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Bill Analysis
Legislative Service Commission

H.B. 263

125th General Assembly
(As Introduced)

Reps. Seaver, Allen, Aslanides, Bocchieri, Book, Carano, Cirelli, Collier, Distel, Domenick, Driehaus, Faber, Fessler, Harwood, Koziura, Perry, Redfern, Sferra, Willamowski, Wilson

BILL SUMMARY

- Allows a veteran's, fraternal, or sporting organization that is licensed to conduct instant bingo to retain for its own purposes 100% of the net profit from the proceeds of the instant bingo it conducts, whether at a bingo session or other than at a bingo session.

CONTENT AND OPERATION

Existing law

Distribution of instant bingo net profit--in general

Current law establishes a procedure for a charitable organization (see **COMMENT**) to follow in distributing the net profit from the proceeds of the sale of instant bingo. If the charitable organization is a veteran's, fraternal, or sporting organization, (1) a minimum of 50% of the net profit *must be* distributed to (a) an organization that is a specified type of private foundation and that 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 (see **COMMENT**) or (b) a department or agency of the federal government, the state, or any political subdivision; (2) 5% of the net profit *may be* distributed for the organization's own charitable purposes; and (3) 45% of the net profit *may be* deducted and retained by the organization for its expenses in conducting the instant bingo game. If it does not distribute the full percentages specified in items (2) and (3) above for the purposes specified, the "caveat" is that it must distribute

the balance of the net profit not distributed for those purposes to an organization described in (1)(a) above.¹ (R.C. 2915.101(A)(1) and (2).)

Any charitable organization *other than* a veteran's, fraternal, or sporting organization must follow a distinct procedure for distributing the net profit from the proceeds of the sale of instant bingo. These organizations *must* distribute 100% of the net profit to an entity described in (1)(a) or (b) above. (R.C. 2915.101(B).)

Instant bingo other than at a bingo session

Current law authorizes a veteran's, fraternal, or sporting organization that is authorized to conduct a bingo session under the Charitable Gambling Law to conduct instant bingo other than at a bingo session if it meets certain conditions. One of these conditions is that (1) the veteran's, fraternal, or sporting organization is raising money for an organization that is a specified type of private foundation and that is either a governmental unit or an organization that (a) maintains its principal place of business in Ohio, (b) is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and (c) is in good standing in Ohio, and (2) the veteran's, fraternal, or sporting organization executes a written contract with that other organization as required by law. That contract must include a statement of the percentage of the net proceeds of the sale of instant bingo other than at a bingo session to be distributed by the veteran's, fraternal, or sporting organization to that other organization, and the veteran's, fraternal, or sporting organization must comply with that contractual provision. (R.C. 2915.13(A)(3), (B), and (D).)

Changes proposed by the bill

Distribution of instant bingo net profit--in general

The bill eliminates the procedure described under "**Existing law**," above that governs the "in general" distribution of the net profit from the proceeds of the sale of instant bingo conducted by a veteran's, fraternal, or sporting organization (current R.C. 2915.101(A)). And, it eliminates the distinct procedure described under "**Existing law**," above, governing the distribution of the net profit from the proceeds of the sale of instant bingo by a charitable organization other than a

¹ *This distribution procedure for veteran's, fraternal, or sporting organizations appears to apply only to the net proceeds of the sale of instant bingo at a (regular) bingo session, because of the special provisions for the distribution of the net proceeds from their sale of instant bingo other than at a bingo session in R.C. 2915.13, discussed immediately below. R.C. 2915.101 specifically states that its distribution provisions apply "[e]xcept as otherwise provided by law."*

veteran's, fraternal, or sporting organization (current R.C. 2915.101(B)). Instead, under the bill, *all charitable organizations* that conduct instant bingo generally must distribute 100% of the net profit from the proceeds of the sale of instant bingo (1) to an organization that is a specified type of private foundation and that is either a governmental unit or an organization that is tax exempt under section 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, (2) to a department or agency of the federal government, the state, or any political subdivision, or (3) to a veteran's, fraternal, or sporting organization that is licensed by the Attorney General's office under the Charitable Gambling Law to conduct *any form* of bingo.² (R.C. 2915.101.)

Instant bingo other than at a bingo session

The bill continues the requirement that a veteran's, fraternal, or sporting organization that is authorized to conduct a bingo session under the Charitable Gambling Law may conduct instant bingo other than at a bingo session only if it meets the statutorily specified conditions. But, it modifies one of those conditions to permit the veteran's, fraternal, or sporting organization to be raising money *for its own* charitable purposes or for the type of organization discussed under "Existing law," above with which a written contract must be executed. If the veteran's, fraternal, or sporting organization raises money *for its own* charitable purposes, it must retain the proceeds earned from the conduct of instant bingo other than at a bingo session for those purposes. (R.C. 2915.13(A)(3) and (D).)

COMMENT

Under the Charitable Gambling Law, "charitable organization" means any tax-exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, amateur athletic, youth athletic, or youth athletic park organization. A charitable organization must be tax exempt under subsection 501(a) and be described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code. (R.C. 2915.01(H)--not in the bill.)

² *With the exception of the third distribution option, this new distribution requirement is similar to the requirement under existing law for charitable organizations other than a veteran's, fraternal, or sporting organization that conduct instant bingo. Thus, in addition to establishing a new general distribution requirement for veteran's, fraternal, and sporting organizations that is the same as the requirement applicable to other charitable organizations that conduct instant bingo, the bill confers on the other than charitable organizations an additional distribution option ((3) above).*

The following are descriptions of relevant subsections of the Internal Revenue Code:

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

Subsection 501(c)(4) describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to employees of a designated person or persons in a municipality, and the net earnings of which are devoted exclusively to charitable, recreational, or educational purposes. Subsection 501(c)(7) describes clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for these purposes and no part of the net earnings of which inures to the benefit of any private shareholder. Subsection 501(c)(8) describes fraternal organizations that provide payment of life, sick, accident, or other benefits to their members and their members' dependents, and subsection 501(c)(10) describes domestic fraternal organizations that devote their net 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 veteran organizations and their auxiliaries.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-19-03	p. 1035

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