



Rep. Robert Rita

Filed: 3/6/2017

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LRB100 01828 MJP 22996 a

1 AMENDMENT TO HOUSE BILL 135

2 AMENDMENT NO. _____. Amend House Bill 135 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Lottery Law is amended by changing
5 Sections 2, 9.1, and 20 and by adding Section 21.10 as follows:

6 (20 ILCS 1605/2) (from Ch. 120, par. 1152)

7 Sec. 2. This Act is enacted to implement and establish
8 within the State a lottery to be conducted by the State through
9 the Department. The entire net proceeds of the Lottery are to
10 be used for the support of the State's Common School Fund,
11 except as provided in subsection (o) of Section 9.1 and
12 Sections 21.5, 21.6, 21.7, 21.8, ~~and~~ 21.9, and 21.10. The
13 General Assembly finds that it is in the public interest for
14 the Department to conduct the functions of the Lottery with the
15 assistance of a private manager under a management agreement
16 overseen by the Department. The Department shall be accountable

1 to the General Assembly and the people of the State through a
2 comprehensive system of regulation, audits, reports, and
3 enduring operational oversight. The Department's ongoing
4 conduct of the Lottery through a management agreement with a
5 private manager shall act to promote and ensure the integrity,
6 security, honesty, and fairness of the Lottery's operation and
7 administration. It is the intent of the General Assembly that
8 the Department shall conduct the Lottery with the assistance of
9 a private manager under a management agreement at all times in
10 a manner consistent with 18 U.S.C. 1307(a)(1), 1307(b)(1),
11 1953(b)(4).

12 (Source: P.A. 98-649, eff. 6-16-14; 99-933, eff. 1-27-17.)

13 (20 ILCS 1605/9.1)

14 Sec. 9.1. Private manager and management agreement.

15 (a) As used in this Section:

16 "Offeror" means a person or group of persons that responds
17 to a request for qualifications under this Section.

18 "Request for qualifications" means all materials and
19 documents prepared by the Department to solicit the following
20 from offerors:

21 (1) Statements of qualifications.

22 (2) Proposals to enter into a management agreement,
23 including the identity of any prospective vendor or vendors
24 that the offeror intends to initially engage to assist the
25 offeror in performing its obligations under the management

1 agreement.

2 "Final offer" means the last proposal submitted by an
3 offeror in response to the request for qualifications,
4 including the identity of any prospective vendor or vendors
5 that the offeror intends to initially engage to assist the
6 offeror in performing its obligations under the management
7 agreement.

8 "Final offeror" means the offeror ultimately selected by
9 the Governor to be the private manager for the Lottery under
10 subsection (h) of this Section.

11 (b) By September 15, 2010, the Governor shall select a
12 private manager for the total management of the Lottery with
13 integrated functions, such as lottery game design, supply of
14 goods and services, and advertising and as specified in this
15 Section.

16 (c) Pursuant to the terms of this subsection, the
17 Department shall endeavor to expeditiously terminate the
18 existing contracts in support of the Lottery in effect on the
19 effective date of this amendatory Act of the 96th General
20 Assembly in connection with the selection of the private
21 manager. As part of its obligation to terminate these contracts
22 and select the private manager, the Department shall establish
23 a mutually agreeable timetable to transfer the functions of
24 existing contractors to the private manager so that existing
25 Lottery operations are not materially diminished or impaired
26 during the transition. To that end, the Department shall do the

1 following:

2 (1) where such contracts contain a provision
3 authorizing termination upon notice, the Department shall
4 provide notice of termination to occur upon the mutually
5 agreed timetable for transfer of functions;

6 (2) upon the expiration of any initial term or renewal
7 term of the current Lottery contracts, the Department shall
8 not renew such contract for a term extending beyond the
9 mutually agreed timetable for transfer of functions; or

10 (3) in the event any current contract provides for
11 termination of that contract upon the implementation of a
12 contract with the private manager, the Department shall
13 perform all necessary actions to terminate the contract on
14 the date that coincides with the mutually agreed timetable
15 for transfer of functions.

16 If the contracts to support the current operation of the
17 Lottery in effect on the effective date of this amendatory Act
18 of the 96th General Assembly are not subject to termination as
19 provided for in this subsection (c), then the Department may
20 include a provision in the contract with the private manager
21 specifying a mutually agreeable methodology for incorporation.

22 (c-5) The Department shall include provisions in the
23 management agreement whereby the private manager shall, for a
24 fee, and pursuant to a contract negotiated with the Department
25 (the "Employee Use Contract"), utilize the services of current
26 Department employees to assist in the administration and

1 operation of the Lottery. The Department shall be the employer
2 of all such bargaining unit employees assigned to perform such
3 work for the private manager, and such employees shall be State
4 employees, as defined by the Personnel Code. Department
5 employees shall operate under the same employment policies,
6 rules, regulations, and procedures, as other employees of the
7 Department. In addition, neither historical representation
8 rights under the Illinois Public Labor Relations Act, nor
9 existing collective bargaining agreements, shall be disturbed
10 by the management agreement with the private manager for the
11 management of the Lottery.

12 (d) The management agreement with the private manager shall
13 include all of the following:

14 (1) A term not to exceed 10 years, including any
15 renewals.

16 (2) A provision specifying that the Department:

17 (A) shall exercise actual control over all
18 significant business decisions;

19 (A-5) has the authority to direct or countermand
20 operating decisions by the private manager at any time;

21 (B) has ready access at any time to information
22 regarding Lottery operations;

23 (C) has the right to demand and receive information
24 from the private manager concerning any aspect of the
25 Lottery operations at any time; and

26 (D) retains ownership of all trade names,

1 trademarks, and intellectual property associated with
2 the Lottery.

3 (3) A provision imposing an affirmative duty on the
4 private manager to provide the Department with material
5 information and with any information the private manager
6 reasonably believes the Department would want to know to
7 enable the Department to conduct the Lottery.

8 (4) A provision requiring the private manager to
9 provide the Department with advance notice of any operating
10 decision that bears significantly on the public interest,
11 including, but not limited to, decisions on the kinds of
12 games to be offered to the public and decisions affecting
13 the relative risk and reward of the games being offered, so
14 the Department has a reasonable opportunity to evaluate and
15 countermand that decision.

16 (5) A provision providing for compensation of the
17 private manager that may consist of, among other things, a
18 fee for services and a performance based bonus as
19 consideration for managing the Lottery, including terms
20 that may provide the private manager with an increase in
21 compensation if Lottery revenues grow by a specified
22 percentage in a given year.

23 (6) (Blank).

24 (7) A provision requiring the deposit of all Lottery
25 proceeds to be deposited into the State Lottery Fund except
26 as otherwise provided in Section 20 of this Act.

1 (8) A provision requiring the private manager to locate
2 its principal office within the State.

3 (8-5) A provision encouraging that at least 20% of the
4 cost of contracts entered into for goods and services by
5 the private manager in connection with its management of
6 the Lottery, other than contracts with sales agents or
7 technical advisors, be awarded to businesses that are a
8 minority owned business, a female owned business, or a
9 business owned by a person with disability, as those terms
10 are defined in the Business Enterprise for Minorities,
11 Females, and Persons with Disabilities Act.

12 (9) A requirement that so long as the private manager
13 complies with all the conditions of the agreement under the
14 oversight of the Department, the private manager shall have
15 the following duties and obligations with respect to the
16 management of the Lottery:

17 (A) The right to use equipment and other assets
18 used in the operation of the Lottery.

19 (B) The rights and obligations under contracts
20 with retailers and vendors.

21 (C) The implementation of a comprehensive security
22 program by the private manager.

23 (D) The implementation of a comprehensive system
24 of internal audits.

25 (E) The implementation of a program by the private
26 manager to curb compulsive gambling by persons playing

1 the Lottery.

2 (F) A system for determining (i) the type of
3 Lottery games, (ii) the method of selecting winning
4 tickets, (iii) the manner of payment of prizes to
5 holders of winning tickets, (iv) the frequency of
6 drawings of winning tickets, (v) the method to be used
7 in selling tickets, (vi) a system for verifying the
8 validity of tickets claimed to be winning tickets,
9 (vii) the basis upon which retailer commissions are
10 established by the manager, and (viii) minimum
11 payouts.

12 (10) A requirement that advertising and promotion must
13 be consistent with Section 7.8a of this Act.

14 (11) A requirement that the private manager market the
15 Lottery to those residents who are new, infrequent, or
16 lapsed players of the Lottery, especially those who are
17 most likely to make regular purchases on the Internet as
18 permitted by law.

19 (12) A code of ethics for the private manager's
20 officers and employees.

21 (13) A requirement that the Department monitor and
22 oversee the private manager's practices and take action
23 that the Department considers appropriate to ensure that
24 the private manager is in compliance with the terms of the
25 management agreement, while allowing the manager, unless
26 specifically prohibited by law or the management

1 agreement, to negotiate and sign its own contracts with
2 vendors.

3 (14) A provision requiring the private manager to
4 periodically file, at least on an annual basis, appropriate
5 financial statements in a form and manner acceptable to the
6 Department.

7 (15) Cash reserves requirements.

8 (16) Procedural requirements for obtaining the prior
9 approval of the Department when a management agreement or
10 an interest in a management agreement is sold, assigned,
11 transferred, or pledged as collateral to secure financing.

12 (17) Grounds for the termination of the management
13 agreement by the Department or the private manager.

14 (18) Procedures for amendment of the agreement.

15 (19) A provision requiring the private manager to
16 engage in an open and competitive bidding process for any
17 procurement having a cost in excess of \$50,000 that is not
18 a part of the private manager's final offer. The process
19 shall favor the selection of a vendor deemed to have
20 submitted a proposal that provides the Lottery with the
21 best overall value. The process shall not be subject to the
22 provisions of the Illinois Procurement Code, unless
23 specifically required by the management agreement.

24 (20) The transition of rights and obligations,
25 including any associated equipment or other assets used in
26 the operation of the Lottery, from the manager to any

1 successor manager of the lottery, including the
2 Department, following the termination of or foreclosure
3 upon the management agreement.

4 (21) Right of use of copyrights, trademarks, and
5 service marks held by the Department in the name of the
6 State. The agreement must provide that any use of them by
7 the manager shall only be for the purpose of fulfilling its
8 obligations under the management agreement during the term
9 of the agreement.

10 (22) The disclosure of any information requested by the
11 Department to enable it to comply with the reporting
12 requirements and information requests provided for under
13 subsection (p) of this Section.

14 (e) Notwithstanding any other law to the contrary, the
15 Department shall select a private manager through a competitive
16 request for qualifications process consistent with Section
17 20-35 of the Illinois Procurement Code, which shall take into
18 account:

19 (1) the offeror's ability to market the Lottery to
20 those residents who are new, infrequent, or lapsed players
21 of the Lottery, especially those who are most likely to
22 make regular purchases on the Internet;

23 (2) the offeror's ability to address the State's
24 concern with the social effects of gambling on those who
25 can least afford to do so;

26 (3) the offeror's ability to provide the most

1 successful management of the Lottery for the benefit of the
2 people of the State based on current and past business
3 practices or plans of the offeror; and

4 (4) the offeror's poor or inadequate past performance
5 in servicing, equipping, operating or managing a lottery on
6 behalf of Illinois, another State or foreign government and
7 attracting persons who are not currently regular players of
8 a lottery.

9 (f) The Department may retain the services of an advisor or
10 advisors with significant experience in financial services or
11 the management, operation, and procurement of goods, services,
12 and equipment for a government-run lottery to assist in the
13 preparation of the terms of the request for qualifications and
14 selection of the private manager. Any prospective advisor
15 seeking to provide services under this subsection (f) shall
16 disclose any material business or financial relationship
17 during the past 3 years with any potential offeror, or with a
18 contractor or subcontractor presently providing goods,
19 services, or equipment to the Department to support the
20 Lottery. The Department shall evaluate the material business or
21 financial relationship of each prospective advisor. The
22 Department shall not select any prospective advisor with a
23 substantial business or financial relationship that the
24 Department deems to impair the objectivity of the services to
25 be provided by the prospective advisor. During the course of
26 the advisor's engagement by the Department, and for a period of

1 one year thereafter, the advisor shall not enter into any
2 business or financial relationship with any offeror or any
3 vendor identified to assist an offeror in performing its
4 obligations under the management agreement. Any advisor
5 retained by the Department shall be disqualified from being an
6 offeror. The Department shall not include terms in the request
7 for qualifications that provide a material advantage whether
8 directly or indirectly to any potential offeror, or any
9 contractor or subcontractor presently providing goods,
10 services, or equipment to the Department to support the
11 Lottery, including terms contained in previous responses to
12 requests for proposals or qualifications submitted to
13 Illinois, another State or foreign government when those terms
14 are uniquely associated with a particular potential offeror,
15 contractor, or subcontractor. The request for proposals
16 offered by the Department on December 22, 2008 as
17 "LOT08GAMESYS" and reference number "22016176" is declared
18 void.

19 (g) The Department shall select at least 2 offerors as
20 finalists to potentially serve as the private manager no later
21 than August 9, 2010. Upon making preliminary selections, the
22 Department shall schedule a public hearing on the finalists'
23 proposals and provide public notice of the hearing at least 7
24 calendar days before the hearing. The notice must include all
25 of the following:

- 26 (1) The date, time, and place of the hearing.

1 (2) The subject matter of the hearing.

2 (3) A brief description of the management agreement to
3 be awarded.

4 (4) The identity of the offerors that have been
5 selected as finalists to serve as the private manager.

6 (5) The address and telephone number of the Department.

7 (h) At the public hearing, the Department shall (i) provide
8 sufficient time for each finalist to present and explain its
9 proposal to the Department and the Governor or the Governor's
10 designee, including an opportunity to respond to questions
11 posed by the Department, Governor, or designee and (ii) allow
12 the public and non-selected offerors to comment on the
13 presentations. The Governor or a designee shall attend the
14 public hearing. After the public hearing, the Department shall
15 have 14 calendar days to recommend to the Governor whether a
16 management agreement should be entered into with a particular
17 finalist. After reviewing the Department's recommendation, the
18 Governor may accept or reject the Department's recommendation,
19 and shall select a final offeror as the private manager by
20 publication of a notice in the Illinois Procurement Bulletin on
21 or before September 15, 2010. The Governor shall include in the
22 notice a detailed explanation and the reasons why the final
23 offeror is superior to other offerors and will provide
24 management services in a manner that best achieves the
25 objectives of this Section. The Governor shall also sign the
26 management agreement with the private manager.

1 (i) Any action to contest the private manager selected by
2 the Governor under this Section must be brought within 7
3 calendar days after the publication of the notice of the
4 designation of the private manager as provided in subsection
5 (h) of this Section.

6 (j) The Lottery shall remain, for so long as a private
7 manager manages the Lottery in accordance with provisions of
8 this Act, a Lottery conducted by the State, and the State shall
9 not be authorized to sell or transfer the Lottery to a third
10 party.

11 (k) Any tangible personal property used exclusively in
12 connection with the lottery that is owned by the Department and
13 leased to the private manager shall be owned by the Department
14 in the name of the State and shall be considered to be public
15 property devoted to an essential public and governmental
16 function.

17 (l) The Department may exercise any of its powers under
18 this Section or any other law as necessary or desirable for the
19 execution of the Department's powers under this Section.

20 (m) Neither this Section nor any management agreement
21 entered into under this Section prohibits the General Assembly
22 from authorizing forms of gambling that are not in direct
23 competition with the Lottery.

24 (n) The private manager shall be subject to a complete
25 investigation in the third, seventh, and tenth years of the
26 agreement (if the agreement is for a 10-year term) by the

1 Department in cooperation with the Auditor General to determine
2 whether the private manager has complied with this Section and
3 the management agreement. The private manager shall bear the
4 cost of an investigation or reinvestigation of the private
5 manager under this subsection.

6 (o) The powers conferred by this Section are in addition
7 and supplemental to the powers conferred by any other law. If
8 any other law or rule is inconsistent with this Section,
9 including, but not limited to, provisions of the Illinois
10 Procurement Code, then this Section controls as to any
11 management agreement entered into under this Section. This
12 Section and any rules adopted under this Section contain full
13 and complete authority for a management agreement between the
14 Department and a private manager. No law, procedure,
15 proceeding, publication, notice, consent, approval, order, or
16 act by the Department or any other officer, Department, agency,
17 or instrumentality of the State or any political subdivision is
18 required for the Department to enter into a management
19 agreement under this Section. This Section contains full and
20 complete authority for the Department to approve any contracts
21 entered into by a private manager with a vendor providing
22 goods, services, or both goods and services to the private
23 manager under the terms of the management agreement, including
24 subcontractors of such vendors.

25 Upon receipt of a written request from the Chief
26 Procurement Officer, the Department shall provide to the Chief

1 Procurement Officer a complete and un-redacted copy of the
2 management agreement or any contract that is subject to the
3 Department's approval authority under this subsection (o). The
4 Department shall provide a copy of the agreement or contract to
5 the Chief Procurement Officer in the time specified by the
6 Chief Procurement Officer in his or her written request, but no
7 later than 5 business days after the request is received by the
8 Department. The Chief Procurement Officer must retain any
9 portions of the management agreement or of any contract
10 designated by the Department as confidential, proprietary, or
11 trade secret information in complete confidence pursuant to
12 subsection (g) of Section 7 of the Freedom of Information Act.
13 The Department shall also provide the Chief Procurement Officer
14 with reasonable advance written notice of any contract that is
15 pending Department approval.

16 Notwithstanding any other provision of this Section to the
17 contrary, the Chief Procurement Officer shall adopt
18 administrative rules, including emergency rules, to establish
19 a procurement process to select a successor private manager if
20 a private management agreement has been terminated. The
21 selection process shall at a minimum take into account the
22 criteria set forth in items (1) through (4) of subsection (e)
23 of this Section and may include provisions consistent with
24 subsections (f), (g), (h), and (i) of this Section. The Chief
25 Procurement Officer shall also implement and administer the
26 adopted selection process upon the termination of a private

1 management agreement. The Department, after the Chief
2 Procurement Officer certifies that the procurement process has
3 been followed in accordance with the rules adopted under this
4 subsection (o), shall select a final offeror as the private
5 manager and sign the management agreement with the private
6 manager.

7 Except as provided in Sections 21.5, 21.6, 21.7, 21.8, ~~and~~
8 21.9, and 21.10, the Department shall distribute all proceeds
9 of lottery tickets and shares sold in the following priority
10 and manner:

11 (1) The payment of prizes and retailer bonuses.

12 (2) The payment of costs incurred in the operation and
13 administration of the Lottery, including the payment of
14 sums due to the private manager under the management
15 agreement with the Department.

16 (3) On the last day of each month or as soon thereafter
17 as possible, the State Comptroller shall direct and the
18 State Treasurer shall transfer from the State Lottery Fund
19 to the Common School Fund an amount that is equal to the
20 proceeds transferred in the corresponding month of fiscal
21 year 2009, as adjusted for inflation, to the Common School
22 Fund.

23 (4) On or before the last day of each fiscal year,
24 deposit any remaining proceeds, subject to payments under
25 items (1), (2), and (3) into the Capital Projects Fund each
26 fiscal year.

1 (p) The Department shall be subject to the following
2 reporting and information request requirements:

3 (1) the Department shall submit written quarterly
4 reports to the Governor and the General Assembly on the
5 activities and actions of the private manager selected
6 under this Section;

7 (2) upon request of the Chief Procurement Officer, the
8 Department shall promptly produce information related to
9 the procurement activities of the Department and the
10 private manager requested by the Chief Procurement
11 Officer; the Chief Procurement Officer must retain
12 confidential, proprietary, or trade secret information
13 designated by the Department in complete confidence
14 pursuant to subsection (g) of Section 7 of the Freedom of
15 Information Act; and

16 (3) at least 30 days prior to the beginning of the
17 Department's fiscal year, the Department shall prepare an
18 annual written report on the activities of the private
19 manager selected under this Section and deliver that report
20 to the Governor and General Assembly.

21 (Source: P.A. 98-463, eff. 8-16-13; 98-649, eff. 6-16-14;
22 99-933, eff. 1-27-17.)

23 (20 ILCS 1605/20) (from Ch. 120, par. 1170)

24 Sec. 20. State Lottery Fund.

25 (a) There is created in the State Treasury a special fund

1 to be known as the "State Lottery Fund". Such fund shall
2 consist of all revenues received from (1) the sale of lottery
3 tickets or shares, (net of commissions, fees representing those
4 expenses that are directly proportionate to the sale of tickets
5 or shares at the agent location, and prizes of less than \$600
6 which have been validly paid at the agent level), (2)
7 application fees, and (3) all other sources including moneys
8 credited or transferred thereto from any other fund or source
9 pursuant to law. Interest earnings of the State Lottery Fund
10 shall be credited to the Common School Fund.

11 (b) The receipt and distribution of moneys under Section
12 21.5 of this Act shall be in accordance with Section 21.5.

13 (c) The receipt and distribution of moneys under Section
14 21.6 of this Act shall be in accordance with Section 21.6.

15 (d) The receipt and distribution of moneys under Section
16 21.7 of this Act shall be in accordance with Section 21.7.

17 (e) The receipt and distribution of moneys under Section
18 21.8 of this Act shall be in accordance with Section 21.8.

19 (f) The receipt and distribution of moneys under Section
20 21.9 of this Act shall be in accordance with Section 21.9.

21 (g) The receipt and distribution of moneys under Section
22 21.10 of this Act shall be in accordance with Section 21.10.

23 (Source: P.A. 98-649, eff. 6-16-14.)

24 (20 ILCS 1605/21.10 new)

25 Sec. 21.10. Scratch-off for Catholic Charities of the

1 Archdiocese of Chicago's Basic Human Needs Services.

2 (a) The Department shall offer a special instant
3 scratch-off game to benefit the Catholic Charities of the
4 Archdiocese of Chicago's Basic Human Needs Services. The game
5 shall commence on July 1, 2017 or as soon thereafter, at the
6 discretion of the Director, as is reasonably practical. The
7 operation of the game shall be governed by this Act and any
8 rules adopted by the Department. If any provision of this
9 Section is inconsistent with any other provision of this Act,
10 then this Section governs.

11 (b) The Basic Human Needs Revenue Fund is created as a
12 special fund in the State treasury. The net revenue from the
13 scratch-off game to benefit the Catholic Charities of the
14 Archdiocese of Chicago's Basic Human Needs Services shall be
15 deposited into the Basic Human Needs Revenue Fund. Moneys
16 deposited into the Basic Human Needs Revenue Fund under this
17 Section shall be used, subject to appropriation, by the
18 Department of Human Services to fund Catholic Charities of the
19 Archdiocese of Chicago's Basic Human Needs Services.

20 For purposes of this subsection, "net revenue" means the
21 total amount for which tickets have been sold less the sum of
22 the amount paid out in the prizes and the actual administrative
23 expenses of the Department solely related to the scratch-off
24 game under this Section.

25 (c) During the time that tickets are sold for the
26 scratch-off game to benefit the Catholic Charities of the

1 Archdiocese of Chicago's Basic Human Needs Services, the
2 Department shall not unreasonably diminish the efforts devoted
3 to marketing any other instant scratch-off lottery game.

4 (d) The Department may adopt any rules necessary to
5 implement and administer the provisions of this Section.

6 Section 10. The State Finance Act is amended by adding
7 Section 5.878 as follows:

8 (30 ILCS 105/5.878 new)

9 Sec. 5.878. The Basic Human Needs Revenue Fund.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.".