



Mark C. Flanders

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 643**

123rd General Assembly  
(As Introduced)

**Reps. Mottley, Olman, Luebbers**

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### **BILL SUMMARY**

- Authorizes the State Lottery Commission to participate in a multistate lottery.
- Eliminates the requirement that at least 30% of the total revenue accruing from lottery ticket sales be credited to the Lottery Profits Education Fund.
- Requires the Lottery Commission to prepare a problem gambling impact statement when it adopts or amends a rule to create a new lottery game (except an instant game) or to establish a new manner in which to play a game.
- Requires that the problem gambling impact statement identify steps the Commission must take to mitigate problem gambling in connection with a game, and provides for the modification or cessation of the game if such mitigation fails.
- Specifies that the Department of Mental Health can provide assistance to local boards of alcohol, drug addiction, and mental health services for treatment of gambling disorders.

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### **CONTENT AND OPERATION**

#### **Participation in multistate lottery**

(R.C. 3770.03)

The bill authorizes the State Lottery Commission to participate in a multistate lottery. If the Commission chooses to participate in a multistate lottery, it must adopt rules governing how the lottery is conducted in Ohio. The rules are to cover the same matters as do rules for the existing state lottery, prescribing

(among other things) the type of lottery to be conducted, the prices of tickets, the nature of prize awards, the frequency of drawings, and the manner in which prizes are awarded to holders of winning tickets.

**Elimination of minimum percentage of ticket sales revenue for education**

(R.C. 3770.06)

Money that the State Lottery Commission generates through ticket sales, fees, and fines and does not pay out immediately for prizes, sales agent commissions, and other short-term liabilities is deposited in the State Lottery Fund. When the Director of Budget and Management judges that the amount of money in the State Lottery Fund exceeds what is needed for the Commission's maturing obligations and working capital, the Director is required to transfer the excess to the Lottery Profits Education Fund. But current law requires that at least 30% of the total revenue accruing from the sale of lottery tickets be transferred to the Lottery Profits Education Fund.

The bill eliminates the requirement that the Director transfer at least 30% of the total revenue accruing from lottery ticket sales to the Lottery Profits Education Fund.

**Problem gambling impact statements**

(R.C. 119.03, 119.033, and 3770.03)

The bill requires the State Lottery Commission to prepare a problem gambling impact statement each time it adopts or amends a rule to create a new lottery game or establish a new manner in which to play a game. The impact statement must (1) assess the extent to which the proposed rule might contribute to problem gambling behavior and (2) identify steps the Commission will take to mitigate that behavior. The Joint Committee on Agency Rule Review (JCARR) is to prescribe the form of the problem gambling impact statement. The Commission does not have to prepare a statement when it creates a new instant lottery game sold by licensed lottery sales agents.

The Commission is required to attach a copy of the problem gambling impact statement when it submits copies of the proposed rule to the Secretary of State, Legislative Service Commission, and JCARR in accordance with the Administrative Procedure Act. If the Commission revises the proposed rule after submitting the copies, it also must revise the impact statement and submit new copies of the rule and statement. The full text of the problem gambling impact statement is to be published in the Register of Ohio along with the text of the proposed rule. The bill authorizes JCARR to recommend the General Assembly

adopt a concurrent resolution invalidating the proposed rule if the Commission fails to prepare a complete and accurate problem gambling impact statement for the rule.

The bill requires the Commission to remedy certain circumstances related to problem gambling by amending or rescinding a rule for which it prepared a problem gambling impact statement and that has gone into effect. Specifically, the Commission must amend or rescind the rule if it determines any of the following have occurred:

--The mitigating steps described in the problem gambling impact statement have not been implemented;

--The mitigating steps have been implemented, but have not achieved the intended results;

--Excessive problem gambling behavior has occurred after the implementation of the mitigating steps.

Similarly, the bill authorizes JCARR to recommend the General Assembly adopt a concurrent resolution invalidating the rule if JCARR determines any of the above-described circumstances have occurred. JCARR must hold a public hearing prior to making such a recommendation, and must make the recommendation no more than 60 days after the hearing. If JCARR recommends invalidation of the rule, the General Assembly is to proceed in accordance with current law regarding invalidating agency rules, and if it adopts a concurrent resolution must do so prior to the 60th day after JCARR issues its recommendation.

### *State assistance for treatment of gambling disorders*

(R.C. 340.09)

The bill specifies that the Department of Mental Health can provide assistance to counties to enable local boards of alcohol, drug addiction, and mental health services to provide services for the treatment of gambling disorders. The Department is to use funds appropriated for that purpose by the General Assembly.

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## COMMENT

In 1988, the Attorney General issued an opinion advising the State Lottery Commission that Section 6 of Article XV of the Ohio Constitution "prohibits a lottery which is operated in conjunction with other states." *1988 Ohio Op. Atty. Gen. No. 88-002*. The Director of the Commission had asked whether the

Commission was authorized to adopt rules allowing the Director to enter into agreements with other states for the operation of a joint lotto game.

Section 6 of Article XV of the Ohio Constitution states:

Except as otherwise provided in this section, lotteries, and the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this State.

The General Assembly may authorize *an agency of the state* to conduct lotteries, to sell rights to participate therein, and to award prizes by chance to participants, provided that the *entire net proceeds* of any such lottery are paid into a fund of the state treasury [to be used solely for the support of education] . . . (emphasis added).

The Attorney General concluded that participation of other states in the actual conduct and operation of a joint lottery, and in sharing the lottery proceeds, would violate the constitutional limitations emphasized above.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-04-00	p. 1756

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