

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 607 State Lottery  
**SPONSOR(S):** Artiles and others  
**TIED BILLS:**           **IDEN./SIM. BILLS:** SB 790

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 1 N	Moore	Williamson
2) Government Operations Appropriations Subcommittee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

The state lottery is authorized by article X, section 15 of the Florida Constitution. Chapter 24, F.S., establishes the state lottery and creates the Department of the Lottery (department) to operate the state lottery with the purpose of maximizing revenues and using them to support improvements in public education.

The department is authorized to adopt rules governing the operation of the state lottery, including the type of lottery games to be conducted and the sales price of tickets. Currently, the department operates both online games and instant (scratch-off) games. Online games allow players to select from a range of numbers on a play slip that are printed by computer terminals connected to the department's system for a drawing at a later time. The department conducts several state online games and also offers two multi-state online games: Powerball and Mega Millions. Scratch-off games are tickets with latex covering that players scratch off to determine instantly whether they have won. As of December 23, 2015, the department offers 75 different scratch-off games with tickets ranging in price from \$1 to \$25.

The department is required to deposit a certain percentage of the gross revenues of online and scratch-off ticket sales into the Educational Enhancement Trust Fund (EETF), which is administered by the Department of Education. Funds in the EETF must be used to benefit public education in accordance with ch. 24, F.S. In Fiscal Year 2013-2014, the amount of lottery revenues deposited into the EETF was \$1.5 billion.

The bill limits the number of scratch-off games that may be available for sale by the department at any one time to 20 and specifies that the sales price of lottery tickets may not exceed \$5.

According to the Revenue Estimating Impact Conference, the bill will result in a reduction in the funds transferred to the EETF of \$263.6 million for Fiscal Year (FY) 2016-17; \$291.8 million for FY 2017-18; \$287.6 million for FY 2018-19; \$302.9 million for FY 2019-20; and \$306.1 million for FY 2020-21.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Lottery Operations

Article X, section 15 of the Florida Constitution authorizes the state lottery. Although the Constitution initially prohibited lotteries, it was amended in 1986 to allow lotteries to be operated only by the state.

Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., outlines the purpose and intent of the chapter, which is to enable the people of the state to benefit from significant additional moneys for education and to play the best lottery games available. This section also specifies it is the intent of the Legislature that:

- The net proceeds of lottery games be used to support improvements in public education without serving as a substitute for existing public education resources;
- The lottery be operated by a state department that functions as much as possible in the manner of an entrepreneurial business enterprise;
- The lottery games be operated by a self-supporting, revenue-producing department; and
- 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.<sup>1</sup>

Chapter 24, F.S., also establishes the Department of the Lottery (department) to operate the state lottery with the purpose of maximizing revenues in a manner consonant with the dignity of the state and the welfare of its citizens.<sup>2</sup> Section 24.105(9), F.S., authorizes the department to adopt rules governing the establishment and operation of the state lottery, including the type of lottery games to be conducted and the sales price of tickets.

Currently, the department operates both online games and instant (scratch-off) games. Online games allow players to select from a range of numbers on a play slip that are printed by computer terminals connected to the department's system for a drawing at a later time.<sup>3</sup> The department conducts several state online games<sup>4</sup> and also offers two multi-state online games: Powerball and Mega Millions. Scratch-off games are tickets with latex covering that players scratch off to determine instantly whether they have won.<sup>5</sup> As of December 23, 2015, the department offers 75 different scratch-off games with tickets ranging in price from \$1 to \$25.<sup>6</sup>

Players may purchase tickets at approximately 13,000 retailers.<sup>7</sup> Tickets for online games and scratch-off games may be purchased using full service vending machines.<sup>8</sup> Scratch-off tickets may also be purchased from instant ticket vending machines.<sup>9</sup> Currently, there are approximately 1,500 instant ticket vending machines and 500 full service vending machines in use in the state.<sup>10</sup> Florida ranked

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<sup>1</sup> Section 24.102(2), F.S.

<sup>2</sup> Section 24.104, F.S.

<sup>3</sup> Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, *Lottery Transfers Continue to Increase; Options Remain to Enhance Transfers and Improve Efficiency*, Report No. 15-03, at 1 (January 2015), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1503rpt.pdf> [hereinafter OPPAGA Report 15-03].

<sup>4</sup> The current online games are Florida Lotto, Lucky Money, Fantasy 5, Play 4, Cash 3, and Millionaire Raffle. Florida Lottery, <http://www.flalottery.com> (last visited Dec. 22, 2015).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> OPPAGA Report 15-03, at 7.

<sup>8</sup> Full service vending machines offer both online games and scratch-off games.

<sup>9</sup> Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, *Lottery Transfers Have Recovered; Options Remain to Enhance Transfers*, Report No. 14-06 (Jan. 2014), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1406rpt.pdf>.

<sup>10</sup> *Id.* at 7.

second highest among U.S. lotteries in Fiscal Year 2013-2014, with total lottery ticket sales of \$5.4 billion.<sup>11</sup>

### Use of Lottery Revenues

The department generates revenues through the sale of lottery game tickets and does not receive monies from the General Revenue Fund. For Fiscal Year 2014-2015, the Legislature appropriated \$163.5 million from lottery sales revenue for lottery operations and authorized 420 positions.<sup>12</sup> In that year, the department allocated approximately 75 percent, or \$122.5 million, of its \$163.5 million appropriation to produce and advertise online and scratch-off games.<sup>13</sup>

In addition to funding the operational appropriation, lottery revenue is used to pay prizes and retailer commissions.<sup>14</sup> In Fiscal Year 2013-2014, prizes totaled \$3.43 billion and retailer commissions totaled \$297.3 million.<sup>15</sup> Lottery tickets are sold through retailers across the state, such as supermarkets, convenience stores, gas stations, and newsstands.<sup>16</sup> Retailers receive commissions for selling tickets at a rate of five percent of the ticket price and/or one percent of the prize value (up to \$599) for winning tickets that they redeem at their location.<sup>17</sup> Retailers are eligible to receive bonuses for selling select winning tickets and performance incentive payments.<sup>18</sup>

### *Educational Enhancement Trust Fund*

Section 24.121, F.S., establishes the Educational Enhancement Trust Fund (EETF) and directs the department to deposit a certain percentage of the gross revenue from online and scratch-off ticket sales into the EETF at least once each quarter. Funds in the EETF, which is administered by the Department of Education, must be used to benefit public education in accordance with ch. 24, F.S.

Pursuant to s. 24.121(5)(a), F.S., public educational programs and purposes funded by the EETF may include, but are not limited to:

- Endowment;
- Scholarship;
- Matching funds;
- Direct grants;
- Research and economic development related to education;
- Salary enhancement;
- Contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education; or
- Any other educational program or purpose deemed desirable by the Legislature.

The Legislature must equitably apportion funds in the EETF among public schools, community colleges, and universities, with certain exceptions.<sup>19</sup> Prior to the expenditure of funds, each school district must establish policies and procedures that define enhancement and the types of expenditures consistent with that definition.<sup>20</sup> In addition, each school district must make available to the public and distribute on a quarterly basis, in an easy to understand format, how the lottery funds allocated to the school district have been spent.<sup>21</sup>

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<sup>11</sup> OPPAGA Report 15-03 at 1; however, as indicated therein in footnote 4, Florida is ranked ninth in per capita sales, meaning that the eight states that are higher in the ranking than Florida sell more tickets per person in their states.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 2.

<sup>14</sup> Section 24.121(1) and (3), F.S.

<sup>15</sup> OPPAGA Report 15-03 at 1.

<sup>16</sup> *Id.* at 1 (footnote 3).

<sup>17</sup> *Id.* Section 24.115(1)(e), F.S., limits on-site redemption of tickets to amounts less than \$600, and validation procedures must be performed appropriate to the lottery game involved.

<sup>18</sup> OPPAGA Report 15-03, at 1 (footnote 3).

<sup>19</sup> Section 24.121(5)(b), F.S.

<sup>20</sup> Section 24.121(5)(a), F.S.

<sup>21</sup> Section 24.121(5)(f), F.S.

In Fiscal Year 2013-2014, the amount of lottery revenues deposited into the EETF was \$1.5 billion.<sup>22</sup>

### **Effect of Proposed Changes**

The bill limits the number of scratch-off games that may be available for sale by the department at any one time to 20. In addition, the bill specifies that the sales price of lottery tickets may not exceed \$5.

#### **B. SECTION DIRECTORY:**

Section 1. amends. s. 24.105, F.S., relating to powers and duties of the department.

Section 2. provides an effective date of July 1, 2016.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

On December 11, 2015, the Revenue Estimating Impact Conference determined the bill will result in the following reduction in lottery revenues transferred to the EETF:

- FY 2016-17           \$263.6 million
- FY 2017-18           \$291.8 million
- FY 2018-19           \$287.6 million
- FY 2019-20           \$302.9 million
- FY 2020-21           \$306.1 million

##### **2. Expenditures:**

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill may have an indeterminate fiscal impact on the private sector as a result of the likely decline in ticket sales and the likely reduction in the amount of prize money paid.

#### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to affect county or municipal governments.

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<sup>22</sup> Florida Lottery, *Florida Lottery FY 2013-14 Annual Achievement Report 22* (2015), available at <http://www.flalottery.com/exptkt/annualreport13-14.pdf>.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.