

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1059 Operation of the Florida Lottery

SPONSOR(S): Burgin

TIED BILLS: **IDEN./SIM. BILLS:** SB 1380

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	14 Y, 0 N, As CS	Meadows	Williamson
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

In 1987, the Legislature established the Department of the Lottery (department) for the purpose of operating the state lottery so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens. The Department of the Lottery (department) was established for the purpose of operating the state lottery “so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens.” The department is accountable to the people of the state through a system of audits and reports and through compliance with financial disclosure, open meetings, and public records laws.

Under current law, the department is prohibited from contracting with any person or entity for the total operation and administration for the state lottery. The department is authorized to contract for functions such as lottery game design, supply of goods and services, and advertising.

The bill requires the Department of the Lottery to issue a request for information to determine the feasibility of entering into a management agreement, which is a contractual agreement entered into between the department and a manager to provide management services to the department. Under such agreement the department would continue to manage and operate the lottery.

The bill requires the department to submit its findings from the request for information to the Governor, Senate President, and Speaker of the House of Representatives no later than September 30, 2011.

The bill could have an insignificant fiscal impact on the department.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In 1987, the Legislature enacted chapter 87-65, L.O.F., to implement a voter-approved constitutional amendment¹ allowing the State of Florida to operate a lottery. The Department of the Lottery (department) was established for the purpose of operating the state lottery “so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens.”²

The purpose of the state lottery is to maximize additional funding for education while enabling the people of the state to benefit from significant additional moneys for education, and enabling the people of the state to play the best lottery games available.³ It is the Legislature’s intent that the net proceeds of the lottery games support improvements in public education.⁴ It is further the intent of the Legislature that the lottery games be operated by a self-supporting, revenue-producing department.⁵

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Under current law, the department is prohibited from contracting with any person or entity for the total operation and administration for the state lottery.⁷ The department is authorized to contract for functions such as lottery game design, supply of goods and services, and advertising.⁸

Effect of the Proposed Changes

The bill requires the Department of the Lottery (department) to issue a request for information to determine the feasibility of entering into a management agreement, which is a contractual agreement entered into between the department and a manager to provide management services to the department. Under such agreement the department would continue to manage and operate the lottery.

The bill defines a “request for information” to mean a written or electronically posted request made by an agency to vendors for information concerning commodities or contractual services. Responses to the request for information are not offers and may not be accepted by the department to form a binding contract.

At a minimum, the request for information must obtain the following information:

- How the vendor proposes to improve upon the operation of the department.
- How the vendor proposes to increase lottery revenues.
- The vendor’s plan for implementing the proposed improvements.
- The cost savings and increased revenues generated by the vendor’s proposals.
- The vendor’s proposed method of payment if awarded the management agreement.

The department must report to the Governor, President of the Senate, and Speaker of the House of Representatives no later than September 30, 2011, on its findings. The report must provide a:

- Comparison of the management and operation of the department with the management and operation of other state lotteries;

¹ Florida Constitution, Article X, Section 15.

² Section 24.104, F.S.

³ Section 24.102(1), F.S.

⁴ Section 24.102(2)(a), F.S.

⁵ Section 24.102(2)(c), F.S.

⁶ Section 24.102(2)(d), F.S.

⁷ Section 24.111(1), F.S.

⁸ *Id.*

- Summary of the information gathered from the request for information; and
- Recommendation as to the feasibility of entering into a management agreement with a manager.

B. SECTION DIRECTORY:

Section 1 creates an unnumbered section of law that provides definitions; requires the Department of the Lottery to issue a request for information to determine the feasibility of entering into a management agreement with a manager to provide management services to the department; creates reporting requirements.

Section 2 provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The department could experience an insignificant fiscal impact as a result of issuing and analyzing a request for information.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Article X, s. 15 of the Florida Constitution does not allow for the lottery or lottery games to be operated by a private entity. The lottery must be "operated by the state." There is a grey area

between being 'operated' by the state versus being "managed" by a third party. Under a management agreement, there is uncertainty whether the state could still be deemed to be operating the lottery.

B. RULE-MAKING AUTHORITY:

This bill does not authorize nor require any additional grants of rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 29, 2011 the Government Operations Subcommittee reported the bill favorably with committee substitute.

The bill authorized the Department of the Lottery (department) to contract with a private vendor to provide for the overall management of Lottery operations. The bill provided a procurement process for the selection of a manager; a process for the selection of a management company; specified the contents of the management agreement; specified the time limit of the management agreement, not to exceed a term of 30 years; and provided the financial terms for the management agreement, including the benchmark payment and the yearly payments. The bill further provided for the authority and limitations of the management company.

The committee substitute requires the Department of the Lottery to issue a request for information to determine the feasibility of entering into a management agreement. It requires the department to issue a report of its findings from the request for information to the Governor, the President of the Senate, and the Speaker of the House by September 30, 2011.