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Bill Analysis
Legislative Service Commission

S.B. 78

125th General Assembly
(As Introduced)

Sens. Schuring, Hottinger, Stivers, Robert Gardner, Wachtmann, Dann

BILL SUMMARY

Makes changes to the Charitable Bingo Law as described below:

- Modifies the definition of "expenses" to include the expenses for maintaining and operating a charitable organization's facilities.
- Modifies the definition of "charitable organization" to include an organization described in subsection 501(c)(4) of the Internal Revenue Code only if it is a veteran's or fraternal organization.
- Modifies the definition of "veteran's organization."
- Modifies the definition of "charitable purpose" to allow the net profit of bingo, other than instant bingo, additionally to be used by or transferred to a tax exempt organization described in subsection 501(c)(4), (8), (10), or (19) of the Internal Revenue Code.
- Modifies the definition of "charitable instant bingo organization" to include tax-exempt organizations described in subsection 501(c)(4), (8), (10), or (19) of the Internal Revenue Code.
- Removes the prohibition against conducting schemes of chance that are not conducted for profit.
- Modifies the restrictions on the use of electronic bingo aids to eliminate the requirement that participants be provided with corresponding paper bingo cards or sheets.
- Authorizes more charitable organizations to conduct games of chance at festivals they conduct.

- Allows tax-exempt charitable organizations described in subsection 501(c)(4) of the Internal Revenue Code to conduct instant bingo.
- Allows additional charitable organizations to conduct raffles without having to obtain a bingo license.
- Expands the times during which veteran's and fraternal organizations may conduct instant bingo other than at a bingo session.
- Requires a charitable organization to keep a separate account in a financial institution for the deposit of the net profit from the proceeds of its conduct of instant bingo, to keep records of deposits into and withdrawals from the account, to state on its bingo license application the designated purpose for which that net profit will be used, and to use the net profit as so stated.
- Makes other changes in the Charitable Bingo Law.

CONTENT AND OPERATION

Conducting games and schemes of chance

General prohibitions

Current law prohibits a person from establishing, promoting, or operating or knowingly engaging in conduct that facilitates any game of chance conducted for profit or any scheme of chance. Current law also prohibits a person from knowingly procuring, transmitting, exchanging, or engaging in conduct that facilitates the procurement, transmission, or exchanging of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance. The bill modifies this prohibition by eliminating the prohibition against the above described conduct for a scheme of chance not conducted for profit and by prohibiting the above described conduct only for a scheme of chance *conducted for profit*. (R.C. 2915.02(A)(2) and (3).)

Charitable organizations that are permitted to conduct games of chance at festivals and restrictions on those games of chance

Types of organizations. Current law exempts from the general prohibition against establishing, promoting, or operating any game of chance conducted for profit those games of chance that are not craps for money or roulette for money and that are conducted by a charitable organization that 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. These festivals can be conducted either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days and not more than once a year. The festivals must be conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance. The bill allows *any charitable organization* (as defined in the Charitable Bingo Law) to conduct games of chance (that are not craps or roulette for money) at these festivals. (R.C. 2915.02(D)(1)(b).)

Leases. Current law prohibits a charitable organization from leasing premises from a veteran's or fraternal organization to conduct a festival at which it conducts games of chance if the veteran's organization or fraternal organization already has leased the premises four times during the preceding year to charitable organizations for that purpose. The bill increases the number of these leases to *12* during the *immediately* preceding *12 months* so that a charitable organization may lease premises from a veteran's or fraternal organization to conduct such a festival if that organization has not already leased the premises for that purpose 12 times during the immediately preceding 12 months. (R.C. 2915.02(D)(1)(c).)

Use of profit. Current law requires that all of the money or assets received from games of chance conducted at an organization's festivals, after deduction only of prizes paid out during the conduct of the games of chance, be used by, or be given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(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. The bill also allows that remaining money or assets to be used by, given to, donated, or otherwise transferred to any organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code. (R.C. 2915.02(D)(1)(e).)

Use of electronic bingo aids

Current law defines "electronic bingo aid" as an electronic device that is used by a participant in a regular bingo game to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following: (1) it provides a means for a participant to input numbers and letters announced by a bingo caller, (2) it compares the numbers and letters the

participant enters to the bingo faces previously stored in the device's memory, and (3) it identifies a winning bingo pattern. "Electronic bingo aid" does not include any device into which a coin, currency, token, or equivalent is inserted to activate play. (R.C. 2915.01(TT).)

Current law prohibits a charitable organization that conducts a bingo game from using or permitting the use of electronic bingo aids unless it complies with six specified conditions. One of these conditions is that the charitable organization provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets. The bill eliminates this condition on the use of electronic bingo aids. (R.C. 2915.09(C)(11)(a)(ii).)

Conducting instant bingo and sale prices of instant bingo tickets

Current law, as amended by Am. Sub. H.B. 95 of the 125th General Assembly, prohibits a charitable organization that conducts bingo from conducting instant bingo unless that organization is a specified type of tax-exempt charitable organization that is described in subsection 501(c)(3) of the Internal Revenue Code or 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), is described in subsection 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under R.C. 2915.13. The bill does not contain the current version of existing law. The existing law, as used by the bill, does not include tax-exempt charitable organizations described in subsection 501(c)(7) or veteran's organizations described in subsection 501(c)(4) of the Internal Revenue Code in the list of organizations permitted to conduct instant bingo. The bill amends its version of existing law to additionally permit a charitable organization that conducts bingo to conduct instant bingo 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), is described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under R.C. 2915.13. (R.C. 2915.091(A)(1)(b).)

Current law also prohibits a charitable organization that conducts instant bingo from selling or providing any instant bingo ticket or card for a price different than that printed by the manufacturer on it or on the game flare. The bill amends this prohibition to apply only to sales or provisions of instant bingo tickets or cards on or after January 1, 2004. This change is no longer necessary because that date has passed. (R.C. 2915.091(A)(6).)

Charitable organizations that may conduct raffles

Current law, as amended by Am. Sub. H.B. 95 of the 125th General Assembly, allows a charitable organization, public school, chartered nonpublic school, community school, or sporting organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), or 501(c)(7) of the Internal Revenue Code to conduct a raffle to raise money for the organization or school without the need to obtain a bingo license so long as the raffle drawing is not for profit. The bill does not contain the current version of existing law. Under the bill's version of existing law, only tax-exempt charitable organizations described in subsection 501(c)(3) of the Internal Revenue Code may conduct a raffle. The bill amends its version of existing law to additionally allow a charitable organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(4), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code to conduct a raffle. (R.C. 2915.092(B)(1).)

Use of net profit derived from instant bingo

Current law regulates the distribution of the net profit that a charitable organization derives from its conduct of instant bingo. Under the bill, a charitable organization that conducts instant bingo *must deposit* the net profit from the proceeds of the sale of instant bingo into a *separate account* established at a financial institution prior to distributing that net profit as prescribed by law. (R.C. 2915.101(B)(1).) "Financial institution" means a state bank, national bank, savings association, or bank doing business under authority granted by the bank regulatory authority of another state or another country (R.C. 1115.07--not in the bill).

The bill also requires the charitable organization to do all of the following: (1) include in its application to the Attorney General for an instant bingo license a statement of the designated purpose for which it will use the net profit from the proceeds of the sale of instant bingo maintained in such a separate account, (2) maintain for at least three years from the date on which instant bingo is conducted an itemized list of each deposit into and withdrawal from such a separate account and an itemized list of the purpose for each withdrawal, and (3) use the net profit from the proceeds of the sale of instant bingo as specified in its instant bingo license application (R.C. 2915.08(A)(2)(g), 2915.10(A)(8), and 2915.101(B)(2)). The bill authorizes the Attorney General or any law enforcement agency to conduct an audit of such a separate account (R.C. 2915.10(H)(5)).

Conduct of instant bingo by certain charitable organizations other than at a bingo session

Hours

The bill allows a veteran's organization or a fraternal organization authorized to conduct a bingo session to conduct instant bingo other than at a bingo session if the organization limits the sale of instant bingo to 12 consecutive hours during any day (R.C. 2915.13(A)(1)).¹

Raising money for another charitable organization

Current law, as amended by Am. Sub. H.B. 95 of the 125th General Assembly, allows a veteran's organization, fraternal organization, or sporting organization to conduct instant bingo other than at a bingo session if it is raising money for an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state and executes a written contract with that organization as required by law.

The bill does not contain the current version of existing law. Under the bill's version of existing law, a veteran's or fraternal organization may conduct instant bingo other than at a bingo session if it is raising money for a charitable organization and executes a written contract as required by law.

The bill amends its version of existing law to allow a veteran's organization or a fraternal organization to conduct instant bingo other than at a bingo session if the organization is raising money for a charitable organization, *as defined in the Charitable Bingo Law, other than that veteran's organization or fraternal organization*, and executes a written contract with that organization as required by law (R.C. 2915.13(A)(3)).

¹ *Current law, as amended by Am. Sub. H.B. 95 of the 125th General Assembly, allows a veteran's, fraternal, or sporting (included in current law but the bill does not have the current version of this section) organization authorized to conduct a bingo session to conduct instant bingo other than at a bingo session if it meets certain requirements. One of these requirements is that the organization limit the sale of instant bingo to ten consecutive hours per day for up to six days per week.*

Liquor permit premises

The bill authorizes a veteran's organization or fraternal organization that has been issued a liquor permit *to sell instant bingo* in the area to which its license applies and does not amend the provision of existing law that the permit may be suspended, revoked, or cancelled if the organization violates a provision of the Charitable Gambling Law (R.C. 2915.13(C)(1)).²

Changes in definitions used in the Charitable Bingo Law

Charitable organization

Current law, as amended by Am. Sub. H.B. 95 of the 125th General Assembly, defines "charitable organization," except as otherwise provided in the Charitable Bingo Law, as any tax-exempt religious, educational, veteran's, fraternal, sporting, service nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, youth athletic, amateur athletic, or youth athletic park organization. It generally specifies that a charitable organization is tax exempt for purposes of the Charitable Bingo Law if it is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating that it is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code or is a tax exempt sporting organization described in subsection 501(c)(7) of the Internal Revenue Code (see **COMMENT**). (The bill's version of existing law does not include a sporting or historic railroad educational organization or to subsection 501(c)(7).) The bill retains most of this specification, but removes its reference to *subsection 501(c)(4)* and substitutes a distinct statement that an organization is tax exempt for purposes of the Charitable Bingo Law if it is a veteran's organization or a fraternal organization and is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating that it is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(4) of the Internal Revenue Code. The bill also removes the limitation of the definition that makes its meaning not apply if a provision in the Charitable Bingo Law or Gambling Law provides otherwise. (R.C. 2915.01(H).)

² *This provision of current law, as amended by Am. Sub. H.B. 95 of the 125th General Assembly, applies to a sporting organization in addition to a veteran's or fraternal organization authorized to conduct instant bingo other than at a bingo session that has been issued a liquor permit. The bill does not contain the current version of this section.*

Veteran's organization

Current law, as amended by Am. Sub. H.B. 95 of the 125th General Assembly, defines "veteran's organization" as any individual post or state headquarters of a national veteran's association or an auxiliary unit of an individual post of a national veteran's association, which post, state headquarters, or auxiliary unit has been in continuous existence in this state for at least two years and incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. (R.C. 2915.01(K).) The bill's version of "veteran's organization" does not include the state headquarters of a national veteran's association.

The bill defines a "veteran's organization" as any individual post of a national veteran's association, or *any* auxiliary unit of any individual post of a national veteran's association *that has been in existence in this state for a period of two years immediately preceding making an application for a bingo license* and has received a letter from state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association (R.C. 2915.01(K)).

Charitable purpose for which net regular bingo profits may be used

Current law requires a charitable organization to use, or to give, donate, or otherwise transfer, all of the net profit it derives from bingo, other than instant bingo, for a charitable purpose authorized by the Charitable Bingo Law and described in its license application (R.C. 2915.09(A)(3)). It defines "charitable purpose" to mean that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, among other organizations an organization that is a certain 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. The bill expands this definition and, thus, also allows the net profit from bingo, other than instant bingo, to be used by, or to be given, donated, or otherwise transferred to, any organization that is a certain 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)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code. (R.C. 2915.01(Z)(1).)

Expenses for maintaining a charitable organization's facilities

R.C. 2915.01(LL) describes various "expenses" that a charitable organization incurs and that can be deducted from its gross profit derived from bingo to calculate its net profit derived from bingo. The bill includes a category of expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen.³ (R.C. 2915.01(LL)(11).)

Charitable instant bingo organization

Current law authorizes a charitable instant bingo organization to conduct instant bingo other than at a bingo session at not more than five separate locations. If such an organization conducts instant bingo at other than a bingo session, it must enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of the instant bingo. (R.C. 2915.093(B) and (C)(1)--not in the bill.)

Current law generally defines a "charitable instant bingo organization" as a charitable organization as generally defined for the Charitable Bingo Law that is exempt from federal income taxation under subsection 501(a) and described in *subsection 501(c)(3)* of the Internal revenue Code. But, a charitable organization that is so tax exempt but that is created by a veteran's organization, fraternal organization, or sporting organization in regards to bingo conducted or assisted by it under the provision of the Charitable Bingo Law that authorizes such an organization to conduct instant bingo other than at a bingo session is currently not a "charitable instant bingo organization." The bill redefines a "charitable instant bingo organization" to mean a charitable organization as generally defined for the Charitable Bingo Law that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), *501(c)(4)*, *501(c)(8)*, *501(c)(10)*, or *501(c)(19)* of the Internal Revenue Code. (R.C. 2915.01(XX).)

COMMENT

Under the Charitable Bingo Law and 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

³ *Current R.C. 2915.01(LL)(11), as enacted by Am. Sub. H.B. 95 of the 125th General Assembly, contains this provision in the definition of "expenses."*

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).) 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

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