
A BILL FOR AN ACT

RELATING TO A STATE LOTTERY FOR EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 STATE LOTTERY FOR EDUCATION

6 § -1 **Title of chapter.** This chapter may be cited as the
7 "State Lottery for Education Act".

8 § -2 **Hawaii gaming control commission; members,**
9 **appointment, compensation.** (a) There is established the Hawaii
10 gaming control commission which shall be a body corporate and a
11 public instrumentality of the State, for the purpose of
12 implementing this chapter. The commission shall be placed
13 within the department of budget and finance for administrative
14 purposes.

15 (b) The commission shall consist of five members to be
16 appointed by the governor with the advice and consent of the
17 senate under section 26-34. Of the five members, two shall be
18 appointed from a list of nominees submitted by the president of



1 the senate, and two shall be appointed from a list of nominees
2 submitted by the speaker of the house of representatives. All
3 appointments to the commission shall be made within sixty days
4 of the effective date this Act. The members shall elect one
5 from among them to be the chairperson. Each member shall have
6 reasonable knowledge of the practice, procedure, and principles
7 of lottery operations. Each member shall either be a resident
8 of Hawaii or shall certify that the member will become a
9 resident of Hawaii before taking office. At least one member
10 shall be experienced in law enforcement and criminal
11 investigation, at least one member shall be a certified public
12 accountant experienced in accounting and auditing, and at least
13 one member shall be an attorney licensed to practice law in
14 Hawaii.

15 (c) No person shall be appointed a member or continue to
16 be a member of the commission if:

17 (1) The person is an elected state official or a public
18 employee;

19 (2) The person or the person's spouse, child, or parent is
20 a member of the board of directors of, or a person
21 financially interested in, any lottery operation
22 subject to the jurisdiction of this commission; or



1 (3) The person is related to any other person within the
2 second degree of consanguinity or affinity who is
3 licensed by the commission pursuant to this chapter;
4 or

5 (4) The person is not of good moral character or has been
6 convicted of, or is under indictment for, a felony
7 under the laws of Hawaii, any other state, or the
8 United States.

9 (d) The term of office of a commission member shall be
10 four years, except that the terms of office of the initial
11 members appointed shall be staggered. No member shall serve
12 more than two consecutive four-year terms. Vacancies in the
13 commission shall be filled for the unexpired term in the same
14 manner as the original appointments. The governor may remove or
15 suspend any member of the commission after due notice and public
16 hearing.

17 (e) Members shall:

18 (1) Serve part-time;

19 (2) Be paid compensation of \$ for each day in
20 the performance of official duties; and

21 (3) Be reimbursed for expenses, including travel expenses,
22 incurred in the performance of official duties.



1 (f) Officers of the commission, including the chairperson,
 2 shall be selected by the members. The commission, subject to
 3 chapter 92, shall hold at least one meeting in each quarter of
 4 the State's fiscal year. Special meetings may be called by the
 5 chairperson or any three members upon seventy-two hours written
 6 notice to each member. Three members shall constitute a quorum,
 7 and a majority vote of the members present shall be required for
 8 any final determination by the commission. The commission shall
 9 keep a complete and accurate record of all its meetings.

10 (g) Before assuming the duties of office, each member of
 11 the commission shall take an oath that the member shall
 12 faithfully execute the duties of office according to the laws of
 13 the State and shall file and maintain with the director of
 14 finance a bond in the sum of \$ with good and
 15 sufficient sureties. The cost of any bond for any member of the
 16 commission under this section shall be considered a part of the
 17 necessary expenses of the commission.

18 § -3 Powers and duties of commission. (a) The
 19 commission shall operate a state lottery and in doing so shall
 20 determine:

21 (1) The types of lottery or lotteries to be conducted;

- 1 (2) The price or prices of tickets or shares in the
- 2 lottery;
- 3 (3) The number and sizes of the prizes on the winning
- 4 tickets or shares;
- 5 (4) The design of the tickets or shares to be used in the
- 6 lottery; provided that each state lottery ticket or
- 7 share shall have imprinted thereon the state seal and
- 8 a serial number;
- 9 (5) The manner of selecting the winning tickets or shares;
- 10 (6) The manner of payment of prizes to the holders of
- 11 winning tickets or shares;
- 12 (7) The frequency of the drawings or selections of winning
- 13 tickets or shares;
- 14 (8) The type or types of locations at which tickets or
- 15 shares may be sold;
- 16 (9) The method to be used in selling tickets or shares;
- 17 (10) The licensing agents to sell tickets or shares;
- 18 provided that no person under the age of eighteen
- 19 shall be licensed as an agent;
- 20 (11) The manner and amount of compensation, if any, to be
- 21 paid licensed sales agents; and



1 (12) Any other matter necessary or desirable for the
2 efficient and economical operation and administration
3 of the lottery and for the convenience of the
4 purchasers of tickets or shares and the holders of
5 winning tickets or shares.

6 (b) The commission may adopt, and from time to time amend,
7 rules under chapter 91 it deems necessary or desirable. The
8 commission shall advise and make recommendations to the lottery
9 director regarding the operation and administration of the
10 lottery.

11 (c) The commission shall report monthly to the governor,
12 the attorney general, and the legislature the total lottery
13 revenues, prize disbursements, and other expenses for the
14 preceding month and shall make an annual report to them that
15 shall include a full and complete statement of lottery revenues,
16 prize disbursements, and other expenses, including any
17 recommendations that it may deem necessary or advisable. The
18 commission shall report immediately to the governor and the
19 legislature any matters that require changes in the laws of the
20 State in order to prevent abuse and evasion of this chapter or
21 rules of the commission or to rectify undesirable conditions in



1 connection with the administration or operation of the state
2 lottery.

3 (d) The commission shall carry on a continuous study and
4 investigation of the lottery throughout the State in order to:

5 (1) Ascertain any defects in this chapter or in the rules
6 whereby any abuse in the administration and operation
7 of the lottery or any evasion of this chapter or rules
8 may arise;

9 (2) Formulate recommendations for changes in this chapter
10 and the rules to prevent abuses and evasions; and

11 (3) Guard against the use of this chapter and rules for
12 carrying on organized gambling and criminal
13 activities.

14 (e) The commission shall make a continuous study and
15 investigation of the operation and administration of similar
16 laws in other states or countries, of any literature on the
17 subject that from time to time may be published or available, of
18 any federal laws that may affect the operation of the lottery,
19 and of the reaction of citizens of the State to existing and
20 potential features of the lottery, with a view toward
21 recommending or effecting changes that will better serve and
22 implement the purposes of this chapter.



1 (f) The commission may issue subpoenas to compel the
2 attendance of witnesses and the production of documents, papers,
3 books, records, and other evidence before it in any matter over
4 which it has jurisdiction, control, or supervision. The
5 commission may administer oaths and affirmations to persons
6 whose testimony is required.

7 § -4 **State lottery special fund established; authorized**
8 **disbursements.** There is established the state lottery special
9 fund within the state treasury into which shall be deposited all
10 revenues received from the sale of lottery tickets or shares and
11 all other moneys credited or transferred to the fund from any
12 other fund or source pursuant to law. Revenues from the state
13 lottery special fund shall be expended only for the following
14 purposes:

15 (1) For the payment of prizes to the holders of winning
16 lottery tickets or shares that in any case shall be no
17 less than per cent of the total revenues
18 accruing from the sale of lottery tickets;

19 (2) For the expenses of the commission in administering
20 and operating the lottery, including the costs
21 resulting from any contract or contracts entered into
22 for promotional, advertising, or operational services,



1 or for the purchase or lease of lottery equipment and
 2 materials, which in no case shall exceed per
 3 cent of the total revenues accruing from the sale of
 4 lottery tickets; and

5 (3) The balance of the fund shall be used to support
 6 improvements and enhancements for educational purposes
 7 and programs in the State's public elementary,
 8 intermediate, and high schools and the University of
 9 Hawaii; provided that these funds shall be used to
 10 supplement and not supplant existing resources of the
 11 department of education and the University of Hawaii
 12 for educational purposes.

13 § -5 **Lottery director; duties.** (a) The commission,
 14 shall appoint without regard to chapter 76 a lottery director of
 15 the state lottery who shall serve at the pleasure of the
 16 commission and shall receive a salary not to exceed \$
 17 to be determined by the commission. The lottery director shall
 18 supervise and administer the operation of the lottery under this
 19 chapter and any rules adopted.

20 (b) The lottery director, subject to the approval of the
 21 commission, shall appoint any other professional, technical, and
 22 clerical assistants, and employees that may be necessary;



1 provided that the assistants and employees shall not be subject
2 to chapter 76.

3 (c) The lottery director shall:

4 (1) Act as secretary and executive officer of the
5 commission;

6 (2) Confer regularly as necessary or desirable and not
7 less than once every month with the commission on the
8 operation and administration of the lottery;

9 (3) Make available for inspection by the commission, upon
10 request, all books, records, files, and other
11 information, and documents of the commission;

12 (4) Advise the commission and recommend matters that the
13 lottery director deems necessary and advisable to
14 improve the operation and administration of the
15 lottery;

16 (5) License, as agents to sell lottery tickets, persons
17 who, in the lottery director's opinion, will best
18 serve the public convenience and promote the sale of
19 tickets or shares. Every licensed agent shall
20 prominently display the license or a copy thereof;

21 (6) Require a bond from every licensed agent in an amount
22 that may be provided in the rules of the commission;



1 (7) Suspend or revoke any license for violation of this
2 chapter or of the rules adopted hereunder;

3 (8) Subject to the approval of the commission and the
4 applicable laws relating to public contracts, enter
5 into contracts for the operation of the lottery and
6 into contracts for the promotion of the lottery;
7 provided that no contract awarded or entered into
8 shall be assigned by the holder thereof except with
9 the specific approval of the commission; and

10 (9) Certify to the commission each month a full and
11 complete statement of lottery revenues, prize
12 disbursements, and other expenses for the preceding
13 month.

14 § -6 **Contractual arrangements.** The lottery director
15 may:

16 (1) Make contractual arrangements with any person,
17 including a bank, to perform functions, activities, or
18 services in connection with the operation of the
19 lottery that the lottery director deems advisable
20 pursuant to the rules of the commission for the
21 deposit, handling, and disbursements of lottery funds,
22 tickets, and materials; and



1 (2) Permit agents to deduct from the proceeds of sales of
 2 lottery tickets the agreed amount of reimbursement and
 3 compensation for services rendered.

4 For purposes of this section, the term "bank" includes all
 5 banks, banking associations, savings banks, cooperative banks,
 6 credit unions, trust companies, financial services loan
 7 companies, and any other type or form of banking institution
 8 organized under the authority of the State or of the United
 9 States whose principal place of business is within the State.

10 All contracts and any negotiations shall be public records.

11 **§ -7 Agents; license required; direct sales by**

12 **commission to public.** (a) No person, other than fraternal,
 13 veterans', or charitable organizations, shall be licensed as an
 14 agent to sell lottery tickets or shares if the person engages in
 15 business exclusively as a lottery sales agent. Before issuing a
 16 license, the lottery director shall consider:

17 (1) The financial responsibility and security of each
 18 applicant for a license;

19 (2) The applicant's business or activity;

20 (3) The accessibility of the applicant's place of business
 21 or activity to the public;

1 (4) The sufficiency of existing licenses to serve the
2 public convenience; and

3 (5) The volume of expected sales.

4 (b) No person licensed by the lottery director to deal in,
5 purchase, or promote lottery tickets pursuant to this chapter or
6 any rules shall be subject to prosecution under part III of
7 chapter 712 for setting up and promoting a lottery or for any
8 other incidental crime, or for selling or possessing lottery
9 tickets, shares, or materials for the lottery.

10 (c) Any three persons objecting to the issuance of a
11 license, or any person applying for and being denied a license,
12 may request and be granted a public hearing by the commission
13 under chapter 91. No such license shall be issued except after
14 a hearing under chapter 91 and unless four members of the
15 commission approve the issue of the license.

16 (d) No federal, state, or county employee, or member of
17 the employee's immediate family, shall sell or be issued a
18 license to sell lottery tickets. No person shall use a position
19 in public service or a position of private employment in any
20 manner so as to encourage the sale of tickets. No employer
21 shall set up a payroll deduction plan for the purchase of
22 lottery tickets by the employer's employees.



1 (e) Nothing in this section or any other section of this
2 chapter shall be construed to prohibit the commission from
3 designating certain of its agents and employees to sell lottery
4 tickets directly to the public; provided that none of those
5 employees shall receive any remuneration or commission for a
6 sale; and provided further that no lottery ticket shall be sold
7 to persons committed to any state correctional facility or state
8 hospital.

9 § -8 **Assignment of right to prize prohibited;**
10 **exceptions; liability of commission and lottery director.** No
11 right of any person to a prize shall be assignable, except that:

12 (1) Payment of any prize may be made to the estate of a
13 deceased prize winner;

14 (2) Any person pursuant to an appropriate judicial order
15 may be paid the prize to which the winner is entitled;
16 and

17 (3) The commission, by rules adopted pursuant to section
18 -3, may permit assignment of prizes for purposes of
19 paying estate and transfer taxes or to a trust the
20 beneficiaries of which are the prize winner's mother,
21 father, children, grandchildren, brothers, sisters, or
22 spouse.



1 Neither the commission nor the lottery director shall be liable
2 for the payment of a prize pursuant to this section.

3 § -9 **Certain persons ineligible to participate in**
4 **lottery.** No ticket or share shall be purchased by, and no prize
5 shall be paid to, any:

6 (1) Member or employee of the commission;

7 (2) Spouse, child, brother, sister, or parent residing as
8 a member of the same household in the principal place
9 of abode of any member or employee of the commission;
10 or

11 (3) Recipient of public assistance from the State,
12 including medical assistance or food stamps.

13 § -10 **Disposition of unclaimed prize money.** Unclaimed
14 prize money for the prize on a winning ticket or share shall be
15 retained by the lottery director for the person entitled to the
16 prize for one year after the drawing in which the prize was won.
17 If no claim is made for the money within that year, the prize
18 money shall be allocated in the same manner as lottery revenues
19 are allocated.

20 § -11 **Payment of prize to minor; lottery director**
21 **discharged from liability, when.** If the person entitled to a
22 prize or any winning ticket is under the age of eighteen years



1 and the prize is less than \$ _____, the lottery director may
2 direct payment of the prize by delivery to an adult member of
3 the minor's family or to a guardian of the minor of a check or
4 draft payable to the order of the minor. If the person entitled
5 to a prize or any winning ticket is under the age of eighteen
6 years and the prize is \$ _____ or more, the lottery director
7 may direct payment to the minor by depositing the amount of the
8 prize in any bank to the credit of an adult member of the
9 minor's family or to a guardian of the minor as custodian for
10 the minor. The lottery director shall be discharged of all
11 further liability upon payment of a prize to a minor pursuant to
12 this section.

13 § -12 **Certain sales prohibited; penalty.** No person
14 shall sell a ticket or share at a price greater than that fixed
15 by the commission. No person other than a licensed lottery
16 sales agent shall sell lottery tickets or shares, except that
17 nothing in this section shall be construed to prevent any person
18 from giving lottery tickets or shares to another as a gift. No
19 ticket or share shall be sold to any person under age eighteen;
20 provided that a person eighteen years of age or older may
21 purchase a ticket or share for the purpose of making a gift to a



1 person under age eighteen. Any person who violates this section
2 shall be guilty of a petty misdemeanor.

3 § -13 Alteration, forgery, and counterfeiting of lottery
4 tickets; penalty. Any person, with intent to defraud, who
5 falsely makes, alters, forges, utters, passes, or counterfeits a
6 state lottery ticket or share shall be guilty of a class C
7 felony.

8 § -14 Offenses and penalties. (a) Any person who
9 impersonates a member or employee of the state lottery
10 commission shall be guilty of a misdemeanor.

11 (b) Any person who promises or engages another person to
12 secure a license to sell lottery tickets or shares, or to secure
13 employment with the state lottery commission for money,
14 property, or services, shall be guilty of a class C felony; and
15 in event of conviction, shall be incapable of holding any office
16 of honor, trust, or profit for the State."

17 SECTION 2. Section 712-1220, Hawaii Revised Statutes, is
18 amended by amending the definition of "gambling" to read:

19 "(4) "Gambling". A person engages in gambling if [~~he~~] the
20 person stakes or risks something of value upon the outcome of a
21 contest of chance or a future contingent event not under [~~his~~]
22 the person's control or influence, upon an agreement or



1 understanding that [~~he~~] the person or someone else will receive
2 something of value in the event of a certain outcome. Gambling
3 does not include [~~bona~~]:

4 (a) Bona fide business transactions valid under the law of
5 contracts, including but not limited to contracts for
6 the purchase or sale at a future date of securities or
7 commodities [~~, and agreements~~];

8 (b) Agreements to compensate for loss caused by the
9 happening of chance, including but not limited to
10 contracts of indemnity or guaranty and life, health,
11 or accident insurance [~~-~~]; or

12 (c) The state lottery as established by chapter ."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY:

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JAN 25 2006



H. B. 3085

Report Title:

State Lottery; Education

Description:

Creates state lottery, Hawaii gaming control commission, and state lottery special fund. Provides for payment of winnings and operations. Reserves remainder to fund elementary to post-secondary education. Prohibits recipients of state financial assistance from buying lottery tickets.

