

STORAGE NAME: h0023s2.sgc.doc
DATE: March 7, 2002

HOUSE OF REPRESENTATIVES
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS

BILL #: CS/CS/HB 23
RELATING TO: Instant Bingo
SPONSOR(S): Council for Smarter Government, Committee on Business Regulation, Representative(s) Wishner and Others
TIED BILL(S): None

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

- (1) BUSINESS REGULATION (SGC) YEAS 7 NAYS 5
 - (2) FISCAL POLICY AND RESOURCES YEAS 9 NAYS 2
 - (3) COUNCIL FOR SMARTER GOVERNMENT YEAS 10 NAYS 1
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

Currently 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, and qualified as tax exempt under the provisions of s. 501(c) of the Internal Revenue Code, may conduct bingo games. This bill authorizes these organizations to conduct "instant bingo" games. Usually 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 deal of instant bingo tickets have a minimum prize payout of at least 65 percent. The bill exempts instant bingo from current bingo jackpot restrictions, e.g., instant bingo is not limited to three jackpots on any one day of play and is not limited to a maximum value on jackpots of \$250.

While the original bill allowed the sale of instant tickets 24 hours a day and seven days a week, this bill limits the sale of instant bingo tickets to those times and places where a session of traditional bingo is being conducted. While no one organization may sell instant bingo tickets on more than two days per week, the bill will not prohibit the sale of instant bingo tickets from a single location on more than two days per week.

The bill is not expected to have a significant impact on state revenue expenditures or collections. The bill provides an effective date of July 1, 2002, and specifies that the authorization for instant bingo will sunset on July 1, 2004. The bill requires a legislative review prior to the automatic repeal date.

Article X, Section 15 of the State Constitution authorizes *state-operated* lotteries. Since instant-bingo tickets are virtually indistinguishable from other lottery tickets, the bill may be subject to a constitutional challenge.

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, contains specific exceptions to the general gambling prohibition and authorizes certain gambling activities such as, cardrooms, bingo, and penny-ante poker. Specifically, s. 849.0931, F.S., authorizes the playing of charitable 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 and qualified as tax exempt under the provisions of s. 501(c) of the Internal Revenue Code, 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 a statutorily authorized 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.

According to the October 2000 issue of *International Gaming and Wagering Business*, 37 states currently allow non-lottery operated pull-tabs or other charitable games and nine states authorize state-operated lottery pull-tabs.

The North American Gaming Regulators Association [NAGRA] has developed model standards of operation for pull-tab games to provide regulatory guidance to jurisdictions contemplating use of pull-tab lottery games. These standards of operation suggest licensure of all manufacturers, suppliers and vendors and methods of tracking and controlling inventory and controlling access and distribution.

Lottery

The Florida Lottery was established by the Legislature in 1987, codified as Chapter 24, F.S., in order to implement Article X, Section 15 of the State Constitution.¹ To ensure the integrity of lottery games and activities, Chapter 24 requires the Department of the Lottery to be held accountable to the Legislature and people of the state through a system of audits, reports, financial disclosure, open meetings and the public records law.

The Lottery contracts with over 11,000 retailers statewide to sell lottery products. Approximately 8,500 of these retailers sell both on-line and instant games, while the remainder sells only instant tickets. Lottery retailers are paid a five percent commission on each ticket sold and receive one percent of the value of all winning tickets redeemed at their business establishment.

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 commonly referred to as "pull tabs" and are indistinguishable from instant lottery games.

The bill defines a deal 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 deal. Each ticket in a deal must bear the same serial number and there may not be more than one serial number in any deal.

The bill requires that all instant bingo tickets manufactured, sold, or distributed in Florida must comply with the pull-tab standards adopted by the North American Gaming Regulators Association [NAGRA]. Except when in conflict with NAGRA standards, each ticket must:

- Be manufactured so that it is not possible to identify whether it is a winning or losing ticket until opened;
- Be manufactured using at least a two-ply paper so that the ticket is opaque;
- Have specified information printed on the ticket; and

¹ Article X, Section 15 of the State Constitution authorizes *state-operated* lotteries.

- Have a form of winner protection that allows the organization to verify that a ticket is authentic.

In addition, each manufacturer and distributor that sells or distributes instant bingo tickets to organizations in Florida shall include specified information on the sales invoice and the invoice must remain on the premises from which the tickets are sold. All such information must be retained by the distributor or manufacturer for at least three years.

The bill requires that the Department of the Lottery maintain a list of no fewer than six qualified instant bingo ticket vendors that are authorized to sell tickets in Florida. No instant bingo ticket may be sold in Florida unless purchased from a vendor on the list of approved vendors.

The bill provides that instant bingo tickets may be sold by any organization that can currently conduct traditional 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 deal of bingo tickets must be posted before the sale of any tickets from that package.

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

To prevent "storefront" operations, the bill attempts to limit the sale of instant bingo tickets to those locations and at such times as a session of traditional bingo is being conducted. While no one organization may sell instant bingo tickets on more than two days per week, the bill will not prohibit the sale of instant bingo tickets from a single location on more than two days per week.

The bill takes effect July 1, 2002; however, the bill provides that the instant bingo authorization will expire and be repealed on July 1, 2004. Prior to the repeal date, the Legislature is required to conduct a review of instant bingo operations and the impact these games have on the operations and ticket sales of the Department of Lottery.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides that the act will be known as the Evelyn Wiesman-Price Act.

Section 2. Amends s. 849.0931, F.S., to authorize the play of "instant" bingo.

Section 3. Provides for the prospective repeal of these amendments and requires a legislative review prior to the repeal date.

Section 4. 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:

See D. FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See D. FISCAL COMMENTS.

2. Expenditures:

See. D. FISCAL COMMENTS

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The addition of pull tab bingo tickets is expected to generate additional revenue for the various organizations conducting bingo and, as a consequence, is expected to generate additional revenue for the various charities supported by these organizations.

D. FISCAL COMMENTS:

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 Department of the Lottery does not anticipate any significant cannibalization since instant bingo tickets will be marketed in venues different from those in which Florida Lottery tickets are traditionally sold.

The committee substitute adopted by the Business Regulation Committee attempts to prohibit "store front" operations by limiting the sale of instant bingo tickets to those locations and at such times as a session of traditional bingo is being conducted.

The Florida Lottery has expressed the concern that if instant bingo ticket games 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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Business Regulation

The bill as originally filed appeared to allow the sale of instant bingo tickets at any location and at any time. The committee substitute attempts to restrict the sale of instant bingo tickets to only those locations and at such time as traditional bingo games are being conducted.

While no one organization may sell instant bingo tickets on more than two days per week, the bill will not prohibit the sale of instant bingo tickets from a single location on more than two days per week.

The committee substitute provides a prospective repeal of the instant bingo provisions on July 1, 2004 and requires a legislative review prior to the repeal date. The legislative review shall address the impact of instant bingo ticket sales on the operations and instant ticket sales of the Department of the Lottery.

The committee substitute also made other clarifying amendments.

Committee on Fiscal Policy and Resources

On February 27, 2002 the Committee on Fiscal Policy and Resources adopted three amendments to the committee substitute. The first of these amendments specifies that this act may be cited as the "Evelyn Wiesman-Price Act." The second amendment rewrites a substantial portion of the bill in order to provide increased security and reliability for these instant bingo games. Among other changes, this amendment requires that "tickets manufactured, sold, or distributed in this state must comply with the standards on pull-tabs of the North American Gaming Regulators Association". The third amendment adopted is a

STORAGE NAME: h0023s2.sgc.doc

DATE: March 7, 2002

PAGE: 7

conforming amendment changing the definitions section of the bill to conform with the language used in the previous amendment.

Council for Smarter Government

The Council for Smarter Government considered this bill on March 1, 2002. The Council adopted the traveling amendments to the bill and voted, 10 Yeas to 1 Nay, to report the bill favorably as a council substitute.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Janet Clark Morris

Staff Director:

M. Paul Liepshutz

AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Kama Monroe

Staff Director:

Lynne Overton

AS FURTHER REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Janet Clark Morris

Council Director:

Don Rubottom