

By the Committee on Business Regulation and Representative
Kyle

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

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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13 Statutes, and section 24.106, Florida Statutes, are repealed.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
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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.

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22 LEGISLATIVE SUMMARY

23 Abolishes the State Lottery Commission and conforms
24 related provisions.
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