

1 A bill to be entitled
 2 An act relating to lottery operations; amending s. 24.111,
 3 F.S.; adding limited liability companies to the list of
 4 potential vendors the Department of the Lottery must
 5 investigate; providing that no contract for a major
 6 procurement may be entered if a managing member of the
 7 potential vendor has been convicted of a felony, with
 8 specified exceptions; deleting a requirement that
 9 contracts in excess of a specified amount provide for
 10 liquidated damages for a breach; amending s. 24.113, F.S.;
 11 removing a cap on the percentage of any one type of
 12 minority retailer that the Department of the Lottery may
 13 contract with; amending s. 24.114, F.S.; removing
 14 duplicative language; providing a criminal penalty for
 15 failure to remit funds as required; providing an effective
 16 date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Paragraph (a) of subsection (2) and subsections
 21 (4) and (6) of section 24.111, Florida Statutes, are amended to
 22 read:

23 24.111 Vendors; disclosure and contract requirements.—

24 (2) The department shall investigate the financial
 25 responsibility, security, and integrity of each vendor with
 26 which it intends to negotiate a contract for major procurement.
 27 Such investigation may include an investigation of the financial
 28 responsibility, security, and integrity of any or all persons

HB 1251

2010

29 | whose names and addresses are required to be disclosed pursuant
30 | to paragraph (a). Any person who submits a bid, proposal, or
31 | offer as part of a major procurement must, at the time of
32 | submitting such bid, proposal, or offer, provide the following:

33 | (a) A disclosure of the vendor's name and address and, as
34 | applicable, the name and address and any additional disclosures
35 | necessary for an investigation of the financial responsibility,
36 | security, and integrity of the following:

37 | 1. If the vendor is a corporation, the officers,
38 | directors, and each stockholder in such corporation; except
39 | that, in the case of owners of equity securities of a publicly
40 | traded corporation, only the names and addresses of those known
41 | to the corporation to own beneficially 5 percent or more of such
42 | securities need be disclosed.

43 | 2. If the vendor is a trust, the trustee and all persons
44 | entitled to receive income or benefit from the trust.

45 | 3. If the vendor is an association, the members, officers,
46 | and directors.

47 | 4. If the vendor is a partnership or joint venture, all of
48 | the general partners, limited partners, or joint venturers.

49 | 5. If the vendor is a limited liability company, each
50 | officer, director, member, manager, and managing member of the
51 | company.

52 |
53 | If the vendor subcontracts any substantial portion of the work
54 | to be performed to a subcontractor, the vendor shall disclose
55 | all of the information required by this paragraph for the
56 | subcontractor as if the subcontractor were itself a vendor.

57
58 The department shall not contract with any vendor who fails to
59 make the disclosures required by this subsection, and any
60 contract with a vendor who has failed to make the required
61 disclosures shall be unenforceable. Any contract with any vendor
62 who does not comply with such requirements for periodically
63 updating such disclosures during the tenure of such contract as
64 may be specified in such contract may be terminated by the
65 department. This subsection shall be construed broadly and
66 liberally to achieve the ends of full disclosure of all
67 information necessary to allow for a full and complete
68 evaluation by the department of the competence, integrity,
69 background, and character of vendors for major procurements.

70 (4) No contract for a major procurement with any vendor
71 shall be entered into if that vendor, or any of the vendor's
72 officers, directors, trustees, partners, managing members, or
73 joint venturers whose names and addresses are required to be
74 disclosed pursuant to paragraph (2) (a), has been convicted of,
75 or entered a plea of guilty or nolo contendere to, a felony
76 committed in the preceding 10 years, regardless of adjudication,
77 unless the department determines that:

78 (a) The vendor or such individual has been pardoned or the
79 vendor's or such individual's civil rights have been restored;

80 (b) Subsequent to such conviction or entry of plea the
81 vendor or such individual has engaged in the kind of law-abiding
82 commerce and good citizenship that would reflect well upon the
83 integrity of the lottery; or

84 (c) If the vendor is not an individual, such vendor has

HB 1251

2010

85 terminated its relationship with the individual whose actions
86 directly contributed to the vendor's conviction or entry of
87 plea.

88 (6) ~~Every contract in excess of \$25,000 entered into by~~
89 ~~the department pursuant to this section shall contain a~~
90 ~~provision for payment of liquidated damages to the department~~
91 ~~for any breach of contract by the vendor.~~ The department may
92 require a liquidated damages provision in any contract if the
93 department deems it necessary to protect the state's financial
94 interest.

95 Section 2. Subsection (1) of section 24.113, Florida
96 Statutes, is amended to read:

97 24.113 Minority participation.—

98 (1) It is the intent of the Legislature that the
99 department encourage participation by minority business
100 enterprises as defined in s. 288.703. Accordingly, 15 percent of
101 the retailers shall be minority business enterprises as defined
102 in s. 288.703(2); ~~however, no more than 35 percent of such~~
103 ~~retailers shall be owned by the same type of minority person, as~~
104 ~~defined in s. 288.703(3).~~ The department is encouraged to meet
105 the minority business enterprise procurement goals set forth in
106 s. 287.09451 in the procurement of commodities, contractual
107 services, construction, and architectural and engineering
108 services. This section shall not preclude or prohibit a minority
109 person from competing for any other retailing or vending
110 agreement awarded by the department.

111 Section 3. Section 24.114, Florida Statutes, is amended to
112 read:

HB 1251

2010

113 24.114 Bank deposits and control of lottery transactions;
 114 penalties.—

115 (1) (a) All moneys received by each retailer from the
 116 operation of the state lottery, including, but not limited to,
 117 all ticket sales, interest, gifts, and donations, less the
 118 amount retained as compensation for the sale of the tickets and
 119 the amount paid out as prizes, shall be remitted to the
 120 department or deposited in a qualified public depository, as
 121 defined in s. 280.02, as directed by the department.

122 (b) The department shall have the responsibility for all
 123 administrative functions related to the receipt of funds. The
 124 department may ~~also~~ require:

125 1. Each retailer to file with the department reports of
 126 the retailer's receipts and transactions in the sale of lottery
 127 tickets in such form and containing such information as the
 128 department may require.

129 2. ~~The department may require~~ Any person, including a
 130 qualified public depository, to perform any function, activity,
 131 or service in connection with the operation of the lottery as it
 132 may deem advisable pursuant to this act and rules of the
 133 department, and such functions, activities, or services shall
 134 constitute lawful functions, activities, and services of such
 135 person.

136 3. ~~(2) The department may require~~ Retailers to establish
 137 separate electronic funds transfer accounts for the purpose of
 138 receiving moneys from ticket sales, making payments to the
 139 department, and receiving payments from the department.

140 (2) ~~(3)~~ Each retailer is liable to the department for any

HB 1251

2010

141 and all tickets accepted or generated by any employee or
142 representative of that retailer, and the tickets shall be deemed
143 to have been purchased by the retailer unless returned to the
144 department within the time and in the manner prescribed by the
145 department.

146 (3) All moneys received by retailers from the sale of
147 lottery tickets, less the amount retained as compensation for
148 the sale of tickets and the amount paid out as prizes by the
149 retailer, shall be held in trust prior to delivery to the
150 department or electronic transfer to the Operating Trust Fund.

151 (4) A retailer who fails to remit funds to the department
152 as required by this section commits a felony of the third
153 degree, punishable as provided in s. 775.082, s. 775.083, or s.
154 775.084.

155 Section 4. This act shall take effect July 1, 2010.