Bill Analysis

Phil Mullin *Legislative Service Commission*

H.B. 469

123rd General Assembly
(As Introduced)

Reps. Corbin, Patton, Jolivette, Willamowski, Hartnett, Pringle, Bender, Goodman, Evans, Smith, DePiero, Allen

BILL SUMMARY

- Creates a license that authorizes charitable organizations to conduct regular bingo and instant bingo.
- Requires the licensing of manufacturers and distributors of bingo supplies or equipment.
- Regulates the conduct of raffles and of instant bingo.
- Establishes a graduated bingo license fee schedule for charitable organizations based on gross annual receipts.
- Creates the Charitable Gaming Commission and transfers to it the regulatory and licensing authority over charitable gaming now exercised by the Attorney General.
- Levies a tax on the sale of bingo supplies or equipment by distributors to charitable organizations.
- Makes other changes in the Charitable Gambling Law.

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CONTENT AND OPERATION

The conduct of bingo: in general

Current scheme of chance prohibition and exemption

Current law prohibits any person from establishing, promoting, operating, or knowingly engaging in conduct that facilitates any scheme or game of chance conducted for profit (sec. 2915.02(A)(2)). This prohibition, however, does not apply to a scheme of chance conducted for profit by a *charitable organization*, as this term is defined in the Charitable Gambling Law (see **COMMENT**), if the organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code (see **COMMENT**) and if all of the money or assets received from the scheme of chance after the deduction only of prizes paid out during the conduct of the scheme of chance are used by, or are given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), (a)(2), or (a)(3) of the Internal Revenue Code and is either a

governmental unit or an organization that is tax-exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code. Also, the scheme of chance cannot be conducted during, or within ten hours of, a bingo game conducted for amusement purposes only (sec. 2915.02(D)(l)). Although certain charitable organizations, such as veteran's organizations and fraternal organizations, qualify as charitable organizations under the Charitable Gambling Law and can receive a bingo license, they cannot conduct schemes of chance under the exemption described above since they are not described in subsection 501(c)(3) of the Internal Revenue Code.

Elimination of exemption and expanded bingo license

The bill transfers from the Attorney General to the Charitable Gaming Commission, which the bill creates (see "***Charitable Gaming Commission***," below), the authority to issue bingo licenses and regulate the conduct of regular bingo, instant bingo, and raffles. It also removes the exemption for schemes of chance described in the preceding paragraph and authorizes the Charitable Gaming Commission to issue a license that allows any charitable organization to conduct regular bingo, instant bingo, and seal card games. (Secs. 2915.01(S)(1) and (2), 2915.02(D)(1), and 2915.08.)

The annual application fee for a *bingo license* so issued is based on gross annual receipts under the bill. Generally, a charitable organization whose gross annual receipts are $300,000 or less must obtain a class A license for a fee of $250; if its gross annual receipts exceed $300,000 but are $600,000 or less, the charitable organization must obtain a class B license for a fee of $500; if its gross annual receipts exceed $600,000 but are $1 million or less, the charitable organization must obtain a class C license for a fee of $1,000; and if its gross annual receipts exceed $1 million, the charitable organization must obtain a class D license for a fee of $2,000. The annual fee for a charitable bingo license under current law generally is $100. (Sec. 2915.08(A)(1).)

New meanings of bingo, instant bingo, and raffle; the expanded offense of cheating

The bill defines "bingo" as the conduct of regular bingo, instant bingo, raffles, and seal cards, specifies that bingo is not a scheme or game of chance, and specifically includes bingo within the scope of the criminal offense of cheating.[1]

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[1] *In this regard, cheating would be committed if a person, with purpose to defraud or knowing that the person is facilitating a fraud, engages in conduct designed to corrupt the outcome of bingo. Cheating is either a misdemeanor of the first degree or a felony of the fifth degree.*

(Secs. 2915.01(C), (D), and (S) and 2915.05(A)(4).) The bill defines "instant bingo" as a form of bingo that uses a folded or banded ticket or a card with a perforated tab on one side, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners (sec. 2915.01(FF)). "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffles are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. (Sec. 2915.01(GG).)

New offense of conducting illegal bingo

Current law prohibits any person, except a charitable organization that has obtained a bingo license from the Attorney General, from conducting or advertising a bingo game. A violation of this prohibition constitutes the offense of "conducting an illegal bingo game," a felony of the fourth degree. The bill instead prohibits any person, except a charitable organization that has obtained a bingo license from the Charitable Gaming Commission, from conducting or advertising a bingo session or any form of bingo except for raffles conducted by a charitable organization in a specified manner. A violation of this prohibition constitutes the offense of "conducting illegal bingo," a felony of the fourth degree unless the offender previously has been convicted of this offense, in which case the offense is a felony of the second degree. (Sec. 2915.07.)

Disciplinary action expansion

Under current law, the Attorney General may refuse to grant, and may suspend or revoke, a bingo license if the applicant for or holder of the license does any of certain specified acts (such as violating the Charitable Gambling Law, submitting certain incorrect or false information in a license application, or maintaining certain false or incorrect information in the records it must keep). In addition to transferring this authority to the Charitable Gaming Commission, the bill further authorizes the Commission to impose upon an applicant or license holder a *fine* in an amount not to exceed *$10,000* under these disciplinary circumstances. (Sec. 2915.08(B)(2).)

Meaning and use of "net profit"

The bill defines "net profit" as gross profit minus the expenses a charitable organization may lawfully incur under current law and "gross profit" as gross receipts minus the amount actually expended for the payment of prize awards (sec. 2915.01(JJ) and (KK)). Under the bill, charitable organizations must use 100% of the net profit derived from a regular bingo game or from a raffle, and at least 75%

of the net profit it derives from the conduct of instant bingo, for a charitable purpose listed in its license application. Failure to do so constitutes the offense of "illegally conducting bingo," a misdemeanor of the first degree on a first offense and a felony of the fourth degree on subsequent offenses. (Sec. 2915.09(A)(3) and (F).)

Licensing of bingo supply or equipment distributors

The bill prohibits any distributor from selling, offering to sell, or otherwise providing or offering to provide bingo supplies or equipment for use in Ohio without having obtained a distributor license from the Charitable Gaming Commission (sec. 2915.081(A)). A violator of this prohibition is guilty of the offense of "illegally operating as a distributor," a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense (sec. 2915.081(G)). The bill relatedly defines "distributor" as any person who purchases or obtains bingo supplies or equipment and who sells, offers for sale, or otherwise provides the bingo supplies or equipment to another for use in Ohio and "bingo supplies or equipment" as bingo cards or sheets, instant bingo tickets or cards, raffle tickets, seal card tickets, or devices for selecting, dispensing, or displaying bingo numbers, instant bingo tickets or cards, raffle tickets, and seal card tickets (sec. 2915.01(EE) and (HH)).

The bill authorizes the Commission to issue a distributor license to any person who meets the bill's requirements for being issued that license. The application for a distributor license must be on a form that the Commission prescribes, the license is valid for a period of one year, and the annual fee for the license is $2,500. (Sec. 2915.081(B).)

The bill authorizes the Commission to *refuse to issue* a distributor license to any person that has, or that has an officer, partner, or other person with an ownership interest of 10% or more who has: (1) been convicted of a felony under the laws of Ohio, another state, or the United States, (2) been convicted of any gambling offense, (3) made a material incorrect or false statement to the Commission in a license application submitted for a distributor license or to a gambling licensing authority in another jurisdiction in a similar application if the statement resulted in license revocation through administrative action in that jurisdiction, (4) submitted any incorrect or false information relating to the application if the information is material to the Commission's granting of the distributor license, (5) failed to correct any incorrect or false information material to the Commission's granting of the distributor license in the records the bill requires a distributor to maintain, or (6) had a license related to gambling revoked or suspended under the laws of Ohio, another state, or the United States (sec. 2915.081(C)). The Commission *must not issue* a distributor license to any person

that is involved in the conduct of bingo on behalf of a charitable organization or that is a lessor of premises used for the conduct of bingo (sec. 2915.081(D)). The Commission may *suspend or revoke* a distributor license for any of the reasons for which the Commission may refuse to issue a distributor license or if the distributor holding the license violates any provision of the Charitable Gambling Law or any rule adopted under it (sec. 2915.081(F)).

The bill prohibits a distributor from (1) selling, offering to sell, or otherwise providing or offering to provide bingo supplies or equipment to any person for use in Ohio except a charitable organization licensed to conduct bingo or to another licensed distributor, or (2) purchasing bingo supplies or equipment for use in Ohio except from a manufacturer licensed to sell bingo supplies or equipment or from another licensed distributor. The bill permits a distributor to *accept only checks* as payment for the sale of bingo supplies or equipment, and requires that payment by a distributor for purchases of bingo supplies or equipment be made only by check. (Sec. 2915.081(E).) A violator of either of these prohibitions also is guilty of "illegally operating as a distributor," as described above (sec. 2915.081(G)).

Licensing of bingo supply or equipment manufacturers

The bill prohibits any manufacturer from selling, offering to sell, or otherwise providing or offering to provide bingo supplies or equipment for use in Ohio without having obtained a manufacturer license from the Charitable Gaming Commission (sec. 2915.082(A)). A violator of this prohibition is guilty of the offense of "illegally operating as a manufacturer," a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense (sec. 2915.082(F)). The bill relatedly defines "manufacturer" as any person who assembles completed bingo supplies or equipment from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies or equipment to further their promotion or sale (sec. 2915.01(II)).

The bill authorizes the Commission to issue a manufacturer license to any person who meets the bill's requirements for being issued that license. The application for a manufacturer license must be on a form that the Commission prescribes, the license is valid for a period of one year, and the annual fee for the license is $2,500. (Sec. 2915.082(B).)

The bill authorizes the Commission to *refuse to issue* a manufacturer license to any person that has, or that has an officer, partner, or other person with an ownership interest of 10% or more who has: (1) been convicted of a felony under the laws of Ohio, another state, or the United States, (2) been convicted of any gambling offense, (3) made a material incorrect or false statement to the Commission in a license application submitted for a manufacturer license or to a gambling licensing authority in another jurisdiction in a similar application if the

statement resulted in license revocation through administrative action in the other jurisdiction, (4) submitted any incorrect or false information relating to the application if the information is material to the Commission's granting of the manufacturer license, (5) failed to correct any incorrect or false information material to the Commission's granting of the manufacturer license in the records the bill requires a manufacturer to maintain, or (6) had a license related to gambling revoked or suspended under the laws of Ohio, another state, or the United States (sec. 2915.082(C)). The Commission may *suspend or revoke* a manufacturer license for any of the reasons for which the Commission may refuse to issue a manufacturer license or if the manufacturer holding the license violates any provision of the Charitable Gambling Law or any rule adopted under it (sec. 2915.082(E)).

The bill prohibits a manufacturer from selling, offering to sell, or otherwise providing or offering to provide bingo supplies or equipment to any person in Ohio except a licensed distributor. It requires that a manufacturer *accept only checks* as payment for the sale of bingo supplies or equipment. (Sec. 2915.082(D).) A violator of this prohibition also is guilty of the offense of "illegally operating as a manufacturer," described above (sec. 2915.082(F)).

Other manners of "illegally conducting bingo"

The bill prohibits a charitable organization that conducts a regular bingo session from purchasing bingo supplies or equipment from any person other than a licensed distributor or a licensed charitable organization (sec. 2915.09(C)(10)). A violation of this prohibition constitutes "illegally conducting bingo" discussed in next paragraph.

Under current law, it generally is a felony of the fourth degree for a charitable organization to fail to use all of its *gross receipts* from bingo games for paying prizes, for the charitable purposes listed in its license application, for purchasing or leasing cards and other equipment used in its bingo games, for advertising the games, for hiring security personnel, and for renting premises in which to conduct bingo games. A violation of any other prohibition relating to the conduct of regular bingo games currently is a minor misdemeanor on a first offense and a misdemeanor of the first degree on subsequent offenses. The bill provides that a violation of any of the above-described prohibitions constitutes the offense of "illegally conducting bingo" and changes the penalty for a violation to a misdemeanor of the first degree on a first offense and a felony of the fourth degree on subsequent offenses. (Sec. 2915.09(F).)[2]

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[2] *See also "**Meaning and use of "net profit"**," above.*

Regulation of the conduct of instant bingo and of raffles

Instant bingo: in general

The bill explicitly allows a charitable organization that conducts instant bingo to do so at times other than during the charitable organization's bingo sessions (sec. 2915.091(C)). Current law defines "bingo session" as a period, not to exceed five continuous hours, during which a person conducts one or more regular bingo games, and the bill does not substantively affect that definition (sec. 2915.01(W)).

The bill also prohibits a charitable organization that conducts instant bingo from failing to comply with certain requirements of existing law governing the conduct of regular bingo games, from failing to use at least 75% of the net profit it derives from the conduct of instant bingo for a charitable purpose listed in its bingo license application, from permitting any person whom the charitable organization knows or should have known is under 18 years of age, or has been convicted of a felony or gambling offense in any jurisdiction, to be a bingo operator in the conduct of instant bingo, and from purchasing supplies or equipment used to conduct instant bingo from any person except a licensed distributor or a charitable organization that has been issued a bingo license by the Commission (sec. 2915.091(A)). A person who violates any of the latter prohibitions that relate to the conduct of instant bingo is guilty of the offense of "illegal instant bingo conduct," a misdemeanor of the first degree on a first offense and a felony of the fifth degree on subsequent offenses (sec. 2915.091(E)). In addition, the bill authorizes the Charitable Gaming Commission to adopt rules in accordance with the Administrative Procedure Act governing the conduct of instant bingo by charitable organizations (sec. 2915.091(D)).

Charitable gaming permits

Permit acquisition. The bill permits a charitable organization to have instant bingo conducted *on its behalf* at specified liquor permit premises if the liquor permit holder has obtained a charitable gaming permit in accordance with the following procedure (sec. 2915.091(B)(1)). The bill requires that annually, before each January 1, the holder of a D-4 (private club) or D-5 (night club) liquor permit for a particular premises obtain a charitable gaming permit from the Charitable Gaming Commission before the permit holder may conduct instant bingo at that premises, during the calendar year beginning on that date, on behalf of a charitable organization. The D-4 or D-5 permit holder must only conduct instant bingo on behalf of a single charitable organization at a particular permit premises. A charitable organization, however, may authorize the conduct of instant bingo on its behalf at more than one D-4 or D-5 liquor permit premises. (Sec. 2915.14(A).)

The application for a charitable gaming permit must contain or be accompanied by all of the following information or documentation: (1) the name, address, and telephone number of the permit holder for the D-4 or D-5 liquor permit premises, (2) the location of the D-4 or D-5 liquor permit premises, (3) the D-4 or D-5 liquor permit number, (4) the date the D-4 or D-5 liquor permit was issued, (5) a permit fee of $50, payable to the Commission, and (6) a charitable organization affiliation authorization form identifying the charitable organization that authorizes the D-4 or D-5 permit holder to conduct instant bingo on the charitable organization's behalf (sec. 2915.14(B)).

If the holder of a D-4 or D-5 liquor permit is found to have violated any statute or rule, the Commission may suspend or revoke the liquor permit holder's charitable gaming permit issued for the premises at which the violation occurred (sec. 2915.14(C)). In addition, no proceeds derived from the conduct of instant bingo under a charitable gaming permit can be used to compensate the holder of, or any employee, agent, or servant of the holder of, the permit (sec. 2915.091(B)(2)). A violation of the latter prohibition also constitutes the offense of "illegal instant bingo conduct," described above (sec. 2915.091(E)).

Liquor law changes. Current law prohibits any rule or order of the Liquor Control Commission, or of the Division of Liquor Control within the Department of Commerce, from prohibiting a charitable organization that holds a D-4 permit from selling or serving beer or intoxicating liquor under its permit in a portion of its premises merely because that portion of its premises is used at other times for the conduct of a regular charitable bingo game. A charitable organization, however, must not sell or serve beer or intoxicating liquor, or permit beer or intoxicating liquor to be consumed or seen, in the same location in its premises where a charitable bingo game is being conducted while the game is being conducted. (Secs. 4301.03(B) and 4303.17.)

The bill removes the provisions described in the immediately preceding paragraph and instead prohibits any rule or order of the Commission or Division from prohibiting the conduct of instant bingo under a charitable gaming permit at a premises that has been issued a D-4 or D-5 liquor permit. (Secs. 4301.03(B) and 4303.17.)

Raffles

The bill specifies that a charitable organization *does not need* a license to conduct a raffle drawing on the premises that it uses for its charitable programs. A charitable organization that has not been issued a bingo license by the Charitable Gaming Commission does not commit the offense of "conducting illegal bingo" if it conducts a raffle drawing in that manner. But, a person who conducts a raffle drawing for a charitable organization on premises other than premises it uses for

its charitable programs commits the offense of "illegal conduct of a raffle" that the bill creates. It is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on subsequent offenses. (Secs. 2915.07 and 2915.092.)

Definitions of "gambling offense" and "bingo game operator"

The bill expands the definition of "gambling offense" found in the Charitable Gambling Law to include four new criminal offenses the bill creates (illegally operating as a distributor, illegally operating as a manufacturer, illegal instant bingo conduct, and illegal conduct of a raffle), changes the term "bingo game operator" to "bingo operator," and adds to the specifically identified duties of a bingo operator the duties of selling bingo cards, identifying winners, selling instant bingo or raffle tickets, and selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle (sec. 2915.01(G)(1) and (U)).

Maintenance of records

Gross receipts, prize awards, inventories

Under current law, a charitable organization that conducts a bingo session or a scheme or game of chance is required to maintain for at least three years itemized lists of the gross receipts of, and all prizes awarded at, each bingo session or scheme or game of chance. Under the bill, these same records also must be maintained for each raffle and instant bingo a charitable organization conducts. The bill requires that a list also be maintained of the total prizes awarded from each game of chance, and of the name and address of all persons who are *winners of prizes of $600 or more* in value, rather than $100 or more in value, as under current law. The bill requires each charitable organization to conduct and record an *inventory* of all bingo supplies or equipment as of November 1 of each year and to provide the Charitable Gaming Commission with a notorized copy of each inventory. (Sec. 2915.10(A)(1) and (3) and (C).)

Net profit charitable recipients and participant numbers

Current law requires that these charitable organizations maintain for three years an itemized list of the charitable recipients of the *proceeds* of a bingo session or game or scheme of chance, including the name and address of each recipient to whom the money is distributed, and, if the organization uses the proceeds of a bingo session, or the money or assets received from a scheme or game of chance, for a charitable purpose, a list of each purpose and an itemized list of each expenditure for each purpose. The bill instead requires these charitable organizations to maintain an itemized list of the charitable recipients of the *net profit* of the instant bingo, bingo session, raffle, or game of chance, and, if the organization uses the net profit of the instant bingo or bingo session or the money

or assets received from a raffle or game of chance, a list showing each charitable purpose and an itemized list showing each expenditure for each purpose. (Sec. 2915.10(A)(4).)

The bill removes a provision of existing law that requires a charitable organization to maintain for three years a record of the number of persons who participate in any bingo session or scheme or game of change the organization conducts (sec. 2915.10(A)(5)).

Checking accounts

Under the bill, the gross profit from each instant bingo, bingo session, or raffle must be deposited into a checking account devoted exclusively to the instant bingo, bingo session, or raffle. Payment for allowable expenses and to charitable recipients must be made only by checks drawn on the account. (Sec. 2915.10(B).)

Rules

The bill authorizes the Commission, in accordance with the Administrative Procedure Act, to adopt rules establishing standards of accounting, record keeping, and reporting to ensure that charitable receipts are properly accounted for (sec. 2915.10(D)).

Special distributor records

The bill requires a distributor to maintain, for a period of three years after the date of sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies or equipment for use in Ohio. The record must include all of the following for each instance: (1) the name of the manufacturer from which the distributor purchased the bingo supplies or equipment and the date of the purchase, (2) the name and address of the charitable organization or other distributor to which the bingo supplies or equipment were sold or otherwise provided, (3) a description that clearly identifies the bingo supplies or equipment, and (4) invoices that include the serial numbers of all instant bingo tickets or cards sold or otherwise provided to each licensed charitable organization. (Sec. 2915.10(E).)

Special manufacturer records

The bill requires a manufacturer to maintain, for a period of three years after the date of sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies or equipment for use in Ohio. The record must include all of the following for each instance: (1) the name and address of the distributor to whom the bingo supplies or equipment were sold or otherwise

provided, (2) a description that clearly identifies the bingo supplies or equipment, and (3) invoices that include the serial numbers of all instant bingo tickets or cards sold or otherwise provided to each distributor. (Sec. 2915.10(F).)

Commission inspections and investigations

The bill authorizes the Commission to inspect, during normal business hours, the books, records, inventory, and business premises of a licensed distributor or manufacturer and to take other reasonable action to determine whether there has been a violation of the Charitable Gambling Law involving that distributor or manufacturer (sec. 2915.10(H)).

The bill also requires the Commission to adopt rules to provide for the issuance of standardized forms to charitable organizations to ensure that records and documentation are kept in accordance with the provisions of the Charitable Gambling Law described in the "***Maintenance of records***" portion of this analysis (sec. 2915.08(B)(1)).

Current law allows the Attorney General or any local law enforcement agency to investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization, to examine the accounts and records of the organization, to conduct inspections, audits, and observations of bingo games or schemes or games of chance while they are in session, and to conduct inspections of premises where they are conducted. The bill permits these investigations and other activities to be carried out by the Commission or any local law enforcement agency with regard to bingo sessions, instant bingo, raffles, and games of chance. Under the bill, the Commission or any other local law enforcement authority may take any other necessary and reasonable action to determine if there has been a violation of the Charitable Gambling Law, and any local law enforcement agency may proceed to enforce the Charitable Gambling Law after giving written notice to the Commission when commencing an action. (Sec. 2915.10(G).)

Sanctions

Whoever fails to comply with any of the requirements related to the maintenance of records, as described above, is guilty of the offense of "failure to keep requisite records," a felony of the fourth degree rather than a misdemeanor of the first degree as under current law (sec. 2915.10(J)).

Excise tax on sale of bingo supplies or equipment

The bill levies an excise tax on the sale for use in Ohio of bingo supplies or equipment sold to a charitable organization by a licensed distributor, for the

purpose of providing revenue for the support of elementary, secondary, vocational, and special education programs as determined in appropriations made by the General Assembly. The rate of the tax is 1% of the price (see below) of the bingo supplies or equipment sold. The Tax Commissioner must deposit all tax moneys remitted into the Charitable Gaming Education Fund, which the bill creates in the state treasury. (Sec. 2915.13(A) and (B).)

The bill prohibits a distributor required to pay the excise tax from failing to do either of the following: (1) file a return and pay the tax within the time required by rules the Tax Commissioner has adopted (see below) or (2) comply with any of those rules. A violation of either of these prohibitions is a minor misdemeanor on a first offense and a misdemeanor of the first degree on subsequent offenses. (Sec. 2915.13(F) and (G).)

If a distributor required to pay the excise tax does not pay the tax due on or before the last day of each month, the distributor must pay interest on the amount of the tax due at a rate of 5% per month, up to a maximum of 25%. The Tax Commissioner must send a notice of delinquency to the distributor. If a distributor does not pay the tax due and the interest on it within 20 days after the notice of delinquency is mailed, the Tax Commissioner may make an assessment against the distributor in the same manner and in accordance with the same procedures governing assessments against vendors under the Sales Tax Law. (Sec. 2915.13(C).)

The Commission may suspend or revoke a distributor license for the distributor's failure to pay the excise tax in the manner and at the time prescribed by rules the Tax Commissioner must adopt. In addition, at any time within five years after any amount of the tax imposed becomes due and payable, the Commission may commence a civil action in the courts of Ohio to collect any unpaid amount of the tax, together with interest and penalties. (Sec. 2915.13(D).)

The Tax Commissioner must adopt rules to provide for the collection and administration of the excise tax. These rules must specify how and when the tax moneys collected by a distributor must be remitted to the Tax Commissioner. (Sec. 2915.13(E).)

The bill defines "price" for purposes of the excise tax as meaning the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, in the complete performance of a sale of bingo supplies or equipment, without any deduction on account of the cost of the property sold, cost of materials used, labor or service cost, interest, discount paid or allowed after the sale is consummated, or any other expense. If the sale consists of the rental or lease of tangible personal property, "price" means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, in the complete

performance of the rental or lease, without any deduction for tax, interest, labor or service charge, damage liability waiver, termination or damage charge, discount paid or allowed after the rental or lease is consummated, or any other expense. The tax must be calculated and collected by the distributor on each payment paid by the lessee. (Sec. 2915.13(H).)

Charitable Gaming Commission

Members and organization

The bill creates the Charitable Gaming Commission consisting of seven members appointed by the Governor with the advice and consent of the Senate. No more than four Commission members can be members of the same political party, and Commission members must represent the various geographic regions of Ohio and must be United States citizens and Ohio residents. No Commission member can have any pecuniary interest in any contract or license the Commission awards. (Sec. 2915.15(A) and (B).)

Of the initial appointments to the Commission, three must be for terms ending January 1, 2001, two must be for terms ending January 1, 2002, and two must be for terms ending January 1, 2003. Thereafter, terms of office are for three years, with each term ending on the same day of the same month of the year as did the term which it succeeds. Each Commission member must receive compensation determined by the Director of Administrative Services, under the provision of law that governs the compensation of board and commission members, for each day the member actually attends a Commission meeting, but must not receive step advancements. Each Commission member also must receive the member's actual and necessary expenses incurred in the discharge of the member's official duties. (Sec. 2915.15(A) and (C)(2). Each Commission member, before entering upon the discharge of the member's duties, must give a bond payable to the Treasurer of State, in the sum of $10,000, with sufficient sureties to be approved by the Treasurer of State. The bond must be filed with the Secretary of State. (Sec. 2915.15(D).)

Each Commission member must hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed must hold office for the remainder of the term. Any member must continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of 60 days has elapsed, whichever occurs first. (Sec. 2915.15(A).)

The Governor may remove any Commission member for malfeasance, misfeasance, or nonfeasance in office, giving that member a copy of the charges

against that member and affording that member an opportunity to be publicly heard in person or by counsel in the member's defense upon not less than ten days' notice. If that member is removed, the Governor must file in the Secretary of State's office a complete statement of all charges made against that member and the Governor's finding on the charges, together with a complete report of the proceedings. The Governor's decision on the charges is final. (Sec. 2915.15(E).)

The Commission must maintain offices at locations in Ohio as it considers necessary for the efficient performance of its functions. The Commission must appoint an executive director and other employees who it considers necessary to carry out its powers and duties. The Commission's executive director must maintain an office in Columbus to coordinate the Commission's activities with other state departments. (Sec. 2915.15(F) and (G).) The Commission must elect annually one of its members to serve as chairperson for a term of one year. Election as chairperson does not extend a member's appointive term. (Sec. 2915.15(C)(1).)

All fees and fines that the Commission collects must be deposited into the Charitable Gaming Administration and Enforcement Fund, which the bill creates in the state treasury. Money in the Fund must be used solely for the administration and enforcement of the Charitable Gambling Law. (Sec. 2915.15(H).)

The Commission is not subject to the Sunset Review Law, which generally requires that certain boards and commissions expire four years after their creation (sec. 2915.15(I)). The bill provides for the transfer of the charitable gaming licensing and regulatory functions of the Attorney General to the Commission on the bill's effective date (secs. 2915.08, 2915.081, 2915.082, 2915.091, 2915.10, 2915.12, and 2915.14; Section 3 of the bill).

Conforming changes

The bill amends several Revised Code sections to make conforming changes that reflect substantive changes made in other parts of the bill (secs. 173.121(B), 1531.01(TT), 2915.11(A) and (B), 2915.12(A)(4)(b), (B)(5), and (B)(6)(b), and 3763.01(B)).

COMMENT

Under the Charitable Bingo Law, "charitable organization" means any tax-exempt religious, educational, veteran's, fraternal, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, amateur athletic, youth athletic, or youth athletic park organization (sec. 2915.01(H)).

The following are descriptions of subsections of the Internal Revenue Code referred to by the bill:

Subsection 501(c)(3) concerns corporations, and any community chest, fund, or foundation, that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes or for the prevention of cruelty to children or animals.

Subsection 501(c)(4) describes civic leagues composed of employees of a municipality that devote their net earnings exclusively to charitable, recreational, or educational purposes. Subsection 501(c)(8) describes fraternal organizations that provide payment of life, sick, accident, or other benefits to their members, and subsection 501(c)(10) describes domestic fraternal organizations that devote earnings exclusively to religious, charitable, scientific, educational, and fraternal purposes other than the payment of life, sick, accident, or other benefits to their members. Subsection 501(c)(19) describes certain war veteran organizations and their auxiliaries.

Subsections 509(a)(1), (a)(2), and (a)(3) generally refer to political subdivisions, subsection 501(c)(3) organizations that are not private foundations, and organizations to which a contribution is tax-deductible on an individual's federal income tax return.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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