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BILL



ANALYSIS

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Senate Bill 601 (as enacted)
Sponsor: Senator Mike Kowall
Senate Committee: Regulatory Reform
House Committee: Regulatory Reform

PUBLIC ACT 293 of 2012

Date Completed: 1-10-13

CONTENT

The bill amended the Lottery Act to do the following:

- **Authorize the Lottery Commissioner to contract for the placement of advertising or promotional material on Club Keno game media or the sponsorship of individual draws in the game.**
- **Require advertisements to comply with Federal Communications Commission (FCC) content regulations for TV broadcasts, but allow advertisements for alcoholic beverages, with restrictions imposed by the Lottery Commissioner or the Liquor Control Commission (LCC).**
- **Require the Lottery Bureau to give the LCC information about an advertising contract at least 10 days before entering into the contract, if it involves advertisements for alcoholic beverages.**
- **Require the LCC to advise the Lottery Bureau of objections or conditions regarding ads for alcoholic beverages.**
- **Specify that the LCC's failure to respond within 10 days will waive objections or conditions.**
- **Require the LCC to consider whether a licensee has a history of violations, if a proposed advertising contractor is a liquor licensee.**
- **Create the "Club Keno Advertising Fund" and require money from advertising contracts to be deposited into it.**
- **Require money in the Fund to be disbursed to the State School Aid**

Fund, with the exception of distributions for the LCC's and the Lottery Bureau's costs related to advertising.

The bill took effect on August 1, 2012.

Advertising

The bill authorizes the Lottery Commissioner to contract with one or more people to allow advertising or promotional material to be placed on available media related to the Lottery Bureau's Club Keno game, or to sponsor individual draws in that game. If the Commissioner enters into such a contract, he or she must allow at least one minute between games of Club Keno during which one or more advertisements may be exhibited.

The Commissioner must solicit bids from responsible people for Club Keno advertising or promotional contracts. The Commissioner must select from among the bids in order to produce the maximum amount of net revenue for the State, consonant with the general welfare of Michigan residents. In deciding whether to enter into a contract, the Commissioner must consider whether its terms are comparable to the terms of similar advertising or promotional contracts relating to lottery or other gaming in other states.

FCC Compliance/Alcohol Ads

A contract entered into under the bill must require any advertisements exhibited between Club Keno games to comply with the FCC's content regulations for televised

broadcasts. Club Keno advertising, however, may include ads for alcoholic beverages, with restrictions imposed by the Lottery Commissioner or the LCC's administrative commissioners acting under the Michigan Liquor Control Code and rules promulgated under the Code.

If a contract for Club Keno advertising will involve ads for alcoholic beverages, the Lottery Bureau must give the LCC's administrative commissioners all available information about the proposed contract, at least 10 days before the Bureau enters into the contract. Within 10 days after the Bureau provides the information, the administrative commissioners must advise the Bureau of any objections or any proposed conditions to be placed on the contract. Objections and proposed conditions may relate only to matters under the LCC's jurisdiction. The Lottery Commissioner must comply with all objections and require the contractor to comply with any conditions the LCC proposes. Failure of the LCC's administrative commissioners to respond to information will constitute a waiver of any objections or proposed conditions.

In considering a proposed contract and Club Keno advertising, if the proposed contractor is a licensee under the Liquor Control Code, the LCC's administrative commissioners must consider among other relevant factors whether the licensee has a history of violations of the Code or rules promulgated under it.

Club Keno Advertising Fund

The bill created the Club Keno Advertising Fund in the State Treasury. Money from a Club Keno advertising contract must be deposited into the Fund. The Lottery Commissioner also may receive money or other assets from any source for deposit into the Fund. The State Treasurer must to direct the Fund's investment and credit to it the interest and earnings from investments. Money in the Fund at the close of a fiscal year must remain in the Fund and not lapse to the General Fund.

The Lottery Bureau is the administrator of the Club Keno Advertising Fund for auditing purposes.

If advertising conducted under the bill involves ads for alcoholic beverages, 20% of the first \$400,000 deposited into the Fund each fiscal year, or 0.4% of the money deposited into the Fund each fiscal year, whichever is less, must be paid to the LCC for reimbursement of its costs related to the advertising. The balance of the first \$400,000 deposited into the Fund each fiscal year, or 2% of the money deposited into the Fund each fiscal year, whichever is less, must be distributed to the Lottery Bureau for reimbursement of its costs related to Club Keno advertising. The balance of the money deposited in the Fund must be disbursed to the State School Aid Fund.

MCL 432.11 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The Bureau of State Lottery has offered advertisements on Keno screens for about six years under its existing statutory authority. There has not been a demand for the advertisements, although Keno promotions have been part of broader sponsorship and advertising contracts. All net profits of the lottery are deposited into the School Aid Fund. The lottery deposit to the School Aid Fund was \$737.6 million in FY 2010-11.

The authority in the bill to include advertising for alcoholic beverages, subject to restrictions imposed by the Commissioner and members of the Liquor Control Commission, may increase advertiser interest and advertisement purchases. The Lottery Bureau and the Liquor Control Commission will have increased costs to comply with the timelines in the bill for reviewing advertisements and raising objections or proposed conditions within 10 days. The Lottery Commissioner will be required to include any proposed conditions in the advertising contract and to require the contractor to comply with those conditions.

Under the bill, any revenue from contracts for Keno advertisements will be deposited first into the Club Keno Advertising Fund, which the bill creates, and then transferred to the School Aid Fund and to the Bureau of State Lottery, which will be permitted a limited reimbursement of the cost of administration of the Keno advertisement

program. For advertisements involving alcoholic beverages, the Liquor Control Commission also will receive limited reimbursement for administrative costs of not more than \$80,000. It is unlikely that this cap will be reached because the reimbursement will be the lesser of either 20% of the first \$400,000 (which is \$80,000) or 0.4% of annual revenue to the Fund. The \$80,000 cap will not be reached unless revenue from advertisements involving alcohol exceeds \$20.0 million per year. Revenue of \$1.0 million, for example, would result in \$4,000 of administrative reimbursement for the Liquor Control Commission. Reimbursement to the Lottery Bureau for advertisements involving alcohol will be the balance of the first \$400,000 in revenue. If the advertisements are not for alcoholic beverages, the Bureau will receive administrative reimbursement of 2% or \$400,000, whichever is less. The \$400,000 cap on Lottery Bureau administrative costs will not be reached until advertisement revenue exceeds \$20.0 million in a State fiscal year. Remaining revenue after the limited expense reimbursement will be transferred from the Club Keno Advertising Fund into the School Aid Fund, which will receive increased revenue of an unknown amount.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.