

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: SB 902

INTRODUCER: Senator Jones

SUBJECT: Department of the Lottery

DATE: January 27, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Imhof	RI	<b>Pre-meeting</b>
2.			BC	
3.				
4.				
5.				
6.				

**I. Summary:**

The bill expands the type of vending machines that the Department of the Lottery (department) may utilize to dispense lottery tickets. Under current law, the department may only sell instant tickets or “scratch-off” tickets through a lottery vending machine. This bill authorizes the department to sell all lottery tickets through a vending machine, which includes both instant tickets and online tickets. Online tickets are draw games such as Lotto and Powerball tickets.

The bill becomes effective on July 1, 2012.

This bill substantially amends the following sections of the Florida Statutes: 24.105, 24.111, and 24.112.

**II. Present Situation:**

**Legislative Purpose and Intent**

The Department of the Lottery is authorized by Art. X, s. 15, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., provides legislative purpose and intent in regard to the lottery:

- (1) The purpose of this act is to implement s. 15, Art. X of the State Constitution in a manner that enables the people of the state to benefit from significant additional moneys for education and also enables the people of the state to play the best lottery games available.
- (2) The intent of the Legislature is:

- (a) That the net proceeds of lottery games conducted pursuant to this act be used to support improvements in public education and that such proceeds not be used as a substitute for existing resources for public education.
- (b) That the lottery games be operated by a department of state government that functions as much as possible in the manner of an entrepreneurial business enterprise. The Legislature recognizes that the operation of a lottery is a unique activity for state government and that structures and procedures appropriate to the performance of other governmental functions are not necessarily appropriate to the operation of a state lottery.
- (c) That the lottery games be operated by a self-supporting, revenue-producing department.
- (d) That the department be accountable to the Legislature and the people of the state through a system of audits and reports and through compliance with financial disclosure, open meetings, and public records laws.

Section 24.104, F.S., requires the department to operate the state lottery “so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens.” Proceeds from the sale of lottery tickets are transferred to the Educational Enhancement Trust Fund and are used to benefit public education.<sup>1</sup>

### **Lottery Games Currently Conducted**

The department currently offers a mix of online and instant games, raffles, and second chance drawings. The online games consist of the multi-state Powerball game and Florida-only games, which include the Florida Lotto, Mega Money, Fantasy 5, Play 4, and Cash 3.<sup>2</sup> The department conducts a quasi-instant ticket game called Lucky Lines in which the player selects the numbers, in a similar manner as an online game, but where the player instantly matches and could win up to \$3 million per ticket.<sup>3</sup> The department offers a millionaire raffle, Lucky 7 Raffle, and also conducts a Second Chance Drawing for prizes on non-winning tickets. In addition, the department offers instant tickets or scratch-off tickets. Currently there are over 50 instant tickets available for retailers to offer with ticket prices ranging from \$1 to \$20. During fiscal year 2009-2010, the department’s games generated nearly \$4 billion in sales, which resulted in \$1.247 billion in transfers to the Educational Enhancement Trust Fund.<sup>4</sup> Players can purchase tickets at over 13,000 retailers.

### **Player-Activated Games**

Section 24.105(9), F.S., requires the department to adopt rules governing the establishment and operation of the lottery. The rules must govern the type of games played, the sale price of tickets, the number and size of prizes, the method of selecting winning tickets, the manner of prize payment, the frequency of drawings, the number and type of locations where tickets may be purchased, the method to be used in selling tickets, the compensation for retailers, and such other

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<sup>1</sup> See s. 24.121(2), F.S.

<sup>2</sup> Online games are games where the player picks numbers and the drawing occurs at a later time and location and which are connected to a central computer.

<sup>3</sup> Lucky Lines started on October 11, 2010, and is the most recent online game introduced by the department.

<sup>4</sup> According to the department’s report on general revenues for June 2011, the games generated over \$4 billion in ticket sales, which resulted in \$1.19 billion in transfers to the EETF for fiscal year 2010-2011. These figures have not been audited. A copy of the 2009-2010 Annual Report is available at: <http://www.flalottery.com/exptkt/annualreport09-10.pdf>

matters necessary for the efficient or economical operation of the lottery or for the convenience of the public.

Section 24.105(9)(a), F.S., provides limitations on the type of games the department may offer for play. Specifically, the name of an elected official cannot appear on the ticket for any game. Money cannot be dispensed from any electronic lottery terminal or device. The section also limits the type of player-activated machines that may be utilized.

Section 24.105(9)(a)4., F.S., provides that a player-activated 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 by persons less than 18 years of age through the use of a lockout device that maintains the machine's deactivation for a period of no less than 5 minutes; and be designed to prevent its use or conversion for use in any manner other than the dispensing of instant lottery tickets. Authorized machines may dispense change to players purchasing tickets but may not be utilized for paying the holders of winning tickets of any kind.

Instant tickets can be purchased from instant ticket vending machines (ITVMs). Currently, there are approximately 1,500 ITVMs used across the state. According to the department, the ITVMs are averaging over \$3,500 in ticket sales per week for the first quarter of FY 2011-2012. The Lottery is required to lease all ITVMs.<sup>5</sup>

According to a report by the Office of Program Policy Analysis and Government Accountability:

The first 1,000 ITVMs, which were installed at the Lottery's highest selling retailers around the state [in 2009], appear to have exceeded initial sales estimates. Scratch-off sales at these retailers increased 20% compared to a statewide decrease of 1% for all other retailers. Assuming the average increase of 20% in scratch-off sales at these retailers was primarily due to vending machine sales, the Lottery achieved nearly \$12 million more in transfers to education. Moreover, the vending machines provide players convenient access to a larger selection of games; transmit sales data in real-time, allowing the Lottery to better track ticket sales; and improve retailer operational efficiency.<sup>6</sup>

Under current law, online games cannot be sold in a vending machine. Machines that sell both online and instant tickets are often referred to as Full Service Vending Machines (FSVMs). Approximately 22 states offer FSVMs through their lotteries.<sup>7</sup>

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<sup>5</sup> Section 24.111(2)(h), F.S.

<sup>6</sup> *Lottery Profits Decline; Options Available to Enhance Transfers to Education*, Report No. 11-12, Office of Program Policy Analysis and Government Accountability, Florida Legislature, March 2011. A copy of the report can be viewed at: <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1112rpt.pdf>

<sup>7</sup> See *Selected Game and Sales Methods Offered by other U.S. Lotteries*, OPPAGA Research Memorandum, September 29, 2011. A copy of the memorandum is on file with the committee.

### **Seminole Gaming Compact Provisions Related to Lottery Vending Machines**

The Gaming Compact between the State of Florida (state) and the Seminole Tribe of Florida (Tribe) provides the Tribe the exclusive right to conduct specified types of gaming in return for revenue sharing payments by the Tribe to the state.<sup>8</sup> If the state violates the exclusivity provisions of the Gaming Compact, the Tribe may be able to reduce or cease payments to the state.<sup>9</sup> The Gaming Compact limits lottery game distribution options, but provides an exception for three types of lottery vending machines (LVMs). The three types of allowable lottery vending machines are:<sup>10</sup>

- A machine to dispense pre-printed paper instant lottery tickets, but that does not read or reveal the results of the ticket, or allow a player to redeem any ticket. The machine, or any machine or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. This does not preclude the use of casino game themes or titles on such tickets or signage or advertising displays on the machines; or
- A machine to dispense pre-determined electronic instant lottery tickets that displays an image of the ticket on a video screen on the machine and the player must touch the image of the ticket on the video screen to reveal the outcome of the ticket, provided the machine does not permit a player to redeem winnings, does not make use of video reels or mechanical reels or simulate the play of any casino game, and the lottery retailer is paid the same amount as would be paid for the sale of paper instant lottery tickets; or
- A machine to dispense a paper lottery ticket with numbers selected by the player or randomly by the machine. The machine does not reveal the winning numbers and the winning numbers are selected at a subsequent time and different location through a drawing by the Florida Lottery. The machine, or any machines or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. The machine may not be used to redeem a winning ticket. This does not preclude the use of casino game themes or titles for signage or advertising displays on the machine.

In addition, the compact limits the numbers of LVMs that may be located at any one location to 10 and further restricts the usage of LVMs that dispense electronic tickets to provide that no LVM that dispenses electronic instant tickets may be installed at any licensed pari-mutuel facility.<sup>11</sup>

### **III. Effect of Proposed Changes:**

The bill requires the department to adopt rules governing the operation of full service vending machines (FSVMs). Full service vending machines are player-operated machines that dispense online lottery tickets, instant lottery tickets, or both online and instant lottery tickets.

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<sup>8</sup> *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 128 (hereinafter Gaming Compact).

<sup>9</sup> *Id.* See Part XII, Gaming Compact.

<sup>10</sup> *Id.* See Parts III.F. and XII.B.8., Gaming Compact.

<sup>11</sup> *Id.* See Part XII.B.8, Gaming Compact.

The bill relocates and amends the current requirements for ITVMs. The bill permits a vending machine to dispense online tickets, instant tickets, or both online and instant tickets. The requirements for a FSVM remain substantially the same as in current law for ITVMs. However, the bill does add an additional provision that prohibits the vending machine, or any machine or device linked to the vending machine, from including or making use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. The bill specifies that this new requirement does not preclude the use of casino game themes or titles on such tickets or signage or advertising displays on the machines.

In addition, the bill amends the requirement that the department must lease all ITVMs to instead provide that the department must lease all vending machines that dispense online lottery tickets or instant lottery tickets.

The bill provides an effective date of July 1, 2012.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill could increase the number of retailers that offer lottery products. In addition, players could purchase all types of lottery tickets through a vending machine instead of completing player slips and waiting for retailers to input the numbers into the system. According to the department, retail customers increasingly prefer self-service options in their purchasing.

C. Government Sector Impact:

Expanding the type of player activated gaming machines may result in an increase in lottery retailers that offer lottery games. At least one retailer has indicated that unless they can utilize FSVMs, they will not sell lottery tickets in their store. An increase in

vendors and tickets sold will increase the transfer of funds to the Educational Enhancement Trust Fund.

The Lottery estimates that the cost for one FSVM would be \$700 per month, and has requested funding for 350 FSVMs in the department's FY 2012-13 Legislative Budget Request.

The Revenue Estimating Conference held on November 3, 2011, estimated that, with the costs of leasing the 350 FSVM's accounted for, the additional revenue to the Educational Enhancement Trust Fund would be \$8.1 million for the first partial year of operation, and \$21 million beginning in FY 2012-2013.<sup>12</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>12</sup> A copy of the Revenue Estimating Conference analysis is available online at:  
<http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/impact1103.pdf> (last viewed January 27, 2012).