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Bill Analysis
Legislative Service Commission

S.B. 152
126th General Assembly
(As Introduced)

Sen. Clancy

BILL SUMMARY

- Expands the definition of "charitable organization" that applies for purposes of the Gambling Law so that, in addition to the entities currently included, it also includes tax exempt "fire museums."
- Defines "fire museums" for purposes of the Gambling Law.

CONTENT AND OPERATION

Background

R.C. Chapter 2915. contains Ohio's Gambling Law. It contains a series of prohibitions, including prohibitions that comprise the offenses of "gambling" (R.C. 2915.02), "operating a gambling house" (R.C. 2915.03), "public gaming" (R.C. 2915.04), "conducting illegal bingo" (R.C. 2915.07), "illegally operating as a distributor" (R.C. 2915.081), "illegally operating as a manufacturer" (R.C. 2915.082), "illegally conducting a bingo game" (R.C. 2915.09), "illegal instant bingo conduct" (R.C. 2915.091, 2915.094, and 2915.13), "illegal conduct of a raffle" (R.C. 2915.092), an offense related to failure to properly maintain bingo or gambling records (R.C. 2915.10), and offenses related to prohibited persons being bingo game operators (R.C. 2915.11). Many of the prohibitions contain exemptions for conduct that, in specified circumstances, is conducted by or on behalf of a "charitable organization." Some of the exemptions as they relate to charitable organization conduct are described below in "**Charitable organization exemptions from certain gambling offenses.**"

Charitable organizations under the Gambling Law

Existing law

Existing law provides that, for purposes of the Gambling Law, except as otherwise provided in that 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, youth athletic, amateur athletic, or youth athletic park organization (see **COMMENT 1**, for a definition of each of these types of organizations). An organization is tax exempt for purposes of this provision if the organization is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization 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 if the organization is a sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(7) of the Internal Revenue Code. To qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer fire fighter's organization, must have been in continuous existence as such in Ohio for a period of two years immediately preceding either the making of an application for a bingo license under R.C. 2915.08 (see "*Charitable bingo and instant bingo licensing*," below) or the conducting of any game of chance as provided in division (D) of R.C. 2915.02 (see "*Offense of gambling*," below). A charitable organization 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 created by a veteran's organization, a fraternal organization, or a sporting organization does not have to have been in continuous existence as such in Ohio for a period of two years immediately preceding either the making of an application for a bingo license under R.C. 2915.08 or the conducting of any game of chance as provided in division (D) of R.C. 2915.02. (R.C. 2915.01(H).)

Operation of the bill

The bill defines the term "fire museum" for purposes of the Gambling Law and expands the definition of "charitable organization" that applies for purposes of that Law so that, in addition to the entities currently included, the term also includes tax exempt "fire museums." As a result of this change, the references in the provisions of the Gambling Law to a "charitable organization" also will include tax exempt fire museums, unless the context of the reference provides otherwise. Under the bill:

(1) "Fire museum" means an institution that is devoted to the acquisition, care, and display of objects related to fire fighting and of lasting interest or value and that is not attached to or associated with a fire department (R.C. 2915.01(EEE)).

(2) "Charitable organization" means, except as otherwise provided in the Gambling Law, any tax exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer

firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic, or youth athletic park organization *or a tax exempt fire museum*. Under the bill, a fire museum is tax exempt for purposes of this provision if the fire museum is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the fire museum 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. Under the bill, to qualify as a charitable organization, a fire museum must have been in continuous existence as such in Ohio for a period of two years immediately preceding either the making of an application for a bingo license under R.C. 2915.08 (see "*Charitable bingo and instant bingo licensing*," below) or the conducting of any game of chance as provided in division (D) of R.C. 2915.02 (see "*Offense of gambling*," below). The bill retains without change the existing provision that specifies that a charitable organization 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 created by a veteran's organization, a fraternal organization, or a sporting organization does not have to have been in continuous existence as such in Ohio for a period of two years immediately preceding either the making of an application for a bingo license under R.C. 2915.08 or the conducting of any game of chance as provided in division (D) of R.C. 2915.02. (R.C. 2915.01(H).)

Charitable organization exemptions from certain gambling offenses

As described above, many of the prohibitions set forth in the existing Gambling Law contain exceptions for conduct that, in specified circumstances, is conducted by or on behalf of a "charitable organization."

Offense of gambling

For example, R.C. 2915.02 (not in the bill), in part, 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" (see **COMMENT 2** for definitions of the terms in quotation marks), from knowingly procuring, transmitting, exchanging, or engaging in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with any game of chance conducted for profit or any scheme of chance, from engaging in betting or in playing any scheme or game of chance as a substantial source of income or livelihood, or, with purpose to violate any of the preceding clauses in this paragraph, from acquiring, possessing, controlling, or operating any "gambling device" (see **COMMENT 3** for definition). However, the section specifies that it does not prohibit conduct in connection with gambling expressly permitted by law, and it also specifies that it does not apply to any of the following:

(1) Games of chance, if all of the following apply: (a) the games of chance are not craps for money or roulette for money, (b) the games of chance are conducted by a "charitable organization" (see "Charitable organizations under the Gambling Law," above) 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, (c) the games of chance are conducted at festivals of the charitable organization that are 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 not more than once a year, and are 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 (a charitable organization cannot lease premises from a veteran's or fraternal organization to conduct a festival described in this clause if the veteran's or fraternal organization already has leased the premises four times during the preceding year to charitable organizations for that purpose; if a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival, the charitable organization cannot pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under R.C. 2915.09(B)(1) when it leases premises from another charitable organization to conduct bingo games), (d) all of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or 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, and (e) the games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to R.C. 2915.12. No person may receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.

(2) Any tag fishing tournament operated under a permit issued under R.C. 1533.92, as a "tag fishing tournament" is defined in R.C. 1533.01.

(3) "Bingo" (see **COMMENT 4** for definition) conducted by a charitable organization that holds a license issued under R.C. 2915.08 (see "Charitable bingo and instant bingo licensing," below).

Charitable bingo and instant bingo licensing

Also, R.C. 2915.07 (not in the bill) prohibits a person, except a "charitable organization" (see "*Charitable organizations under the Gambling Law*" above) that has obtained a license pursuant to R.C. 2915.08, to conduct or advertise bingo (the prohibition does not apply to a "raffle" (see "*Raffles*," below) that a charitable organization conducts or advertises). R.C. 2915.08 (not in the bill) provides a mechanism for the issuance to charitable organizations that desire to conduct bingo, "instant bingo" (see **COMMENT 4** for definition) at a bingo session, or instant bingo other than at a bingo session of an annual license to conduct the bingo or instant bingo. The charitable organization must deliver a completed application for the license, together with a license fee, to the Attorney General, and the section provides procedures and criteria for the issuance of the license.

If a charitable organization obtains a license under R.C. 2915.08, all of the following apply: (1) if it conducts bingo, it must do so in accordance with a series of requirements and prohibitions set forth in R.C. 2915.09 and 2915.10 (not in the bill), (2) if it conducts instant bingo, it must do so in accordance with a series of requirements and prohibitions set forth in R.C. 2915.091 and 2915.101 (not in the bill), and (3) if it conducts instant bingo other than at a bingo session, it must do so in accordance with a series of requirements and prohibitions in R.C. 2915.093 and 2915.101 (not in the bill).

Raffles

Additionally, R.C. 2915.092 (not in the bill) prohibits a person from conducting a "raffle" drawing (see **COMMENT 5** for definition) that is for profit or a "raffle" drawing that is not for profit. However, the section authorizes the conduct of a raffle drawing in the following circumstances, and the prohibition does not apply to raffle drawings so conducted: (1) subject to the provision described below in clause (2), a "charitable organization" (see "*Charitable organizations under the Gambling Law*," above), a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), (c)(4), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the organization or school and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit, and (2) if a charitable organization that is described in clause (1), but that is not also described in subsection 501(c)(3) of the Internal Revenue Code, conducts a raffle, the charitable organization must distribute at least 50% of the net profit from the raffle to a charitable purpose described in R.C. 2915.01(Z) or to a department or agency of the federal government, the state, or any political subdivision.

COMMENT

1. R.C. 2915.01 provides the following definitions, all of which are used in the definition of "charitable organization," that apply for purposes of the Gambling Law:

(a) "Religious organization" means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances (R.C. 2915.01(I)).

(b) "Educational organization" means any organization within Ohio that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction by means of operating or contributing to the support of a school, academy, college, or university (R.C. 2915.01(J)).

(c) "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit has been in continuous existence in Ohio 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 (as used in this provision, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the U.S. Congress or has a national dues-paying membership of at least 5,000 persons) (R.C. 2915.01(K)).

(d) "Fraternal organization" means any society, order, state headquarters, or association within Ohio, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members, and that has been in continuous existence in this state for a period of five years (R.C. 2915.01(M)).

(e) "Sporting organization" means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the Ohio League of Sportsmen, and that has been in continuous existence in Ohio for a period of three years (R.C. 2915.01(CCC)).

(f) "Service organization" means either of the following: (i) any organization, not organized for profit, that is organized and operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect or those organized and operated exclusively to protect, or to contribute to the support of organizations or institutions organized and operated exclusively to protect, animals from inhumane treatment or provide immediate shelter to victims of domestic violence, or (ii) 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 and that is an organization, not organized for profit, that is organized and operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect (R.C. 2915.01(O)).

(g) "Nonprofit medical organization" means either of the following: (i) any organization that has been incorporated as a nonprofit corporation for at least five years and that has continuously operated and will be operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, hospital, medical, research, or therapeutic services for the public, or (ii) any organization that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code, that has been incorporated as a nonprofit corporation for at least five years, and that has continuously operated and will be operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, hospital, medical, research, or therapeutic services for the public (R.C. 2915.01(P)).

(h) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization, as defined in R.C. 4765.01 (R.C. 2915.01(N)).

(i) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township (R.C. 2915.01(L)).

(j) "Senior citizen's organization" means any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or social services for persons who are 55 years of age or older and that

is described and qualified under subsection 501(c)(3) of the Internal Revenue Code (R.C. 2915.01(Q)).

(k) "Historic railroad educational organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that owns in fee simple the tracks and the right-of-way of a historic railroad that the organization restores or maintains and on which the organization provides excursions as part of a program to promote tourism and educate visitors regarding the role of railroad transportation in Ohio history, and that received as donations from a charitable organization that holds a license to conduct bingo under the Gambling Law an amount equal to at least 50% of that licensed charitable organization's net proceeds from the conduct of bingo during each of the five years preceding June 30, 2003; "historic railroad" means all or a portion of the tracks and right-of-way of a railroad that was owned and operated by a for profit common carrier in Ohio at any time prior to January 1, 1950 (R.C. 2915.01(ZZ)).

(l) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 21 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association (R.C. 2915.01(BB)).

(m) "Amateur athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the "Amateur Sports Act of 1978," 90 Stat. 3045, 36 U.S.C.A. 373 (R.C. 2915.01(DD)).

(n) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following: (i) it owns, operates, and maintains playing fields that satisfy both of the following: the playing fields are used at least 180 days per year for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 18 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association, and the playing fields are not used for any profit-making activity at any time during the year, and (ii) it uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in clause (i) of this paragraph (R.C. 2915.01(CC)).

2. R.C. 2915.01 provides the following definitions that apply for purposes of the Gambling Law (R.C. 2915.01(C) to (E)):

(a) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

(b) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

(c) "Scheme of chance" means a slot machine, lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.

3. R.C. 2915.01(F) provides that, as used in the Gambling Law, "gambling device" means any of the following: (a) a book, totalizer, or other equipment for recording bets, (b) a ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet, (c) a deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance, (d) any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes, or (e) bingo supplies sold or otherwise provided, or used, in violation of the Gambling Law.

4. R.C. 2915.01 provides the following definitions that apply for purposes of the Gambling Law:

(a) "Bingo" means either of the following (R.C. 2915.01(S)): (i) a game with all of the following characteristics: the participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into 25 spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space; the participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator; a bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets; and the winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described above, that a predetermined

and preannounced pattern of spaces has been covered on a bingo card or sheet being used by the participant, or (ii) instant bingo, punch boards, and raffles.

(b) "Instant bingo" means a form of bingo that uses folded or banded tickets or paper cards with perforated break-open tabs, 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. "Instant bingo" includes seal cards. "Instant bingo" does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations (R.C. 2915.01(FF)).

5. R.C. 2915.01(HH) provides that, as used in the Gambling Law, "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 raffle 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.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-02-05	p. 827

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