

FLORIDA LOTTERY 2010 LEGISLATIVE PRIORITIES

Include Limited Liability Companies (LLC)

The current Lottery statute requires disclosure of certain information by vendors who participate in competitive procurements. The specific information varies according to the type of legal entity involved. The statute specifies the information required to be disclosed by corporations, partnerships, trusts, and associations; however, it does not specify what information is to be submitted by LLCs. The bill would provide clarification as to what information is required to be submitted by LLCs.

Minority Participation as Retailers

The Lottery maintains its commitment to and exceeds the statutory requirement that 15% of its retailers be minority businesses. In addition, current statute requires that no more than 35% of such retailers be owned by the same type of minority person. Audits by the Office of Auditor General report that 60% of the Lottery's minority retailers are Asian American. To comply with the current 35% cap, the Lottery would have to terminate some of its retailer contracts with Asian Americans and would not be able to recruit new retailers from that minority group. These actions would not benefit any minority group, but would be harmful to Lottery sales. Removing the 35% cap would alleviate this audit issue without harming Lottery sales or the interests of any minority group.

Amend the Requirement for Liquidated Damages in Lottery Contracts

Section 24.111(6) requires that every contract in excess of \$25,000 entered into by the department shall contain a provision for payment of liquidated damages to the department for any breach of contract by the vendor. It also states that the department may require a liquidated damages provision in any contract, regardless of the contract's value, if the department deems it necessary to protect the state's financial interest. Liquidated damage clauses are not necessarily appropriate in every contract, simply because they exceed \$25,000. This amendment would authorize such clauses to be included where they are beneficial to the state's financial interests but not automatically require them in all contracts simply because they exceed \$25,000.

Retailer Compliance

Lottery retailers are required to maintain commercial bank accounts for payment of money owed to the department from the sale of tickets. Payments are accomplished through electronic bank sweeps, authorized in advance by the retailers.

From October 2008 through October 2009 the department lost approximately \$2.7 million in bad debts by Lottery retailers. The debts accrued when retailers had insufficient funds in their bank accounts to cover the electronic bank sweeps they had authorized the Lottery to make. This \$2.7 million could have been used to provide Bright Futures scholarships to nearly 1,000 students!

This amendment would make it a third degree felony for a retailer to maintain insufficient funds for payment of authorized bank sweeps. This is similar to the provision currently used by the Department of Revenue for businesses who fail to pay state sales taxes. The Lottery believes such a provision would reduce the bad debt situation and help with the collection of debts that do occur.