

CHAPTER 303

GOVERNMENT - STATE

SENATE BILL 04-204

BY SENATOR(S) Anderson, Andrews, and McElhany;
also REPRESENTATIVE(S) Coleman, Vigil, and Williams S.

AN ACT**CONCERNING THE ADMINISTRATION OF THE STATE-SUPERVISED LOTTERY PROGRAM.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-35-202 (2), Colorado Revised Statutes, is amended to read:

24-35-202. State lottery division - creation - location - enterprise status.

(2) The state lottery division, including the Colorado lottery commission created in section 24-35-207, and the director of the state lottery division shall exercise their powers and perform their duties and functions specified in this part 2 under the department of revenue as if the same were transferred to the department by a ~~type 1~~ **TYPE 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of this title; EXCEPT THAT THE COMMISSION SHALL HAVE FULL AND EXCLUSIVE AUTHORITY TO PROMULGATE RULES RELATED TO THE LOTTERY WITHOUT ANY APPROVAL BY, OR DELEGATION OF AUTHORITY FROM, THE DEPARTMENT.

SECTION 2. 24-35-204 (3) (a) and (3) (c), Colorado Revised Statutes, are amended to read:

24-35-204. Director - qualifications - powers and duties. (3) The director, as administrative head of the division, shall direct and supervise all its administrative and technical activities. In addition to the duties imposed upon the director elsewhere in this part 2, it shall be the director's duty:

(a) To supervise and administer the operation of the lottery in accordance with the provisions of this part 2 and the rules of the commission, STATE FISCAL RULES, STATE PERSONNEL RULES, AND STATE PROCUREMENT RULES, to perform all duties and obligations pursuant to and administer any multistate agreements, and to provide for all expenses incurred in connection with any such multistate agreements unless such

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

expenses are otherwise provided for in such multistate agreements;

(c) To employ and direct such personnel as may be necessary to carry out the purposes of this part 2, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101. The director by agreement may secure and, pursuant to section 24-35-210 (2), provide payment for such services as ~~he~~ THE DIRECTOR may deem necessary from any department, agency, or unit of the state government and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law. THE DIRECTOR SHALL ENSURE THAT THE DIVISION CONDUCTS FULL CRIMINAL BACKGROUND INVESTIGATIONS OF VENDORS, OFFICERS OF LICENSED SALES AGENTS, MEMBERS OF THE COMMISSION, AND DIVISION EMPLOYEES AS ARE NECESSARY TO ENSURE THE SECURITY AND INTEGRITY OF THE OPERATION OF THE STATE LOTTERY. THE EXECUTIVE DIRECTOR MAY REQUEST THE DIVISION OF GAMING TO PERFORM SUCH INVESTIGATIONS ON MEMBERS OF THE COMMISSION, DIVISION EMPLOYEES, AND VENDORS.

SECTION 3. The introductory portion to 24-35-205 (1) and 24-35-205 (4) and (6), Colorado Revised Statutes, are amended, and the said 24-35-205 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-35-205. Contractors supplying services, equipment, or materials - gaming equipment - disclosures. (1) Any person, firm, association, or corporation, referred to in this section as "supplier", ~~which~~ THAT enters into a contract to supply SERVICES, EQUIPMENT, OR MATERIALS OR gaming materials or equipment for use in the operation of the state lottery shall first disclose to the ~~lottery~~ commission:

(4) No person, firm, association, or corporation contracting to supply SERVICES, EQUIPMENT, OR MATERIALS OR gaming equipment or materials to the state for use in the operation of the state lottery shall be directly or indirectly connected with any person, firm, association, or corporation licensed as a sales agent under this part 2, any employee of the department of revenue, the director, or the members of the commission.

(6) No contract for the supply of SERVICES, EQUIPMENT, OR MATERIALS OR gaming materials or equipment for use in the operation of the state lottery shall be enforceable against the state if the provisions of this section are not complied with.

(11) THE REQUIREMENTS OF THE PROCUREMENT CODE, ARTICLES 101 TO 112 OF THIS TITLE, SHALL APPLY TO ALL CONTRACTS ENTERED INTO BY THE LOTTERY. THE EXECUTIVE DIRECTOR SHALL ENSURE THAT ANY COMPETITIVE SOLICITATION PROCESS CONDUCTED BY THE LOTTERY IS DESIGNED TO ENCOURAGE BROAD VENDOR COMPETITION.

(12) THE EVALUATION TEAM FOR ANY BID FOR A CONTRACT FOR SERVICES, EQUIPMENT, OR MATERIALS OR FOR THE PURCHASE OR LEASE OF GAMING EQUIPMENT AND MATERIALS, THE AMOUNT OF WHICH BID IS IN EXCESS OF ONE MILLION DOLLARS, SHALL INCLUDE AN INDIVIDUAL WHO IS NEITHER EMPLOYED BY NOR AFFILIATED WITH THE DIVISION AND WHO POSSESSES SPECIFIC EXPERTISE IN THE PROCUREMENT OF THE SERVICES, EQUIPMENT, OR MATERIALS OR IN THE PURCHASE OR LEASE OF THE GAMING

EQUIPMENT OR MATERIALS THAT ARE THE SUBJECT OF THE BID. SUCH INDIVIDUAL SHALL BE SELECTED BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBSECTION (12).

SECTION 4. 24-35-207 (6) and (8), Colorado Revised Statutes, are amended to read:

24-35-207. Colorado lottery commission - creation. (6) Commission members shall receive as compensation for their services UP TO one hundred dollars PER MONTH for each ~~day they are in attendance at any~~ MONTH IN WHICH THERE IS AN official commission meeting and shall be reimbursed for necessary traveling and other reasonable expenses incurred in the performance of their official duties. Upon appointment, and prior to confirmation by the senate, each member shall file with the secretary of state a financial disclosure statement in the form required to be filed by elected state officials. Such statement shall be renewed as of each January 1 during the member's term of office. The ~~chairman~~ CHAIRPERSON of the lottery commission shall also be reimbursed for necessary traveling and other reasonable expenses incurred in the performance of his OR HER duties related to his OR HER participation on the three-member panel established in sections 24-35-205 (5) (a) and 24-35-206 (3).

(8) A majority of the commission shall constitute a quorum, and the concurrence of a majority of the commission shall be required for any final determination by the commission. The commission shall keep a complete and accurate AUDIO record of all its meetings FOR A PERIOD OF AT LEAST THREE YEARS.

SECTION 5. 24-35-209 (1) (b) and (1) (e), Colorado Revised Statutes, are amended, and the said 24-35-209 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

24-35-209. Conflict of interest. (1) Members of the commission and employees of the division are declared to be positions of public trust and, therefore, in order to insure the confidence of the people of the state in the integrity of the division, its employees, and the commission, the following restrictions shall apply:

(b) No member of the commission or employee of the division, including the director, and no member of their immediate families, shall receive any gift, gratuity, employment, or other thing of value from any person, corporation, association, or firm that contracts with or that offers services, supplies, materials, or equipment used by the division in the normal course of its operations. ~~except that such persons may accept on an infrequent basis in the normal course of business certain nonpecuniary items of insignificant value, as shall be recommended by the director and as shall be established by the commission by rule and regulation promulgated pursuant to section 24-35-208 (1).~~

(e) ~~In no event shall a member of the commission or employee of the division or any member of their immediate families accept any item permitted by paragraph (b) of this subsection (1) if such acceptance is based on an agreement or understanding that such person's vote, opinion, judgment, or actions will thereby be influenced.~~

(f) NO MEMBER OF THE COMMISSION OR EMPLOYEE OF THE DIVISION WHO

TERMINATES HIS OR HER RELATIONSHIP WITH THE COMMISSION OR THE DIVISION SHALL, FOR A PERIOD OF ONE YEAR FROM THE DATE OF TERMINATION OF MEMBERSHIP ON THE COMMISSION OR EMPLOYMENT WITH THE DIVISION, AS APPLICABLE, ACCEPT EMPLOYMENT WITH ANY LOTTERY VENDOR OR REPRESENT ANY LOTTERY VENDOR BEFORE THE DIVISION OR THE COMMISSION.

(g) THE COMMISSION SHALL ADOPT BY RULE A CODE OF ETHICS THAT SHALL BE BINDING UPON ALL OF ITS MEMBERS. EACH MEMBER OF THE COMMISSION SHALL COMPLETE TRAINING AT LEAST ONCE EACH YEAR ON THE CODE AND SHALL FURTHER CERTIFY ON AN ANNUAL BASIS THAT HE OR SHE IS KNOWLEDGEABLE ABOUT THE CODE AND HAS NO CONFLICTS OF INTEREST PROSCRIBED BY THIS SECTION.

SECTION 6. 24-35-210 (4.1) (a), Colorado Revised Statutes, is amended, and the said 24-35-210 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-35-210. Lottery fund. (1.5) THE DIVISION SHALL DEPOSIT ALL LIQUIDATED DAMAGES INTO THE LOTTERY FUND, AND ANY REVENUES RECEIVED FROM LIQUIDATED DAMAGES SHALL NOT BE EXPENDED BY THE DIVISION UNLESS APPROPRIATED BY THE GENERAL ASSEMBLY. THE DIVISION SHALL NOT RECEIVE ANY GOODS OR SERVICES IN LIEU OF AN ASSESSMENT OF LIQUIDATED DAMAGES, NOR SHALL THE DIVISION REQUIRE A VENDOR TO PURCHASE GOODS AND SERVICES IN LIEU OF AN ASSESSMENT OF LIQUIDATED DAMAGES.

(4.1) (a) The amount to be transferred from the lottery fund to the conservation trust fund shall be forty percent of the net proceeds of the lottery for the preceding fiscal quarter after payment of the expenses of the division and any prizes for the lottery and after reserving sufficient moneys, as of the end of the fiscal year, to ensure the operation of the lottery for the ensuing fiscal year. THE MONEYS RESERVED BY THE LOTTERY SHALL BE HELD IN CASH AND INVESTMENTS. Beginning with the fourth quarter of fiscal year 1998-99, and each fiscal year thereafter, distributions of net lottery proceeds to the conservation trust fund shall be made in accordance with the provisions of section 33-60-104 (1) (a), C.R.S.

SECTION 7. 24-35-211 (1) and (2), Colorado Revised Statutes, are amended, and the said 24-35-211 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-35-211. Audits and annual reports. (1) The lottery fund shall be audited at least annually by or under the direction of the state auditor, who shall submit a report of the audit to the legislative audit committee. THE ANNUAL AUDIT SHALL INCLUDE COMPLIANCE WITH SECTION THREE OF ARTICLE XXVII OF THE STATE CONSTITUTION. The expenses of the audit shall be paid from the lottery fund.

(2) The commission and director shall make an annual report by March 1 of each year to the governor, THE LEGISLATIVE AUDIT COMMITTEE, AND THE JOINT BUDGET COMMITTEE that shall include a summary of the division's activities for the previous year, a DETAILED statement of lottery revenues, prize disbursements, expenses of the division, allocation of remaining revenues, and any recommendations for change in the statutes ~~which~~ THAT the commission or director deems necessary or desirable. The report shall be public.

(3) THE DIRECTOR SHALL EVALUATE THE LOTTERY'S EXPENDITURES TO DETERMINE AREAS WHERE THE EXPENDITURES MAY BE REDUCED WITH THE GOAL OF INCREASING NET PROCEEDS AS A PERCENTAGE OF SALES PAID TO THE BENEFICIARIES. NOT LATER THAN JULY 1, 2005, THE DIRECTOR SHALL REPORT TO THE GOVERNOR, THE LEGISLATIVE AUDIT COMMITTEE, AND THE JOINT BUDGET COMMITTEE ON ANY RECOMMENDATIONS HE OR SHE DESIRES TO MAKE BASED UPON THE EVALUATION.

SECTION 8. 24-35-212 (5) (d), Colorado Revised Statutes, is amended to read:

24-35-212. Prizes. (5) (d) If forfeited by the lottery winner, the non-cash prize shall be ~~disbursed as determined by the director~~ SOLD AT FAIR MARKET VALUE. THE PROCEEDS OF THE SALE SHALL BE TRANSMITTED TO THE STATE TREASURER FOR DISBURSEMENT IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 26-13-118 (3), C.R.S.

SECTION 9. 24-35-218 (1) (c) (I), (1) (c) (III), (1) (c) (V), (1) (c) (VI), and (1) (c) (VIII), Colorado Revised Statutes, are amended, and the said 24-35-218 (1) (c) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-35-218. Division subject to termination. (1) (c) In conducting the analysis and evaluation required by subparagraph (II) of paragraph (b) of this subsection (1), the state auditor shall take into consideration, but not be limited to considering, the following factors:

(I) ~~The amount of revenue generated by the lottery for the conservation trust fund and the percentage that such amount bears to total state revenues~~ ITS BENEFICIARIES AS SPECIFIED IN ARTICLE XXVII OF THE STATE CONSTITUTION;

(III) An evaluation of the ~~performance~~ CONTRACTS, AND COMPLIANCE WITH SUCH CONTRACTS, of lottery equipment contractors and licensed sales agents;

(V) ~~The competitive effect of the lottery on other forms of legal gambling in the state, both profit and nonprofit in nature;~~

(VI) A REPORT ON THE RESULTS OF THE ANALYSIS PREPARED BY THE DIVISION ON THE socioeconomic profile of persons who play the lottery, INCLUDING INFORMATION COMPARING THE RESULTS OF PAST ANALYSES TO ASSESS THE MOVEMENT OF PERSONS FROM VARIOUS CATEGORIES;

(VIII) ~~Whether~~ AN EVALUATION OF THE EFFECTIVENESS AND EFFICIENCY OF the division's complaint, investigation, and disciplinary procedures; ~~adequately protect the public;~~

(XII) A REPORT ON ANY GIFTS AND GRATUITIES RECEIVED BY MEMBERS OF THE COMMISSION AND EMPLOYEES OF THE DIVISION.

SECTION 10. Effective date. This act shall take effect July 1, 2004.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 2004