



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### HB3111

Introduced 2/23/2011, by Rep. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

20 ILCS 1605/2	from Ch. 120, par. 1152
20 ILCS 1605/9.1	
20 ILCS 1605/20	from Ch. 120, par. 1170
20 ILCS 1605/21.9 new	
30 ILCS 105/5.786 new	

Amends the Illinois Lottery Law. Requires the Department of Revenue to offer a special instant scratch-off game for local charities that have the primary goal of youth development and a reported annual budget under \$500,000, to commence on July 1, 2011 or as soon thereafter, at the discretion of the Director, as is reasonably practical. Provides that the net revenue from the Illinois local charities scratch off game shall be deposited into the Illinois Local Charities Assistance Fund to be used by the Attorney General to award grants to Illinois local charities that have the primary goal of youth development and a reported annual budget under \$500,000. Sets forth certain provisions for the operation of the scratch-off game. Makes other changes. Amends the State Finance Act to create the Illinois Local Charities Assistance Fund as a special fund in the State treasury. Effective immediately.

LRB097 10884 ASK 51408 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Lottery Law is amended by changing  
5 Sections 2, 9.1, and 20 and by adding Section 21.9 as follows:

6 (20 ILCS 1605/2) (from Ch. 120, par. 1152)

7 Sec. 2. This Act is enacted to implement and establish  
8 within the State a lottery to be conducted by the State through  
9 the Department. The entire net proceeds of the Lottery are to  
10 be used for the support of the State's Common School Fund,  
11 except as provided in subsection (o) of Section 9.1 and  
12 Sections 21.2, 21.5, 21.6, 21.7, ~~and~~ 21.8, and 21.9. The  
13 General Assembly finds that it is in the public interest for  
14 the Department to conduct the functions of the Lottery with the  
15 assistance of a private manager under a management agreement  
16 overseen by the Department. The Department shall be accountable  
17 to the General Assembly and the people of the State through a  
18 comprehensive system of regulation, audits, reports, and  
19 enduring operational oversight. The Department's ongoing  
20 conduct of the Lottery through a management agreement with a  
21 private manager shall act to promote and ensure the integrity,  
22 security, honesty, and fairness of the Lottery's operation and  
23 administration. It is the intent of the General Assembly that

1 the Department shall conduct the Lottery with the assistance of  
2 a private manager under a management agreement at all times in  
3 a manner consistent with 18 U.S.C. 1307(a)(1), 1307(b)(1),  
4 1953(b)(4).

5 (Source: P.A. 95-331, eff. 8-21-07; 95-673, eff. 10-11-07;  
6 95-674, eff. 10-11-07; 95-876, eff. 8-21-08; 96-34, eff.  
7 7-13-09.)

8 (20 ILCS 1605/9.1)

9 Sec. 9.1. Private manager and management agreement.

10 (a) As used in this Section:

11 "Offeror" means a person or group of persons that responds  
12 to a request for qualifications under this Section.

13 "Request for qualifications" means all materials and  
14 documents prepared by the Department to solicit the following  
15 from offerors:

16 (1) Statements of qualifications.

17 (2) Proposals to enter into a management agreement,  
18 including the identity of any prospective vendor or vendors  
19 that the offeror intends to initially engage to assist the  
20 offeror in performing its obligations under the management  
21 agreement.

22 "Final offer" means the last proposal submitted by an  
23 offeror in response to the request for qualifications,  
24 including the identity of any prospective vendor or vendors  
25 that the offeror intends to initially engage to assist the

1 offeror in performing its obligations under the management  
2 agreement.

3 "Final offeror" means the offeror ultimately selected by  
4 the Governor to be the private manager for the Lottery under  
5 subsection (h) of this Section.

6 (b) By September 15, 2010, the Governor shall select a  
7 private manager for the total management of the Lottery with  
8 integrated functions, such as lottery game design, supply of  
9 goods and services, and advertising and as specified in this  
10 Section.

11 (c) Pursuant to the terms of this subsection, the  
12 Department shall endeavor to expeditiously terminate the  
13 existing contracts in support of the Lottery in effect on the  
14 effective date of this amendatory Act of the 96th General  
15 Assembly in connection with the selection of the private  
16 manager. As part of its obligation to terminate these contracts  
17 and select the private manager, the Department shall establish  
18 a mutually agreeable timetable to transfer the functions of  
19 existing contractors to the private manager so that existing  
20 Lottery operations are not materially diminished or impaired  
21 during the transition. To that end, the Department shall do the  
22 following:

23 (1) where such contracts contain a provision  
24 authorizing termination upon notice, the Department shall  
25 provide notice of termination to occur upon the mutually  
26 agreed timetable for transfer of functions;

1           (2) upon the expiration of any initial term or renewal  
2           term of the current Lottery contracts, the Department shall  
3           not renew such contract for a term extending beyond the  
4           mutually agreed timetable for transfer of functions; or

5           (3) in the event any current contract provides for  
6           termination of that contract upon the implementation of a  
7           contract with the private manager, the Department shall  
8           perform all necessary actions to terminate the contract on  
9           the date that coincides with the mutually agreed timetable  
10          for transfer of functions.

11          If the contracts to support the current operation of the  
12          Lottery in effect on the effective date of this amendatory Act  
13          of the 96th General Assembly are not subject to termination as  
14          provided for in this subsection (c), then the Department may  
15          include a provision in the contract with the private manager  
16          specifying a mutually agreeable methodology for incorporation.

17          (c-5) The Department shall include provisions in the  
18          management agreement whereby the private manager shall, for a  
19          fee, and pursuant to a contract negotiated with the Department  
20          (the "Employee Use Contract"), utilize the services of current  
21          Department employees to assist in the administration and  
22          operation of the Lottery. The Department shall be the employer  
23          of all such bargaining unit employees assigned to perform such  
24          work for the private manager, and such employees shall be State  
25          employees, as defined by the Personnel Code. Department  
26          employees shall operate under the same employment policies,

1 rules, regulations, and procedures, as other employees of the  
2 Department. In addition, neither historical representation  
3 rights under the Illinois Public Labor Relations Act, nor  
4 existing collective bargaining agreements, shall be disturbed  
5 by the management agreement with the private manager for the  
6 management of the Lottery.

7 (d) The management agreement with the private manager shall  
8 include all of the following:

9 (1) A term not to exceed 10 years, including any  
10 renewals.

11 (2) A provision specifying that the Department:

12 (A) shall exercise actual control over all  
13 significant business decisions;

14 (A-5) has the authority to direct or countermand  
15 operating decisions by the private manager at any time;

16 (B) has ready access at any time to information  
17 regarding Lottery operations;

18 (C) has the right to demand and receive information  
19 from the private manager concerning any aspect of the  
20 Lottery operations at any time; and

21 (D) retains ownership of all trade names,  
22 trademarks, and intellectual property associated with  
23 the Lottery.

24 (3) A provision imposing an affirmative duty on the  
25 private manager to provide the Department with material  
26 information and with any information the private manager

1 reasonably believes the Department would want to know to  
2 enable the Department to conduct the Lottery.

3 (4) A provision requiring the private manager to  
4 provide the Department with advance notice of any operating  
5 decision that bears significantly on the public interest,  
6 including, but not limited to, decisions on the kinds of  
7 games to be offered to the public and decisions affecting  
8 the relative risk and reward of the games being offered, so  
9 the Department has a reasonable opportunity to evaluate and  
10 countermand that decision.

11 (5) A provision providing for compensation of the  
12 private manager that may consist of, among other things, a  
13 fee for services and a performance based bonus as  
14 consideration for managing the Lottery, including terms  
15 that may provide the private manager with an increase in  
16 compensation if Lottery revenues grow by a specified  
17 percentage in a given year.

18 (6) (Blank).

19 (7) A provision requiring the deposit of all Lottery  
20 proceeds to be deposited into the State Lottery Fund.

21 (8) A provision requiring the private manager to locate  
22 its principal office within the State.

23 (8-5) A provision encouraging that at least 20% of the  
24 cost of contracts entered into for goods and services by  
25 the private manager in connection with its management of  
26 the Lottery, other than contracts with sales agents or

1 technical advisors, be awarded to businesses that are a  
2 minority owned business, a female owned business, or a  
3 business owned by a person with disability, as those terms  
4 are defined in the Business Enterprise for Minorities,  
5 Females, and Persons with Disabilities Act.

6 (9) A requirement that so long as the private manager  
7 complies with all the conditions of the agreement under the  
8 oversight of the Department, the private manager shall have  
9 the following duties and obligations with respect to the  
10 management of the Lottery:

11 (A) The right to use equipment and other assets  
12 used in the operation of the Lottery.

13 (B) The rights and obligations under contracts  
14 with retailers and vendors.

15 (C) The implementation of a comprehensive security  
16 program by the private manager.

17 (D) The implementation of a comprehensive system  
18 of internal audits.

19 (E) The implementation of a program by the private  
20 manager to curb compulsive gambling by persons playing  
21 the Lottery.

22 (F) A system for determining (i) the type of  
23 Lottery games, (ii) the method of selecting winning  
24 tickets, (iii) the manner of payment of prizes to  
25 holders of winning tickets, (iv) the frequency of  
26 drawings of winning tickets, (v) the method to be used



1 in selling tickets, (vi) a system for verifying the  
2 validity of tickets claimed to be winning tickets,  
3 (vii) the basis upon which retailer commissions are  
4 established by the manager, and (viii) minimum  
5 payouts.

6 (10) A requirement that advertising and promotion must  
7 be consistent with Section 7.8a of this Act.

8 (11) A requirement that the private manager market the  
9 Lottery to those residents who are new, infrequent, or  
10 lapsed players of the Lottery, especially those who are  
11 most likely to make regular purchases on the Internet as  
12 permitted by law.

13 (12) A code of ethics for the private manager's  
14 officers and employees.

15 (13) A requirement that the Department monitor and  
16 oversee the private manager's practices and take action  
17 that the Department considers appropriate to ensure that  
18 the private manager is in compliance with the terms of the  
19 management agreement, while allowing the manager, unless  
20 specifically prohibited by law or the management  
21 agreement, to negotiate and sign its own contracts with  
22 vendors.

23 (14) A provision requiring the private manager to  
24 periodically file, at least on an annual basis, appropriate  
25 financial statements in a form and manner acceptable to the  
26 Department.

1 (15) Cash reserves requirements.

2 (16) Procedural requirements for obtaining the prior  
3 approval of the Department when a management agreement or  
4 an interest in a management agreement is sold, assigned,  
5 transferred, or pledged as collateral to secure financing.

6 (17) Grounds for the termination of the management  
7 agreement by the Department or the private manager.

8 (18) Procedures for amendment of the agreement.

9 (19) A provision requiring the private manager to  
10 engage in an open and competitive bidding process for any  
11 procurement having a cost in excess of \$50,000 that is not  
12 a part of the private manager's final offer. The process  
13 shall favor the selection of a vendor deemed to have  
14 submitted a proposal that provides the Lottery with the  
15 best overall value. The process shall not be subject to the  
16 provisions of the Illinois Procurement Code, unless  
17 specifically required by the management agreement.

18 (20) The transition of rights and obligations,  
19 including any associated equipment or other assets used in  
20 the operation of the Lottery, from the manager to any  
21 successor manager of the lottery, including the  
22 Department, following the termination of or foreclosure  
23 upon the management agreement.

24 (21) Right of use of copyrights, trademarks, and  
25 service marks held by the Department in the name of the  
26 State. The agreement must provide that any use of them by

1 the manager shall only be for the purpose of fulfilling its  
2 obligations under the management agreement during the term  
3 of the agreement.

4 (e) Notwithstanding any other law to the contrary, the  
5 Department shall select a private manager through a competitive  
6 request for qualifications process consistent with Section  
7 20-35 of the Illinois Procurement Code, which shall take into  
8 account:

9 (1) the offeror's ability to market the Lottery to  
10 those residents who are new, infrequent, or lapsed players  
11 of the Lottery, especially those who are most likely to  
12 make regular purchases on the Internet;

13 (2) the offeror's ability to address the State's  
14 concern with the social effects of gambling on those who  
15 can least afford to do so;

16 (3) the offeror's ability to provide the most  
17 successful management of the Lottery for the benefit of the  
18 people of the State based on current and past business  
19 practices or plans of the offeror; and

20 (4) the offeror's poor or inadequate past performance  
21 in servicing, equipping, operating or managing a lottery on  
22 behalf of Illinois, another State or foreign government and  
23 attracting persons who are not currently regular players of  
24 a lottery.

25 (f) The Department may retain the services of an advisor or  
26 advisors with significant experience in financial services or

1 the management, operation, and procurement of goods, services,  
2 and equipment for a government-run lottery to assist in the  
3 preparation of the terms of the request for qualifications and  
4 selection of the private manager. Any prospective advisor  
5 seeking to provide services under this subsection (f) shall  
6 disclose any material business or financial relationship  
7 during the past 3 years with any potential offeror, or with a  
8 contractor or subcontractor presently providing goods,  
9 services, or equipment to the Department to support the  
10 Lottery. The Department shall evaluate the material business or  
11 financial relationship of each prospective advisor. The  
12 Department shall not select any prospective advisor with a  
13 substantial business or financial relationship that the  
14 Department deems to impair the objectivity of the services to  
15 be provided by the prospective advisor. During the course of  
16 the advisor's engagement by the Department, and for a period of  
17 one year thereafter, the advisor shall not enter into any  
18 business or financial relationship with any offeror or any  
19 vendor identified to assist an offeror in performing its  
20 obligations under the management agreement. Any advisor  
21 retained by the Department shall be disqualified from being an  
22 offeror. The Department shall not include terms in the request  
23 for qualifications that provide a material advantage whether  
24 directly or indirectly to any potential offeror, or any  
25 contractor or subcontractor presently providing goods,  
26 services, or equipment to the Department to support the

1 Lottery, including terms contained in previous responses to  
2 requests for proposals or qualifications submitted to  
3 Illinois, another State or foreign government when those terms  
4 are uniquely associated with a particular potential offeror,  
5 contractor, or subcontractor. The request for proposals  
6 offered by the Department on December 22, 2008 as  
7 "LOT08GAMESYS" and reference number "22016176" is declared  
8 void.

9 (g) The Department shall select at least 2 offerors as  
10 finalists to potentially serve as the private manager no later  
11 than August 9, 2010. Upon making preliminary selections, the  
12 Department shall schedule a public hearing on the finalists'  
13 proposals and provide public notice of the hearing at least 7  
14 calendar days before the hearing. The notice must include all  
15 of the following:

16 (1) The date, time, and place of the hearing.

17 (2) The subject matter of the hearing.

18 (3) A brief description of the management agreement to  
19 be awarded.

20 (4) The identity of the offerors that have been  
21 selected as finalists to serve as the private manager.

22 (5) The address and telephone number of the Department.

23 (h) At the public hearing, the Department shall (i) provide  
24 sufficient time for each finalist to present and explain its  
25 proposal to the Department and the Governor or the Governor's  
26 designee, including an opportunity to respond to questions

1 posed by the Department, Governor, or designee and (ii) allow  
2 the public and non-selected offerors to comment on the  
3 presentations. The Governor or a designee shall attend the  
4 public hearing. After the public hearing, the Department shall  
5 have 14 calendar days to recommend to the Governor whether a  
6 management agreement should be entered into with a particular  
7 finalist. After reviewing the Department's recommendation, the  
8 Governor may accept or reject the Department's recommendation,  
9 and shall select a final offeror as the private manager by  
10 publication of a notice in the Illinois Procurement Bulletin on  
11 or before September 15, 2010. The Governor shall include in the  
12 notice a detailed explanation and the reasons why the final  
13 offeror is superior to other offerors and will provide  
14 management services in a manner that best achieves the  
15 objectives of this Section. The Governor shall also sign the  
16 management agreement with the private manager.

17 (i) Any action to contest the private manager selected by  
18 the Governor under this Section must be brought within 7  
19 calendar days after the publication of the notice of the  
20 designation of the private manager as provided in subsection  
21 (h) of this Section.

22 (j) The Lottery shall remain, for so long as a private  
23 manager manages the Lottery in accordance with provisions of  
24 this Act, a Lottery conducted by the State, and the State shall  
25 not be authorized to sell or transfer the Lottery to a third  
26 party.

1           (k) Any tangible personal property used exclusively in  
2 connection with the lottery that is owned by the Department and  
3 leased to the private manager shall be owned by the Department  
4 in the name of the State and shall be considered to be public  
5 property devoted to an essential public and governmental  
6 function.

7           (l) The Department may exercise any of its powers under  
8 this Section or any other law as necessary or desirable for the  
9 execution of the Department's powers under this Section.

10          (m) Neither this Section nor any management agreement  
11 entered into under this Section prohibits the General Assembly  
12 from authorizing forms of gambling that are not in direct  
13 competition with the Lottery.

14          (n) The private manager shall be subject to a complete  
15 investigation in the third, seventh, and tenth years of the  
16 agreement (if the agreement is for a 10-year term) by the  
17 Department in cooperation with the Auditor General to determine  
18 whether the private manager has complied with this Section and  
19 the management agreement. The private manager shall bear the  
20 cost of an investigation or reinvestigation of the private  
21 manager under this subsection.

22          (o) The powers conferred by this Section are in addition  
23 and supplemental to the powers conferred by any other law. If  
24 any other law or rule is inconsistent with this Section,  
25 including, but not limited to, provisions of the Illinois  
26 Procurement Code, then this Section controls as to any

1 management agreement entered into under this Section. This  
2 Section and any rules adopted under this Section contain full  
3 and complete authority for a management agreement between the  
4 Department and a private manager. No law, procedure,  
5 proceeding, publication, notice, consent, approval, order, or  
6 act by the Department or any other officer, Department, agency,  
7 or instrumentality of the State or any political subdivision is  
8 required for the Department to enter into a management  
9 agreement under this Section. This Section contains full and  
10 complete authority for the Department to approve any contracts  
11 entered into by a private manager with a vendor providing  
12 goods, services, or both goods and services to the private  
13 manager under the terms of the management agreement.

14 Except as provided in Sections 21.2, 21.5, 21.6, 21.7, ~~and~~  
15 21.8, and 21.9 the Department shall distribute all proceeds of  
16 lottery tickets and shares sold in the following priority and  
17 manner:

18 (1) The payment of prizes and retailer bonuses.

19 (2) The payment of costs incurred in the operation and  
20 administration of the Lottery, including the payment of  
21 sums due to the private manager under the management  
22 agreement with the Department and payment of sums due to  
23 the private vendor for lottery tickets and shares sold on  
24 the Internet via the pilot program as compensation under  
25 its contract with the Department.

26 (3) On the last day of each month or as soon thereafter



1 as possible, the State Comptroller shall direct and the  
2 State Treasurer shall transfer from the Lottery Fund to the  
3 Common School Fund an amount that is equal to the proceeds  
4 transferred in the corresponding month of fiscal year 2009,  
5 as adjusted for inflation, to the Common School Fund.

6 (4) On or before the last day of each fiscal year,  
7 deposit any remaining proceeds, subject to payments under  
8 items (1), (2), and (3) into the Capital Projects Fund each  
9 fiscal year.

10 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-840,  
11 eff. 12-23-09.)

12 (20 ILCS 1605/20) (from Ch. 120, par. 1170)

13 Sec. 20. State Lottery Fund.

14 (a) There is created in the State Treasury a special fund  
15 to be known as the "State Lottery Fund". Such fund shall  
16 consist of all revenues received from (1) the sale of lottery  
17 tickets or shares, (net of commissions, fees representing those  
18 expenses that are directly proportionate to the sale of tickets  
19 or shares at the agent location, and prizes of less than \$600  
20 which have been validly paid at the agent level), (2)  
21 application fees, and (3) all other sources including moneys  
22 credited or transferred thereto from any other fund or source  
23 pursuant to law. Interest earnings of the State Lottery Fund  
24 shall be credited to the Common School Fund.

25 (b) The receipt and distribution of moneys under Section

1 21.5 of this Act shall be in accordance with Section 21.5.

2 (c) The receipt and distribution of moneys under Section  
3 21.6 of this Act shall be in accordance with Section 21.6.

4 (d) The receipt and distribution of moneys under Section  
5 21.7 of this Act shall be in accordance with Section 21.7.

6 (e) The receipt and distribution of moneys under Section  
7 21.8 of this Act shall be in accordance with Section 21.8.

8 (f) The receipt and distribution of moneys under Section  
9 21.9 of this Act shall be in accordance with Section 21.9.

10 (Source: P.A. 94-120, eff. 7-6-05; 94-585, eff. 8-15-05;  
11 95-331, eff. 8-21-07; 95-673, eff. 10-11-07; 95-674, eff.  
12 10-11-07; 95-876, eff. 8-21-08.)

13 (20 ILCS 1605/21.9 new)

14 Sec. 21.9. Scratch-off for local charities.

15 (a) The Department shall offer a special instant scratch  
16 off game for the benefit of Illinois local charities that have  
17 the primary goal of youth development and a reported annual  
18 budget under \$500,000. The game shall commence on July 1, 2011  
19 or as soon thereafter, at the discretion of the Director, as is  
20 reasonably practical. The operation of the game shall be  
21 governed by this Act and any rules adopted by the Department.  
22 If any provision of this Section is inconsistent with any other  
23 provision of this Act, then this Section governs.

24 (b) The Illinois Local Charities Assistance Fund is created  
25 as a special fund in the State treasury. The net revenue from

1 the Illinois local charities scratch off game shall be  
2 deposited into the Fund to be used by the Attorney General to  
3 award grants to Illinois local charities that have the primary  
4 goal of youth development and a reported annual budget under  
5 \$500,000.

6 Net revenue from the special instant scratch off game must  
7 be deposited into the Fund. Any interest earned on moneys in  
8 the Fund must be deposited into the Fund. For purposes of this  
9 subsection (b), "net revenue" means the total amount for which  
10 tickets have been sold less the sum of the amount paid out in  
11 the prizes and the actual administrative expenses of the  
12 Department solely related to the scratch off game under this  
13 Section.

14 (c) To be eligible to receive a grant under this Act, an  
15 organization must be a community-based organization or other  
16 not-for-profit entity that:

17 (1) is a not-for-profit corporation that is exempt from  
18 federal income taxation under Section 501(c)(3) of the  
19 federal Internal Revenue Code of 1986;

20 (2) is organized under the General Not for Profit  
21 Corporation Act of 1986 for the purpose of providing  
22 charitable services to the community;

23 (3) complies with the provisions of the Charitable  
24 Trust Act;

25 (4) has the primary goal of youth development; and

26 (5) has a reported annual budget under \$500,000.

1       (d) During the time that tickets are sold for the Illinois  
2       local charities scratch off game, the Department shall not  
3       unreasonably diminish the efforts devoted to marketing any  
4       other instant scratch off lottery game.

5       (e) The Department may adopt any rules necessary to  
6       implement and administer the provisions of this Section.

7       Section 10. The State Finance Act is amended by adding  
8       Section 5.786 as follows:

9       (30 ILCS 105/5.786 new)

10       Sec. 5.786. The Illinois Local Charities Assistance Fund.

11       Section 99. Effective date. This Act takes effect upon  
12       becoming law.