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1 A bill to be entitled
 2 An act relating to administrative procedures of the
 3 Department of the Lottery; amending s. 24.105, F.S.;
 4 revising the rulemaking authority of the Department of the
 5 Lottery; authorizing the department to adopt rules
 6 governing the operation of games offered by the
 7 department; authorizing the department to adopt emergency
 8 rules for the specific purpose of implementing instant
 9 ticket games; removing the authority of the department to
 10 perform any of the functions of the Department of
 11 Management Services under chapter 255, chapter 273,
 12 chapter 281, chapter 283, or chapter 287, F.S.; removing
 13 the exemption from chapter 120, F.S., related to personnel
 14 actions; removing the authority of the department to adopt
 15 by rule a code of ethics for its officers and employees;
 16 repealing s. 24.109(1) and (2) (a), (b), and (c) , F.S.,
 17 relating to administrative procedure; requiring the
 18 department to repeal certain rules in existence as of a
 19 specified date; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Subsections (9) and (13) - (20) of section
 24 24.105, Florida Statutes, are amended to read:

25 24.105 Powers and duties of department.—The department
 26 shall:

27 (9) (a) Adopt rules governing the ~~establishment and~~
 28 operation of games offered by the department ~~the state lottery,~~

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29 including:

30 1.~~(a)~~ The type of lottery games to be conducted, except
31 that:

32 a.1.~~1.~~ No name of an elected official shall appear on the
33 ticket or play slip of any lottery game or on any prize or on
34 any instrument used for the payment of prizes, unless such prize
35 is in the form of a state warrant.

36 b.2.~~2.~~ No coins or currency shall be dispensed from any
37 electronic computer terminal or device used in any lottery game.

38 c.3.~~3.~~ Other than as provided in sub-subparagraph d.
39 ~~subparagraph 4.~~, no terminal or device may be used for any
40 lottery game which may be operated solely by the player without
41 the assistance of the retailer.

42 d.4.~~4.~~ The only player-activated machine which may be
43 utilized is a machine which dispenses instant lottery game
44 tickets following the insertion of a coin or currency by a
45 ticket purchaser. To be authorized a machine must: be under the
46 supervision and within the direct line of sight of the lottery
47 retailer to ensure that the machine is monitored and only
48 operated by persons at least 18 years of age; be capable of
49 being electronically deactivated by the retailer to prohibit use
50 by persons less than 18 years of age through the use of a
51 lockout device that maintains the machine's deactivation for a
52 period of no less than 5 minutes; and be designed to prevent its
53 use or conversion for use in any manner other than the
54 dispensing of instant lottery tickets. Authorized machines may
55 dispense change to players purchasing tickets but may not be
56 utilized for paying the holders of winning tickets of any kind.

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57 At least one clerk must be on duty at the lottery retailer while
 58 the machine is in operation. However, at least two clerks must
 59 be on duty at any lottery location which has violated s.
 60 24.1055.

61 ~~2.(b)~~ The sales price of tickets.

62 ~~3.(e)~~ The number and sizes of prizes.

63 ~~4.(d)~~ The method of selecting winning tickets. However, if
 64 a lottery game involves a drawing, the drawing shall be public
 65 and witnessed by an accountant employed by an independent
 66 certified public accounting firm. The equipment used in the
 67 drawing shall be inspected before and after the drawing.

68 ~~5.(e)~~ The manner of payment of prizes to holders of
 69 winning tickets.

70 ~~6.(f)~~ The frequency of drawings or selections of winning
 71 tickets.

72 ~~7.(g)~~ The number and type of locations at which tickets
 73 may be purchased.

74 ~~8.(h)~~ The method to be used in selling tickets.

75 ~~9.(i)~~ The manner and amount of compensation of retailers.

76 (b) The department may at any time adopt emergency rules
 77 pursuant to s. 120.54 for the purpose of implementing instant
 78 ticket games. The Legislature finds that, from time to time, the
 79 department must respond as quickly as is practicable to changes
 80 in the marketplace when creating and promoting instant ticket
 81 games. Therefore, in adopting emergency rules for the purpose of
 82 implementing such games, the department need not make the
 83 findings required by s. 120.54(4) (a). Emergency rules adopted
 84 under this subsection are exempt from s. 120.54(4) (c) and shall

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85 remain in effect until expiration of the specific instant ticket
 86 game which is the subject of the emergency rule.

87 ~~(j) Such other matters necessary or desirable for the~~
 88 ~~efficient or economical operation of the lottery or for the~~
 89 ~~convenience of the public.~~

90 ~~(13) Have the authority to perform any of the functions of~~
 91 ~~the Department of Management Services under chapter 255, chapter~~
 92 ~~273, chapter 281, chapter 283, or chapter 287, or any rules~~
 93 ~~adopted under any such chapter, and may grant approvals provided~~
 94 ~~for under any such chapter or rules. If the department finds, by~~
 95 ~~rule, that compliance with any such chapter would impair or~~
 96 ~~impede the effective or efficient operation of the lottery, the~~
 97 ~~department may adopt rules providing alternative procurement~~
 98 ~~procedures. Such alternative procedures shall be designed to~~
 99 ~~allow the department to evaluate competing proposals and select~~
 100 ~~the proposal that provides the greatest long-term benefit to the~~
 101 ~~state with respect to the quality of the products or services,~~
 102 ~~dependability and integrity of the vendor, dependability of the~~
 103 ~~vendor's products or services, security, competence, timeliness,~~
 104 ~~and maximization of gross revenues and net proceeds over the~~
 105 ~~life of the contract.~~

106 (13)~~(14)~~ Have the authority to acquire real property and
 107 make improvements thereon. The title to such property shall be
 108 vested in the Board of Trustees of the Internal Improvement
 109 Trust Fund. The board shall give the department preference in
 110 leasing state-owned lands under the board's control and may not
 111 exercise any jurisdiction over lands purchased or leased by the
 112 department while such lands are actively used by the department.

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113 Actions of the department under this subsection are exempt from
 114 the time limitations and deadlines of chapter 253.

115 (14)~~(15)~~ Have the authority to charge fees to persons
 116 applying for contracts as vendors or retailers, which fees are
 117 reasonably calculated to cover the costs of investigations and
 118 other activities related to the processing of the application.

119 (15)~~(16)~~ Enter into contracts for the purchase, lease, or
 120 lease-purchase of such goods and services as are necessary for
 121 the operation and promotion of the state lottery, including
 122 assistance provided by any governmental agency.

123 (16)~~(17)~~ In accordance with the provisions of this act,
 124 enter into contracts with retailers so as to provide adequate
 125 and convenient availability of tickets to the public for each
 126 game.

127 (17)~~(18)~~ Have the authority to enter into agreements with
 128 other states for the operation and promotion of a multistate
 129 lottery if such agreements are in the best interest of the state
 130 lottery. The authority conferred by this subsection is not
 131 effective until 1 year after the first day of lottery ticket
 132 sales.

133 (18)~~(19)~~ Employ division directors and other staff as may
 134 be necessary to carry out the provisions of this act; however:

135 (a) No person shall be employed by the department who has
 136 been convicted of, or entered a plea of guilty or nolo
 137 contendere to, a felony committed in the preceding 10 years,
 138 regardless of adjudication, unless the department determines
 139 that:

140 1. The person has been pardoned or his or her civil rights

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141 have been restored; or

142 2. Subsequent to such conviction or entry of plea the
 143 person has engaged in the kind of law-abiding commerce and good
 144 citizenship that would reflect well upon the integrity of the
 145 lottery.

146 (b) No officer or employee of the department having
 147 decisionmaking authority shall participate in any decision
 148 involving any vendor or retailer with whom the officer or
 149 employee has a financial interest. No such officer or employee
 150 may participate in any decision involving any vendor or retailer
 151 with whom the officer or employee has discussed employment
 152 opportunities without the approval of the secretary or, if such
 153 officer is the secretary, without the approval of the Governor.
 154 Any officer or employee of the department shall notify the
 155 secretary of any such discussion or, if such officer is the
 156 secretary, he or she shall notify the Governor. A violation of
 157 this paragraph is punishable in accordance with s. 112.317.

158 (c) No officer or employee of the department who leaves
 159 the employ of the department shall represent any vendor or
 160 retailer before the department regarding any specific matter in
 161 which the officer or employee was involved while employed by the
 162 department, for a period of 1 year following cessation of
 163 employment with the department. A violation of this paragraph is
 164 punishable in accordance with s. 112.317.

165 (19)~~(d)~~ The department shall establish and maintain a
 166 personnel program for its employees, including a personnel
 167 classification and pay plan which may provide any or all of the
 168 benefits provided in the Senior Management Service or Selected

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169 Exempt Service.

170 (a) Each officer or employee of the department shall be a
 171 member of the Florida Retirement System. The retirement class of
 172 each officer or employee shall be the same as other persons
 173 performing comparable functions for other agencies.

174 (b) Employees of the department shall serve at the
 175 pleasure of the secretary and shall be subject to suspension,
 176 dismissal, reduction in pay, demotion, transfer, or other
 177 personnel action at the discretion of the secretary. ~~Such~~
 178 ~~personnel actions are exempt from the provisions of chapter 120.~~

179 (c) All employees of the department are exempt from the
 180 Career Service System provided in chapter 110 and,
 181 notwithstanding the provisions of s. 110.205(5), are not
 182 included in either the Senior Management Service or the Selected
 183 Exempt Service. However, all employees of the department are
 184 subject to all standards of conduct adopted by rule for career
 185 service and senior management employees pursuant to chapter 110.
 186 In the event of a conflict between standards of conduct
 187 applicable to employees of the Department of the Lottery the
 188 more restrictive standard shall apply. Interpretations as to the
 189 more restrictive standard may be provided by the Commission on
 190 Ethics upon request of an advisory opinion pursuant to s.
 191 112.322(3)(a), for purposes of this subsection the opinion shall
 192 be considered final action.

193 ~~(20) Adopt by rule a code of ethics for officers and~~
 194 ~~employees of the department which supplements the standards of~~
 195 ~~conduct for public officers and employees imposed by law.~~

196 Section 2. Section 24.109, Florida Statutes, is repealed.

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197 Section 3. The Department of the Lottery shall repeal all
198 rules, or portions thereof, in existence on July 1, 2010, that
199 were adopted in a manner no longer authorized by this act.

200 Section 4. This act shall take effect on July 1, 2010.