~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 18, 2016

**H. 5034**

Introduced by Rep. White

S. Printed 5/18/16--S. [SEC 5/19/16 11:22 AM]

Read the first time April 28, 2016.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 5034) to amend the Code of Laws of South Carolina, 1976, by adding Section 12-21-4320 so as to require the Department of Revenue to establish an informational charitable bingo webpage, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, page 2, by striking lines 11-24 and inserting:

/ (B) In addition to the purposes set forth in subsection (A), the webpage also must include a process for submitting questions to the bingo division of the department.” /

Amend the bill further, SECTION 7, page 4, by striking lines 4-17 and inserting:

/ (D) All expenses related to the charitable bingo operation must be paid from the operations bingo account. Funds from the bingo account must be withdrawn by preprinted, consecutively‑numbered checks or withdrawal slips, jointly signed by a properly authorized representative of the licensed nonprofit organization and promoter and made payable to a person or organization or by electronic methods or recurring online payments. Electronic payments must be authorized by a duly authorized representative of the licensed nonprofit organization and promoter in writing. Checks must be imprinted with the words ‘Bingo Account’ and must contain the organization’s bingo license number on the face of the check. There also must be noted on the face of the check or withdrawal slip the nature of the payment made. No check or slip may be made payable to ‘cash’, ‘bearer’, or a fictitious payee. All checks, including voided checks and slips, must be kept and accounted for.” /

Amend the bill further, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_\_. Section 12‑21‑4200(2) and (3) of the 1976 Code are amended to read:

“(2) Twenty and eight‑tenths percent of the annual revenue derived from the provisions of Section 12‑21‑4190(2), or two and one-half million dollars each fiscal year, whichever is greater, must be deposited by the State Treasurer in a separate fund for the Department of Parks, Recreation and Tourism entitled the Parks and Recreation Development Fund. Interest earned by this fund must be added to it and credited to its various accounts in the same proportion that the annual allocation to each account bears to the total annual distribution to the fund. Unexpended amounts in the various fund accounts must be carried forward to succeeding fiscal years except as provided in Section 51‑23‑30. Fund proceeds must be distributed as provided in Chapter 23 of Title 51.

(3) Subject to the distribution in item (2), seventy‑two and fifteen one‑hundredths percent of the annual revenue derived from the provisions of Section 12‑21‑4190(2) must be deposited with the State Treasurer and credited to the general fund, except that the first one hundred thirty‑one thousand of such revenues each year must be transferred to the Commission on Minority Affairs.” /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill, as amended, would reduce general fund bingo tax revenue by an estimated $109,241 in FY2016-17. This bill would also reduce revenue designated for the Parks, Recreation, and Tourism Development Fund by an estimated $31,493 in FY2016-17. This bill would not affect federal fund revenue.

**Explanation of Fiscal Impact**

**State Expenditure**

The Department of Revenue indicates that there will be no expenditure impact to the general fund, federal funds, or other funds from this bill. The department can administer the legislative changes with existing resources.

**State Revenue**

**Section 1.** This section would add Section 12-21-4320 to require the Department of Revenue to establish a bingo webpage on its own website to serve as a clearinghouse of information pertaining to the Bingo Tax Act. The website shall contain information on how bingo is operated in the state, bingo licenses, revenue rulings, violations, meeting minutes, as well as a way to file a complaint, ask questions about bingo, and the posting of answers to those questions. This section is not expected to affect general fund revenue in FY2016-17.

**Section 2.** This section would amend Section 12-21-3920(17) to redefine a “building” as any structure used or intended for supporting or sheltering any use or occupancy designated by a separate address, provided the structure does not include any interior access to another area where bingo is played. This section is not expected to affect general fund revenue in FY2016-17.

**Section 3.** This section would amend Section 12-21-3940(B) to extend the number of days the Department of Revenue has to approve or disapprove an application to conduct bingo games from thirty days to forty-five days. This section is not expected to affect general fund revenue in FY2016-17.

**Section 4.** This section would amend Section 12-21-3990(A)(6) to ensure that all devices are not “intentionally” changed, “obstructed”, or turned off “by the promoter” until the winners of a bingo game are verified. This section is not expected to affect general fund revenue in FY2016-17.

**Section 5.** This section would amend Section 12-21-4000(15) to increase the dollar amount of promotions that may be won during special events during a session from $100 to $200 in cash or merchandise. These prizes are in addition to the prizes offered players from the play of bingo and must not be paid out of the bingo account used for payouts during a bingo session. This section is not expected to affect general fund revenue in FY2016-17.

**Section 6.** This section would amend Section 12-21-4005 to include raffles as defined in Section 33-57-110 that is not considered within the scope of operation of a bingo game. This section is not expected to affect general fund revenue in FY2016-17.

**Section 7.** This section would amend Section 12-21-4090(C) for a licensed nonprofit organization which is responsible for the maintenance of special checking and savings accounts for bingo operations. Currently, if the organization runs a deficit in the bingo account, both the organization and the promoter may deposit a loan equal to fifty percent of the deficit. This section would allow the promoter to deposit one hundred percent of the deficit if the organization is unable to contribute to the deficit and agrees to this arrangement. The contribution may be considered either as a loan or a charitable donation to the organization from the promoter. Each loan must be authorized in writing and noted by an officer of the licensed nonprofit organization. The promoter may have recourse to these loans from the charitable bingo account. This section is not expected to affect general fund revenue in FY2016-17.

This section would also amend Section 12-21-4090(D) to allow the withdrawal of funds from the bingo account to be made by electronic methods or by recurring online payments instead of only by preprinted, consecutively-numbered checks or withdrawal slips. All electronic payments must be authorized by a representative of the licensed nonprofit organization and promoter in writing. This section is not expected to affect general fund revenue in FY2016-17.

**Section 8.** Based upon the latest data from the Department of Revenue, there are currently 94 licensed bingo promoters operating bingo games throughout South Carolina, including the Catawba Indian tribe. The majority of licensed bingo games are sponsored by nonprofit volunteer organizations that operated bingo games for charitable purposes. The bingo industry generated $108,496,615 in revenue during calendar year 2015. The Department of Revenue charges tax rates that vary from four cents to ten cents for each dollar of face value. Total bingo tax revenue amounted to $7,623,947 during calendar year 2015. The Department of Revenue retains this revenue to be statutorily distributed as twenty-six percent to the sponsoring charity for which the bingo cards were purchased, and the remaining seventy-four percent is distributed pursuant to Section 12-21-4200 among a variety of state and local agencies and funds. The data indicates that charities received $1,829,543 during calendar year 2015, and $5,207,160 was allocated among various state and local programs.

This section would amend Section 12-21-4190(B) to reapportion the amount of retained bingo revenue as follows:

 Increase the amount of revenue distributed to the sponsoring charity from 26% to 28%

 Decrease the remaining amount of revenue distributed pursuant to Section 12-21-4200 from 74% to 72%

The total amount of retained bingo revenue and bingo tax revenue generated during calendar year remain unchanged. After reapportioning the retained bingo revenue as twenty-eight percent to the sponsoring charity for which the bingo cards were purchased, and the remaining seventy-two percent to be distributed among a variety of state and local agencies and funds, we find the following:

 The amount that charities receive would increase by an additional $140,734 from $1,829,543 to $1,970,277 annually.

 The amount that various state and local programs receive would decrease by an additional $140,734 from $5,207,160 to $5,066,426 annually.

Pursuant to Section 12-21-4200, bingo tax revenue is statutorily apportioned among several funding areas. The revenue designated to the Governor’s Office Division on Aging for the Senior Centers Performance Improvement Fund and the funds that are subdivided among the state’s forty-six county offices on aging would not be affected. Pursuant to Chapter 23 of Title 51, the change in the reapportionment percentage would affect the amount set aside for noncompetitive grants to eligible entities within each county area for planning and development for new parks and recreation facilities or renovation of existing facilities. The Parks, Recreation, and Tourism Development Fund would be reduced by $31,493 in FY2016-17. Lastly, general fund bingo tax revenue would be reduced by an estimated $109,241 in FY2016-17.

**Section 9.** This act takes effect upon approval by the Governor.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑21‑4320 SO AS TO REQUIRE THE DEPARTMENT OF REVENUE TO ESTABLISH AN INFORMATIONAL CHARITABLE BINGO WEBPAGE ON ITS WEBSITE; TO AMEND SECTION 12‑21‑3920, RELATING TO DEFINITIONS FOR PURPOSES OF THE BINGO TAX ACT, SO AS TO REDEFINE “BUILDING”; TO AMEND SECTION 12‑21‑3940, RELATING TO APPLICATIONS FOR A BINGO LICENSE BY NONPROFIT ORGANIZATIONS AND PROMOTERS, SO AS TO EXTEND THE TIME BY WHICH THE DEPARTMENT MUST RESPOND; TO AMEND SECTION 12‑21‑3990, RELATING TO THE MANNER OF PLAYING BINGO, SO AS TO PROVIDE THE MANNER IN WHICH CERTAIN DEVICES MUST BE OPERATED; TO AMEND SECTION 12‑21‑4000, RELATING TO PROCEDURES APPLICABLE TO THE CONDUCT OF BINGO, SO AS TO INCREASE THE ALLOWANCE FOR PROMOTIONS; TO AMEND SECTION 12‑21‑4005, RELATING TO THE OPERATION OF BINGO GAMES, SO AS TO EXCLUDE CERTAIN RAFFLES; TO AMEND SECTION 12‑21‑4090, RELATING TO BINGO CHECKING AND SAVINGS ACCOUNTS, SO AS TO ALLOW THE PROMOTER TO MAKE CERTAIN CONTRIBUTIONS AND TO ALLOW FOR ELECTRONIC PAYMENTS; AND TO AMEND SECTION 12‑21‑4190 RELATING TO THE DISTRIBUTION OF BINGO REVENUES, SO TO INCREASE THE PERCENTAGE THAT IS DISTRIBUTED TO CHARITY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 24, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑4320. (A) The department shall establish a bingo webpage on its own website, for the purpose of serving as a clearinghouse for information and access to the Bingo Tax Act and its implementation and regulation. The link also must contain access to information pertaining to licenses, the manner in which to file complaints, and clarifying issues the department finds in connection with violations of the Bingo Tax Act.

(B) In addition to the purposes set forth in subsection (A), the webpage also must include a process for submitting questions to the bingo division of the department. The department shall post official minutes of meetings, including committee responses to each bingo inquiry.”

SECTION 2. Section 12‑21‑3920(17) of the 1976 Code, is amended to read:

“(17) ‘Building’ means ~~a structure surrounded by exterior walls or permanent firewalls~~ any structure used or intended for supporting or sheltering any use or occupancy designated by a separate address, provided the structure does not include any interior access to another area where bingo is played.”

SECTION 3. Section 12‑21‑3940(B) of the 1976 Code is amended to read:

“(B) Upon application for a license, the department has ~~thirty~~ forty‑five days to approve or reject the application based on the requirements of this article.”

SECTION 4. Section 12‑21‑3990(A)(6) of the 1976 Code is amended to read:

“(6) All devices, including the master‑board, used to show what numbers have been called during a game must not be intentionally changed, obstructed, or turned off by the promoter until the winners are verified.”

SECTION 5. Section 12‑21‑4000(15) of the 1976 Code is amended to read:

“(15) The house may hold promotions of special events during a session offering players prizes other than from the play of bingo not to exceed ~~one~~ two hundred dollars in cash or merchandise for each session. This amount is not to be paid out of the bingo account and is not included in total payouts for a session. There is no additional charge to players to participate in a special promotion. The promotion must not ~~be a form of gambling or a game of chance~~ require any consideration for participation.”

SECTION 6. Section 12‑21‑4005 of the 1976 Code is amended to read:

“Section 12‑21‑4005. The operation of the bingo games excludes machines and lottery games, including video poker lottery games, prohibited by Sections 12‑21‑2710, 16‑19‑40, and 16‑19‑50. The operation of the bingo games also excludes raffles as defined in Section 33‑57‑110.”

SECTION 7. Section 12‑21‑4090(C) and (D) of the 1976 Code are amended to read:

“(C) An organization receiving an annual license to conduct bingo shall establish and maintain one regular checking account designated the ‘bingo account’ and also may maintain an interest‑bearing savings account designated the ‘bingo savings account’. All funds derived from the conduct of bingo, less the amount awarded as cash prizes, must be deposited in the bingo account. Other funds may not be deposited in the bingo account, unless there is a deficit, and then both the organization and promoter shall deposit a loan equal to fifty percent of the deficit. If the organization is unable to make the fifty percent contribution, the promoter may deposit one hundred percent of the deficit which the balance must be, at the election of the promoter and with the consent of the nonprofit organization, carried as either a loan or a charitable donation to the organization from the promoter. Each loan to an organization from the promoter must be authorized in writing by a duly authorized officer of the licensed nonprofit organization. The promoter only may have recourse to these loans from the funds in the charitable bingo account. Each loan deposited into the bingo checking account must be accounted for on the quarterly financial reports filed with the department. Detailed information substantiating these loans must be maintained by the organization. Deposits must be made no later than the next business day following the day of the bingo occasion on which the receipts were obtained. All accounts must be maintained in a financial institution in this State.

(D) Funds from the bingo account must be withdrawn by preprinted, consecutively‑numbered checks or withdrawal slips, jointly signed by a properly authorized representative of the licensed nonprofit organization and promoter and made payable to a person or organization or by electronic methods or recurring online payments. Electronic payments must be authorized by a duly authorized representative of the licensed nonprofit organization and promoter in writing. Checks must be imprinted with the words ‘Bingo Account’ and must contain the organization’s bingo license number on the face of the check. There also must be noted on the face of the check or withdrawal slip the nature of the payment made. No check or slip may be made payable to ‘cash’, ‘bearer’, or a fictitious payee. All checks, including voided checks and slips, must be kept and accounted for.”

SECTION 8. Section 12‑21‑4190(B) of the 1976 Code is amended to read:

“(B) The revenue retained must be distributed as follows:

(1) ~~twenty‑six~~ twenty‑eight percent of the revenue must be distributed to the sponsoring charity for which the bingo cards were purchased. The department shall make the distribution to the sponsoring charity by the last day of the next month following the month the revenue was collected. Distributions ~~under~~ pursuant to this subsection must be reduced by any delinquent debts as defined in the Setoff Debt Collection Act;

(2) ~~seventy‑four~~ seventy‑two percent pursuant to Section 12‑21‑4200.”

SECTION 9. This act takes effect upon approval by the Governor.

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