

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

S

1

SENATE BILL 518

Short Title: Lottery Act Changes.

(Public)

Sponsors: Senator Rand.

Referred to: Appropriations/Base Budget.

March 6, 2007

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE NORTH CAROLINA STATE
LOTTERY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18C-114(a)(8), (10), and (11) read as rewritten:

"(a) The Commission shall have the following powers and duties:

(8) To charge a fee of lottery ~~vendors~~potential contractors not to exceed the cost of the criminal record check of the lottery ~~vendor~~potential contractor.

...

(10) To determine the incentives, if any, for any lottery employees, lottery ~~vendors~~potential contractors, lottery contractors, or electronic computer terminal operators.

(11) To specify the authority, compensation, and role of the Director, and to specify the authority, selection, and role of the other employees of the Commission. All of the following apply to all employees of the Commission:

a. No employee of the Commission may have a financial interest in any lottery ~~vendor~~potential contractor or lottery contractor, other than an interest as part of a mutual fund.

b. No employee of the Commission with decision-making authority shall participate in any decision involving the retailer or ~~vendor~~potential contractor with whom the employee has a financial interest.

c. No employee of the Commission who leaves the employment of the Commission may represent any ~~vendor~~contractor, potential contractor, or retailer before the Commission for a period of one year following termination of employment with the Commission.

- 1 d. A background investigation shall be conducted on each
2 applicant for employment with the Commission.
3 e. The Commission shall bond all employees with access to lottery
4 funds or revenue or security.

5"

6 **SECTION 2.** The title of Article 6 of Chapter 18C of the General Statutes
7 reads as rewritten:

8 "Article 6.

9 Lottery ~~Vendors~~ Potential Contractors and Lottery Contractors."

10 **SECTION 3.** G.S. 18C-151 reads as rewritten:

11 **"§ 18C-151. Contracts.**

12 (a) Except as otherwise specifically provided in this subsection for contracts for
13 the purchase of services, apparatus, supplies, materials, or equipment, Article 8 of
14 Chapter 143 of the General Statutes, including the provisions relating to minority
15 participation goals, shall apply to contracts entered into by the Commission. If this
16 subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection
17 shall control. In recognition of the particularly sensitive nature of the Lottery and the
18 competence, quality of product, experience, and timeliness, fairness, and integrity in the
19 operation and administration of the Lottery and maximization of the objective of raising
20 revenues, a contract for the purchase of services, apparatus, supplies, materials, or
21 equipment requiring an estimated aggregate expenditure of ninety thousand dollars
22 (\$90,000) or more may be awarded by the Commission only after the following have
23 occurred:

- 24 (1) The Commission has invited proposals to be submitted by
25 advertisement by electronic means or advertisement in a newspaper
26 having general circulation in the State of North Carolina and
27 containing the following information:
28 a. The time and place where a complete description of the
29 services, apparatus, supplies, materials, or equipment may be
30 had.
31 b. The time and place for opening of the proposals.
32 c. A statement reserving to the Commission the right to reject any
33 or all proposals.
34 (2) Proposals may be rejected for any reason determined by the
35 Commission to be in the best interest of the Lottery.
36 (3) All proposals shall be accompanied by a bond or letter of credit in an
37 amount equal to not less than five percent (5%) of the proposal and the
38 fee to cover the cost of the criminal record check conducted under
39 G.S. 114-19.6.
40 (4) The Commission has complied with the minority participation goals of
41 G.S. 143-128.2 and G.S. 143-128.3.
42 (5) The Commission may not award a contract to a lottery ~~vendor~~
43 potential contractor who has been convicted of a felony or any
44 gambling offense in any state or federal court of the United States

1 within 10 years of entering into the contract, or employs officers and
2 directors who have been convicted of a felony or any gambling offense
3 in any state or federal court of the United States within 10 years of
4 entering into the contract.

5 (6) The Commission shall investigate and compare the overall business
6 practices, ethical reputation, criminal record, civil litigation,
7 competence, integrity, background, and regulatory compliance record
8 of lottery ~~vendors~~ potential contractors.

9 (7) The Commission may engage an independent firm experienced in
10 evaluating government procurement proposals to aid in evaluating
11 proposals for a major procurement.

12 (8) The Commission shall award the contract to the responsible lottery
13 ~~vendor~~ potential contractor who submits the best proposal that
14 maximizes the benefits to the State.

15 (b) Upon the completion of the bidding process, a contract may be awarded to a
16 lottery contractor with whom the Commission has previously contracted for the same
17 purposes.

18 (c) Before a contract is awarded, the Director shall conduct a thorough
19 background investigation of all of the following:

20 (1) The ~~vendor~~ potential contractor to whom the contract is to be
21 awarded.

22 (2) Any parent or subsidiary corporation of the ~~vendor~~ potential contractor
23 to whom the contract is to be awarded.

24 (3) All shareholders with a five percent (5%) or more interest in the
25 ~~vendor~~ potential contractor or parent or subsidiary corporation of the
26 ~~vendor~~ potential contractor to whom the contract is to be awarded.

27 (4) All officers and directors of the ~~vendor~~ potential contractor or parent
28 or subsidiary corporation of the ~~vendor~~ potential contractor to whom
29 the contract is to be awarded.

30 (d) The Commission may terminate the contract, without penalty, of a lottery
31 contractor that fails to comply with the Commission's instruction to implement the
32 recommendations of the State Auditor or an independent auditor in an audit conducted
33 of Lottery security or operations.

34 (e) After entering into a contract with a lottery contractor, the Commission shall
35 require the lottery contractor to periodically update the information required to be
36 disclosed under G.S. 18C-152(c). Any contract with a lottery contractor who does not
37 periodically update the required disclosures may be terminated by the Commission.

38 (f) No lottery system vendor nor any applicant for a contract may pay, give, or
39 make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality,
40 or service, excluding food and beverages having an aggregate value not exceeding one
41 hundred dollars (\$100.00) in any calendar year, to the Director, any member or
42 employee of the corporation, or a member of the immediate family residing in the same
43 household as any of these individuals."

44 **SECTION 4.** G.S. 18C-152 reads as rewritten:

1 **"§ 18C-152. Investigation of lottery ~~vendors~~ potential contractors.**

2 (a) Lottery ~~vendors~~ potential contractors shall cooperate with the Director in
3 completing any investigation required under G.S. 18C-151(c), including any appropriate
4 investigation authorizations needed to facilitate these investigations.

5 (b) The Commission shall adopt rules that provide for disclosures of information
6 required to be disclosed under subsection (c) of this section by lottery ~~vendors~~ potential
7 contractors to ensure that the ~~vendors~~ potential contractors provide all the information
8 necessary to allow for a full and complete evaluation by the Director and Commission
9 of the competence, integrity, background, and character of the lottery ~~vendors~~ potential
10 contractors. Information shall be disclosed for the following:

11 (1) If the ~~vendor~~ potential contractor is a corporation, the officers,
12 directors, and each stockholder in that corporation; however, in the
13 case of owners of equity securities of a publicly traded corporation,
14 only the names and addresses of those known to the corporation to
15 own beneficially five percent (5%) or more of the securities need be
16 disclosed.

17 (2) If the ~~vendor~~ potential contractor is a trust, the trustee and all persons
18 entitled to receive income or benefits from the trust.

19 (3) If the ~~vendor~~ potential contractor is an association, the members,
20 officers, and directors.

21 (4) If the ~~vendor~~ potential contractor is a partnership or joint venture, all
22 of the general partners, limited partners, or joint venturers.

23 (5) For any ~~vendor~~ potential contractor, any person who can exercise
24 control or authority, or both, on behalf of the ~~vendor~~ potential
25 contractor. For any ~~vendor~~ potential contractor, any person who can
26 exercise control or authority, or both, on behalf of the ~~vendor~~ potential
27 contractor.

28 (c) For purposes of this subsection, the term "~~vendor~~" potential contractor" shall
29 include the ~~vendor~~ potential contractor and each of the persons applicable under
30 subsection (b) of this section. At a minimum, the ~~vendor~~ potential contractor required to
31 disclose information for a thorough background investigation under G.S. 18C-151 shall
32 do all of the following:

33 (1) Disclose the ~~vendor's~~ potential contractor's name, phone number, and
34 address.

35 (2) Disclose all the states and jurisdictions in which the ~~vendor~~ potential
36 contractor does business and the nature of the business for each state
37 or jurisdiction.

38 (3) Disclose all the states and jurisdictions in which the ~~vendor~~ potential
39 contractor has contracts to supply gaming goods or services, including
40 lottery goods and services, and the nature of the goods or services
41 involved for each state or jurisdiction.

42 (4) Disclose all the states and jurisdictions in which the ~~vendor~~ potential
43 contractor has applied for, has sought renewal of, has received, has
44 been denied, has pending, or has had revoked a lottery or gaming

1 license or permit of any kind or had fines or penalties assessed on a
2 license, permit, contract, or operation and the disposition of such in
3 each such state or jurisdiction. If any lottery or gaming license, permit,
4 or contract has been revoked or has not been renewed or any lottery or
5 gaming license, permit, or application has been either denied or is
6 pending and has remained pending for more than six months, all of the
7 facts and circumstances underlying the failure to receive that license
8 shall be disclosed.

9 (5) Disclose the details of any finding or plea, conviction, or adjudication
10 of guilt in a state or federal court of the ~~vendor~~ potential contractor for
11 any felony or any other criminal offense other than a minor traffic
12 violation.

13 (6) Disclose the details of any bankruptcy, insolvency, reorganization, or
14 corporate or individual purchase or takeover of another corporation,
15 including bonded indebtedness, or any pending litigation of the
16 ~~vendor~~ potential contractor.

17 (7) If at least twenty-five percent (25%) of the cost of a ~~vendor's~~ potential
18 contractor's contract is subcontracted, the ~~vendor~~ potential contractor
19 shall disclose all of the information required by this section for the
20 subcontractor as if the subcontractor were itself a ~~vendor~~ potential
21 contractor.

22 (8) Make any additional disclosures and information the Commission
23 determines to be appropriate for the contract involved.

24 (d) All documents compiled by the Director in conducting the investigation of
25 the lottery ~~vendors~~ potential contractors shall be held as confidential information under
26 Chapter 132 of the General Statutes."

27 **SECTION 5.** G.S. 18C-103 reads as rewritten:

28 "**§ 18C-103. Definitions.**

29 As used in this Chapter, unless the context requires otherwise:

30 (1) "Commission" means the North Carolina State Lottery Commission.

31 (2) "Commissioner" means a member of the Commission.

32 (3) "Director" means the person selected by the Commission to be the
33 chief administrator of the North Carolina State Lottery.

34 (4) "Game" or "lottery game" means any procedure or amusement
35 authorized by the Commission where prizes are distributed among
36 persons who have paid, or unconditionally agreed to pay, for tickets or
37 shares that provide the opportunity to win those prizes and does not
38 utilize a video gaming machine as defined in G.S. 14-306.1(c).

39 (5) "Lottery" means any lottery game or series of games established and
40 operated pursuant to this Chapter.

41 (6) "Lottery contractor" means a person other than a lottery retailer with
42 whom the Commission has contracted for the purpose of providing
43 goods or services to the ~~Commission~~ Commission on an ongoing
44 basis.

- 1 (6a) "Lottery supplier" means a person, other than a lottery retailer, with
2 whom the Commission has contracted for the purpose of providing
3 goods or services to the Commission for an individual purchase which
4 may include a maintenance program.
- 5 (7) "Person" means any natural person or corporation, limited liability
6 company, trust, association, partnership, joint venture, subsidiary, or
7 other business entity.
- 8 (7a) "Potential contractor" means any person other than a lottery retailer
9 who submits a bid, proposal, or offer to procure a contract for goods or
10 services for the Commission.
- 11 (8) "Retailer", "lottery retailer", or "lottery game retailer" means a person
12 with whom the Commission has contracted to sell tickets or shares in
13 lottery games.
- 14 (9) "Share" means any method of participation in a lottery game, other
15 than by a ticket purchased on an equivalent basis with a ticket.
- 16 (10) "Ticket" means any tangible evidence authorized by the Commission
17 to demonstrate participation in a lottery game.
- 18 (11) ~~"Vendor" or "lottery vendor" means any person other than a lottery~~
19 ~~retailer who submits a bid, proposal, or offer to procure a contract for~~
20 ~~goods or services for the Commission."~~

21 **SECTION 6.** G.S. 18C-113 is amended by adding a new subsection to read:

22 "(d) Only the following information concerning a lottery winner is a public
23 record: (i) name, (ii) city and state of residence, (iii) game played, (iv) amount won, and
24 (v) date won."

25 **SECTION 7.** G.S. 18C-120(b) reads as rewritten:

26 "(b) The Director shall have the following powers and duties, under the
27 supervision of the Commission:

- 28 (1) To provide for the reporting of payment of lottery game prizes to State
29 and federal tax authorities and for the withholding of State and federal
30 income taxes from lottery game prizes as provided in State and federal
31 law.
- 32 (2) To conduct a background investigation, including a criminal history
33 record check, of applicants for employment with the Commission,
34 lottery retailers, and lottery potential contractors, which may include a
35 search of the State and National Repositories of Criminal Histories
36 based on the fingerprints of applicants.
- 37 (3) To set the salaries of all Commission employees, subject to the
38 approval of the Commission. Except for the provisions of Articles 6
39 and 7 of Chapter 126 of the General Statutes, all employees of the
40 Commission shall be exempt from the State Personnel Act.
- 41 (4) To enter into contracts with lottery retailers and lottery contractors
42 upon approval by the Commission.
- 43 (5) To provide for the security and accuracy in the operation and
44 administration of the Commission and the Lottery, including

1 examining the background of all prospective employees, ~~lottery~~
2 ~~vendors~~, lottery potential contractors, and lottery retailers.

- 3 (6) To coordinate and collaborate with the appropriate law enforcement
4 authorities regarding investigations of violations of the laws relating to
5 the operation of the Lottery and make reports to the Commission
6 regarding those investigations.
- 7 (7) To confer with the Commission on the operation and administration of
8 the Lottery and make available for inspection by the Commission all
9 books, records, files, documents, and other information of the Lottery.
- 10 (8) To study the operation and administration of other lotteries and to
11 collect demographic and other information concerning the Lottery and
12 make recommendations to improve the operation and administration of
13 the Lottery to the Commission, to the Governor, and to the General
14 Assembly.
- 15 (9) To provide monthly financial reports to the Commission of all lottery
16 revenues, prize disbursements, expenses, net revenues, and all other
17 financial transactions involving lottery funds.
- 18 (10) To enter into agreements with other states to operate and promote
19 multistate lotteries consistent with the purposes set forth in this
20 Chapter and upon the approval of the Commission."

21 **SECTION 8.** G.S. 18C-132(h) reads as rewritten:

22 "(h) The right of any person to a prize shall not be assignable. Payment of any
23 prize may be paid ~~to the estate of a deceased prizewinner or to a person designated~~
24 pursuant to a court order. Any prize or portion of a prize remaining unpaid at the death
25 of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee
26 of a trust established by the prize winner or as designated in the deceased prize winner's
27 will, living trust, or other preprepared legal instrument."

28 **SECTION 9.** G.S. 18C-134(b) reads as rewritten:

29 "(b) Notification. – A claimant agency ~~seeking to attempt collection of a debt~~
30 ~~through setoff must notify the Commission in writing and supply information necessary~~
31 ~~to identify the debtor. The claimant agency may include with the notification the date, if~~
32 ~~any, that the debt is expected to expire. The agency must notify the Commission in~~
33 ~~writing when a debt has been paid or is no longer owed the agency. A local agency may~~
34 ~~not submit a debt for collection under this section until it has met the requirements of~~
35 ~~G.S. 105A-5, and it must submit the debt to the Commission through one of the entities~~
36 ~~listed in G.S. 105A-3(b1).~~ is automatically enrolled in the Commission's debt set-off
37 program if it is enrolled in the Department of Revenue debt set-off program. To provide
38 for more efficient operations, the Department of Revenue shall provide to the
39 Commission on a periodic basis all updates to its debt set-off program as soon as
40 practicable."

41 **SECTION 10.** G.S. 18C-134(e) reads as rewritten:

42 "(e) Confidentiality. – Notwithstanding any confidentiality statute of a claimant
43 agency, the exchange of information among the Commission, the Department of
44 Revenue, the claimant agency, the organization submitting debts on behalf of a local

1 agency, and the debtor necessary to implement this section is lawful. The information
2 an agency or organization obtains from the Commission in accordance with the
3 exemption in this subsection may be used by the agency or organization only in the
4 pursuit of its debt collection duties and practices."

5 **SECTION 11.** G.S. 18C-141(a) reads as rewritten:

6 "(a) The Director shall recommend to the Commission those persons with whom
7 to contract as lottery game retailers. To the extent practicable, the Director shall meet
8 the minority participation goals under Article 8 of Chapter 143 of the General Statutes.
9 Documents compiled by the Director in conducting investigations of lottery retailers are
10 confidential."

11 **SECTION 12.** G.S. 18C-142 reads as rewritten:

12 "**§ 18C-142. Compensation for lottery game retailers.**

13 The amount of compensation paid to lottery game retailers for their sales of lottery
14 tickets or shares shall be seven percent (7%) of the ~~retail price~~ face value of the tickets
15 or shares sold for each lottery game. The Commission shall require submission of
16 reports and remission of lottery revenues to the Commission on a timely basis."

17 **SECTION 13.** G.S. 18C-151(a) reads as rewritten:

18 "(a) Except as otherwise specifically provided in this subsection for contracts for
19 the purchase of services, apparatus, supplies, materials, or equipment, Article 8 of
20 Chapter 143 of the General Statutes, including the provisions relating to minority
21 participation goals, shall apply to contracts entered into by the Commission. If this
22 subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection
23 shall control. In recognition of the particularly sensitive nature of the Lottery and the
24 competence, quality of product, experience, and timeliness, fairness, and integrity in the
25 operation and administration of the Lottery and maximization of the objective of raising
26 revenues, a contract for the purchase of services, apparatus, supplies, materials, or
27 equipment requiring an estimated aggregate expenditure of ninety thousand dollars
28 (\$90,000) or more may be awarded by the Commission only after the following have
29 occurred:

- 30 (1) The Commission has invited proposals to be submitted by
31 advertisement by electronic means or advertisement in a newspaper
32 having general circulation in the State of North Carolina and
33 containing the following information:
34 a. The time and place where a complete description of the
35 services, apparatus, supplies, materials, or equipment may be
36 had.
37 b. The time and place for opening of the proposals.
38 c. A statement reserving to the Commission the right to reject any
39 or all proposals.
40 (2) Proposals may be rejected for any reason determined by the
41 Commission to be in the best interest of the Lottery.
42 (3) All proposals shall be accompanied by a bond or letter of credit in an
43 amount equal to not less than five percent (5%) of the proposal and the

1 fee to cover the cost of the criminal record check conducted under
2 G.S. 114-19.6.

3 (4) The Commission has complied with the minority participation goals of
4 G.S. 143-128.2 and G.S. 143-128.3.

5 (5) The Commission may not award a contract to a lottery vendor who has
6 been convicted of a felony or any gambling offense in any state or
7 federal court of the United States within 10 years of entering into the
8 contract, or employs officers and directors who have been convicted of
9 a felony or any gambling offense in any state or federal court of the
10 United States within 10 years of entering into the contract.

11 (6) The Commission shall investigate and compare the overall business
12 practices, ethical reputation, criminal record, civil litigation,
13 competence, integrity, background, and regulatory compliance record
14 of lottery vendors.

15 (7) The Commission may engage an independent firm experienced in
16 evaluating government procurement proposals to aid in evaluating
17 proposals for a major procurement.

18 (7a) When (i) performance or price competition for a product are not
19 available; (ii) a needed product is available from only one source of
20 supply; or (iii) standardization or compatibility is the overriding
21 consideration, a competitive bid is not required.

22 (8) The Commission shall award the contract to the responsible lottery
23 vendor who submits the best proposal that maximizes the benefits to
24 the State."

25 **SECTION 14.** G.S. 18C-151(c) reads as rewritten:

26 "(c) Before a contract to a lottery contractor is awarded, the Director shall conduct
27 a thorough background investigation of all of the following:

28 (1) The ~~vendor~~ potential contractor to whom the contract is to be awarded.

29 (2) Any parent or subsidiary corporation of the ~~vendor~~ potential
30 contractor to whom the contract is to be awarded.

31 (3) All shareholders with a five percent (5%) or more interest in the
32 ~~vendor~~ potential contractor or parent or subsidiary corporation of the
33 ~~vendor~~ potential contractor to whom the contract is to be awarded.

34 (4) All officers and directors of the ~~vendor~~ potential contractor or parent
35 or subsidiary corporation of the ~~vendor~~ potential contractor to whom
36 the contract is to be awarded."

37 **SECTION 15.** G.S. 18C-151(f) reads as rewritten:

38 "(f) No lottery system ~~vendor nor any applicant for a contract~~ contractor or
39 potential contractor may pay, give, or make any economic opportunity, gift, loan,
40 gratuity, special discount, favor, hospitality, or service, excluding food and beverages
41 having an aggregate value not exceeding one hundred dollars (\$100.00) in any calendar
42 year, to the Director, any member or employee of the corporation, or a member of the
43 immediate family residing in the same household as any of these individuals."

44 **SECTION 16.** G.S. 18C-162(a)(4) reads as rewritten:

1 "(a) To the extent practicable, the Commission shall allocate revenues to the
2 North Carolina State Lottery Fund in the following manner:

3 ...

4 (4) No more than seven percent (7%) of the ~~total annual revenues,~~ face
5 value of tickets or shares, as described in this Chapter, shall be
6 allocated for compensation paid to lottery game retailers."

7 **SECTION 17.** G.S. 18C-164(a) reads as rewritten:

8 "(a) The funds remaining in the North Carolina State Lottery Fund after receipt of
9 all revenues to the Lottery Fund and after accrual of all obligations of the Commission
10 for prizes and expenses shall be considered to be the net revenues of the North Carolina
11 State Lottery Fund. Unclaimed prizes are not revenue. The net revenues of the North
12 Carolina State Lottery Fund shall be transferred four times a year to the Education
13 Lottery Fund, which shall be created in the State treasury."

14 **SECTION 18.** This act is effective when it becomes law.