

STORAGE NAME: h0023.br.doc
DATE: November 8, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS REGULATION
ANALYSIS**

BILL #: HB 23
RELATING TO: Instant Bingo
SPONSOR(S): Representative(s) Wishner
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS REGULATION (SGC)
 - (2) FISCAL POLICY & RESOURCES (FRC)
 - (3) COUNCIL FOR SMARTER GOVERNMENT
 - (4)
 - (5)
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I. SUMMARY:

This bill authorizes instant bingo games. Often referred to as pull-tabs, instant bingo is played by removing a cover from the ticket to reveal a set of numbers, letters, objects or patterns, some of which have been designated in advance as prize winners. The bill requires that each package of instant bingo tickets have a minimum prize payout of at least 65 percent.

The bill exempts instant bingo from current bingo jackpot restrictions, such that instant bingo is not limited to two days a week, is not limited to three jackpots on any one day of play, is not limited to a maximum value on jackpots of \$250 and is not limited by time or location.

The bill will have no impact on state revenue expenditures. The potential negative impact on state revenue deposits into the Educational Enhancement Trust Fund and consequent reduced funding for public education as a result of decreased sales of instant lottery tickets is indeterminate at this time. A bill impact conference to estimate the potential impact has been requested.

Effective date: July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Article X, Section 7 of the State Constitution prohibits lotteries, other than the types of pari-mutuel pools authorized by general law on the effective date of the constitutional revision. A further amendment to the constitution was adopted in 1986, Article X, Section 15, which authorized state operated lotteries.

Bingo

Chapter 849, Florida Statutes, provides the codification of these prohibitions and contains specific exceptions which authorize gambling activities such as, cardrooms, bingo, and penny-ante poker. Specifically, s. 849.0931, F.S., authorizes the playing of bingo.

Charitable, nonprofit, or veterans' organizations that are engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar endeavors, which have been in existence and active for a period of three years or more, may conduct bingo games, provided the entire proceeds derived from the conduct of the games, less actual business expenses, are donated to the listed endeavors.

If an organization is not engaged in endeavors of the type listed, its right to conduct bingo games is conditioned upon the return of all the proceeds from the games to the players in the form of prizes.

The statute also establishes restrictions on bingo jackpots. No jackpot may exceed the value of \$250 in actual money or its equivalent. There cannot be more than three jackpots on any one day of play and all other game prizes may not exceed \$50. An organization cannot conduct bingo more than two days per week.

Any organization or person who willfully and knowingly violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. For a second or subsequent offense, the organization or other person is guilty of a felony of the third degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.

While this statute sets forth the basic rules and conditions for conducting bingo games, no statutory provision exists for statewide enforcement. Therefore, responsibility for the interpretation and enforcement of the bingo law rests with local law enforcement agencies. Several counties and/or

municipalities have enacted their own bingo ordinances to address problems with bingo at the local level.

C. EFFECT OF PROPOSED CHANGES:

The bill authorizes instant bingo games, defined as a game that is played using tickets by which a player wins a prize by opening and removing a cover from the ticket to reveal a set of numbers, letters, objects, or patterns, some of which have been designated in advance as prize winners. Such instant games are often referred to as "pull tabs."

The bill defines a "package" of instant bingo tickets as a separate set of not more than 4,000 instant bingo tickets in which the predetermined minimum prize payout is at least 65 percent of the total receipts from the sale of the entire package.

The bill provides that instant bingo tickets may be sold by any organization that can currently conduct regular bingo games. The tickets must be sold at the price printed on the ticket, which may not exceed \$1. Discounts cannot be given for purchases of multiple tickets, and tickets cannot be given away free of charge. The sets of numbers, letters, objects, or patterns that have been pre-designated as winning combinations for a package of bingo tickets must be posted before the sale of any tickets from that package.

The bill exempts instant bingo from the jackpot restrictions, such that instant bingo is not limited to two days a week, is not limited to three jackpots on any one day of play, is not limited to a maximum value on jackpots of \$250, and is not limited by time or location.

Unlike the regulations in place for the sale of state-sponsored instant lottery tickets, the bill does not implement security measures to ensure the integrity of instant bingo games.

The bill takes effect July 1, 2002.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 849.0931, F.S., to authorize the play of "instant" bingo.

Section 2. Provides that the bill will take effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See D. FISCAL COMMENTS.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See D. FISCAL COMMENTS.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The addition of pull tab bingo tickets may generate additional revenue to the various charities supported by organizations conducting bingo.

D. FISCAL COMMENTS:

Chapter 24, Florida Statutes, specifies how revenues generated by the State Lottery are to be dispersed, and requires that 38% of gross revenue be deposited into the Educational Enhancement Trust Fund [EETF]. The statute further specifies that, as nearly as possible, 50% of gross revenue be returned to the public in the form of prizes and the remaining 12% of gross revenue be used to by the department to cover administrative costs.

Section 24.115 requires all unclaimed prize money to be returned to the pool from which future prizes are to be awarded or used for special prize promotions. Historically, the Lottery Department has used unclaimed prize money to increase the prize payout on instant tickets. This has allowed the Lottery to increase the prize payout on its instant games from 50% to approximately 56% of total sales. At 56% payout Florida has the lowest payout on instant lottery tickets in the nation.

Various reviews of lottery operations in other states indicate that increasing the prize payout on instant games results in an increase in sales. The percentage prize payout is significant in that the higher this percentage, the more players win. Increased frequencies of winning have the effect of increasing the entertainment value of the games and ultimately the sales of tickets. A recent review of Lottery operations by the Office of Program Policy Analysis & Governmental Accountability [OPPAGA] appears to indicate that the optimum payout on instant tickets is around 65%.

Accordingly, "instant bingo" tickets, as authorized in this legislation, with at least a 65% payout may compete with instant tickets offered by the Florida Lottery which have a mandatory 50% payout. To the extent the sale of "instant bingo" tickets competes with and/or cannibalizes sales of instant lottery tickets, transfers of revenue to the EETF will decrease.

The Florida Lottery has expressed the concern that if instant bingo tickets experience any security or integrity failures, the public's confidence in Florida Lottery games may be jeopardized even though the instant bingo tickets are not marketed by the Florida Lottery. A loss of confidence in Florida Lottery games could have a substantial negative impact on Lottery ticket sales and consequent transfers to the Educational Enhancement Trust Fund.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Article X, Section 7 of the State Constitution prohibits lotteries, other than the types of pari-mutuel pools authorized by general law on the effective date of the constitutional revision. A further amendment to the constitution was adopted in 1986, Article X, Section 15, which authorized *state operated* lotteries.

Chapter 849, Florida Statutes, provides the codification of these prohibitions and contains specific exceptions which authorize gambling activities such as cardrooms, bingo, and penny-ante poker.

This bill proposes to allow the sale of instant bingo tickets which appear to be indistinguishable from instant lottery tickets and, therefore, may be subject to a constitutional challenge.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

"Bingo game" is defined in subsection (1)(a) as:

(a) "Bingo game" means and refers to the activity, commonly known as "bingo," in which participants pay a sum of money *for the use of one or more bingo cards. When the game commences, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the bingo cards which they have purchased until a player receives a given order of numbers in sequence that has been preannounced for that particular game. This player calls out "bingo" and is declared the winner of a predetermined prize. More than one game may be played upon a bingo card, and numbers called for one game may be used for a succeeding game or games.*

[Emphasis added.]

This bill defines "instant bingo" as:

"...a game that is played using tickets by which a player wins a prize by opening and removing a cover from the ticket to reveal a set of numbers, letters, objects, or patterns, some of which have been predesignated in advance as prize winners."

Subsection (11) sets forth the qualifying properties upon which "bingo games" may be conducted. Numerous other subsections of chapter 849 refer to "...conducting bingo games" or "... right to

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conduct bingo games” etc. Since these references in chapter 849 do not contemplate the playing of bingo by way of pull tab tickets, additional amendments should be considered to clarify the inclusion of “instant bingo” and to address the conditions, locations, and manner in which instant bingo tickets may be sold.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Staff Director:

Janet Clark Morris

M. Paul Liepshutz