisions and  
29 bureaus created by the secretary and summarize the  
30 departmental functions performed by each.

31           (5)(6) Adopt by rule a system of internal audits.

1           (6)~~(7)~~ Maintain weekly or more frequent records of  
2 lottery transactions, including the distribution of tickets to  
3 retailers, revenues received, claims for prizes, prizes paid,  
4 and other financial transactions of the department.

5           (7)~~(8)~~ Make a continuing study of the lottery to  
6 ascertain any defects of this act or rules adopted thereunder  
7 which could result in abuses in the administration of the  
8 lottery; make a continuing study of the operation and the  
9 administration of similar laws in other states and of federal  
10 laws which may affect the lottery; and make a continuing study  
11 of the reaction of the public to existing and potential  
12 features of the lottery.

13           (8)~~(9)~~ Conduct such market research as is necessary or  
14 appropriate, which may include an analysis of the demographic  
15 characteristics of the players of each lottery game and an  
16 analysis of advertising, promotion, public relations,  
17 incentives, and other aspects of communications.

18           (9)~~(10)~~ Adopt rules governing the establishment and  
19 operation of the state lottery, including:

20           (a) The type of lottery games to be conducted, except  
21 that:

22           1. No name of an elected official shall appear on the  
23 ticket or play slip of any lottery game or on any prize or on  
24 any instrument used for the payment of prizes, unless such  
25 prize is in the form of a state warrant.

26           2. No coins or currency shall be dispensed from any  
27 electronic computer terminal or device used in any lottery  
28 game.

29           3. Other than as provided in subparagraph 4., no  
30 terminal or device may be used for any lottery game which may  
31

1 | be operated solely by the player without the assistance of the  
2 | retailer.

3 |         4. The only player-activated machine which may be  
4 | utilized is a machine which dispenses instant lottery game  
5 | tickets following the insertion of a coin or currency by a  
6 | ticket purchaser. To be authorized a machine must: be under  
7 | the supervision and within the direct line of sight of the  
8 | lottery retailer to ensure that the machine is monitored and  
9 | only operated by persons at least 18 years of age; be capable  
10 | of being electronically deactivated by the retailer to  
11 | prohibit use by persons less than 18 years of age through the  
12 | use of a lockout device that maintains the machine's  
13 | deactivation for a period of no less than 5 minutes; and be  
14 | designed to prevent its use or conversion for use in any  
15 | manner other than the dispensing of instant lottery tickets.  
16 | Authorized machines may dispense change to players purchasing  
17 | tickets but may not be utilized for paying the holders of  
18 | winning tickets of any kind. At least one clerk must be on  
19 | duty at the lottery retailer while the machine is in  
20 | operation. However, at least two clerks must be on duty at any  
21 | lottery location which has violated s. 24.1055.

22 |         (b) The sales price of tickets.

23 |         (c) The number and sizes of prizes.

24 |         (d) The method of selecting winning tickets. However,  
25 | if a lottery game involves a drawing, the drawing shall be  
26 | public and witnessed by an accountant employed by an  
27 | independent certified public accounting firm. The equipment  
28 | used in the drawing shall be inspected before and after the  
29 | drawing.

30 |         (e) The manner of payment of prizes to holders of  
31 | winning tickets.

- 1           (f) The frequency of drawings or selections of winning  
2 tickets.
- 3           (g) The number and type of locations at which tickets  
4 may be purchased.
- 5           (h) The method to be used in selling tickets.
- 6           (i) The manner and amount of compensation of  
7 retailers.
- 8           (j) Such other matters necessary or desirable for the  
9 efficient or economical operation of the lottery or for the  
10 convenience of the public.
- 11           (10)~~(11)~~ Have the authority to hold copyrights,  
12 trademarks, and service marks and enforce its rights with  
13 respect thereto.
- 14           (11)~~(12)~~ In the selection of games and method of  
15 selecting winning tickets, be sensitive to the impact of the  
16 lottery upon the pari-mutuel industry and, accordingly, the  
17 department may use for any game the theme of horseracing,  
18 dogracing, or jai alai and may allow a lottery game to be  
19 based upon a horserace, dograce, or jai alai activity so long  
20 as the outcome of such lottery game is determined entirely by  
21 chance.
- 22           (12)~~(13)~~(a) Determine by rule information relating to  
23 the operation of the lottery which is confidential and exempt  
24 from the provisions of s. 119.07(1) and s. 24(a), Art. I of  
25 the State Constitution. Such information includes trade  
26 secrets; security measures, systems, or procedures; security  
27 reports; information concerning bids or other contractual  
28 data, the disclosure of which would impair the efforts of the  
29 department to contract for goods or services on favorable  
30 terms; employee personnel information unrelated to  
31 compensation, duties, qualifications, or responsibilities; and

1 information obtained by the Division of Security pursuant to  
2 its investigations which is otherwise confidential. To be  
3 deemed confidential, the information must be necessary to the  
4 security and integrity of the lottery. Confidential  
5 information may be released to other governmental entities as  
6 needed in connection with the performance of their duties.  
7 The receiving governmental entity shall retain the  
8 confidentiality of such information as provided for in this  
9 subsection.

10 (b) Maintain the confidentiality of the street address  
11 and the telephone number of a winner, in that such information  
12 is confidential and exempt from the provisions of s. 119.07(1)  
13 and s. 24(a), Art. I of the State Constitution, unless the  
14 winner consents to the release of such information or as  
15 provided for in s. 24.115(4) or s. 409.2577.

16 (c) Any information made confidential and exempt from  
17 the provisions of s. 119.07(1) under this subsection shall be  
18 disclosed ~~to a member of the commission,~~ to the Auditor  
19 General, ~~or~~ to the independent auditor selected under s.  
20 24.123 upon such person's request therefor. If the President  
21 of the Senate or the Speaker of the House of Representatives  
22 certifies that information made confidential under this  
23 subsection is necessary for effecting legislative changes, the  
24 requested information shall be disclosed to him or her, and he  
25 or she may disclose such information to members of the  
26 Legislature and legislative staff as necessary to effect such  
27 purpose.

28 (13)~~(14)~~ Have the authority to perform any of the  
29 functions of the Department of Management Services under  
30 chapter 255, chapter 273, chapter 281, chapter 283, or chapter  
31 287, or any rules adopted under any such chapter, and may

1 grant approvals provided for under any such chapter or rules.  
2 If the department finds, by rule, that compliance with any  
3 such chapter would impair or impede the effective or efficient  
4 operation of the lottery, the department may adopt rules  
5 providing alternative procurement procedures. Such  
6 alternative procedures shall be designed to allow the  
7 department to evaluate competing proposals and select the  
8 proposal that provides the greatest long-term benefit to the  
9 state with respect to the quality of the products or services,  
10 dependability and integrity of the vendor, dependability of  
11 the vendor's products or services, security, competence,  
12 timeliness, and maximization of gross revenues and net  
13 proceeds over the life of the contract.

14 (14)~~(15)~~ Have the authority to acquire real property  
15 and make improvements thereon. The title to such property  
16 shall be vested in the Board of Trustees of the Internal  
17 Improvement Trust Fund. The board shall give the department  
18 preference in leasing state-owned lands under the board's  
19 control and may not exercise any jurisdiction over lands  
20 purchased or leased by the department while such lands are  
21 actively used by the department. Actions of the department  
22 under this subsection are exempt from the time limitations and  
23 deadlines of chapter 253.

24 (15)~~(16)~~ Have the authority to charge fees to persons  
25 applying for contracts as vendors or retailers, which fees are  
26 reasonably calculated to cover the costs of investigations and  
27 other activities related to the processing of the application.

28 (16)~~(17)~~ Enter into contracts for the purchase, lease,  
29 or lease-purchase of such goods and services as are necessary  
30 for the operation and promotion of the state lottery,  
31 including assistance provided by any governmental agency.

1           ~~(17)~~(18) In accordance with the provisions of this  
2 act, enter into contracts with retailers so as to provide  
3 adequate and convenient availability of tickets to the public  
4 for each game.

5           ~~(18)~~(19) Have the authority to enter into agreements  
6 with other states for the operation and promotion of a  
7 multistate lottery if such agreements are in the best interest  
8 of the state lottery. The authority conferred by this  
9 subsection is not effective until 1 year after the first day  
10 of lottery ticket sales.

11           ~~(19)~~(20) Employ division directors and other staff as  
12 may be necessary to carry out the provisions of this act;  
13 however:

14           (a) No person shall be employed by the department who  
15 has been convicted of, or entered a plea of guilty or nolo  
16 contendere to, a felony committed in the preceding 10 years,  
17 regardless of adjudication, unless the department determines  
18 that:

19           1. The person has been pardoned or his or her civil  
20 rights have been restored; or

21           2. Subsequent to such conviction or entry of plea the  
22 person has engaged in the kind of law-abiding commerce and  
23 good citizenship that would reflect well upon the integrity of  
24 the lottery.

25           (b) No officer or employee of the department having  
26 decisionmaking authority shall participate in any decision  
27 involving any vendor or retailer with whom the officer or  
28 employee has a financial interest. No such officer or  
29 employee may participate in any decision involving any vendor  
30 or retailer with whom the officer or employee has discussed  
31 employment opportunities without the approval of the secretary

1 or, if such officer is the secretary ~~or any member of the~~  
2 ~~commission~~, without the approval of the Governor. Any officer  
3 or employee of the department shall notify the secretary of  
4 any such discussion or, if such officer is the secretary ~~or a~~  
5 ~~member of the commission~~, he or she shall notify the Governor.  
6 A violation of this paragraph is punishable in accordance with  
7 s. 112.317.

8 (c) No officer or employee of the department who  
9 leaves the employ of the department shall represent any vendor  
10 or retailer before the department regarding any specific  
11 matter in which the officer or employee was involved while  
12 employed by the department, for a period of 1 year following  
13 cessation of employment with the department. A violation of  
14 this paragraph is punishable in accordance with s. 112.317.

15 (d) The department shall establish and maintain a  
16 personnel program for its employees, including a personnel  
17 classification and pay plan which may provide any or all of  
18 the benefits provided in the Senior Management Service or  
19 Selected Exempt Service. Each officer or employee of the  
20 department shall be a member of the Florida Retirement System.  
21 The retirement class of each officer or employee shall be the  
22 same as other persons performing comparable functions for  
23 other agencies. Employees of the department shall serve at  
24 the pleasure of the secretary and shall be subject to  
25 suspension, dismissal, reduction in pay, demotion, transfer,  
26 or other personnel action at the discretion of the secretary.  
27 Such personnel actions are exempt from the provisions of  
28 chapter 120. All employees of the department are exempt from  
29 the Career Service System provided in chapter 110 and,  
30 notwithstanding the provisions of s. 110.205(5), are not  
31 included in either the Senior Management Service or the



1 Selected Exempt Service. However, all employees of the  
2 department are subject to all standards of conduct adopted by  
3 rule for career service and senior management employees  
4 pursuant to chapter 110. In the event of a conflict between  
5 standards of conduct applicable to employees of the Department  
6 of the Lottery the more restrictive standard shall apply.  
7 Interpretations as to the more restrictive standard may be  
8 provided by the Commission on Ethics upon request of an  
9 advisory opinion pursuant to s. 112.322(3)(a), for purposes of  
10 this subsection the opinion shall be considered final action.

11 (20)~~(21)~~ Adopt by rule a code of ethics for officers  
12 and employees of the department which supplements the  
13 standards of conduct for public officers and employees imposed  
14 by law.

15 Section 3. Paragraph (b) of subsection (7) of section  
16 24.108, Florida Statutes, is amended to read:

17 24.108 Division of Security; duties; security  
18 report.--

19 (7)

20 (b) The portion of the security report containing the  
21 overall evaluation of the department in terms of each aspect  
22 of security shall be presented to ~~the commission,~~the  
23 Governor, the President of the Senate, and the Speaker of the  
24 House of Representatives. The portion of the security report  
25 containing specific recommendations shall be confidential and  
26 shall be presented only to the secretary, ~~the commission,~~the  
27 Governor, and the Auditor General; however, upon certification  
28 that such information is necessary for the purpose of  
29 effecting legislative changes, such information shall be  
30 disclosed to the President of the Senate and the Speaker of  
31 the House of Representatives, who may disclose such

1 information to members of the Legislature and legislative  
2 staff as necessary to effect such purpose. However, any person  
3 who receives a copy of such information or other information  
4 which is confidential pursuant to this act or rule of the  
5 department shall maintain its confidentiality. The  
6 confidential portion of the report is exempt from the  
7 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
8 Constitution.

9 Section 4. Subsection (3) of section 24.123, Florida  
10 Statutes, is amended to read:

11 24.123 Annual audit of financial records and  
12 reports.--

13 (3) A copy of any audit performed pursuant to this  
14 section shall be submitted to the secretary, ~~the commission,~~  
15 the Governor, the President of the Senate, the Speaker of the  
16 House of Representatives, and members of the Legislative  
17 Auditing Committee.

18 Section 5. This act shall take effect upon becoming a  
19 law.

20  
21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
22 COMMITTEE SUBSTITUTE FOR  
23 SB 364

24 Modified to delete reference to the commission in s. 24.123,  
25 F.S.

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