

1 HB501
2 218168-3
3 By Representatives Brown (C), Marques, Sorrells, Stringer,
4 Isbell, Faust, Oliver, Wilcox, Stadthagen, Wood (D), Lipscomb,
5 Hurst and Moore (P) (Constitutional Amendment)
6 RFD: Economic Development and Tourism
7 First Read: 15-MAR-22

8 SYNOPSIS: Under current law, lotteries and gift
9 enterprises are prohibited by Section 65 of the
10 Constitution of Alabama of 1901.

11 This bill would propose an amendment to
12 Section 65 of the Constitution of Alabama of 1901,
13 to establish an official state lottery to be known
14 as the Alabama Education Lottery, and to create the
15 Alabama Education Lottery Commission. The state
16 lottery would consist solely of games approved by
17 the Alabama Education Lottery Commission.

18 The proposed amendment would provide for the
19 distribution of the proceeds of the Alabama
20 Education Lottery, including distributions to
21 retired teachers and education employees, the
22 establishment of a scholarship program for
23 postsecondary education, programs to address
24 problem gaming, and dues and fees for agricultural
25 education programs.

27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Proposing an amendment to Section 65 of the
5 Constitution of Alabama of 1901; to authorize an official
6 state lottery; to create the Alabama Education Lottery
7 Commission to regulate and supervise the Alabama Education
8 Lottery; to provide for the membership, powers, and duties of
9 the commission; and to provide for use of the proceeds of the
10 Alabama Education Lottery.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. The following amendment to the
13 Constitution of Alabama of 1901, as amended, is proposed and
14 shall become valid as a part thereof when approved by a
15 majority of the qualified electors voting thereon and in
16 accordance with Sections 284, 285, and 287 of the Constitution
17 of Alabama of 1901, as amended:

18 PROPOSED AMENDMENT

19 Section 65 of the Constitution of Alabama of 1901,
20 is amended to read as follows:

21 "~~Section 65. Lotteries and gift enterprises~~
22 ~~prohibited.~~ Limited authorization of a state lottery.

23 "(a) Definitions. As used in this amendment, the
24 following words and phrases shall have the following
25 respective meanings:

26 "(1) BINGO. The game commonly or traditionally known
27 as bingo and defined by the following characteristics, when

1 players provide something of value to play and receive
2 something of value for winning:

3 "a. Each player uses one or more cards with spaces
4 arranged in five columns and five rows, with an alphanumeric
5 or similar designation assigned to each space.

6 "b. Alphanumeric or similar designations are
7 randomly drawn and announced one by one.

8 "c. In order to play, each player must pay attention
9 to the value announced; if one of the values matches a value
10 on one or more of the player's cards, the player must
11 physically act by marking his or her card accordingly.

12 "d. A player can fail to pay proper attention or to
13 properly mark his or her card, and thereby miss an opportunity
14 to be declared a winner.

15 "e. A player must recognize that the player's card
16 has a predetermined pattern of matching values, and in turn
17 announce to the other players and the announcer that this is
18 the case before any other player does so.

19 "f. The game of bingo contemplates a group activity
20 in which multiple players compete against each other to be the
21 first to properly mark a card with the predetermined winning
22 pattern and announce that fact.

23 "g. The game is played with actual physical cards
24 made of cardboard, paper, or some functionally similar
25 material that is flat and is preprinted with the grid and the
26 designations referenced in this subdivision. The game is not
27 to be played with an electronic, computer, or other

1 technologic aid. The term does not include any other form of
2 gambling.

3 "(2) COMMISSION. The Alabama Education Lottery
4 Commission created by this amendment.

5 "(3) ELECTRONIC BINGO. Any game referred to as bingo
6 if played with an electronic, computer, or other technologic
7 aid.

8 "(4) LOTTERY GAME. Any large-scale intrastate,
9 multistate, or multi-sovereign lottery approved by the
10 commission, including, but not limited to, Pick-3, Pick-4,
11 Mega Millions, Powerball, or instant scratch-off games. The
12 term does not include a video lottery terminal or any other
13 electronic, computer, or technological device or aid for the
14 playing of a lottery. The term does not include bingo,
15 electronic bingo, or any games similar to bingo, including
16 pull-tabs, lotto, punch boards, tip jars, or instant bingo,
17 whether or not played with an electronic, computer, or other
18 technologic aid. The term does not include any other form of
19 gambling.

20 "(5) VIDEO LOTTERY or VIDEO LOTTERY TERMINAL. Any
21 electronic interactive game, machine, or device equipped with
22 a video screen and buttons, keys, a keyboard, touchscreen, or
23 other input method allowing input by an individual player and
24 into which the player inserts coins, tokens, currency, or
25 other representations of value, including, but not limited to,
26 an electronic card, ticket, or other thing on which value is
27 electronically recorded, as consideration in order for play of

1 a game to be available, and through which, as a result of the
2 play of the game, the player may receive additional free
3 plays, credits redeemable for cash, or a noncash prize, or
4 some other thing of value, whether received directly from the
5 device or otherwise, determined wholly or predominantly by
6 chance. The term does not include electronic bingo.

7 "(b) Limitations on lottery participation.

8 "(1) The ~~legislature~~ Legislature shall have no power
9 to authorize lotteries or gift enterprises for any purposes
10 except as expressly provided in this amendment for the Alabama
11 Education Lottery, and shall otherwise pass laws to prohibit
12 the sale in this state of lottery or gift enterprise tickets,
13 or tickets in any scheme in the nature of lottery; and all
14 acts, or parts of acts heretofore passed by the ~~legislature of~~
15 this state Legislature, authorizing a lottery or lotteries,
16 and all acts amendatory thereof, or supplemental thereto, are
17 hereby ~~avoided~~ void.

18 "(2) There is hereby created an official state
19 lottery to be known as the Alabama Education Lottery, which
20 shall consist solely of Alabama Education Lottery Games
21 approved, administered, and operated solely by the Alabama
22 Education Lottery Commission, as further provided by general
23 law.

24 "(c) Establishment of the Alabama Education Lottery
25 Commission.

1 "(1) There is created the Alabama Education Lottery
2 Commission, which shall consist of the following members, to
3 be appointed as follows:

4 "a. Two by the Governor.

5 "b. One by the Speaker of the House of
6 Representatives.

7 "c. One by the Speaker Pro Tempore of the House of
8 Representatives.

9 "d. One by the Minority Leader of the House of
10 Representatives.

11 "e. One by the Lieutenant Governor.

12 "f. One by the President Pro Tempore of the Senate.

13 "g. One by the Minority Leader of the Senate.

14 "h. One by the Director of the Alabama Tourism
15 Department.

16 "(2) The appointing authorities of the commission
17 shall coordinate their appointments to assure the commission
18 membership is inclusive and reflects the racial, gender,
19 geographic, urban, rural, and economic diversity of the state.
20 Members of the commission shall be residents of the State of
21 Alabama, citizens of the United States, and prominent persons
22 in their businesses or professions. Members of the commission
23 may not be an employee of the commission; a member, owner, or
24 employee of a lottery game vendor or retailer; an officer of a
25 political party or serving in an official position in a
26 political party; or an elected official.

1 "(3) Initial appointments shall be made within 30
2 days after ratification of this amendment, but the commission
3 may not take official action until all commission members have
4 been appointed. At its initial meeting, the commission shall
5 elect a chair from its membership.

6 "(4) All members shall be appointed with the advice
7 and consent of the Senate. Appointees shall begin serving
8 immediately upon appointment and shall continue serving unless
9 rejected by the Senate during the next regular session or an
10 intervening special session following the appointment.

11 "(5) The initial term of office shall be four years
12 for three of the members, three years for three of the
13 members, and two years for the remaining members. Thereafter,
14 members shall serve a term of four years. Members may serve
15 two complete terms and any portion of an initial term of less
16 than four years, or any portion of an unexpired term to which
17 they are appointed. Any vacancy occurring on the commission
18 shall be filled for the unexpired term by the appointing
19 authority as described in subdivision (1). Each member of the
20 commission shall serve for the duration of the member's term
21 and until the member's successor is duly appointed and
22 confirmed by the Senate.

23 "(6) By general law, the Legislature may prescribe
24 additional qualifications and training requirements for
25 commission members and employees, compensation for commission
26 members, and ethical requirements for commission members and
27 commission employees.

1 "(d) General powers and duties of the commission.

2 "(1) The commission may do any of the following:

3 "a. Adopt policies and procedures necessary and
4 convenient for implementing this amendment or legislation
5 enacted in furtherance of this amendment. Notwithstanding any
6 provision of general law, the commission shall allow a
7 reasonable opportunity for public comment before adopting,
8 amending, or repealing any policies or procedures.

9 "b. Adopt policies and procedures to appoint and
10 supervise its personnel without regard to the state Merit
11 System law or other similar law.

12 "c. By and through its agents, demand access to and
13 inspect, examine, photocopy, or audit all of the following:

14 "1. The papers, books, and records of any lottery
15 game retailer.

16 "2. The premises of any lottery game retailer.

17 "d. As to matters within the commission's
18 jurisdiction, issue subpoenas and compel the production of
19 documents or items and the attendance of witnesses, administer
20 oaths, require testimony under oath, and enforce its orders.

21 "e. Appoint impartial hearing examiners who may
22 administer oaths and receive evidence and testimony under oath
23 and make recommendations to the commission.

24 "f. Adopt policies and procedures under which the
25 commission or its agents may impose reasonable civil fines and
26 penalties.

1 "(2) The commission shall have all other powers
2 necessary or convenient to effect the purposes for which it
3 has been established, together with all powers incidental
4 thereto or necessary for the discharge of its powers and
5 duties.

6 "(3) The commission shall do all of the following:

7 "a. Implement a system by which the commission may
8 approve or disapprove a lottery game as an authorized Alabama
9 Education Lottery Game.

10 "b. Adopt and enforce policies and procedures
11 providing for the voluntary self-exclusion of persons from
12 participation in an authorized Alabama Education Lottery Game.

13 "c. Adopt and enforce policies and procedures to
14 prohibit persons under the age of majority from playing, or
15 facilitating the play of, any lottery game.

16 "d. Adopt and enforce policies and procedures to
17 provide for the sale of lottery tickets, whether paper-based
18 or through vending machines or self-serve kiosks; provided,
19 however, that nothing in this amendment shall authorize the
20 use of video lottery terminals.

21 "e. Adopt and enforce policies and procedures to
22 facilitate compliance by lottery retailers or customers with
23 the tax laws of the state.

24 "f. Adopt and enforce policies and procedures to
25 ensure due process for any person or entity due to appear
26 before the commission.

1 "g. Comply with any laws generally applicable to
2 state agencies concerning the inspection of public records,
3 open meetings, and procurement, subject to exceptions provided
4 in general law.

5 "(4) By general law, the Legislature may grant the
6 commission additional powers if necessary or convenient for
7 the regulation or supervision of the lottery.

8 "(e) Appeal. Any party aggrieved by an action of the
9 commission may appeal to an appellate court of statewide
10 jurisdiction in compliance with rules adopted pursuant to
11 Section 150.

12 "(f) Collection and disposition of revenue.

13 "(1) The Alabama Education Lottery Commission may
14 retain a portion of proceeds from the Alabama Education
15 Lottery that is necessary to pay for its reasonable operating
16 expenses, including, without limitation, the payment of all
17 prizes. Within 20 days after the end of each calendar month,
18 the Alabama Education Lottery Commission shall deposit all
19 remaining proceeds from the Alabama Education Lottery and all
20 other receipts into a special, separate account in the State
21 Treasury hereby created and designated the Alabama Education
22 Lottery Trust Fund.

23 "(2) Annually, the commission shall submit to the
24 Governor, the President Pro Tempore of the Senate, and the
25 Speaker of the House of Representatives a detailed and
26 accurate financial report accounting for its receipt and
27 disposition of all monies collected pursuant to this

1 amendment, including a detailed accounting of the operating
2 expenses of the commission.

3 "(3) The Legislature, by general law, may provide
4 that payment of a tax on any proceeds from a lottery prize
5 shall be in lieu of other specified state and local taxes,
6 including, but not limited to, any state or local income
7 taxes.

8 "(g) Use of proceeds.

9 "(1) Except as provided in subdivision (2), in each
10 fiscal year, the Legislature shall appropriate funds in the
11 Alabama Education Lottery Trust Fund through an independent
12 supplemental appropriation bill for the following:

13 "a. A scholarship or other program to support
14 educational attainment or fulfilment of the state's workforce
15 needs, as further provided by general law.

16 "b. Bonuses to retired educators and education
17 support staff.

18 "c. Dues and other fees to allow school-aged
19 children to participate in public or private agricultural
20 education programs.

21 "d. Public or private programs with a purpose of
22 addressing problem gaming.

23 "(2) No monies shall be appropriated until the
24 amounts in the Alabama Education Lottery Trust Fund reach two
25 hundred fifty million dollars (\$250,000,000)."

26 Section 2. At the November 2022 General Election,
27 the election upon the proposed amendment shall be held in

1 accordance with Sections 284 and 285 of the Constitution of
2 Alabama of 1901, now appearing as Sections 284 and 285 of the
3 Official Recompilation of the Constitution of Alabama of 1901,
4 as amended, and the election laws of this state.

5 Section 3. The appropriate election official shall
6 assign a ballot number for the proposed constitutional
7 amendment on the election ballot and shall set forth the
8 following description of the substance or subject matter of
9 the proposed constitutional amendment:

10 "Proposing an amendment to Section 65 of the
11 Constitution of Alabama of 1901, to authorize an official
12 state lottery known as the Alabama Education Lottery, subject
13 to administration and regulation by the Alabama Education
14 Lottery Commission; and to provide for the appropriation of
15 Alabama Education Lottery proceeds, including funding toward
16 bonuses for retired education employees, a scholarship program
17 for postsecondary education, programs to address problem
18 gaming and dues and fees for agricultural education programs."

19 "Proposed by Act _____."

20 This description shall be followed by the following
21 language:

22 "Yes () No ()."