

1 A bill to be entitled

2 An act relating to administrative procedures of the
3 Department of the Lottery; amending s. 24.105, F.S.;
4 revising the rulemaking authority of the Department of the
5 Lottery; authorizing the department to adopt rules
6 governing the operation of games offered by the
7 department; authorizing the department to adopt emergency
8 rules for the purpose of implementing instant ticket games
9 and online games; removing the authority of the department
10 to perform any of the functions of the Department of
11 Management Services under chapter 255, chapter 273,
12 chapter 281, chapter 283, or chapter 287, F.S.; requiring
13 the department to adopt by rule a personnel program for
14 its employees; removing the exemption from chapter 120,
15 F.S., related to personnel actions; repealing s. 24.109,
16 F.S., relating to administrative procedure; providing that
17 statutorily authorized transaction fees do not apply to
18 certain procurements of commodities or services for which
19 the department is the sole purchaser in the state; deeming
20 certain emergency rules in existence on a specified date
21 to be rules adopted pursuant to s. 120.54(3), F.S.;
22 providing that such rules remain in effect until amended
23 or repealed by the department; requiring the Department of
24 State to renumber rules as necessary; providing for repeal
25 of certain rules in existence on a specified date that are
26 no longer authorized; providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsections (9) and (13) through (20) of section 24.105, Florida Statutes, are amended to read:

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

(9) (a) Adopt rules governing the ~~establishment and~~ operation of games offered by the department ~~the state lottery~~, including:

~~1.(a)~~ The type of lottery games to be conducted, except that:

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

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

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

~~d.4.~~ The only player-activated machine which may be utilized is a machine which dispenses instant lottery game tickets following the insertion of a coin or currency by a ticket purchaser. To be authorized a machine must: be under the supervision and within the direct line of sight of the lottery retailer to ensure that the machine is monitored and only operated by persons at least 18 years of age; be capable of being electronically deactivated by the retailer to prohibit use

57 | by persons less than 18 years of age through the use of a
 58 | lockout device that maintains the machine's deactivation for a
 59 | period of no less than 5 minutes; and be designed to prevent its
 60 | use or conversion for use in any manner other than the
 61 | dispensing of instant lottery tickets. Authorized machines may
 62 | dispense change to players purchasing tickets but may not be
 63 | utilized for paying the holders of winning tickets of any kind.
 64 | At least one clerk must be on duty at the lottery retailer while
 65 | the machine is in operation. However, at least two clerks must
 66 | be on duty at any lottery location which has violated s.
 67 | 24.1055.

68 | 2.~~(b)~~ The sales price of tickets.

69 | 3.~~(c)~~ The number and sizes of prizes.

70 | 4.~~(d)~~ The method of selecting winning tickets. However, if
 71 | a lottery game involves a drawing, the drawing shall be public
 72 | and witnessed by an accountant employed by an independent
 73 | certified public accounting firm. The equipment used in the
 74 | drawing shall be inspected before and after the drawing.

75 | 5.~~(e)~~ The manner of payment of prizes to holders of
 76 | winning tickets.

77 | 6.~~(f)~~ The frequency of drawings or selections of winning
 78 | tickets.

79 | 7.~~(g)~~ The number and type of locations at which tickets
 80 | may be purchased.

81 | 8.~~(h)~~ The method to be used in selling tickets.

82 | 9.~~(i)~~ The manner and amount of compensation of retailers.

83 | 10.~~(j)~~ Such other matters necessary ~~or desirable~~ for the
 84 | efficient or economical operation of games offered by the

85 ~~department lottery or for the convenience of the public.~~

86 (b) The department may at any time adopt emergency rules
87 pursuant to s. 120.54 for the purpose of implementing and
88 promoting instant ticket games and online games. The Legislature
89 finds that, from time to time, the department must respond as
90 quickly as is practicable to changes in the marketplace when
91 creating and promoting instant ticket games and online games.
92 Therefore, in adopting emergency rules for the purpose of
93 implementing and promoting such games, the department need not
94 make the findings required by s. 120.54(4)(a). Emergency rules
95 adopted under this subsection are exempt from s. 120.54(4)(c)
96 and shall remain in effect until expiration of the specific
97 instant ticket game or online game that is the subject of the
98 emergency rule.

99 ~~(13) Have the authority to perform any of the functions of~~
100 ~~the Department of Management Services under chapter 255, chapter~~
101 ~~273, chapter 281, chapter 283, or chapter 287, or any rules~~
102 ~~adopted under any such chapter, and may grant approvals provided~~
103 ~~for under any such chapter or rules. If the department finds, by~~
104 ~~rule, that compliance with any such chapter would impair or~~
105 ~~impede the effective or efficient operation of the lottery, the~~
106 ~~department may adopt rules providing alternative procurement~~
107 ~~procedures. Such alternative procedures shall be designed to~~
108 ~~allow the department to evaluate competing proposals and select~~
109 ~~the proposal that provides the greatest long-term benefit to the~~
110 ~~state with respect to the quality of the products or services,~~
111 ~~dependability and integrity of the vendor, dependability of the~~
112 ~~vendor's products or services, security, competence, timeliness,~~

113 ~~and maximization of gross revenues and net proceeds over the~~
114 ~~life of the contract.~~

115 (13)~~(14)~~ Have the authority to acquire real property and
116 make improvements thereon. The title to such property shall be
117 vested in the Board of Trustees of the Internal Improvement
118 Trust Fund. The board shall give the department preference in
119 leasing state-owned lands under the board's control and may not
120 exercise any jurisdiction over lands purchased or leased by the
121 department while such lands are actively used by the department.
122 Actions of the department under this subsection are exempt from
123 the time limitations and deadlines of chapter 253.

124 (14)~~(15)~~ Have the authority to charge fees to persons
125 applying for contracts as vendors or retailers, which fees are
126 reasonably calculated to cover the costs of investigations and
127 other activities related to the processing of the application.

128 (15)~~(16)~~ Enter into contracts for the purchase, lease, or
129 lease-purchase of such goods and services as are necessary for
130 the operation and promotion of the state lottery, including
131 assistance provided by any governmental agency.

132 (16)~~(17)~~ In accordance with the provisions of this act,
133 enter into contracts with retailers so as to provide adequate
134 and convenient availability of tickets to the public for each
135 game.

136 (17)~~(18)~~ Have the authority to enter into agreements with
137 other states for the operation and promotion of a multistate
138 lottery if such agreements are in the best interest of the state
139 lottery. The authority conferred by this subsection is not
140 effective until 1 year after the first day of lottery ticket

141 sales.

142 (18)~~(19)~~ Employ division directors and other staff as may
 143 be necessary to carry out the provisions of this act; however:

144 (a) No person shall be employed by the department who has
 145 been convicted of, or entered a plea of guilty or nolo
 146 contendere to, a felony committed in the preceding 10 years,
 147 regardless of adjudication, unless the department determines
 148 that:

149 1. The person has been pardoned or his or her civil rights
 150 have been restored; or

151 2. Subsequent to such conviction or entry of plea the
 152 person has engaged in the kind of law-abiding commerce and good
 153 citizenship that would reflect well upon the integrity of the
 154 lottery.

155 (b) No officer or employee of the department having
 156 decisionmaking authority shall participate in any decision
 157 involving any vendor or retailer with whom the officer or
 158 employee has a financial interest. No such officer or employee
 159 may participate in any decision involving any vendor or retailer
 160 with whom the officer or employee has discussed employment
 161 opportunities without the approval of the secretary or, if such
 162 officer is the secretary, without the approval of the Governor.
 163 Any officer or employee of the department shall notify the
 164 secretary of any such discussion or, if such officer is the
 165 secretary, he or she shall notify the Governor. A violation of
 166 this paragraph is punishable in accordance with s. 112.317.

167 (c) No officer or employee of the department who leaves
 168 the employ of the department shall represent any vendor or

169 retailer before the department regarding any specific matter in
170 which the officer or employee was involved while employed by the
171 department, for a period of 1 year following cessation of
172 employment with the department. A violation of this paragraph is
173 punishable in accordance with s. 112.317.

174 (19)~~(d)~~ The department shall adopt by rule ~~establish and~~
175 ~~maintain~~ a personnel program for its employees, including a
176 personnel classification and pay plan which may provide any or
177 all of the benefits provided in the Senior Management Service or
178 Selected Exempt Service.

179 (a) Each officer or employee of the department shall be a
180 member of the Florida Retirement System. The retirement class of
181 each officer or employee shall be the same as other persons
182 performing comparable functions for other agencies.

183 (b) Employees of the department shall serve at the
184 pleasure of the secretary and shall be subject to suspension,
185 dismissal, reduction in pay, demotion, transfer, or other
186 personnel action at the discretion of the secretary. ~~Such~~
187 ~~personnel actions are exempt from the provisions of chapter 120.~~

188 (c) All employees of the department are exempt from the
189 Career Service System provided in chapter 110 and,
190 notwithstanding the provisions of s. 110.205(5), are not
191 included in either the Senior Management Service or the Selected
192 Exempt Service. However, all employees of the department are
193 subject to all standards of conduct adopted by rule for career
194 service and senior management employees pursuant to chapter 110.
195 In the event of a conflict between standards of conduct
196 applicable to employees of the Department of the Lottery the

197 more restrictive standard shall apply. Interpretations as to the
198 more restrictive standard may be provided by the Commission on
199 Ethics upon request of an advisory opinion pursuant to s.
200 112.322(3)(a), for purposes of this subsection the opinion shall
201 be considered final action.

202 (20) Adopt by rule a code of ethics for officers and
203 employees of the department which supplements the standards of
204 conduct for public officers and employees imposed by law.

205 Section 2. Section 24.109, Florida Statutes, is repealed.

206 Section 3. Sections 287.042(1)(h) and 287.057(23), Florida
207 Statutes, do not apply to procurements of commodities or
208 services specific to the lottery industry and for which the
209 Department of the Lottery is the sole purchaser in the state.
210 Such procurements may include a lottery gaming system, instant
211 tickets, and related commodities or services.

212 Section 4. (1) Any emergency rule adopted by the
213 Department of the Lottery on or before July 1, 2010, directly
214 relating to retailers; lost, stolen, or damaged instant tickets;
215 and payment of stolen instant tickets shall be deemed rules
216 adopted pursuant to s. 120.54(3), Florida Statutes, and shall
217 remain in effect until amended or repealed by the department.
218 The Department of State shall renumber such rules as necessary.

219 (2) Except for the rules described in subsection (1), all
220 rules, or portions thereof, in existence on July 1, 2010, that
221 were adopted in a manner no longer authorized by this act shall
222 stand repealed on January 1, 2011.

223 Section 5. This act shall take effect on July 1, 2010.