

SB 2173

THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 2173
As Amended

SENATE BILL NO. 2173 - By: FORD of the Senate and PETERS of the House.

[amusements and sports - Oklahoma Education Lottery Privatization Act - Oklahoma Lottery Asset Review Board - codification - noncodification - emergency]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Education Lottery Privatization Act".

SECTION 2. AMENDATORY Section 4, Chapter 58, O.S.L. 2003 (3A O.S. Supp. 2007, Section 703), is amended to read as follows:

Section 703. As used in the Oklahoma Education Lottery Act:

1. "Administrative expenses" means operating expenses, excluding amounts set aside for prizes, regardless of whether such prizes are claimed and excluding amounts deposited to the Fidelity Revolving Fund pursuant to Section ~~20~~ 719 of this ~~act~~ title;

2. "Asset Review Board" means the Oklahoma Lottery Asset Review Board;

1 3. "Board" means the board of trustees of the Oklahoma Lottery
2 Commission;

3 ~~3.~~ 4. "Capital outlay projects" means the acquisition,
4 construction, installation, modification, renovation, repair,
5 extension, renewal, replacement, or rehabilitation of land,
6 interests in land, buildings, structures, facilities, or other
7 improvements and the acquisition, installation, modification,
8 renovation, repair, extension, renewal, replacement, rehabilitation,
9 or furnishing of fixtures, machinery, equipment, computers,
10 software, laboratories, furniture, textbooks, and reference material
11 or other property of any nature whatsoever used on, in, or in
12 connection with educational facilities;

13 ~~4.~~ 5. "Concession agreement" means that agreement, and all
14 schedules, exhibits and attachments thereto, entered into subject to
15 competitive standards adopted by the Asset Review Board, pursuant to
16 which the Asset Review Board grants a lease, license or other
17 contractual right to a third party to manage or operate the state's
18 ongoing oversight;

19 6. "Commission" means the Oklahoma Lottery Commission;

20 ~~5.~~ 7. "Educational facilities" means land, structures, and
21 buildings owned or operated by and through the Oklahoma State
22 Regents for Higher Education, the State Board of Education, the
23 Oklahoma Department of Career and Technology Education, or by any

1 school district within this state. A public road or highway leading
2 to an educational facility shall not be considered an educational
3 facility;

4 ~~6-~~ 8. "Executive director" means the chief executive officer
5 and administrator of the Oklahoma Lottery Commission;

6 ~~7-~~ 9. "Gross proceeds" means all revenue derived from the sale
7 of lottery tickets or shares and all other monies derived from the
8 lottery;

9 ~~8-~~ 10. "Instant ticket" means a lottery ticket that requires
10 the player to remove a coating to determine if a prize has been won;

11 ~~9-~~ 11. "Lottery", "lotteries", "lottery game", or "lottery
12 games" means an activity conducted by the Commission Asset Review
13 Board or third party under the Oklahoma Education Lottery Act
14 through which prizes are awarded or distributed by chance among
15 persons who have paid for a chance or other opportunity to receive a
16 prize, including, but not limited to, instant tickets and on-line
17 games, but excluding charity bingo and games conducted pursuant to
18 the Oklahoma Charity Games Act, poker, blackjack, slot machines,
19 pulltab machines, card games, dice, dominos, roulette wheels, or
20 other similar forms of gambling, or electronic or video forms of
21 these gambling activities, or games where winners are determined by
22 the outcome of a sports contest, or pari-mutuel betting conducted
23 pursuant to the Oklahoma Horse Racing Act;

1 ~~10.~~ 12. "Major procurement contract" means any gaming product
2 or service costing in excess of Twenty-five Thousand Dollars
3 (\$25,000.00), including, but not limited to, major advertising
4 contracts, annuity contracts, prize payment agreements, consulting
5 services, equipment, tickets, and other products and services unique
6 to the Oklahoma lottery, but not including materials, supplies,
7 equipment, and services common to the ordinary operations of the
8 Commission;

9 ~~11.~~ 13. "Member" or "members" means a trustee or trustees of
10 the board of trustees of the Oklahoma Lottery Commission;

11 ~~12.~~ 14. "Member of a minority" means an individual who is a
12 member of a race which comprises less than fifty percent (50%) of
13 the total population of Oklahoma;

14 ~~13.~~ 15. "Minority business" means any business which is owned
15 by:

- 16 a. an individual who is a member of a minority who
17 reports as the personal income of the individual for
18 Oklahoma income tax purposes the income of the
19 business,
- 20 b. a partnership in which a majority of the ownership
21 interest is owned by one or more members of a minority
22 who report as their personal income for Oklahoma

1 income tax purposes more than fifty percent (50%) of
2 the income of the partnership, or

3 c. a corporation organized under the laws of this state
4 in which a majority of the common stock is owned by
5 one or more members of a minority who report as their
6 personal income for Oklahoma income tax purposes more
7 than fifty percent (50%) of the distributed earnings
8 of the corporation;

9 ~~14.~~ 16. "Net proceeds" means all revenue derived from the sale
10 of lottery tickets or shares and all other monies derived from the
11 lottery less operating expenses;

12 ~~15.~~ 17. "On-line games" means a game where tickets or shares
13 are purchased through a network of computer terminals located at
14 retail outlets, and such terminals are linked to a central computer
15 that records the purchases;

16 ~~16.~~ 18. "Operating expenses" means all costs of doing business,
17 including but not limited to, prizes, commissions, and other
18 compensation paid to retailers, advertising and marketing costs,
19 personnel costs, capital costs, amounts held in or paid from the
20 Fidelity Revolving Fund pursuant to Section ~~20~~ 719 of this ~~act~~
21 title, debt service payments for the payment of the initial expenses
22 of start-up, administration, and operation of the Commission and the
23 lottery, and other operating costs;

1 ~~17.~~ 19. "Pari-mutuel betting" means the pari-mutuel system of
2 wagering as defined in Section 200.1 of ~~Title 3A of the Oklahoma~~
3 ~~Statutes~~ this title. Such term shall not include a lottery game
4 which may be predicated on a horse-racing scheme that does not
5 involve actual track events or traditional lottery games which may
6 involve the distribution of winnings by pools;

7 ~~18.~~ 20. "Person" means any individual, corporation,
8 partnership, unincorporated association, limited liability company,
9 or other legal entity;

10 ~~19.~~ 21. "Retailer" means a person who sells lottery tickets or
11 shares on behalf of the Commission pursuant to a contract;

12 ~~20.~~ 22. "Share" means any intangible evidence of participation
13 in a lottery game;

14 ~~21.~~ 23. "Ticket" means any tangible evidence issued by the
15 lottery to provide participation in a lottery game; and

16 ~~22.~~ 24. "Vendor" means a person who provides or proposes to
17 provide goods or services to the Commission, Asset Review Board or
18 third party pursuant to a major procurement contract, but does not
19 include an employee of the Commission, a retailer, or a state agency
20 or instrumentality thereof. Such term does not include any
21 corporation whose shares are publicly traded and which is the parent
22 company of the contracting party in a major procurement contract.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 736 of Title 3A, unless there is
3 created a duplication in numbering, reads as follows:

4 A. There is hereby created the Oklahoma Lottery Asset Review
5 Board, to be composed of the Lieutenant Governor, who shall serve as
6 the chair, President Pro Tempore of the Senate or designee, Speaker
7 of the House of Representatives or designee, State Treasurer,
8 Attorney General, State Superintendent of Public Instruction,
9 Chancellor of the Oklahoma State Regents for Higher Education and
10 the Executive Director of the Oklahoma Department of Career
11 Technology Education. The Asset Review Board shall terminate
12 effective December 31, 2008.

13 B. The Asset Review Board shall have general responsibility for
14 the implementation of this section, the lease, license or concession
15 of the lottery and the oversight and implementation of any
16 concession agreements for the lease, license or concession of the
17 lottery. The Asset Review Board shall be authorized, subject to
18 standards approved by the Asset Review Board, to consider
19 qualifications and proposals for the lease, license or concession of
20 the lottery. The Asset Review Board may enter into such concession
21 agreements if such agreements are approved by a vote of at least six
22 of the eight members of the Asset Review Board. The concession
23 agreements are subject to the final approval of the Governor. The

1 Governor has fourteen calendar days to approve such agreements and
2 if the Governor takes no action during the specified time period,
3 the agreement will not become effective. The Asset Review Board
4 exercises supervisory authority over the concession sufficient to
5 implement the terms of the concession agreement and to affect the
6 purposes of this section.

7 C. The Asset Review Board shall be empowered to retain
8 advisors, consultants and attorneys to review and analyze the
9 lottery operations and assist the Asset Review Board in the lease,
10 license or concession of the operations of the lottery.

11 D. Net proceeds resulting from such concession agreement
12 authorized under this section shall be deposited into the Oklahoma
13 Education Lottery Trust Fund.

14 SECTION 4. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-20-08 - DO
19 PASS, As Amended and Coauthored.