

**STORAGE NAME:** h3289.rs  
**DATE:** December 11, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON REGULATED SERVICES  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3289 (PCB RS 98-01)  
**RELATING TO:** Lottery; Instant Ticket Vending Machine Contracts  
**SPONSOR(S):** Committee on Regulated Services  
**COMPANION BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) Regulated Services YEAS 8 NAYS 0
  - (2)
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill would allow the Lottery Department to continue or expand instant ticket vending machine (ITVM) operations by removing a provision which may prohibit continued use of ITVMs. It revises the provision which contained the initial 18 month limitation to remove that limitation but require that the department lease all instant ticket vending machines. The bill would remove the requirement that two clerks be on duty at a lottery retailer location while the ITVM is in operation except that two clerks are required if the vendor violates the lottery tickets sales to minors prohibition.

The department preliminary report indicates increased sales as a result of the 18-month ITVM pilot program and recommends that the 500 machines currently in operation be retained and that additional machines be acquired.

There is no fiscal impact related to this bill; however, the department will likely request appropriations sufficient to continue or expand its operation of ITVMs. The lease cost of ITVMs would depend upon the number of machines under contract by the Lottery Department. The lease cost, inclusive of maintenance, is \$200 per month per machine. The annualized cost for 500 ITVMs is \$1.2 million.

The department's preliminary figures, based on the operation of 500 ITVMs over a six-month period, indicate that an additional \$9.5 million in gross annual sales could be realized.

This bill is effective upon becoming a law.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Prior to 1996, the Florida Lottery was not authorized to use any type of device which could be operated solely by the player without the assistance of the retailer. Authority for the use of player-activated vending machines, known as instant ticket vending machines (ITVMs), was granted during the 1996 legislative session. Legislative approval for an 18-month test of ITVMs was granted as a provision of the Committee Substitute for House Bills 2405, 267, 531, 1495, 1859, and 1929, and was codified as chapter 96-341, Laws of Florida.

With the passage of that legislation, player-activated machines which dispense instant lottery tickets after a user inserts money into the machine are authorized by law under certain conditions. ITVMs must be under the supervision and within the direct line of sight of the lottery retailer to prevent sales to minors; be capable of being electronically deactivated (for at least five minutes) by the retailer to prevent sales to minors; and be designed to prevent their conversion for use for any other purpose than the dispensing of instant lottery tickets. ITVMs may dispense change but may not make payouts for winning tickets. The law requires at least two clerks on duty at the retailer facility while the instant ticket vending machine is in operation.

The Lottery Department was appropriated \$1.1 million for FY 1996-1997 to initiate an 18-month test of up to 500 ITVMs. An additional \$1.2 million appropriation was granted for FY 1997-1998 for months 7 through 18 of the test program. The 1997-1998 appropriation required a report of the preliminary results of the ITVM test by September 30, 1997.

The first ITVM became operational in Florida in January 1997 and, by April of this year, all 500 test machines were in service. The 18-month test period ends on June 30, 1998.

The Lottery Department compared sales figures for April 1997 (the first month with all machines in operation) through August 1997 (the last month before the report was due) with sales from the same period of the previous year. The department reports that instant ticket sales by retailers with ITVMs increased by 18 percent when compared to the previous year. In contrast, retailers without ITVMs realized a 6 percent decrease in instant ticket sales. The department estimates that an increase of \$9.5 million would be realized if the trend continues. Such increase would generate an additional \$3.1 million in Education Enhancement Trust Fund (EETF) deposits.

The lease cost, inclusive of maintenance, is \$200 per month per machine. The annualized cost for 500 ITVMs is \$1.2 million.

The department reports increased sales and enhanced marketing abilities are due to the operation of ITVMs. The Lottery Department report recommends that the initial 500 ITVMs be retained and that additional machines be brought into operation.

There is some question as to whether the language contained in the statutes limits the Lottery Department's ability to contract for ITVMs after the completion of the initial test period which ends on June 30, 1998. Section 24.111(2)(h), F.S., 1996 Supplement, states that: "The department shall lease all instant ticket vending machines for an initial evaluation period of 18 months." The department requested this legislation to remove

any ambiguity which may exist and to allow it the ability to continue to operate current ITVMs as well as expand ITVM operations.

**B. EFFECT OF PROPOSED CHANGES:**

This bill would remove a provision which may prohibit the Lottery Department from continuing to operate ITVMs or expand ITVM operations. It would revise the provision which contained the initial 18 month limitation to remove that limitation but require that the department lease all instant ticket vending machines. The bill would remove the requirement that two clerks be on duty at a lottery retailer location while the ITVM is in operation except that two clerks are required if the vendor violates the lottery tickets sales to minors prohibition.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 24.105 and 24.111, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

There is no fiscal impact related to this bill; however, the department will likely request appropriations sufficient to continue or expand its operation of ITVMs. The lease cost of ITVMs would depend upon the number of machines under contract by the Lottery Department. The lease cost, inclusive of maintenance, is \$200 per month per machine. The annualized cost for 500 ITVMs is \$1.2 million.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

The Lottery Department estimates an increase of \$9.5 million in gross sales if the increased sales exhibited by the retailers with ITVMs continues at its current pace based on the continued operation of 500 ITVMs. The impact of additional machines is not addressed by the department report.

There are no expenditures related to this bill. The department's request for funds for the 1998-1999 Fiscal Year to continue or expand its ITVM operations would affect the 1998-1999 General Appropriations Act.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Retailers with ITVMs would realize increased commissions to the extent that the machines increase instant ticket sales at the retailer's facility. The department report on ITVMs points out that the two clerk requirement greatly reduces the number of locations eligible to operate ITVMs. Allowing the operation of ITVMs at locations with only one clerk would expand the pool of retailers qualified to use the machines.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

The Lottery Department currently leases all of its ITVMs. This bill would allow the continued use of leased machines but would restrict the department from purchasing such machines.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

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