

Legislative Analysis



ALLOW ADVERTISING ON CLUB KENO GAMES

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Senate Bill 601 (Substitute H-1)

Sponsor: Sen. Mike Kowall

House Committee: Regulatory Reform

Senate Committee: Regulatory Reform

First Analysis (4-25-12)

BRIEF SUMMARY: The bill would allow for advertising on Club Keno game media or to sponsor individual draws in the game, and establish the Club Keno Advertising Fund within the state treasury.

FISCAL IMPACT: Senate Bill 601 would have an indeterminate fiscal impact on state government. Under the provisions of the bill, the commissioner of the lottery would be allowed to contract with persons for the placement of advertising or promotional material on Club Keno related media or to sponsor draws in the Club Keno game. The bill would create the Club Keno Advertising Fund and direct all money from an advertising contract into the fund. The Liquor Control Commission would receive 20% of the first \$400,000 deposited in the fund, or 0.4% of the total deposited in the fund each fiscal year, whichever is less. The Lottery would receive the first \$400,000, or two percent of the total collections, whichever was lower, as reimbursement for the administrative costs related to Club Keno advertising. Any amount above that would be deposited in the School Aid Fund (SAF). The bill would have, at most, a \$400,000 negative impact on the SAF. If the advertisements involved alcohol, the Bureau of State Lottery would receive the balance of the first \$400,000 received after distributing the required funding to the Liquor Control Commission. According to the Michigan Bureau of State Lottery (Lottery), advertising contracts have been offered for the ticket stock and Club Keno monitor shows since June of 2005. Since that time, the Lottery has not entered into any advertising contracts. Therefore, it does not appear that this bill will have a significant fiscal impact on the Lottery or SAF.

THE APPARENT PROBLEM:

The bill would allow for advertisements on Club Keno games and for the sponsoring of individual draws in the game. Supporters feel this is a worthy idea as it could lead to additional revenue for the School Aid Fund.

THE CONTENT OF THE BILL:

The bill would amend the State Lottery Act (1972 PA 239) to allow for advertising on Club Keno game media or to sponsor individual draws in the game, and to establish the Club Keno Advertising Fund within the state treasury.

Contracts. The bill would allow the Lottery Commissioner to enter into a contract to allow for advertising or promotional material to be placed on Club Keno game media or to sponsor individual draws in the game. The following provisions would apply:

- At least one minute would be allowed between games during which one or more advertisements could be exhibited.
- Contracts would have to provide that advertisements between Club Keno games must comply with content regulations for televised broadcasts as provided by the Federal Communications Commission, with the exception that advertising could include advertisements for alcoholic beverages with only limited restrictions imposed by the Lottery Commissioner or Administrative Commissioners of the Liquor Control Commission.

Advertisements involving alcohol. If a contract included advertisements for alcohol, the Lottery would be required to provide the Administrative Commissioners of the Liquor Control Commission (LCC) with all available information about the proposed contract, the contracting party, and the proposed advertisements at least 10 days before entering into the contract. The bill would require the Lottery Commissioner to comply with all objections and require the contractor to comply with any proposed conditions of the LCC. Failure by the LCC to respond to information within the 10-day period would constitute a waiver of any objections or proposed conditions. Additionally, in considering a proposed contract, the LCC would have to consider whether the licensee has a history of violations under the Liquor Code.

Bid selection criteria; contract terms. Under the bill, the Lottery Commissioner would be required to solicit bids from responsible persons for advertising or promotional contracts and make selections that produce the maximum amount of net revenues. In deciding whether to enter into a contract, the Lottery Commissioner would have to consider whether the terms of the contract are comparable to the terms of similar advertising contracts related to lottery or other gaming in other states.

Fund. The bill would also add Section 45 to create the Club Keno Advertising Fund. Money in the fund at the close of the fiscal year would remain in the fund and would not lapse to the General Fund. The Bureau of State Lottery would be the administrator of the fund for auditing purposes.

Distribution. The bill would require the money in the Club Keno Advertising Fund to be disbursed to the School Aid Fund, with the exception of a distribution for the Lottery's costs related to advertising and, if the advertisements involved alcohol, for the LCC's costs related advertising. Specifically, LCC would receive 20% of the first \$400,000 deposited into the fund, or 0.4% of the money deposited into the fund each fiscal year, whichever is less. The Lottery would receive the first \$400,000 deposited into the fund, or 2% of the money deposited into the fund each fiscal year, whichever is less. If alcohol was involved in the advertisements, Lottery would receive the balance of the first \$400,000 received after distributing the appropriate money to the LCC. The balance left

after making distributions to the LCC and the Lottery would be deposited into the School Aid Fund.

MCL 432.11 and 432.18

HOUSE COMMITTEE ACTION:

The H-1 substitute allows the Lottery Commissioner, instead of the State Treasurer, to receive money or other assets for deposit in the Club Keno Advertising Fund.

ARGUMENTS:

For:

Supporters of the bill point to the increased revenue that could be generated for the School Aid Fund. Additionally, any costs incurred by the Lottery would be reimbursed by the advertising revenues. Essentially, the bill provides a way to generate additional revenues at no cost to the state.

Against:

There are concerns that by allowing advertisements on Club Keno games, advertise within a competitor's business. For example, a local bar could purchase advertisements on the Club Keno games that would be shown on the game media inside of other bars. Some feel this would be inappropriate and could put some businesses at a disadvantage.

POSITIONS:

Michigan Liquor Control Commission supports the bill. (4-25-12)

Michigan Department of Licensing and Regulatory Affairs supports the bill. (3-28-12)

Michigan Licensed Beverage Association opposes the bill. (4-25-12)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.