



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB5031

by Rep. Margo McDermed

#### SYNOPSIS AS INTRODUCED:

20 ILCS 1605/7.2 from Ch. 120, par. 1157.2  
20 ILCS 1605/7.2a new  
20 ILCS 1605/9.1

Amends the Illinois Lottery Law. Requires that the winning numbers for all in-State draw games be selected using an electromechanical draw system and be either televised or streamed live on the Internet, at the discretion of the Director of the Lottery. Provides that the selection of winning numbers shall be open to the public in a manner consistent with game security and facilities requirements. Requires implementation of the requirements no later than 90 days after the effective date of the amendatory Act. Effective immediately.

LRB099 19176 AMC 43568 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning the lottery.

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 7.2 and 9.1 and by adding Section 7.2a as follows:

6 (20 ILCS 1605/7.2) (from Ch. 120, par. 1157.2)

7 Sec. 7.2. The rules and regulations of the Department may  
8 include, but shall not be limited to, the following:

9 (1) The types of lotteries to be conducted;

10 (2) The price, or prices, of tickets or shares in the  
11 lottery;

12 (3) The numbers and sizes of the prizes on the winning  
13 tickets or shares;

14 (4) (Blank) ~~The manner of selecting the winning tickets or~~  
15 ~~shares;~~

16 (5) The manner of payment of prizes to the holders of  
17 winning tickets or shares;

18 (6) The frequency of the drawing or selections of winning  
19 tickets or shares, without limitation;

20 (7) Without limit to number, the type or types of locations  
21 at which tickets or shares may be sold;

22 (8) The method to be used in selling tickets or shares;

23 (9) The manner and amount of compensation, if any, to be

1 paid licensed sales agents necessary to provide for the  
2 adequate availability of tickets or shares to prospective  
3 buyers and for the convenience of the public;

4 (10) The apportionment of the total revenues accruing from  
5 the sale of lottery tickets or shares and from all other  
6 sources among (i) the payment of prizes to the holders of  
7 winning tickets or shares, (ii) the payment of costs incurred  
8 in the operation and administration of the lottery, including  
9 the expenses of the Department and the costs resulting from any  
10 contract or contracts entered into for promotional,  
11 advertising or operational services or for the purchase or  
12 lease of lottery equipment and materials, and (iii) for monthly  
13 transfers to the Common School Fund. The net revenues accruing  
14 from the sale of lottery tickets shall be determined by  
15 deducting from total revenues the payments required by  
16 paragraphs (i) and (ii) of this subsection.

17 (11) Such other matters necessary or desirable for the  
18 efficient and economical operation and administration of the  
19 lottery and for the convenience of the purchasers of tickets or  
20 shares and the holders of winning tickets or shares.

21 Any rules and regulations of the Department with respect to  
22 monthly transfers to the Common School Fund are subject to  
23 Section 21.2.

24 (Source: P.A. 84-1128.)

25 (20 ILCS 1605/7.2a new)

1       Sec. 7.2a. Drawing procedures. The winning numbers for all  
2       in-State draw games shall be selected using an  
3       electromechanical draw system and be either televised or  
4       streamed live on the Internet, at the discretion of the  
5       Director. The selection of winning numbers shall be open to the  
6       public in a manner consistent with game security and facilities  
7       requirements. The requirements of this Section shall be  
8       implemented no later than 90 days after the effective date of  
9       this amendatory Act of the 99th General Assembly.

10       (20 ILCS 1605/9.1)

11       Sec. 9.1. Private manager and management agreement.

12       (a) As used in this Section:

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

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

18             (1) Statements of qualifications.

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

24       "Final offer" means the last proposal submitted by an  
25       offeror in response to the request for qualifications,

1 including the identity of any prospective vendor or vendors  
2 that the offeror intends to initially engage to assist the  
3 offeror in performing its obligations under the management  
4 agreement.

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

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

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

25 (1) where such contracts contain a provision  
26 authorizing termination upon notice, the Department shall

1 provide notice of termination to occur upon the mutually  
2 agreed timetable for transfer of functions;

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

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

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

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

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

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

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

13 (2) A provision specifying that the Department:

14 (A) shall exercise actual control over all  
15 significant business decisions;

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

18 (B) has ready access at any time to information  
19 regarding Lottery operations;

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

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

26 (3) A provision imposing an affirmative duty on the

1 private manager to provide the Department with material  
2 information and with any information the private manager  
3 reasonably believes the Department would want to know to  
4 enable the Department to conduct the Lottery.

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

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

20 (6) (Blank).

21 (7) A provision requiring the deposit of all Lottery  
22 proceeds to be deposited into the State Lottery Fund except  
23 as otherwise provided in Section 20 of this Act.

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

26 (8-5) A provision encouraging that at least 20% of the



1 cost of contracts entered into for goods and services by  
2 the private manager in connection with its management of  
3 the Lottery, other than contracts with sales agents or  
4 technical advisors, be awarded to businesses that are a  
5 minority owned business, a female owned business, or a  
6 business owned by a person with disability, as those terms  
7 are defined in the Business Enterprise for Minorities,  
8 Females, and Persons with Disabilities Act.

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

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

16 (B) The rights and obligations under contracts  
17 with retailers and vendors.

18 (C) The implementation of a comprehensive security  
19 program by the private manager.

20 (D) The implementation of a comprehensive system  
21 of internal audits.

22 (E) The implementation of a program by the private  
23 manager to curb compulsive gambling by persons playing  
24 the Lottery.

25 (F) A system for determining (i) the type of  
26 Lottery games, (ii) ~~the method of selecting winning~~

1       ~~tickets, (iii)~~ the manner of payment of prizes to  
2       holders of winning tickets, (iii) ~~(iv)~~ the frequency of  
3       drawings of winning tickets, (iv) ~~(v)~~ the method to be  
4       used in selling tickets, (v) ~~(vi)~~ a system for  
5       verifying the validity of tickets claimed to be winning  
6       tickets, (vi) ~~(vii)~~ the basis upon which retailer  
7       commissions are established by the manager, and (vii)  
8       ~~(viii)~~ minimum payouts.

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

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

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

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

26      (14) A provision requiring the private manager to

1           periodically file, at least on an annual basis, appropriate  
2           financial statements in a form and manner acceptable to the  
3           Department.

4           (15) Cash reserves requirements.

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

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

11          (18) Procedures for amendment of the agreement.

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

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

1           (21) Right of use of copyrights, trademarks, and  
2 service marks held by the Department in the name of the  
3 State. The agreement must provide that any use of them by  
4 the manager shall only be for the purpose of fulfilling its  
5 obligations under the management agreement during the term  
6 of the agreement.

7           (22) The disclosure of any information requested by the  
8 Department to enable it to comply with the reporting  
9 requirements and information requests provided for under  
10 subsection (p) of this Section.

11           (e) Notwithstanding any other law to the contrary, the  
12 Department shall select a private manager through a competitive  
13 request for qualifications process consistent with Section  
14 20-35 of the Illinois Procurement Code, which shall take into  
15 account:

16           (1) the offeror's ability to market the Lottery to  
17 those residents who are new, infrequent, or lapsed players  
18 of the Lottery, especially those who are most likely to  
19 make regular purchases on the Internet;

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

23           (3) the offeror's ability to provide the most  
24 successful management of the Lottery for the benefit of the  
25 people of the State based on current and past business  
26 practices or plans of the offeror; and

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

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

1 obligations under the management agreement. Any advisor  
2 retained by the Department shall be disqualified from being an  
3 offeror. The Department shall not include terms in the request  
4 for qualifications that provide a material advantage whether  
5 directly or indirectly to any potential offeror, or any  
6 contractor or subcontractor presently providing goods,  
7 services, or equipment to the Department to support the  
8 Lottery, including terms contained in previous responses to  
9 requests for proposals or qualifications submitted to  
10 Illinois, another State or foreign government when those terms  
11 are uniquely associated with a particular potential offeror,  
12 contractor, or subcontractor. The request for proposals  
13 offered by the Department on December 22, 2008 as  
14 "LOT08GAMESYS" and reference number "22016176" is declared  
15 void.

16 (g) The Department shall select at least 2 offerors as  
17 finalists to potentially serve as the private manager no later  
18 than August 9, 2010. Upon making preliminary selections, the  
19 Department shall schedule a public hearing on the finalists'  
20 proposals and provide public notice of the hearing at least 7  
21 calendar days before the hearing. The notice must include all  
22 of the following:

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

24 (2) The subject matter of the hearing.

25 (3) A brief description of the management agreement to  
26 be awarded.

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

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

4           (h) At the public hearing, the Department shall (i) provide  
5           sufficient time for each finalist to present and explain its  
6           proposal to the Department and the Governor or the Governor's  
7           designee, including an opportunity to respond to questions  
8           posed by the Department, Governor, or designee and (ii) allow  
9           the public and non-selected offerors to comment on the  
10          presentations. The Governor or a designee shall attend the  
11          public hearing. After the public hearing, the Department shall  
12          have 14 calendar days to recommend to the Governor whether a  
13          management agreement should be entered into with a particular  
14          finalist. After reviewing the Department's recommendation, the  
15          Governor may accept or reject the Department's recommendation,  
16          and shall select a final offeror as the private manager by  
17          publication of a notice in the Illinois Procurement Bulletin on  
18          or before September 15, 2010. The Governor shall include in the  
19          notice a detailed explanation and the reasons why the final  
20          offeror is superior to other offerors and will provide  
21          management services in a manner that best achieves the  
22          objectives of this Section. The Governor shall also sign the  
23          management agreement with the private manager.

24          (i) Any action to contest the private manager selected by  
25          the Governor under this Section must be brought within 7  
26          calendar days after the publication of the notice of the

1 designation of the private manager as provided in subsection  
2 (h) of this Section.

3 (j) The Lottery shall remain, for so long as a private  
4 manager manages the Lottery in accordance with provisions of  
5 this Act, a Lottery conducted by the State, and the State shall  
6 not be authorized to sell or transfer the Lottery to a third  
7 party.

8 (k) Any tangible personal property used exclusively in  
9 connection with the lottery that is owned by the Department and  
10 leased to the private manager shall be owned by the Department  
11 in the name of the State and shall be considered to be public  
12 property devoted to an essential public and governmental  
13 function.

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

17 (m) Neither this Section nor any management agreement  
18 entered into under this Section prohibits the General Assembly  
19 from authorizing forms of gambling that are not in direct  
20 competition with the Lottery.

21 (n) The private manager shall be subject to a complete  
22 investigation in the third, seventh, and tenth years of the  
23 agreement (if the agreement is for a 10-year term) by the  
24 Department in cooperation with the Auditor General to determine  
25 whether the private manager has complied with this Section and  
26 the management agreement. The private manager shall bear the



1 cost of an investigation or reinvestigation of the private  
2 manager under this subsection.

3 (o) The powers conferred by this Section are in addition  
4 and supplemental to the powers conferred by any other law. If  
5 any other law or rule is inconsistent with this Section,  
6 including, but not limited to, provisions of the Illinois  
7 Procurement Code, then this Section controls as to any  
8 management agreement entered into under this Section. This  
9 Section and any rules adopted under this Section contain full  
10 and complete authority for a management agreement between the  
11 Department and a private manager. No law, procedure,  
12 proceeding, publication, notice, consent, approval, order, or  
13 act by the Department or any other officer, Department, agency,  
14 or instrumentality of the State or any political subdivision is  
15 required for the Department to enter into a management  
16 agreement under this Section. This Section contains full and  
17 complete authority for the Department to approve any contracts  
18 entered into by a private manager with a vendor providing  
19 goods, services, or both goods and services to the private  
20 manager under the terms of the management agreement, including  
21 subcontractors of such vendors.

22 Upon receipt of a written request from the Chief  
23 Procurement Officer, the Department shall provide to the Chief  
24 Procurement Officer a complete and un-redacted copy of the  
25 management agreement or any contract that is subject to the  
26 Department's approval authority under this subsection (o). The

1 Department shall provide a copy of the agreement or contract to  
2 the Chief Procurement Officer in the time specified by the  
3 Chief Procurement Officer in his or her written request, but no  
4 later than 5 business days after the request is received by the  
5 Department. The Chief Procurement Officer must retain any  
6 portions of the management agreement or of any contract  
7 designated by the Department as confidential, proprietary, or  
8 trade secret information in complete confidence pursuant to  
9 subsection (g) of Section 7 of the Freedom of Information Act.  
10 The Department shall also provide the Chief Procurement Officer  
11 with reasonable advance written notice of any contract that is  
12 pending Department approval.

13 Notwithstanding any other provision of this Section to the  
14 contrary, the Chief Procurement Officer shall adopt  
15 administrative rules, including emergency rules, to establish  
16 a procurement process to select a successor private manager if  
17 a private management agreement has been terminated. The  
18 selection process shall at a minimum take into account the  
19 criteria set forth in items (1) through (4) of subsection (e)  
20 of this Section and may include provisions consistent with  
21 subsections (f), (g), (h), and (i) of this Section. The Chief  
22 Procurement Officer shall also implement and administer the  
23 adopted selection process upon the termination of a private  
24 management agreement. The Department, after the Chief  
25 Procurement Officer certifies that the procurement process has  
26 been followed in accordance with the rules adopted under this

1 subsection (o), shall select a final offeror as the private  
2 manager and sign the management agreement with the private  
3 manager.

4 Except as provided in Sections 21.2, 21.5, 21.6, 21.7,  
5 21.8, and 21.9, the Department shall distribute all proceeds of  
6 lottery tickets and shares sold in the following priority and  
7 manner:

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

9 (2) The payment of costs incurred in the operation and  
10 administration of the Lottery, including the payment of  
11 sums due to the private manager under the management  
12 agreement with the Department.

13 (3) On the last day of each month or as soon thereafter  
14 as possible, the State Comptroller shall direct and the  
15 State Treasurer shall transfer from the State Lottery Fund  
16 to the Common School Fund an amount that is equal to the  
17 proceeds transferred in the corresponding month of fiscal  
18 year 2009, as adjusted for inflation, to the Common School  
19 Fund.

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

24 (p) The Department shall be subject to the following  
25 reporting and information request requirements:

26 (1) the Department shall submit written quarterly

1 reports to the Governor and the General Assembly on the  
2 activities and actions of the private manager selected  
3 under this Section;

4 (2) upon request of the Chief Procurement Officer, the  
5 Department shall promptly produce information related to  
6 the procurement activities of the Department and the  
7 private manager requested by the Chief Procurement  
8 Officer; the Chief Procurement Officer must retain  
9 confidential, proprietary, or trade secret information  
10 designated by the Department in complete confidence  
11 pursuant to subsection (g) of Section 7 of the Freedom of  
12 Information Act; and

13 (3) at least 30 days prior to the beginning of the  
14 Department's fiscal year, the Department shall prepare an  
15 annual written report on the activities of the private  
16 manager selected under this Section and deliver that report  
17 to the Governor and General Assembly.

18 (Source: P.A. 97-464, eff. 8-19-11; 98-463, eff. 8-16-13;  
19 98-649, eff. 6-16-14.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.