

1 IN THE HOUSE

BY BOYER AND CATO

2

HOUSE BILL NO. 236

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act establishing a state lottery, creating the
7 Alaska State Lottery Corporation, and establishing
8 the arts and public broadcasting account in the
9 general fund; and providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

12 (1) public broadcasting enhances the quality of life in the
13 state by providing educational and public service programming to all areas
14 of the state, in addition to providing vital life and safety services to
15 remote areas of the state;

16 (2) public broadcasting has served Alaskans since 1962, that the
17 Alaska Public Broadcasting Commission has provided funding for local public
18 stations since 1970, long before the influx of oil income, and that most
19 public stations in the state receive at least 50 percent of their support
20 through the commission;

21 (3) severely reduced funding for the Alaska Public Broadcasting
22 Commission will result in the loss of approximately \$3,000,000 in federal
23 support and eliminate public broadcasting for 90 percent of the state's
24 population;

25 (4) the Alaska State Council on the Arts was established by the
26 legislature in 1966, long before the influx of oil income, to promote the
27 practice and enjoyment of the arts in the state;

28 (5) the Alaska State Council on the Arts preserves the cultural
29 heritage of the state and enhances the quality of life in the state through

1 its support of arts organizations and individual artists;

2 (6) severely reduced funding for the Alaska State Council on the
3 Arts threatens the existence of many vital arts organizations in the state,
4 and will result in the elimination of important and popular programs;

5 (7) the amount of revenue generated by a state lottery may be
6 sufficient to maintain present levels of operation of the Alaska Public
7 Broadcasting Commission and the Alaska State Council on the Arts and thus
8 perpetuate their unique and invaluable contributions to the quality of life
9 in the state;

10 (8) the legislature will best serve the public interest by
11 establishing a state lottery, the proceeds of which shall be deposited in a
12 special account within the general fund to be appropriated by the
13 legislature to fund first the necessary operations of the Alaska Public
14 Broadcasting Commission and the Alaska State Council on the Arts and then
15 other state programs as the proceeds allow.

16 (b) The purposes of this Act are to

17 (1) ensure the continued operation of the Alaska Public Broad-
18 casting Commission and the Alaska State Council on the Arts by creating a
19 special account within the general fund known as the arts and public broad-
20 casting account;

21 (2) establish the Alaska State Lottery Corporation within the
22 Department of Revenue, to administer, promote, and conduct a state lottery,
23 the proceeds of which shall be deposited in the arts and public broadcast-
24 ing account of the general fund for appropriation by the legislature to the
25 Alaska Public Broadcasting Commission and the Alaska State Council on the
26 Arts and for other purposes as determined by the legislature.

27 * Sec. 2. AS 05 is amended by adding a new chapter to read:

28 CHAPTER 18. STATE LOTTERY.

29 ARTICLE 1. ADMINISTRATION.

1 Sec. 05.18.010. CREATION OF CORPORATION. The Alaska State
2 Lottery Corporation is established for the purpose of generating
3 revenue for the continued operation of the Alaska State Council on the
4 Arts and the Alaska Public Broadcasting Commission and for other
5 expenses of the state. The corporation is a public corporation and is
6 an instrumentality of the state within the Department of Revenue.

7 Sec. 05.18.020. BOARD OF DIRECTORS. (a) The powers of the
8 corporation are vested in the board of directors. The board consists
9 of the commissioner of revenue and four members appointed by the
10 governor and subject to confirmation by the legislature under AS 39.-
11 05.080. One member appointed to the board shall have at least three
12 years of experience in the administration of arts programs in the
13 state or at least three years of involvement in arts in the state; one
14 member appointed to the board shall have at least three years of
15 involvement in public broadcasting in the state; and two members
16 appointed to the board shall be public members. Appointed members of
17 the board shall qualify under AS 39.05.100. No more than three of the
18 five members may be members of the same political party. The governor
19 shall designate an appointed member to serve as chair of the board.

20 (b) Appointed members serve staggered terms of four years, and
21 may be reappointed. A vacancy on the board does not impair the au-
22 thority of the board to exercise the powers and perform the duties of
23 the corporation.

24 (c) The governor may remove a member of the board. A removal by
25 the governor shall be in writing and shall state the reason for the
26 removal. A member who is removed by the governor may not participate
27 in board business and may not be counted for purposes of establishing
28 a quorum after the person receives written notice of removal.

29 (d) An appointed member of the board is entitled to compensation

1 at a rate of \$150 for each day the member is engaged in the actual
2 performance of duties as a member of the board. The board may provide
3 by regulation for compensation for partial days during which an ap-
4 pointed member is engaged in actual performance of duties as a member
5 of the board.

6 (e) In addition to compensation under (d) of this section, an
7 appointed member of the board is entitled to per diem and travel
8 expenses authorized for members of boards and commissions under
9 AS 39.20.180.

10 Sec. 05.18.030. MEETINGS. (a) The board shall meet at least
11 quarterly at the call of the chair, at the request of a majority of
12 the members, or at a regularly scheduled time set by the board.

13 (b) An action of the board is not binding unless taken at a
14 meeting where three or more of the members are present and vote in
15 favor of the action.

16 Sec. 05.18.040. DUTIES AND POWERS OF BOARD. (a) The board is
17 responsible for the management of the corporation but shall delegate
18 certain powers and duties to the executive director under AS 05.18.060
19 and 05.18.070. The board may by regulation condition the exercise of
20 a power or duty delegated to the executive director upon prior ap-
21 proval by the board. In managing the corporation the board shall

22 (1) be responsible for the management of the financial and
23 legal obligations of the corporation;

24 (2) generally manage the corporation on a self-sustaining
25 basis for the purpose of revenue generation;

26 (3) determine policy direction for the operation and admin-
27 istration of the lottery;

28 (4) report to the governor and the legislature each quarter
29 on the total lottery revenue, prize disbursement, and other expenses

1 for the preceding quarter;

2 (5) report to the governor and the legislature each year,
3 including a full and complete statement of lottery revenue, prize
4 disbursement, and other expenses, and recommendations for changes in
5 this chapter;

6 (6) report to the governor and the legislature as frequent-
7 ly as the board determines necessary on the reaction of state resi-
8 dents to the lottery, and on matters that require changes in the law
9 to prevent violations or evasions of this chapter or to correct un-
10 desirable conditions in connection with the operation or adminis-
11 tration of the lottery;

12 (7) monitor the operation of the lottery throughout the
13 state; and

14 (8) study and investigate the operation and administration
15 of the lottery laws of other states and of federal laws that affect
16 the lottery.

17 (b) The board may do all things necessary and appropriate to
18 exercise the corporation's duties and powers under this chapter.

19 Sec. 05.18.050. REGULATIONS. The board shall adopt regulations
20 under the Administrative Procedure Act (AS 44.62) to establish

21 (1) the type of lottery to be conducted;

22 (2) the price of lottery products;

23 (3) the numbers and sizes of the prizes for the winning
24 lottery products;

25 (4) the manner of selecting the winning lottery products;

26 (5) the frequency of the drawings or selections of winning
27 lottery products;

28 (6) the type and number of locations where lottery products
29 may be sold;

- 1 (7) the method to be used in selling lottery products;
2 (8) the manner of payment of prizes to the holders of the
3 winning lottery products;
4 (9) the procedures for contracting with persons to be
5 agents;
6 (10) the manner and maximum amounts of compensation to be
7 paid agents;
8 (11) the prizes that an agent or an employee of the agent
9 can award; and
10 (12) other matters necessary or desirable to carry out this
11 chapter, to operate the lottery efficiently and economically, and to
12 make the purchase of lottery products and the distribution of prizes
13 convenient.

14 Sec. 05.18.060. EXECUTIVE DIRECTOR AND EMPLOYEES. (a) The
15 corporation shall be under the immediate supervision and direction of
16 an executive director who is qualified by training and experience to
17 direct the work of the corporation. The board shall appoint the
18 director. The director serves at the pleasure of the board. The
19 director may not engage in another profession or occupation while
20 serving as director.

21 (b) Subject to the approval of the board, the director may
22 appoint deputies required to carry out the functions and duties of the
23 corporation. The director may appoint professional, technical, and
24 clerical employees necessary to perform the duties of the corporation.

25 (c) The director and other employees of the corporation are in
26 the exempt service under AS 39.25.110; however, those provisions of
27 AS 23 applicable to employees of the state are also applicable to the
28 employees of the corporation.

29 (d) The corporation may not employ a person who has been

1 convicted, including conviction based on a guilty plea or plea of no
2 contest, of a felony or other crime if the felony or other crime is
3 substantially related to the qualifications, functions, or duties of
4 the employee.

5 Sec. 05.18.070. DUTIES OF DIRECTOR. The director shall

6 (1) supervise the operation and administration of the lot-
7 tery;

8 (2) act as secretary to the board;

9 (3) contract with agents to sell lottery products;

10 (4) meet at least quarterly with the board on the operation
11 and administration of the lottery;

12 (5) make available for inspection by the board, upon re-
13 quest, all books, records, files, and other information and documents
14 of the corporation;

15 (6) advise the board and make recommendations to improve
16 the operation and administration of the lottery;

17 (7) suspend or revoke a contract issued under this chapter
18 for a violation of this chapter or the regulations adopted under this
19 chapter;

20 (8) subject to the approval of the board, enter into con-
21 tracts for the operation and administration of the lottery, except
22 that agent contracts are not subject to the approval of the board; and

23 (9) provide each month to the board a full and complete
24 statement of the lottery revenue, prize disbursements, and other ex-
25 penses for the preceding month.

26 Sec. 05.18.080. SUBPOENAS. (a) The director or the board may
27 subpoena witnesses and documents in a matter subject to the jurisdic-
28 tion of the corporation. The director or the board may administer
29 oaths and affirmations to persons whose testimony is required.

1 (b) If a person fails to obey a subpoena, or if a person refuses
2 to answer a relevant question or to submit a document when ordered to
3 do so by the director or the board, the director or the board may
4 apply to the superior court for an order directing the person to
5 comply with the subpoena or the order. The court may order the person
6 to comply.

7 ARTICLE 2. LOTTERY RETAIL SALES AGENTS.

8 Sec. 05.18.100. LOTTERY RETAIL SALES AGENTS. (a) The director
9 may contract with persons on behalf of the corporation to be lottery
10 retail sales agents.

11 (b) A lottery retail sales agent may

12 (1) sell lottery products;

13 (2) award prizes as allowed under regulations of the board;

14 and

15 (3) hire employees to perform the services under (1) and
16 (2) of this subsection.

17 (c) An agent shall supervise each employee of the agent in the
18 employee's performance of the services under (b)(1) and (2) of this
19 section.

20 Sec. 05.18.110. QUALIFICATIONS FOR AGENT CONTRACTS. (a) A
21 person who wishes to contract with the corporation to be an agent
22 shall apply on a form provided by the corporation. The director may
23 charge the applicant a fee to cover the costs of processing the appli-
24 cation and checking the background of the applicant.

25 (b) Before contracting with an applicant to be an agent, the
26 director shall consider

27 (1) the financial responsibility and security of the appli-
28 cant and the applicant's business or activity;

29 (2) the accessibility of the applicant's place of business

1 or activity to the public;

2 (3) the ability of the applicant to promote the retail sale
3 of lottery products;

4 (4) the sufficiency of existing agent contracts to serve
5 the public convenience;

6 (5) the volume of expected sales; and

7 (6) other factors the director determines are relevant.

8 (c) The director may not contract with an applicant to be an
9 agent if the applicant

10 (1) is an individual who is not a resident of the state or
11 is not a corporation, partnership, or association licensed to conduct
12 business in the state;

13 (2) would be engaged in business exclusively as an agent;

14 (3) is an individual under the age of 18; or

15 (4) has been convicted of a felony that is substantially
16 related to the functions or duties of an agent or gambling misde-
17 meanor, including a conviction based on a guilty plea or plea of no
18 contest.

19 Sec. 05.18.120. DURATION OF AGENT CONTRACTS. The director may
20 contract with an agent for a term of not more than two years. Subject
21 to AS 05.18.110, the director may renew the contract for successive
22 terms of not more than two years.

23 Sec. 05.18.130. REVOCATION OR SUSPENSION OF AGENT CONTRACTS.

24 (a) The director shall suspend or cancel the contract of an agent who
25 violates AS 05.18.320.

26 (b) The director may suspend or cancel the contract of an agent
27 who violates a regulation adopted under this chapter or a provision of
28 this chapter other than AS 05.18.320.

29 (c) The director shall conduct proceedings to suspend or cancel

1 an agent contract under the Administrative Procedure Act (AS 44.62).

2 Sec. 05.18.140. COMPENSATION OF AGENTS. (a) The director shall
3 establish the levels of compensation for agents. The director may
4 establish bonus or incentive awards.

5 (b) When establishing the compensation for agents, the director
6 shall consider

7 (1) the time and the cost of overhead necessary to make the
8 lottery products available at convenient times and for sufficient
9 hours to accommodate the public;

10 (2) the time necessary for an agent to keep adequate re-
11 cords of the sales of lottery products and to prepare the deposits and
12 reports required under AS 05.18.150;

13 (3) other criteria the director considers relevant.

14 Sec. 05.18.150. DEPOSIT OF RECEIPTS AND REPORTS. (a) Each
15 agent shall deposit to the credit of the state in a bank designated by
16 the director all proceeds received by the agent from the sale of
17 lottery products.

18 (b) Every two weeks, each agent shall file with the director on
19 a form provided by the corporation reports of the receipts and trans-
20 actions in the sale of lottery products.

21 (c) The director may impose a service charge on an agent if the
22 payor bank dishonors

23 (1) a check that is deposited to the credit of the state by
24 the agent; or

25 (2) an electronic transfer of funds to the state lottery
26 account from the account of the agent for money received from the sale
27 of lottery products.

28 (d) The director may charge an agent with interest on money that
29 is not paid to the state within 10 days after the due date and may

1 impose an additional service charge in an amount to cover adminis-
2 trative costs if the debt is referred for collection.

3 (e) The amount, including any interest or service charge, owed
4 to the corporation by an agent is a lien on the property of the agent
5 at the time that the corporation files a claim of lien in the record-
6 er's office of the recording district of the principal place of busi-
7 ness of the agent.

8 Sec. 05.18.160. BOND. (a) An applicant for an agent contract
9 shall, at the time of application under AS 05.18.110, file with the
10 corporation and maintain during the term of an agent contract a bond
11 running to the state with a corporate surety qualified to do business
12 in the state. The amount of the bond shall be determined by the
13 board.

14 (b) The bond required by this section remains in effect until
15 cancelled by action of the surety, the principal, or the corporation.

16 (c) The state or another person may not bring an action on the
17 bond more than three years after its cancellation.

18 ARTICLE 3. PRIZES.

19 Sec. 05.18.200. ASSIGNMENT OF PRIZES. A person may not assign a
20 right to a prize under this chapter. A prize may be paid to a person
21 other than the prize winner under a court order or to the estate of a
22 deceased prize winner or to the Department of Revenue for deposit in
23 the general fund to satisfy a judgment in favor of the state against
24 the prize winner. The state is discharged of all further liability
25 when a prize has been paid under this section.

26 Sec. 05.18.210. PAYMENT OF PRIZES TO PERSONS UNDER 18 YEARS.

27 (a) If a person entitled to a prize is under the age of 18 years, and
28 if the prize is \$5,000 or less, the director may deliver the prize to
29 an adult member of the minor's family, or to a guardian of the minor,

1 in the form of a check or draft payable to the order of the minor. If
2 the prize is more than \$5,000, the director may deliver the prize by
3 depositing the amount of the prize in a bank to the credit of an adult
4 member of the minor's family, or a guardian of the minor, as custodian
5 for the minor. The person named as custodian shall have the same
6 duties and powers as a person designated as a custodian under AS 45.-
7 60.

8 (b) The state is discharged of all further liability after
9 payment of a prize to a minor under this section.

10 (c) In this section, the terms "bank," "guardian," and "member"
11 of a "minor's family" have the meanings given in AS 45.60.091.

12 Sec. 05.18.220. UNCLAIMED PRIZE MONEY. The director shall
13 retain unclaimed prize money for the person entitled to it for one
14 year after the prize is awarded. The prize may not be claimed after
15 one year from its award. If the winner does not claim the prize money
16 within the year, the corporation shall transfer the money and accrued
17 interest to the arts and public broadcasting account.

18 ARTICLE 4. MISCELLANEOUS PROVISIONS.

19 Sec. 05.18.300. ARTS AND PUBLIC BROADCASTING ACCOUNT AND APPRO-
20 PRIATIONS. There is created in the general fund the arts and public
21 broadcasting account. The account consists of the proceeds received
22 from the sale of lottery products and all other money credited or
23 transferred to the account. The commissioner of administration shall
24 separately account for money deposited in the account. The annual
25 estimated balance in the account shall first be used by the legisla-
26 ture to make appropriations to the Alaska State Council on the Arts
27 and the Alaska Public Broadcasting Commission to carry out the pur-
28 poses of this chapter. That portion of the annual estimated balance
29 in the account that is not necessary for the support of the Alaska

1 State Council on the Arts and the Alaska Public Broadcasting Commis-
2 sion may be appropriated to other purposes as the legislature con-
3 siders appropriate.

4 Sec. 05.18.310. AUDIT. The board shall have an audit of the
5 books and accounts of the corporation performed at least once each
6 year by certified public accountants. The board may have special
7 audits performed at any time on its own motion or at the request of
8 the director. The board shall file a copy of each audit with the
9 commissioner of revenue and the legislature.

10 Sec. 05.18.320. PROHIBITED ACTS. (a) A person may not

11 (1) act as an agent or sell a lottery product unless the
12 person has a contract with the corporation to be an agent, or is an
13 employee of an agent and sells lottery products or awards lottery
14 prizes under the supervision of the agent;

15 (2) sell a lottery product at a price greater than that
16 fixed by the corporation;

17 (3) sell or offer to sell a lottery product to a person
18 under the age of 18;

19 (4) knowingly present a counterfeit or altered lottery
20 product for payment or transfer a counterfeit or altered lottery
21 product to another person to present for payment;

22 (5) with intent to defraud, falsely make, alter, forge,
23 utter, pass, or counterfeit a lottery product; or

24 (6) impersonate a lottery representative.

25 (b) An agent, a member of the board, or an officer, employee, or
26 contractor of the corporation may not purchase a lottery product or
27 receive a lottery prize.

28 (c) An agent may not wilfully withhold funds owed to the corpo-
29 ration.

1 (d) This section does not prohibit a person from giving a lot-
2 tery product to another person of any age.

3 Sec. 05.18.330. ASSIGNMENT OF CONTRACTS. A person who enters
4 into a contract under this chapter may not assign the contract without
5 the approval of the board.

6 Sec. 05.18.340. PENALTY. A person who violates AS 05.18.150,
7 05.18.160, 05.18.200, 05.18.320, or 05.18.330 is guilty of a class C
8 felony.

9 Sec. 05.18.350. STATEMENT OF ODDS. Each lottery product must
10 indicate the odds of winning a prize in the particular lottery game
11 represented by the lottery product.

12 Sec. 05.18.980. APPLICABILITY OF OTHER LAWS. Unless specifical-
13 ly provided otherwise in this chapter, the following laws do not apply
14 to the operations of the corporation:

15 (1) AS 05.15;

16 (2) state procurement laws, including AS 36.30, except as
17 specifically provided in that chapter.

18 Sec. 05.18.990. DEFINITIONS. In this chapter, unless the con-
19 text requires otherwise,

20 (1) "agent" means a person who has contracted with the
21 corporation to be a lottery retail sales agent under this chapter;

22 (2) "agent contract" means a contract under AS 08.18.100
23 between the state and an agent;

24 (3) "board" means the board of directors of the corpo-
25 ration;

26 (4) "corporation" means the Alaska State Lottery Corpo-
27 ration;

28 (5) "director" means the executive director of the corpo-
29 ration;

1 (6) "lottery" means the lottery established and operated
2 under this chapter;

3 (7) "lottery product" means a ticket, receipt, card, or
4 other item, except a lottery prize, received by a person from an agent
5 or an employee of an agent as evidence of participation in the lot-
6 tery;

7 (8) "operation and administration" includes accounting,
8 sales, promotion, enforcement, and security;

9 (9) "person" has the meaning given in AS 01.10.060 and also
10 includes an estate, receiver, trustee, assignee, referee, or other
11 person acting in a fiduciary or representative capacity, whether
12 appointed by a court or otherwise, and a department, commission,
13 agency or instrumentality of the state, including municipalities and
14 the agencies and instrumentalities of municipalities.

15 * Sec. 3. AS 36.30.015(e) is amended to read:

16 (e) The boards of directors of the Alaska Railroad Corporation,
17 the Alaska State Lottery Corporations, and the Alaska State Building
18 Authority shall adopt procedures to govern the procurement of sup-
19 plies, services, professional services, and construction by the corpo-
20 ration. The procedures must be substantially equivalent to the proce-
21 dures prescribed in this chapter and in regulations adopted under this
22 chapter.

23 * Sec. 4. AS 36.30.050(c) is amended to read:

24 (c) The lists may be used by the chief procurement officer or an
25 agency when issuing invitations to bid or requests for proposals under
26 this chapter. The lists may be used by the Alaska Legislative
27 Council, the court system, the Alaska State Lottery Corporation, the
28 Alaska State Building Authority, and the Alaska Railroad Corporation.

29 * Sec. 5. AS 36.30.990(1) is amended to read:

1 (1) "agency" means a department, institution, board, com-
2 mission, division, authority, public corporation, the Alaska Pioneers'
3 Home, or other administrative unit of the executive branch of state
4 government, except for the University of Alaska, the Alaska State
5 Building Authority, the Alaska State Lottery Corporation, and the
6 Alaska Railroad Corporation; it does not include a regional Native
7 housing authority created under AS 18.55.996, or a regional electrical
8 authority created under AS 18.57.020;

9 * Sec. 6. AS 39.25.110(11) is amended by adding a new subparagraph to
10 read:

11 (G) Alaska State Lottery Corporation;

12 * Sec. 7. AS 39.50.200(b) is amended by adding a new paragraph to read:

13 (49) Alaska State Lottery Corporation (AS 05.18).

14 * Sec. 8. Sections 1, 2, 6, and 7 of this Act take effect July 1, 1987.

15 * Sec. 9. Sections 3 - 5 of this Act take effect on the effective date
16 of sec. 2, ch. 106, SLA 1986.