

By Senator Smith

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1 A bill to be entitled
2 An act relating to operation of the Florida Lottery;
3 amending s. 20.317, F.S.; clarifying provisions
4 concerning regional offices; amending s. 24.101, F.S.;
5 revising a reference; amending s. 24.102, F.S.;
6 revising provisions relating to legislative intent to
7 provide for operation of the lottery under a
8 management agreement; amending s. 24.103, F.S.;
9 providing and revising definitions; amending s.
10 24.104, F.S.; revising language concerning the purpose
11 of the Department of the Lottery to permit contracting
12 with a manager; amending s. 24.105, F.S.; revising
13 provisions concerning the powers and duties of the
14 department to allow for possible contracting with a
15 manager; providing that specified provisions apply
16 regardless of whether the department contracts with a
17 manager; deleting obsolete language; amending s.
18 24.107, F.S.; revising provisions concerning
19 advertising and promotion of lottery games to conform
20 to the possibility of contracting with a manager;
21 amending ss. 24.108 and 24.111, F.S.; revising
22 provisions relating to security and contracts for
23 goods or services to conform to the possibility of
24 contracting with a manager; creating s. 24.1115, F.S.;
25 providing for a management agreement under which the
26 lottery may be operated; providing intent; providing
27 definitions; limiting the duration of such an
28 agreement; providing limits on the games that may be
29 offered under such an agreement; providing for an

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30 initial payment to the department by a manager;
31 providing for royalty payments by a manager; providing
32 for collection of funds in excess of a specified
33 baseline growth percentage to ensure that the manager
34 does not earn excess revenue; providing requirements
35 for the contents of a management agreement; requiring
36 periodic investigations of the performance by a
37 manager; providing for a request for qualifications
38 process to select a manager; providing for the public
39 records status of specified materials under existing
40 exemptions; providing for negotiations between one or
41 more offerors and the department; providing selection
42 procedures; requiring a public hearing; providing for
43 designation of a manager by the Governor; providing
44 for status of debt offering by the manager; providing
45 for a time period for challenges to designation of a
46 manager; providing department powers; prohibiting the
47 department from selling the authorization to manage
48 the lottery; providing that there is no prohibition on
49 additional legislative authorization of other forms of
50 gambling; amending s. 24.112, F.S.; revising
51 provisions concerning retailers of lottery tickets to
52 conform to the possibility of contracting with a
53 manager; amending s. 24.113, F.S.; providing that
54 provisions concerning minority participation also
55 apply if the lottery contracts with a manager;
56 amending ss. 24.114, 24.115, 24.1153, 24.117, 24.118,
57 and 24.120, F.S.; revising provisions relating to bank
58 deposits and control of lottery transactions, payment

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59 of prizes, assignment of prizes payable in
60 installments, penalties for unlawful sale of lottery
61 tickets, breach of confidentiality, and unlawful
62 representation, and financial matters to conform to
63 the possibility of contracting with a manager;
64 amending s. 24.121, F.S.; revising provisions relating
65 to allocation of revenues and expenditure of funds for
66 public education to conform to the possibility of
67 contracting with a manager; providing for a minimum
68 allocation of proceeds received under a management
69 agreement to the Florida Bright Futures Scholarship
70 Program; amending ss. 24.122, 24.123, and 24.124,
71 F.S.; revising provisions relating to exemption from
72 taxation, state preemption, inapplicability of other
73 laws, annual audit of financial records and reports,
74 responsibility for ticket accuracy, and liability to
75 conform to the possibility of contracting with a
76 manager; providing an effective date.

77
78 Be It Enacted by the Legislature of the State of Florida:

79
80 Section 1. Subsection (3) of section 20.317, Florida
81 Statutes, is amended to read:

82 20.317 Department of the Lottery.—There is created a
83 Department of the Lottery.

84 (3) The headquarters of the department shall be located in
85 Tallahassee. However, the department may establish such regional
86 offices throughout the state as the secretary deems necessary to
87 perform its duties concerning the efficient operation of the

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88 state lottery.

89 Section 2. Section 24.101, Florida Statutes, is amended to
90 read:

91 24.101 Short title.—This chapter ~~act~~ may be cited as the
92 “Florida Public Education Lottery Act.”

93 Section 3. Section 24.102, Florida Statutes, is amended to
94 read:

95 24.102 Purpose and intent.—

96 (1) The purpose of this chapter ~~act~~ is to implement s. 15,
97 Art. X of the State Constitution in a manner that enables the
98 people of the state to benefit from significant additional
99 moneys for education and also enables the people of the state to
100 play the best lottery games available.

101 (2) The intent of the Legislature is:

102 (a) That the net proceeds of lottery games conducted
103 pursuant to this chapter ~~act~~ be used to support improvements in
104 public education and that such proceeds not be used as a
105 substitute for existing resources for public education.

106 (b) That the lottery games be operated by a department of
107 state government that functions as much as possible in the
108 manner of an entrepreneurial business enterprise or with the
109 assistance of an entrepreneurial business enterprise under a
110 management agreement overseen by the department. The Legislature
111 recognizes that the operation of a lottery is a unique activity
112 for state government and that structures and procedures
113 appropriate to the performance of other governmental functions
114 are not necessarily appropriate to the operation of a state
115 lottery.

116 (c) That the lottery games be operated by a self-

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117 supporting, revenue-producing department or with the assistance
118 of an entrepreneurial business enterprise under a management
119 agreement with government oversight.

120 (d) That the department be accountable to the Legislature
121 and the people of the state through a system of audits and
122 reports and through compliance with financial disclosure, open
123 meetings, and public records laws and that any entity contracted
124 with under a management agreement must also be accountable to
125 the Legislature and the people of the state.

126 Section 4. Section 24.103, Florida Statutes, is amended to
127 read:

128 24.103 Definitions.—As used in this chapter act:

129 (1) "Department" means the Department of the Lottery.

130 (2)~~(4)~~ "Major procurement" means a procurement for a
131 contract for the printing of tickets for use in any lottery
132 game, consultation services for the startup of the lottery, any
133 goods or services involving the official recording for lottery
134 game play purposes of a player's selections in any lottery game
135 involving player selections, any goods or services involving the
136 receiving of a player's selection directly from a player in any
137 lottery game involving player selections, any goods or services
138 involving the drawing, determination, or generation of winners
139 in any lottery game, the security report services provided for
140 in this chapter act, or any goods and services relating to
141 marketing and promotion that ~~which~~ exceed a value of \$25,000.

142 (3) "Management agreement" means that agreement entered
143 into pursuant to which the state may contract with a manager to
144 provide management services to the lottery, although under such
145 an agreement the department shall continue to manage and operate

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146 the lottery, and further pursuant to which the manager may
147 receive certain lottery ticket or share sales and related
148 proceeds in consideration of the payment of a fee or fees to the
149 state.

150 (4) "Manager" means an entity that provides management
151 services to the lottery on behalf of the department under a
152 management agreement.

153 (5)~~(3)~~ "Person" means any individual, firm, association,
154 joint adventure, partnership, estate, trust, syndicate,
155 fiduciary, corporation, or other group or combination and shall
156 include any agency or political subdivision of the state.

157 (6)~~(5)~~ "Retailer" means a person who sells lottery tickets
158 on behalf of the department or the manager pursuant to a
159 contract.

160 (7)~~(2)~~ "Secretary" means the secretary of the department.

161 (8)~~(6)~~ "Vendor" means a person who provides or proposes to
162 provide goods or services to the department, but does not
163 include an employee of the department, a retailer, or a state
164 agency.

165 Section 5. Section 24.104, Florida Statutes, is amended to
166 read:

167 24.104 Department; purpose.—The purpose of the department
168 is to operate the state lottery as authorized by s. 15, Art. X
169 of the State Constitution with or without a manager so as to
170 maximize revenues in a manner consonant with the dignity of the
171 state and the welfare of its citizens.

172 Section 6. Subsections (2), (4), (6), (7), (8), (9), (11),
173 (15), (17), (18), and (19) of section 24.105, Florida Statutes,
174 are amended to read:

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175 24.105 Powers and duties of department.—The department
176 shall:

177 (2) Supervise and administer the operation of the lottery
178 with or without a manager in accordance with the provisions of
179 this chapter ~~act~~ and rules adopted pursuant thereto.

180 (4) Submit monthly and annual reports to the Governor, the
181 Chief Financial Officer, the President of the Senate, and the
182 Speaker of the House of Representatives disclosing the total
183 lottery revenues, prize disbursements, and other expenses of the
184 department during the preceding month or, if the lottery has
185 entered into a management agreement, comparable information
186 provided by the manager. The annual report shall additionally
187 describe the organizational structure of the department,
188 including its hierarchical structure, and shall identify the
189 divisions and bureaus created by the secretary and summarize the
190 departmental functions performed by each.

191 (6) Maintain weekly or more frequent records of lottery
192 transactions, including the distribution of tickets to
193 retailers, revenues received, claims for prizes, prizes paid,
194 and other financial transactions of the department. If the
195 department has entered into a management agreement, the
196 agreement shall require the manager to maintain comparable
197 information.

198 (7) Make a continuing study of the lottery to ascertain any
199 defects of this chapter ~~act~~ or rules adopted thereunder which
200 could result in abuses in the administration of the lottery;
201 make a continuing study of the operation and the administration
202 of similar laws in other states and of federal laws that ~~which~~
203 may affect the lottery; and, if the department has not entered

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204 into a management agreement, make a continuing study of the
205 reaction of the public to existing and potential features of the
206 lottery.

207 (8) If the department does not enter into a management
208 agreement, conduct such market research as is necessary or
209 appropriate, which may include an analysis of the demographic
210 characteristics of the players of each lottery game and an
211 analysis of advertising, promotion, public relations,
212 incentives, and other aspects of communications.

213 (9) Adopt rules governing the establishment and operation
214 of the state lottery, including:

215 (a) 1. If the department does not enter into a management
216 agreement, the type of lottery games to be conducted.

217 2. Regardless of whether the department has entered into a
218 management agreement, ~~except that~~:

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

223 b.2. No coins or currency shall be dispensed from any
224 electronic computer terminal or device used in any lottery game.

225 c.3. Other than as provided in sub-subparagraph d.
226 ~~subparagraph 4.~~, no terminal or device may be used for any
227 lottery game that ~~which~~ may be operated solely by the player
228 without the assistance of the retailer.

229 d.4. The only player-activated machine that ~~which~~ may be
230 utilized is a machine that ~~which~~ dispenses instant lottery game
231 tickets following the insertion of a coin or currency by a
232 ticket purchaser. To be authorized a machine must ~~÷~~ be under the

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233 supervision and within the direct line of sight of the lottery
234 retailer to ensure that the machine is monitored and only
235 operated by persons at least 18 years of age ~~and~~ be capable of
236 being electronically deactivated by the retailer to prohibit use
237 by persons less than 18 years of age through the use of a
238 lockout device that maintains the machine's deactivation for a
239 period of no less than 5 minutes unless the machine uses a
240 method of verifying the age of an operator that the department
241 certifies is equivalent or superior to line-of-sight monitoring
242 and lockout by the retailer. Such a machine must also ~~and~~ be
243 designed to prevent its use or conversion for use in any manner
244 other than the dispensing of instant lottery tickets. Authorized
245 machines may dispense change to players purchasing tickets but
246 may not be utilized for paying the holders of winning tickets of
247 any kind. At least one clerk must be on duty at the lottery
248 retailer while the machine is in operation. However, at least
249 two clerks must be on duty at any lottery location that ~~which~~
250 has violated s. 24.1055.

251 (b) If the department does not enter into a management
252 agreement, the sales price of tickets.

253 (c) If the department does not enter into a management
254 agreement, the number and sizes of prizes.

255 (d) If the department does not enter into a management
256 agreement, the method of selecting winning tickets. However,
257 regardless of whether the department has entered into a
258 management agreement, if a lottery game involves a drawing, the
259 drawing shall be public and witnessed by an accountant employed
260 by an independent certified public accounting firm. The
261 equipment used in the drawing shall be inspected before and

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262 after the drawing.

263 (e) If the department does not enter into a management
264 agreement, the manner of payment of prizes to holders of winning
265 tickets.

266 (f) If the department does not enter into a management
267 agreement, the frequency of drawings or selections of winning
268 tickets.

269 (g) If the department does not enter into a management
270 agreement, the number and type of locations at which tickets may
271 be purchased.

272 (h) If the department does not enter into a management
273 agreement, the method to be used in selling tickets.

274 (i) If the department does not enter into a management
275 agreement, the manner and amount of compensation of retailers.

276 (j) Such other matters necessary or desirable for the
277 efficient or economical operation of the lottery or for the
278 convenience of the public.

279 (11) In the selection of games and method of selecting
280 winning tickets, be sensitive to the impact of the lottery upon
281 the pari-mutuel industry and, accordingly, the department or the
282 manager, if any, may use for any game the theme of horseracing,
283 dogracing, or jai alai and may allow a lottery game to be based
284 upon a horserace, dograce, or jai alai activity so long as the
285 outcome of such lottery game is determined entirely by chance.

286 (15) Or the manager, if any, shall have the authority to
287 charge fees to persons applying for contracts as vendors or
288 retailers, which fees are reasonably calculated to cover the
289 costs of investigations and other activities related to the
290 processing of the application.

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291 Or the manager, if any, shall, in accordance with the
292 provisions of this chapter ~~act~~, enter into contracts with
293 retailers so as to provide adequate and convenient availability
294 of tickets to the public for each game.

295 Or the manager, if any, shall have the authority to
296 enter into agreements with other states for the operation and
297 promotion of a multistate lottery if such agreements are in the
298 best interest of the state lottery. ~~The authority conferred by~~
299 ~~this subsection is not effective until 1 year after the first~~
300 ~~day of lottery ticket sales.~~

301 (19) Employ division directors and other staff as may be
302 necessary to carry out the provisions of this chapter ~~act~~;
303 however:

304 (a) No person shall be employed by the department who has
305 been convicted of, or entered a plea of guilty or nolo
306 contendere to, a felony committed in the preceding 10 years,
307 regardless of adjudication, unless the department determines
308 that:

309 1. The person has been pardoned or his or her civil rights
310 have been restored; or

311 2. Subsequent to such conviction or entry of plea the
312 person has engaged in the kind of law-abiding commerce and good
313 citizenship that would reflect well upon the integrity of the
314 lottery.

315 (b) No officer or employee of the department having
316 decisionmaking authority shall participate in any decision
317 involving any vendor or retailer with whom the officer or
318 employee has a financial interest. No such officer or employee
319 may participate in any decision involving any vendor or retailer

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320 with whom the officer or employee has discussed employment
321 opportunities without the approval of the secretary or, if such
322 officer is the secretary, without the approval of the Governor.
323 Any officer or employee of the department shall notify the
324 secretary of any such discussion or, if such officer is the
325 secretary, he or she shall notify the Governor. A violation of
326 this paragraph is punishable in accordance with s. 112.317.

327 (c) No officer or employee of the department who leaves the
328 employ of the department shall represent any vendor or retailer
329 or the manager, if any, before the department regarding any
330 specific matter in which the officer or employee was involved
331 while employed by the department, for a period of 1 year
332 following cessation of employment with the department. A
333 violation of this paragraph is punishable in accordance with s.
334 112.317.

335 (d) The department shall establish and maintain a personnel
336 program for its employees, including a personnel classification
337 and pay plan which may provide any or all of the benefits
338 provided in the Senior Management Service or Selected Exempt
339 Service. Each officer or employee of the department shall be a
340 member of the Florida Retirement System. The retirement class of
341 each officer or employee shall be the same as other persons
342 performing comparable functions for other agencies. Employees of
343 the department shall serve at the pleasure of the secretary and
344 shall be subject to suspension, dismissal, reduction in pay,
345 demotion, transfer, or other personnel action at the discretion
346 of the secretary. Such personnel actions are exempt from the
347 provisions of chapter 120. All employees of the department are
348 exempt from the Career Service System provided in chapter 110

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349 and, notwithstanding the provisions of s. 110.205(5), are not
350 included in either the Senior Management Service or the Selected
351 Exempt Service. However, all employees of the department are
352 subject to all standards of conduct adopted by rule for career
353 service and senior management employees pursuant to chapter 110.
354 In the event of a conflict between standards of conduct
355 applicable to employees of the Department of the Lottery the
356 more restrictive standard shall apply. Interpretations as to the
357 more restrictive standard may be provided by the Commission on
358 Ethics upon request of an advisory opinion pursuant to s.
359 112.322(3)(a), for purposes of this subsection the opinion shall
360 be considered final action.

361 (e) If the department enters into a management agreement,
362 no employee or contractor of the manager shall receive
363 membership in the Florida Retirement System or any other state
364 retirement or other state employee benefits on the basis of such
365 employment or contract.

366 Section 7. Section 24.107, Florida Statutes, is amended to
367 read:

368 24.107 Advertising and promotion of lottery games.—

369 (1) The Legislature recognizes the need for extensive and
370 effective advertising and promotion of lottery games. It is the
371 intent of the Legislature that such advertising and promotion be
372 consistent with the dignity and integrity of the state. In
373 advertising the value of a prize that will be paid over a period
374 of years, the department or the manager, if any, may refer to
375 the sum of all prize payments over the period.

376 (2) The department or the manager, if any, may act as a
377 retailer and may conduct promotions that ~~which~~ involve the

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378 dispensing of lottery tickets free of charge.

379 Section 8. Subsections (2), (5), (6), and (7) of section
380 24.108, Florida Statutes, are amended to read:

381 24.108 Division of Security; duties; security report.—

382 (2) The director and all investigators employed by the
383 division shall meet the requirements for employment and
384 appointment provided by s. 943.13 and shall satisfy the
385 requirements for certification established by the Criminal
386 Justice Standards and Training Commission pursuant to chapter
387 943. The director and such investigators shall be designated law
388 enforcement officers and shall have the power to investigate and
389 arrest for any alleged violation of this chapter ~~act~~ or any rule
390 adopted pursuant thereto, or any law of this state. Such law
391 enforcement officers may enter upon any premises in which
392 lottery tickets are sold, manufactured, printed, or stored
393 within the state for the performance of their lawful duties and
394 may take with them any necessary equipment, and such entry shall
395 not constitute a trespass. In any instance in which there is
396 reason to believe that a violation has occurred, such officers
397 have the authority, without warrant, to search and inspect any
398 premises where the violation is alleged to have occurred or is
399 occurring. Any such officer may, consistent with the United
400 States and Florida Constitutions, seize or take possession of
401 any papers, records, tickets, currency, or other items related
402 to any alleged violation.

403 (5) The Department of Law Enforcement shall provide
404 assistance in obtaining criminal history information relevant to
405 investigations required for honest, secure, and exemplary
406 lottery operations, and such other assistance as may be

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407 requested by the secretary and agreed to by the executive
408 director of the Department of Law Enforcement. Any other state
409 agency, including the Department of Business and Professional
410 Regulation and the Department of Revenue, shall, upon request,
411 provide the Department of the Lottery with any information
412 relevant to any investigation conducted pursuant to this chapter
413 ~~act~~. The Department of the Lottery shall maintain the
414 confidentiality of any confidential information it receives from
415 any other agency. The Department of the Lottery shall reimburse
416 any agency for the actual cost of providing any assistance
417 pursuant to this subsection.

418 (6) If the department does not enter into a management
419 agreement, the division shall monitor ticket validation and
420 lottery drawings.

421 (7) (a) If the department does not enter into a management
422 agreement ~~After the first full year of sales of tickets to the~~
423 ~~public, or sooner if the secretary deems necessary,~~ the
424 department shall, as it deems appropriate, but at least once
425 every 2 years engage an independent firm experienced in security
426 procedures, including, but not limited to, computer security and
427 systems security, to conduct a comprehensive study and
428 evaluation of all aspects of security in the operation of the
429 department.

430 (b) The portion of the security report containing the
431 overall evaluation of the department in terms of each aspect of
432 security shall be presented to the Governor, the President of
433 the Senate, and the Speaker of the House of Representatives. The
434 portion of the security report containing specific
435 recommendations shall be confidential and shall be presented

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436 only to the secretary, the Governor, and the Auditor General;
437 however, upon certification that such information is necessary
438 for the purpose of effecting legislative changes, such
439 information shall be disclosed to the President of the Senate
440 and the Speaker of the House of Representatives, who may
441 disclose such information to members of the Legislature and
442 legislative staff as necessary to effect such purpose. However,
443 any person who receives a copy of such information or other
444 information that ~~which~~ is confidential pursuant to this chapter
445 ~~act~~ or rule of the department shall maintain its
446 confidentiality. The confidential portion of the report is
447 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
448 of the State Constitution.

449 ~~(c) Thereafter, similar studies of security shall be~~
450 ~~conducted as the department deems appropriate but at least once~~
451 ~~every 2 years.~~

452 Section 9. Subsection (1) and paragraph (h) of subsection
453 (2) of section 24.111, Florida Statutes, are amended to read:

454 24.111 Vendors; disclosure and contract requirements.-

455 (1) The department may enter into contracts for the
456 purchase, lease, or lease-purchase of such goods or services as
457 are necessary for effectuating the purposes of this chapter act.
458 The department may ~~not~~ contract with any person or entity for
459 the total operation and administration of the state lottery
460 established by this chapter as provided in s. 24.1115 or act but
461 may make procurements that ~~which~~ integrate functions such as
462 lottery game design, supply of goods and services, and
463 advertising. In all procurement decisions, the department shall
464 take into account the particularly sensitive nature of the state

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465 lottery and shall consider the competence, quality of product,
466 experience, and timely performance of the vendors in order to
467 promote and ensure security, honesty, fairness, and integrity in
468 the operation and administration of the lottery and the
469 objective of raising net revenues for the benefit of the public
470 purpose described in this chapter ~~act~~.

471 (2) The department shall investigate the financial
472 responsibility, security, and integrity of each vendor with
473 which it intends to negotiate a contract for major procurement.
474 Such investigation may include an investigation of the financial
475 responsibility, security, and integrity of any or all persons
476 whose names and addresses are required to be disclosed pursuant
477 to paragraph (a). Any person who submits a bid, proposal, or
478 offer as part of a major procurement must, at the time of
479 submitting such bid, proposal, or offer, provide the following:

480 (h) If the department does not enter into a management
481 agreement, it ~~The department~~ shall lease all instant ticket
482 vending machines.

483
484 The department shall not contract with any vendor who fails to
485 make the disclosures required by this subsection, and any
486 contract with a vendor who has failed to make the required
487 disclosures shall be unenforceable. Any contract with any vendor
488 who does not comply with such requirements for periodically
489 updating such disclosures during the tenure of such contract as
490 may be specified in such contract may be terminated by the
491 department. This subsection shall be construed broadly and
492 liberally to achieve the ends of full disclosure of all
493 information necessary to allow for a full and complete

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494 evaluation by the department of the competence, integrity,
495 background, and character of vendors for major procurements.

496 Section 10. Section 24.1115, Florida Statutes, is created
497 to read:

498 24.1115 Management agreement.-

499 (1) In construing this section, it is the intent of the
500 Legislature that the manager be accountable to the Legislature
501 and the people of this state through a system of audits and
502 reports and by complying with the financial disclosure
503 requirements of this section. The powers conferred by this
504 section are in addition and supplemental to the powers conferred
505 by any other law. If any other law or rule is inconsistent with
506 this section, this section is controlling as to any management
507 agreement entered into under this section.

508 (2) As used in this section, the term:

509 (a) "Offeror" means a person or group of persons that
510 responds to a request for qualifications under this section.

511 (b) "Request for qualifications" means all materials and
512 documents prepared by the department to solicit the following
513 from offerors:

514 1. Statements of qualifications.

515 2. Proposals to enter into a management agreement.

516 (c) "Selected offer" means the final offer of an offeror
517 that is the preliminary selection to be the manager for the
518 lottery under subsection (12).

519 (3) (a) This section contains full and complete authority
520 for a management agreement between the department and a manager
521 and any rules adopted thereunder. No law, procedure, proceeding,
522 publication, notice, consent, approval, order, or act by the

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523 department or any other officer, department, agency, or
524 instrumentality of the state or any political subdivision is
525 required for the department to enter into a management agreement
526 under this section.

527 (b) This section contains full and complete authority for
528 the department to approve any subcontracts entered into by a
529 manager under the terms of a management agreement.

530 (4) Subject to the other provisions of this section, the
531 department may enter into a management agreement with a manager
532 for a term not to exceed 30 years.

533 (5) The department may not enter into a management
534 agreement that authorizes a manager to operate any of the
535 following games or a game simulating any of the following games:

536 (a) Video lottery games.

537 (b) Pari-mutuel wagering on any form of racing.

538 (c) A game in which winners are selected on the results of
539 a race or sporting event.

540 (d) Any other game commonly considered to be a form of
541 gambling that is not a game or a variation of a game that the
542 department operated before the management agreement is executed
543 or is operating on the date the management agreement is
544 executed.

545 (6) (a) The management agreement must establish a
546 substantial benchmark amount. The management agreement must
547 require the manager to make an initial payment to the department
548 on the effective date of the management agreement in an amount
549 that exceeds the benchmark amount established in the management
550 agreement.

551 (b) The initial payment required under paragraph (a) shall

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552 be deposited as provided in s. 24.121.

553 (c) If the manager fails to make any payment under this
554 section by the due date of the payment, the management agreement
555 is terminated.

556 (7) (a) The management agreement must require that all
557 lottery proceeds initially be directly deposited with the state.
558 The state shall provide sums due to the manager under the
559 agreement only after all of the manger's obligations to the
560 state have been satisfied.

561 (b) The manager shall pay a royalty in the amount equal to
562 one quarter of the lottery's annual profits in the last full
563 fiscal year preceding the agreement to the department four times
564 each year beginning on a date that is specified in the
565 management agreement and that occurs during the first year after
566 the execution of the management agreement. The payments received
567 under this subsection shall be deposited as provided in s.
568 24.121.

569 (c) The management agreement must include the following
570 provisions to ensure that the manager does not earn excess
571 revenue under the management agreement:

572 1. The Office of Policy and Budget in the Executive Office
573 of the Governor shall calculate the percentage rate of average
574 annual growth in gross revenue earned by the department during
575 the last 5 full state fiscal years preceding the commencement of
576 the management agreement. For purposes of this subsection, this
577 percentage is referred to as the "baseline growth percentage."

578 2. Beginning with the second full state fiscal year after
579 the execution of the management agreement, the Office of Policy
580 and Budget in the Executive Office of the Governor shall for

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581 each state fiscal year calculate the growth, expressed as a
582 percentage, in gross revenue earned by the manager under the
583 management agreement, as compared to the preceding state fiscal
584 year.

585 3. The department shall establish an excess payments
586 account for purposes of this paragraph. Any earnings from money
587 in the excess payments account accrue to the account. Money in
588 the excess payments account may be used only to make payments to
589 a manager as required by this paragraph and to receive payments
590 from a manager as required by this paragraph.

591 4. If the percentage calculated by the Office of Policy and
592 Budget in the Executive Office of the Governor under
593 subparagraph 2. for a particular state fiscal year exceeds the
594 baseline growth percentage, the manager must make an additional
595 payment to the department. The amount of the additional payment
596 for the state fiscal year is equal to the gross revenue earned
597 by the manager from lottery tickets in the state fiscal year
598 multiplied by one-half the difference between the percentage
599 calculated by the Office of Policy and Budget in the Executive
600 Office of the Governor under subparagraph 2. for the state
601 fiscal year and the baseline growth percentage. The department
602 shall deposit any additional payment made by the manager under
603 this subparagraph into the excess payments account.

604 5. If the baseline growth percentage exceeds the percentage
605 calculated by the Office of Policy and Budget in the Executive
606 Office of the Governor under subparagraph 2. for a particular
607 state fiscal year, the department must make a payment to the
608 manager from the excess payments account. However, the
609 department is required to make a payment to the manager only if

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610 the excess payments account has a positive balance. The amount
611 of the payment by the department for the state fiscal year is
612 equal to the lesser of:

613 a. The result of the gross revenue earned by the manager
614 from lottery tickets in the state fiscal year multiplied by one-
615 half the difference between the baseline growth percentage and
616 the percentage calculated by the Office of Policy and Budget in
617 the Executive Office of the Governor under subparagraph 2. for
618 the state fiscal year; or

619 b. The balance in the excess payments account.

620 6. The management agreement must specify the time by which
621 a payment required under this paragraph shall be made.

622 7. If at the expiration or termination of the management
623 agreement there is money remaining in the excess payments
624 account, it shall be retained by the department and deposited as
625 provided in s. 24.121.

626 (8) A management agreement must contain the following:

627 (a) The original term of the management agreement.

628 (b) A requirement that the manager locate its principal
629 office within this state.

630 (c) So long as manager complies with all the conditions of
631 the agreement under the oversight of the department, the manager
632 shall perform its duties and obligations with respect to
633 management of the operation of the lottery, including the
634 following:

635 1. The right to use, or ownership of, equipment and other
636 assets used in the operation of the lottery.

637 2. The rights and obligations under contracts with
638 retailers and vendors.

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- 639 3. The implementation of a comprehensive security program
640 by the manager.
- 641 4. The implementation of a comprehensive system of internal
642 audits.
- 643 5. The implementation of a program by the manager to curb
644 compulsive gambling by persons playing the lottery.
- 645 6. A system for determining the following:
- 646 a. The type of lottery games to be conducted.
- 647 b. The method of selecting winning tickets.
- 648 c. The manner of payment of prizes to holders of winning
649 tickets.
- 650 d. The frequency of drawings of winning tickets.
- 651 e. The method to be used in selling tickets.
- 652 f. A system for verifying the validity of tickets claimed
653 to be winning tickets.
- 654 g. The basis upon which retailer commissions are
655 established by the manager.
- 656 h. Minimum payouts.
- 657 7. A requirement that advertising and promotion must be
658 consistent with the dignity and integrity of the state.
- 659 (d) Guidelines to ensure that advertising and promoting of
660 the lottery by the manager are not misleading and fairly balance
661 the potential benefits and the potential costs and risks of
662 playing lottery games.
- 663 (e) A code of ethics for the manager's officers and
664 employees.
- 665 (f) Monitoring of the manager's practices by the department
666 and the taking of action that the department considers
667 appropriate to ensure that the manager is in compliance with the

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668 terms of the management agreement, while allowing the manager,
669 unless specifically prohibited by law or the management
670 agreement, to negotiate and sign its own contracts with vendors.

671 (g) A provision requiring the manager to periodically file
672 appropriate financial statements in a form and manner acceptable
673 to the department.

674 (h) Cash reserve requirements.

675 (i) Procedural requirements for obtaining approval by the
676 department when a management agreement or an interest in a
677 management agreement is sold, assigned, transferred, or pledged
678 as collateral to secure financing. A management agreement or an
679 interest in a management agreement may not be sold, assigned,
680 transferred, or pledged as collateral to secure financing
681 without the approval of the department.

682 (j) Grounds for termination of the management agreement by
683 the department or the manager.

684 (k) Procedures for amendment of the agreement.

685 (l) A provision prohibiting the department from entering
686 into another management agreement under this section as long as
687 the original management agreement has not been terminated.

688 (m) The transition of rights and obligations, including any
689 associated equipment or other assets used in the operation of
690 the lottery, from the manager to any successor manager of the
691 lottery, including the department, following the termination of
692 or foreclosure upon the management agreement.

693 (n) Ownership of all copyrights, trademarks, and service
694 marks by the department in the name of the state and that any
695 use of them by the manager shall only be for the purpose of
696 fulfilling its obligations under the management agreement during

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697 the term of the agreement.

698 (o) Minority participation as provided in s. 24.113.

699 (9) (a) The manager shall undergo a complete investigation
700 every 3 years by the department to determine whether the manager
701 remains in compliance with this chapter and the management
702 agreement.

703 (b) The manager shall bear the cost of an investigation or
704 reinvestigation of the manager under this subsection.

705 (10) (a) Before the department enters into a management
706 agreement pursuant to this section, the secretary, as provided
707 in subsection (17), may retain an advisor or advisors to the
708 assess fiscal feasibility of such an agreement and help
709 determine whether to proceed. Such an advisor may also be
710 retained by the department to represent the department in the
711 request for qualifications process, if one is commenced. If the
712 secretary decides to pursue the possibility of a management
713 agreement, a request for qualifications must be issued as set
714 forth in this section. A request for qualifications for a
715 management agreement may be issued in one or more phases.

716 (b) A request for qualifications must include the
717 following:

718 1. The factors or criteria that will be used in evaluating
719 an offeror's statement of qualifications and proposal.

720 2. A statement that a proposal must be accompanied by
721 evidence of the offeror's financial responsibility.

722 3. A statement concerning whether discussions may be
723 conducted with the offerors for the purpose of clarification to
724 ensure full understanding of and responsiveness to the
725 solicitation requirements.

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726 4. A statement concerning any other information to be
727 considered in evaluating the offeror's qualifications and
728 proposal.

729 (c) Notice of a request for qualifications shall be
730 published twice at least 7 calendar days apart, with the second
731 publication made at least 7 days before any initial submission
732 is due.

733 (d) As provided in a request for qualifications,
734 discussions may be conducted with the offerors for the purpose
735 of clarification to ensure full understanding of and
736 responsiveness to the solicitation requirements.

737 (11) The contents of proposals are competitive sealed
738 replies in response to an invitation to negotiate for purposes
739 of s. 119.071(1)(b) and are exempt from s. 119.07(1) and s.
740 24(a), Art. I of the State Constitution until disclosure of the
741 contents that are not otherwise exempt under s. 119.071 or other
742 law is required under s. 119.071(1)(b).

743 (12) (a) The department may negotiate with one or more
744 offerors the department determines are responsible and
745 reasonably capable of managing the lottery and may seek to
746 obtain a final offer from one or more of those offerors.

747 (b) The department shall consider the statement of
748 qualifications and the proposals to enter into a management
749 agreement that are submitted in response to a request for
750 qualifications in making a determination under this section,
751 including the following as they apply to the offeror and its
752 partners, if any:

753 1. Expertise, qualifications, competence, skills, and plan
754 to perform obligations under the management agreement in

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755 accordance with the management agreement.

756 2. Financial strength, including capitalization and
757 available financial resources.

758 3. Experience in operating government-authorized lotteries
759 and gaming and other similar projects and the quality of any
760 past or present performance on similar or equivalent
761 engagements.

762 4. Integrity, background, and reputation.

763 (c) The requirements set forth in paragraph (b) also apply
764 to the approval of any successor manager.

765 (13) (a) After the final offers from offerors have been
766 negotiated under subsection (12), the department shall:

767 1. Make a preliminary selection of an offeror as the
768 manager for the lottery; or

769 2. Terminate the request for qualifications process.

770 (b) If the department makes a preliminary selection of the
771 manager under this subsection, the department shall schedule a
772 public hearing on the preliminary selection and provide public
773 notice of the hearing at least 7 days before the hearing. The
774 notice must include the following:

775 1. The date, time, and place of the hearing.

776 2. The subject matter of the hearing.

777 3. A brief description of the management agreement to be
778 awarded.

779 4. The identity of the offeror that has been preliminarily
780 selected as the manager.

781 5. The address and telephone number of the department.

782 6. A statement indicating that, subject to subsection (11),
783 and except for those parts that are confidential under s.

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784 119.071 or other applicable law, the selected offer and an
785 explanation of the basis upon which the preliminary selection
786 was made are available for public inspection and copying at the
787 principal office of the department during regular business hours
788 and, to the extent feasible, on the Internet.

789 (c) Subject to subsection (11), and except for those parts
790 that are confidential under s. 119.071 or other applicable law,
791 the selected offer and a written explanation of the basis upon
792 which the preliminary selection was made shall be made available
793 for inspection and copying in accordance with s. 119.07 and, to
794 the extent feasible, on the Internet at least 7 calendar days
795 before the hearing scheduled under this section.

796 (d) At the hearing, the department shall allow the public
797 to be heard on the preliminary selection.

798 (14) (a) After the hearing required under subsection (13),
799 the department shall determine if a management agreement should
800 be entered into with the offeror that submitted the selected
801 offer. If the department makes a favorable determination, the
802 department shall submit the determination to the Governor.

803 (b) After review of the department's determination, the
804 Governor may accept or reject the department's determination. If
805 the Governor accepts the department's determination, the
806 Governor shall designate the offeror who submitted the selected
807 offer as the manager for the lottery.

808 (c) After the Governor designates the manager, the
809 department may execute a management agreement with the
810 designated manager.

811 (15) The manager may finance its obligations with respect
812 to the lottery and the management agreement in the amounts and

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813 upon the terms and conditions determined by the manager.
814 However, any bonds, debt, other securities, or other financing
815 issued for the purposes of this section shall not be considered
816 to constitute a debt of the state or any political subdivision
817 of the state or a pledge of the faith and credit of the state or
818 any political subdivision of the state.

819 (16) An action to contest the validity of a management
820 agreement entered into under this section may not be brought
821 after the 15th day after the publication of the notice of the
822 designation of the manager under the management agreement as
823 provided in subsection (14).

824 (17) (a) The department must use appropriate experts and
825 professionals needed to conduct a competitive bidding proceeding
826 as required under this section and may use the services of
827 outside professionals to the extent necessary to carry out its
828 obligations under this section.

829 (b) The department may exercise any powers provided under
830 this section in participation or cooperation with any other
831 governmental entity and enter into any contracts to facilitate
832 that participation or cooperation without compliance with any
833 other statute.

834 (c) The department may make and enter into all contracts
835 and agreements necessary or incidental to the performance of the
836 department's duties under this section and the execution of the
837 department's powers under this section. These contracts or
838 agreements are not subject to any approval by any other
839 governmental entity and may be for any term of years within the
840 time period of the management agreement under subsection (4) and
841 contain any terms that are considered reasonable by the

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842 department.

843 (d) The department may make and enter into all contracts
844 and agreements with a state agency necessary or incidental to
845 the performance of the duties and the execution of the powers
846 granted to the department or the state agency in accordance with
847 this section or the management agreement. These contracts or
848 agreements are not subject to approval by any other governmental
849 entity and may be for any term of years and contain any terms
850 that are considered reasonable by the department or the state
851 agency.

852 (18) (a) The department may not sell the authorization to
853 operate the lottery.

854 (b) Any tangible personal property used exclusively in
855 connection with the lottery that is owned by the department and
856 leased to the manager shall be owned by the department in the
857 name of the state and shall be considered to be public property
858 devoted to an essential public and governmental function.

859 (19) The department may exercise any of its powers under
860 this chapter or any other law as necessary or desirable for the
861 execution of the department's powers under this section.

862 (20) Neither this section nor any management agreement
863 entered into under this section prohibits the Legislature from
864 authorizing forms of gambling that are not in direct competition
865 with the lottery.

866 Section 11. Section 24.112, Florida Statutes, is amended to
867 read:

868 24.112 Retailers of lottery tickets.—

869 (1) If the department does not enter into a management
870 agreement, the department shall promulgate rules specifying the

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871 terms and conditions for contracting with retailers who will
872 best serve the public interest and promote the sale of lottery
873 tickets.

874 (2) If the department does not enter into a management
875 agreement, in the selection of retailers, the department shall
876 consider factors such as financial responsibility, integrity,
877 reputation, accessibility of the place of business or activity
878 to the public, security of the premises, the sufficiency of
879 existing retailers to serve the public convenience, and the
880 projected volume of the sales for the lottery game involved. In
881 the consideration of these factors, the department may require
882 the information it deems necessary of any person applying for
883 authority to act as a retailer. However, the department may not
884 establish a limitation upon the number of retailers and shall
885 make every effort to allow small business participation as
886 retailers. It is the intent of the Legislature that retailer
887 selections be based on business considerations and the public
888 convenience and that retailers be selected without regard to
889 political affiliation.

890 (3) If the department does not enter into a management
891 agreement, the department shall not contract with any person as
892 a retailer who:

893 (a) Is less than 18 years of age.

894 (b) Is engaged exclusively in the business of selling
895 lottery tickets; however, this paragraph shall not preclude the
896 department from selling lottery tickets.

897 (c) Has been convicted of, or entered a plea of guilty or
898 nolo contendere to, a felony committed in the preceding 10
899 years, regardless of adjudication, unless the department

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900 determines that:

901 1. The person has been pardoned or the person's civil
902 rights have been restored;

903 2. Subsequent to such conviction or entry of plea the
904 person has engaged in the kind of law-abiding commerce and good
905 citizenship that would reflect well upon the integrity of the
906 lottery; or

907 3. If the person is a firm, association, partnership,
908 trust, corporation, or other entity, the person has terminated
909 its relationship with the individual whose actions directly
910 contributed to the person's conviction or entry of plea.

911 (4) If the department does not enter into a management
912 agreement, the department shall issue a certificate of authority
913 to each person with whom it contracts as a retailer for purposes
914 of display pursuant to subsection (6). The issuance of the
915 certificate shall not confer upon the retailer any right apart
916 from that specifically granted in the contract. The authority to
917 act as a retailer shall not be assignable or transferable.

918 (5) Any contract executed by the department under ~~pursuant~~
919 ~~to~~ this section shall specify the reasons for any suspension or
920 termination of the contract by the department, including, but
921 not limited to:

922 (a) Commission of a violation of this chapter ~~act~~ or rule
923 adopted pursuant thereto.

924 (b) Failure to accurately account for lottery tickets,
925 revenues, or prizes as required by the department.

926 (c) Commission of any fraud, deceit, or misrepresentation.

927 (d) Insufficient sale of tickets.

928 (e) Conduct prejudicial to public confidence in the

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929 lottery.

930 (f) Any material change in any matter considered by the
931 department in executing the contract with the retailer.

932 (6) Every retailer shall post and keep conspicuously
933 displayed in a location on the premises accessible to the public
934 its certificate of authority and, with respect to each game, a
935 statement supplied by the department or the manager of the
936 estimated odds of winning some prize for the game.

937 (7) No contract with a retailer shall authorize the sale of
938 lottery tickets at more than one location, and a retailer may
939 sell lottery tickets only at the location stated on the
940 certificate of authority.

941 (8) If the department does not enter into a management
942 agreement, with respect to any retailer whose rental payments
943 for premises are contractually computed, in whole or in part, on
944 the basis of a percentage of retail sales, and where such
945 computation of retail sales is not explicitly defined to include
946 sales of tickets in a state-operated lottery, the compensation
947 received by the retailer from the department shall be deemed to
948 be the amount of the retail sale for the purposes of such
949 contractual compensation.

950 (9) If the department does not enter into a management
951 agreement:

952 (a) The department may require every retailer to post an
953 appropriate bond as determined by the department, using an
954 insurance company acceptable to the department, in an amount not
955 to exceed twice the average lottery ticket sales of the retailer
956 for the period within which the retailer is required to remit
957 lottery funds to the department. For the first 90 days of sales

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958 of a new retailer, the amount of the bond may not exceed twice
959 the average estimated lottery ticket sales for the period within
960 which the retailer is required to remit lottery funds to the
961 department. This paragraph shall not apply to lottery tickets
962 that ~~which~~ are prepaid by the retailer.

963 (b) In lieu of such bond, the department may purchase
964 blanket bonds covering all or selected retailers or may allow a
965 retailer to deposit and maintain with the Chief Financial
966 Officer securities that are interest bearing or accruing and
967 that, with the exception of those specified in subparagraphs 1.
968 and 2., are rated in one of the four highest classifications by
969 an established nationally recognized investment rating service.
970 Securities eligible under this paragraph shall be limited to:

971 1. Certificates of deposit issued by solvent banks or
972 savings associations organized and existing under the laws of
973 this state or under the laws of the United States and having
974 their principal place of business in this state.

975 2. United States bonds, notes, and bills for which the full
976 faith and credit of the government of the United States is
977 pledged for the payment of principal and interest.

978 3. General obligation bonds and notes of any political
979 subdivision of the state.

980 4. Corporate bonds of any corporation that is not an
981 affiliate or subsidiary of the depositor.

982

983 Such securities shall be held in trust and shall have at all
984 times a market value at least equal to an amount required by the
985 department.

986 (10) Every contract entered into by the department pursuant

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987 to this section shall contain a provision for payment of
988 liquidated damages to the department for any breach of contract
989 by the retailer.

990 (11) If the department does not enter into a management
991 agreement, the department shall establish procedures by which
992 each retailer shall account for all tickets sold by the retailer
993 and account for all funds received by the retailer from such
994 sales. The contract with each retailer shall include provisions
995 relating to the sale of tickets, payment of moneys to the
996 department, reports, service charges, and interest and
997 penalties, if necessary, as the department shall deem
998 appropriate.

999 (12) If the department does not enter into a management
1000 agreement, no payment by a retailer to the department for
1001 tickets shall be in cash. All such payments shall be in the form
1002 of a check, bank draft, electronic fund transfer, or other
1003 financial instrument authorized by the secretary.

1004 (13) Each retailer shall provide accessibility for disabled
1005 persons on habitable grade levels. This subsection does not
1006 apply to a retail location that ~~which~~ has an entrance door
1007 threshold more than 12 inches above ground level. As used herein
1008 and for purposes of this subsection only, the term
1009 "accessibility for disabled persons on habitable grade levels"
1010 means that retailers shall provide ramps, platforms, aisles and
1011 pathway widths, turnaround areas, and parking spaces to the
1012 extent these are required for the retailer's premises by the
1013 particular jurisdiction where the retailer is located.
1014 Accessibility shall be required to only one point of sale of
1015 lottery tickets for each lottery retailer location. The

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1016 requirements of this subsection shall be deemed to have been met
1017 if, in lieu of the foregoing, disabled persons can purchase
1018 tickets from the retail location by means of a drive-up window,
1019 provided the hours of access at the drive-up window are not less
1020 than those provided at any other entrance at that lottery
1021 retailer location. Inspections for compliance with this
1022 subsection shall be performed by those enforcement authorities
1023 responsible for enforcement pursuant to s. 553.80 in accordance
1024 with procedures established by those authorities. Those
1025 enforcement authorities shall provide to the Department of the
1026 Lottery a certification of noncompliance for any lottery
1027 retailer not meeting such requirements.

1028 (14) If the department does not enter into a management
1029 agreement, the secretary may, after filing with the Department
1030 of State his or her manual signature certified by the secretary
1031 under oath, execute or cause to be executed contracts between
1032 the department and retailers by means of engraving, imprinting,
1033 stamping, or other facsimile signature.

1034 Section 12. Section 24.113, Florida Statutes, is amended to
1035 read:

1036 24.113 Minority participation.—

1037 (1) It is the intent of the Legislature that the department
1038 or the manager, if any, encourage participation by minority
1039 business enterprises as defined in s. 288.703. Accordingly, 15
1040 percent of the retailers shall be minority business enterprises
1041 as defined in s. 288.703(2); however, no more than 35 percent of
1042 such retailers shall be owned by the same type of minority
1043 person, as defined in s. 288.703(3). The department or the
1044 manager, if any, is encouraged to meet the minority business

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1045 enterprise procurement goals set forth in s. 287.09451 in the
1046 procurement of commodities, contractual services, construction,
1047 and architectural and engineering services. This section shall
1048 not preclude or prohibit a minority person from competing for
1049 any other retailing or vending agreement awarded by the
1050 department or the manager.

1051 (2) The department or the manager, if any, shall ~~is~~
1052 ~~directed to~~ undertake training programs and other educational
1053 activities to enable minority persons to compete for such
1054 contracts on an equal basis.

1055 Section 13. Section 24.114, Florida Statutes, is amended to
1056 read:

1057 24.114 Bank deposits and control of lottery transactions.-

1058 (1) If the department does not enter into a management
1059 agreement, all moneys received by each retailer from the
1060 operation of the state lottery, including, but not limited to,
1061 all ticket sales, interest, gifts, and donations, less the
1062 amount retained as compensation for the sale of the tickets and
1063 the amount paid out as prizes, shall be remitted to the
1064 department or deposited in a qualified public depository, as
1065 defined in s. 280.02, as directed by the department. The
1066 department shall have the responsibility for all administrative
1067 functions related to the receipt of funds. The department may
1068 also require each retailer to file with the department reports
1069 of the retailer's receipts and transactions in the sale of
1070 lottery tickets in such form and containing such information as
1071 the department may require. The department may require any
1072 person, including a qualified public depository, to perform any
1073 function, activity, or service in connection with the operation

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1074 of the lottery as it may deem advisable pursuant to this chapter
1075 ~~act~~ and rules of the department, and such functions, activities,
1076 or services shall constitute lawful functions, activities, and
1077 services of such person.

1078 (2) If the department does not enter into a management
1079 agreement, the department may require retailers to establish
1080 separate electronic funds transfer accounts for the purpose of
1081 receiving moneys from ticket sales, making payments to the
1082 department, and receiving payments from the department.

1083 (3) If the department does not enter into a management
1084 agreement, each retailer is liable to the department for any and
1085 all tickets accepted or generated by any employee or
1086 representative of that retailer, and the tickets shall be deemed
1087 to have been purchased by the retailer unless returned to the
1088 department within the time and in the manner prescribed by the
1089 department. All moneys received by retailers from the sale of
1090 lottery tickets, less the amount retained as compensation for
1091 the sale of tickets and the amount paid out as prizes by the
1092 retailer, shall be held in trust prior to delivery to the
1093 department or electronic transfer to the Operating Trust Fund.

1094 Section 14. Section 24.115, Florida Statutes, is amended to
1095 read:

1096 24.115 Payment of prizes.—

1097 (1) If the department does not enter into a management
1098 agreement, the department shall promulgate rules to establish a
1099 system of verifying the validity of tickets claimed to win
1100 prizes and to effect payment of such prizes; however, the
1101 following shall apply whether the department does or does not
1102 enter into a management agreement:

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1103 (a) The right of any person to a prize, other than a prize
1104 that is payable in installments over time, is not assignable.
1105 However, any prize, to the extent that it has not been assigned
1106 or encumbered pursuant to s. 24.1153, may be paid to the estate
1107 of a deceased prize winner or to a person designated pursuant to
1108 an appropriate court order. A prize that is payable in
1109 installments over time is assignable, but only pursuant to an
1110 appropriate court order as provided in s. 24.1153.

1111 (b) No prize shall be paid to any person under the age of
1112 18 years unless the winning ticket was lawfully purchased and
1113 made a gift to the minor. In such case, the department or the
1114 manager, if a management agreement is in force, shall direct
1115 payment to an adult member of the minor's family or the legal
1116 guardian of the minor as custodian for the minor. The person
1117 named as custodian shall have the same powers and duties as
1118 prescribed for a custodian pursuant to chapter 710, the Florida
1119 Uniform Transfers to Minors Act.

1120 (c) No prize may be paid arising from claimed tickets that
1121 are stolen, counterfeit, altered, fraudulent, unissued, produced
1122 or issued in error, unreadable, not received or not recorded by
1123 the department or the manager, if a management agreement is in
1124 force, by applicable deadlines, lacking in captions that confirm
1125 and agree with the lottery play symbols as appropriate to the
1126 lottery game involved, or not in compliance with such additional
1127 specific rules and public or confidential validation and
1128 security tests of the department or the manager, if a management
1129 agreement is in force, appropriate to the particular lottery
1130 game involved.

1131 (d) No particular prize in any lottery game may be paid

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1132 more than once, and in the event of a binding determination that
1133 more than one claimant is entitled to a particular prize, the
1134 sole remedy of such claimants is the award to each of them of an
1135 equal share in the prize.

1136 (e) For the convenience of the public, retailers may be
1137 authorized to pay winners amounts less than \$600 after
1138 performing validation procedures on their premises appropriate
1139 to the lottery game involved.

1140 (f) Holders of tickets shall have the right to claim prizes
1141 for 180 days after the drawing or the end of the lottery game or
1142 play in which the prize was won; except that with respect to any
1143 game in which the player may determine instantly if he or she
1144 has won or lost, such right shall exist for 60 days after the
1145 end of the lottery game. If a valid claim is not made for a
1146 prize within the applicable period, the prize shall constitute
1147 an unclaimed prize for purposes of subsection (2).

1148 (g) No prize shall be paid upon a ticket purchased or sold
1149 in violation of this chapter act or to any person who is
1150 prohibited from purchasing a lottery ticket pursuant to this
1151 chapter act. Any such prize shall constitute an unclaimed prize
1152 for purposes of subsection (2).

1153 (2) (a) Eighty percent of all unclaimed prize money shall be
1154 deposited in the Educational Enhancement Trust Fund consistent
1155 with the provisions of s. 24.121(2). Subject to appropriations
1156 provided in the General Appropriations Act, these funds may be
1157 used to match private contributions received under the
1158 postsecondary matching grant programs established in ss.
1159 1011.32, 1011.85, 1011.94, and 1013.79.

1160 (b) The remaining 20 percent of unclaimed prize money shall

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1161 be added to the pool from which future prizes are to be awarded
1162 or used for special prize promotions.

1163 (3) The department or the manager, if a management
1164 agreement is in force, shall be discharged of all liability upon
1165 payment of a prize.

1166 (4) It is the responsibility of the appropriate state
1167 agency and of the judicial branch to identify to the department
1168 or the manager, if a management agreement is in force, in the
1169 form and format prescribed by the department or the manager,
1170 persons owing an outstanding debt to any state agency or owing
1171 child support collected through a court, including spousal
1172 support or alimony for the spouse or former spouse of the
1173 obligor if the child support obligation is being enforced by the
1174 Department of Revenue. Prior to the payment of a prize of \$600
1175 or more to any claimant having such an outstanding obligation,
1176 the department or the manager shall transmit the amount of the
1177 debt to the agency claiming the debt and shall authorize payment
1178 of the balance to the prize winner after deduction of the debt.
1179 If a prize winner owes multiple debts subject to offset under
1180 this subsection and the prize is insufficient to cover all such
1181 debts, the amount of the prize shall be transmitted first to the
1182 agency claiming that past due child support is owed. If a
1183 balance of lottery prize remains after payment of past due child
1184 support, the remaining lottery prize amount shall be transmitted
1185 to other agencies claiming debts owed to the state, pro rata,
1186 based upon the ratio of the individual debt to the remaining
1187 debt owed to the state.

1188 Section 15. Section 24.1153, Florida Statutes, is amended
1189 to read:

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1190 24.1153 Assignment of prizes payable in installments.-

1191 (1) The right of any person to receive payments under a
1192 prize that is paid in installments over time by the department
1193 or the manager, if a management agreement is in force, may be
1194 voluntarily assigned, in whole or in part, if the assignment is
1195 made to a person or entity designated pursuant to an order of a
1196 court of competent jurisdiction located in the judicial district
1197 where the assigning prize winner resides or where the
1198 headquarters of the department is located or where in the state
1199 the headquarters of the manager is located, if a management
1200 agreement is in force. A court may issue an order approving a
1201 voluntary assignment and directing the department or the manager
1202 to make prize payments in whole or in part to the designated
1203 assignee, if the court finds that all of the following
1204 conditions have been met:

1205 (a) The assignment is in writing, is executed by the
1206 assignor, and is, by its terms, subject to the laws of this
1207 state.

1208 (b) The purchase price being paid for the payments being
1209 assigned represents a present value of the payments being
1210 assigned, discounted at an annual rate that does not exceed the
1211 state's usury limit for loans.

1212 (c) The assignor provides a sworn affidavit attesting that
1213 he or she:

1214 1. Is of sound mind, is in full command of his or her
1215 faculties, and is not acting under duress;

1216 2. Has been advised regarding the assignment by his or her
1217 own independent legal counsel, who is unrelated to and is not
1218 being compensated by the assignee or any of the assignee's

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1219 affiliates, and has received independent financial or tax advice
1220 concerning the effects of the assignment from a lawyer or other
1221 professional who is unrelated to and is not being compensated by
1222 the assignee or any of the assignee's affiliates;

1223 3. Understands that he or she will not receive the prize
1224 payments or portions thereof for the years assigned;

1225 4. Understands and agrees that with regard to the assigned
1226 payments the department or the manager and its officials and
1227 employees will have no further liability or responsibility to
1228 make the assigned payments to him or her;

1229 5. Has been provided with a one-page written disclosure
1230 statement setting forth, in bold type of not less than 14
1231 points, the payments being assigned, by amounts and payment
1232 dates; the purchase price being paid; the rate of discount to
1233 present value, assuming daily compounding and funding on the
1234 contract date; and the amount, if any, of any origination or
1235 closing fees that will be charged to him or her; and

1236 6. Was advised in writing, at the time he or she signed the
1237 assignment contract, that he or she had the right to cancel the
1238 contract, without any further obligation, within 3 business days
1239 following the date on which the contract was signed.

1240 (d) Written notice of the proposed assignment and any court
1241 hearing concerning the proposed assignment is provided to the
1242 department's or the manager's counsel at least 10 days prior to
1243 any court hearing. The department or the manager is not required
1244 to appear in or be named as a party to any such action seeking
1245 judicial confirmation of an assignment under this section, but
1246 may intervene as of right in any such proceeding.

1247 (2) A certified copy of a court order approving a voluntary

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1248 assignment must be provided to the department or the manager no
1249 later than 14 days before the date on which the payment is to be
1250 made.

1251 (3) In accordance with the provisions of s. 24.115(4), a
1252 voluntary assignment may not include or cover payments or
1253 portions of payments that are subject to offset on account of a
1254 defaulted or delinquent child support obligation or on account
1255 of a debt owed to a state agency. Each court order issued under
1256 subsection (1) shall provide that any delinquent child support
1257 obligations of the assigning prize winner and any debts owed to
1258 a state agency by the assigning prize winner, as of the date of
1259 the court order, shall be offset by the department or the
1260 manager first against remaining payments or portions thereof due
1261 the prize winner and then against payments due the assignee.

1262 (4) The department or the manager, and its respective
1263 officials and employees, shall be discharged of all liability
1264 upon payment of an assigned prize under this section.

1265 (5) The department or the manager may establish a
1266 reasonable fee to defray any administrative expenses associated
1267 with assignments made under this section, including the cost to
1268 the department or the manager of any processing fee that may be
1269 imposed by a private annuity provider. The fee amount shall
1270 reflect the direct and indirect costs associated with processing
1271 such assignments.

1272 (6) If at any time the Internal Revenue Service or a court
1273 of competent jurisdiction issues a determination letter, revenue
1274 ruling, other public ruling of the Internal Revenue Service, or
1275 published decision to any state lottery or prize winner of any
1276 state lottery declaring that the voluntary assignment of prizes

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1277 will affect the federal income tax treatment of prize winners
 1278 who do not assign their prizes, the secretary of the department
 1279 shall immediately file a copy of that letter, ruling, or
 1280 published decision with the Secretary of State and the Office of
 1281 the State Courts Administrator. A court may not issue an order
 1282 authorizing a voluntary assignment under this section after the
 1283 date any such ruling, letter, or published decision is filed.

1284 Section 16. Section 24.117, Florida Statutes, is amended to
 1285 read:

1286 24.117 Unlawful sale of lottery tickets; penalty.—Any
 1287 person who knowingly:

1288 (1) Sells a state lottery ticket when not authorized by the
 1289 department or this chapter ~~act~~ to engage in such sale;

1290 (2) Sells a state lottery ticket to a minor; or

1291 (3) If the department does not enter into a management
 1292 agreement, sells a state lottery ticket at any price other than
 1293 that established by the department;

1294
 1295 commits ~~is guilty of~~ a misdemeanor of the first degree,
 1296 punishable as provided in s. 775.082 or s. 775.083.

1297 Section 17. Subsections (4) and (5) of section 24.118,
 1298 Florida Statutes, are amended to read:

1299 24.118 Other prohibited acts; penalties.—

1300 (4) BREACH OF CONFIDENTIALITY.—Any person who, with intent
 1301 to defraud or with intent to provide a financial or other
 1302 advantage to himself, herself, or another, knowingly and
 1303 willfully discloses any information relating to the lottery
 1304 designated as confidential and exempt from the provisions of s.
 1305 119.07(1) pursuant to this chapter commits ~~act is guilty of~~ a

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1306 felony of the first degree, punishable as provided in s.
1307 775.082, s. 775.083, or s. 775.084.

1308 (5) UNLAWFUL REPRESENTATION.—

1309 (a) Any person who uses point-of-sale materials issued by
1310 the department or the manager or otherwise holds himself or
1311 herself out as a retailer without being authorized by the
1312 department or the manager to act as a retailer commits ~~is guilty~~
1313 ~~of~~ a misdemeanor of the first degree, punishable as provided in
1314 s. 775.082 or s. 775.083.

1315 (b) Any person who without being authorized by the
1316 department or the manager in writing uses the term "Florida
1317 Lottery," "State Lottery," "Florida State Lottery," or any
1318 similar term in the title or name of any charitable or
1319 commercial enterprise, product, or service commits ~~is guilty of~~
1320 a misdemeanor of the first degree, punishable as provided in s.
1321 775.082 or s. 775.083.

1322 Section 18. Subsections (1) and (2) of section 24.120,
1323 Florida Statutes, are amended to read:

1324 24.120 Financial matters; Operating Trust Fund; interagency
1325 cooperation.—

1326 (1) There is hereby created in the State Treasury an
1327 Operating Trust Fund to be administered in accordance with
1328 chapters 215 and 216 by the department. If the department does
1329 not enter into a management agreement, all money received by the
1330 department which remains after payment of prizes and initial
1331 compensation paid to retailers shall be deposited into the
1332 Operating Trust Fund. All moneys in the trust fund are
1333 appropriated to the department for the purposes specified in
1334 this chapter ~~act~~.

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1335 (2) Moneys available for the payment of prizes awarded by
1336 the department, if the department does not enter into a
1337 management agreement, on a deferred basis shall be invested by
1338 the State Board of Administration in accordance with a trust
1339 agreement approved by the secretary and entered into between the
1340 department and the State Board of Administration in accordance
1341 with ss. 215.44-215.53. The investments authorized by this
1342 subsection shall be done in a manner designed to preserve
1343 capital and to ensure the integrity of the lottery disbursement
1344 system by eliminating the risk of payment of funds when due and
1345 to produce equal annual sums of money over the required term of
1346 the investments.

1347 Section 19. Subsections (1), (2), and (3) of section
1348 24.121, Florida Statutes, are amended to read:

1349 24.121 Allocation of revenues and expenditure of funds for
1350 public education.—

1351 (1) If the department does not enter into a management
1352 agreement, variable percentages of the gross revenue from the
1353 sale of online and instant lottery tickets shall be returned to
1354 the public in the form of prizes paid by the department or
1355 retailers as authorized by this chapter ~~act~~. The variable
1356 percentages of gross revenue from the sale of online and instant
1357 lottery tickets returned to the public in the form of prizes
1358 shall be established by the department in a manner designed to
1359 maximize the amount of funds deposited under subsection (2).

1360 (2) Each fiscal year, if the department does not enter into
1361 a management agreement, variable percentages of the gross
1362 revenue from the sale of online and instant lottery tickets as
1363 determined by the department consistent with subsection (1), and

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1364 other earned revenue, excluding application processing fees,
1365 shall be deposited in the Educational Enhancement Trust Fund,
1366 which is hereby created in the State Treasury to be administered
1367 by the Department of Education. If the department enters into a
1368 management agreement, the proceeds received by the department
1369 from the management agreement under s. 24.1115(7)(b) and (c)
1370 shall be deposited in the Educational Enhancement Trust Fund,
1371 with, at minimum, the greater of \$400 million or one-third of
1372 the funds deposited into the trust fund to be allocated the
1373 Florida Bright Futures Scholarship Program. The Department of
1374 the Lottery shall transfer moneys to the Educational Enhancement
1375 Trust Fund at least once each quarter. Funds in the Educational
1376 Enhancement Trust Fund shall be used to the benefit of public
1377 education in accordance with the provisions of this chapter ~~act~~.
1378 Notwithstanding any other provision of law, lottery revenues
1379 transferred to the Educational Enhancement Trust Fund shall be
1380 reserved as needed and used to meet the requirements of the
1381 documents authorizing the bonds issued by the state pursuant to
1382 s. 1013.68, s. 1013.70, or s. 1013.737 or distributed to school
1383 districts for the Classrooms First Program as provided in s.
1384 1013.68. Such lottery revenues are hereby pledged to the payment
1385 of debt service on bonds issued by the state pursuant to s.
1386 1013.68, s. 1013.70, or s. 1013.737. Debt service payable on
1387 bonds issued by the state pursuant to s. 1013.68, s. 1013.70, or
1388 s. 1013.737 shall be payable from, and is secured by a first
1389 lien on, the first lottery revenues transferred to the
1390 Educational Enhancement Trust Fund in each fiscal year. Amounts
1391 distributable to school districts that request the issuance of
1392 bonds pursuant to s. 1013.68(3) are hereby pledged to such bonds

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1393 pursuant to s. 11(d), Art. VII of the State Constitution.

1394 (3) The funds remaining in the Operating Trust Fund after
1395 transfers to the Educational Enhancement Trust Fund shall be
1396 used for the payment of administrative expenses of the
1397 department. These expenses shall include all costs incurred in
1398 the department's direct operation and administration of the
1399 lottery or the management agreement and all costs resulting from
1400 any contracts entered into for the purchase or lease of goods or
1401 services required by the lottery, including, but not limited to:

1402 (a) The compensation paid to retailers;

1403 (b) The costs of supplies, materials, tickets, independent
1404 audit services, independent studies, data transmission,
1405 advertising, promotion, incentives, public relations,
1406 communications, security, bonding for retailers, printing,
1407 distribution of tickets, and reimbursing other governmental
1408 entities for services provided to the lottery; and

1409 (c) The costs of any other goods and services necessary for
1410 effectuating the purposes of this chapter act.

1411 Section 20. Section 24.122, Florida Statutes, is amended to
1412 read:

1413 24.122 Exemption from taxation; state preemption;
1414 inapplicability of other laws.—

1415 (1) This chapter act shall not be construed to authorize
1416 any lottery except the lottery operated by the department or the
1417 manager under ~~pursuant to~~ this chapter act.

1418 (2) No state or local tax shall be imposed upon any prize
1419 paid or payable under this chapter act or upon the sale of any
1420 lottery ticket pursuant to this chapter act.

1421 (3) All matters relating to the operation of the state

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1422 lottery are preempted to the state, and no county, municipality,
1423 or other political subdivision of the state shall enact any
1424 ordinance relating to the operation of the lottery authorized by
1425 this chapter ~~act~~. However, this subsection shall not prohibit a
1426 political subdivision of the state from requiring a retailer to
1427 obtain an occupational license for any business unrelated to the
1428 sale of lottery tickets.

1429 (4) Any state or local law providing any penalty,
1430 disability, restriction, or prohibition for the possession,
1431 manufacture, transportation, distribution, advertising, or sale
1432 of any lottery ticket, including chapter 849, shall not apply to
1433 the tickets of the state lottery operated pursuant to this
1434 chapter ~~act~~; nor shall any such law apply to the possession of a
1435 ticket issued by any other government-operated lottery. In
1436 addition, activities of the department under this chapter ~~act~~
1437 are exempt from the provisions of:

1438 (a) Chapter 616, relating to public fairs and expositions.

1439 (b) Chapter 946, relating to correctional work programs.

1440 (c) Chapter 282, relating to communications and data
1441 processing.

1442 (d) Section 110.131, relating to other personal services.

1443 Section 21. Section 24.123, Florida Statutes, is amended to
1444 read:

1445 24.123 Annual audit of financial records and reports.—

1446 (1) The Legislative Auditing Committee shall contract with
1447 a certified public accountant licensed pursuant to chapter 473
1448 for an annual financial audit of the department. The certified
1449 public accountant shall have no financial interest in any vendor
1450 or manager with whom the department is under contract. The

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1451 certified public accountant shall present an audit report no
1452 later than 7 months after the end of the fiscal year and shall
1453 make recommendations to enhance the earning capability of the
1454 state lottery or the management agreement and to improve the
1455 efficiency of department operations. The certified public
1456 accountant shall also perform a study and evaluation of internal
1457 accounting controls and shall express an opinion on those
1458 controls in effect during the audit period. The cost of the
1459 annual financial audit shall be paid by the department.

1460 (2) The Auditor General may at any time conduct an audit of
1461 any phase of the operations of the state lottery or the
1462 management agreement and shall receive a copy of the yearly
1463 independent financial audit and any security report prepared
1464 pursuant to s. 24.108.

1465 (3) A copy of any audit performed pursuant to this section
1466 shall be submitted to the secretary, the Governor, the President
1467 of the Senate, the Speaker of the House of Representatives, and
1468 members of the Legislative Auditing Committee.

1469 Section 22. Section 24.124, Florida Statutes, is amended to
1470 read:

1471 24.124 Responsibility for ticket accuracy; department,
1472 retailer, and vendor liability.—

1473 (1) If the department does not enter into a management
1474 agreement, purchasers of online games tickets shall be
1475 responsible for verifying the accuracy of their tickets,
1476 including the number or numbers printed on the tickets. In the
1477 event of an error, the ticket may be canceled and a replacement
1478 ticket issued pursuant to rules promulgated by the department ~~of~~
1479 ~~the Lottery.~~

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1480 (2) If the department does not enter into a management
1481 agreement, other than the issuance of a replacement ticket,
1482 there shall be no right or cause of action and no liability on
1483 the part of the department, retailer, vendor, or any other
1484 person associated with selling an online games ticket, with
1485 respect to errors or inaccuracies contained in the ticket,
1486 including errors in the number or numbers printed on the ticket.
1487 Section 23. This act shall take effect January 1, 2010.