

1 HB72  
2 216145-1  
3 By Representative Howard (Constitutional Amendment)  
4 RFD: Economic Development and Tourism  
5 First Read: 11-JAN-22  
6 PFD: 01/10/2022

SYNOPSIS: Under existing law, lotteries and gift enterprises are prohibited.

This bill would propose an amendment to Section 65 of the Constitution of Alabama of 1901, to establish an Alabama Lottery; establish the Lottery Trust Fund; provide for the allocation of the Lottery Trust Fund; establish the Alabama Lottery Corporation and the Alabama Lottery Commission to regulate and supervise the operation of the Alabama Lottery Corporation; and provide for the appointment of members to the commission. The amendment would also require the Legislature to pass general laws to implement the amendment.

A BILL  
TO BE ENTITLED  
AN ACT

Proposing an amendment to Section 65 of the Constitution of Alabama of 1901, to establish an Alabama

1 Lottery; to establish the Lottery Trust Fund; to establish the  
2 Alabama Lottery Corporation to administer the lottery; to  
3 establish the Alabama Lottery Commission to regulate and  
4 supervise the Alabama Lottery Corporation; to provide for the  
5 appointment of members to the commission; and to require the  
6 Legislature to implement the amendment through enabling  
7 legislation.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. The following amendment to the  
10 Constitution of Alabama of 1901, as amended, is proposed and  
11 shall become valid as a part thereof when approved by a  
12 majority of the qualified electors voting thereon and in  
13 accordance with Sections 284, 285, and 287 of the Constitution  
14 of Alabama of 1901, now appearing as Sections 284, 285, and  
15 287 of the Official Recompilation of the Constitution of  
16 Alabama of 1901, as amended:

17 PROPOSED AMENDMENT

18 "Section 65.

19 "PART I.

20 "~~The~~ Except as provided in Part II, the legislature  
21 Legislature shall have no power to authorize lotteries or gift  
22 enterprises for any purposes, and shall pass laws to prohibit  
23 the sale in this state of lottery or gift enterprise tickets,  
24 or tickets in any scheme in the nature of a lottery; and  
25 except as provided in Part II, all acts, or parts of acts  
26 heretofore passed by the ~~legislature~~ Legislature of this  
27 state, authorizing a lottery or lotteries, and all acts

1 amendatory thereof, or supplemental thereto, are hereby  
2 ~~avoided~~ voided.

3 "PART II.

4 "Section 1. For the purposes of this part, the  
5 following terms shall have the following meanings:

6 "(1) COMMISSION. The Alabama Lottery Commission.

7 "(2) CORPORATION. The Alabama Lottery Corporation.

8 "(3) EXECUTIVE DIRECTOR. The Executive Director of  
9 the Alabama Lottery Corporation.

10 "(4) RETAILER. Any person with whom the corporation  
11 has contracted to sell lottery tickets to the public.

12 "(5) VENDOR. Any person who has entered into a major  
13 lottery specific procurement contract with the corporation.

14 "Section 2. Establishment of the Alabama Lottery;  
15 Alabama Lottery Corporation; and Alabama Lottery Commission.

16 "(a) There is hereby established the Alabama Lottery  
17 which shall be administered by an independent, de jure  
18 municipal corporation and political subdivision of the State  
19 of Alabama which shall be a public body corporate and politic  
20 created and designated as the Alabama Lottery Corporation. No  
21 officer or employee of the corporation, including the members  
22 of the Alabama Lottery Commission, shall be deemed a state  
23 employee or entitled to any benefits of a state employee.

24 "(b) The affairs of the corporation shall be  
25 administered by an executive director who shall be appointed  
26 by the Alabama Lottery Commission which is hereby established.  
27 Members of the commission shall be residents of the State of

1 Alabama, United States citizens, and prominent persons in  
2 their business or profession.

3 "(c) Members of the commission may not have been any  
4 of the following:

5 "(1) Convicted of a felony.

6 "(2) An officer of or occupy an official position in  
7 any political party.

8 "(3) An elected official.

9 "(4) Actively engaged in the business of or have a  
10 pecuniary interest in a licensed facility.

11 "(d) The members of the commission shall be  
12 appointed as follows:

13 "(1) Two members by the Governor.

14 "(2) One member by the Lieutenant Governor.

15 "(3) One member by the President Pro Tempore of the  
16 Senate.

17 "(4) One member by the Speaker of the House of  
18 Representatives.

19 "(e) All appointing authorities shall coordinate  
20 their appointments so that diversity of gender, race, and  
21 geographical areas is reflective of the makeup of the state.

22 "(f) The existence of the corporation shall begin  
23 when the original five members of the commission are  
24 appointed, without confirmation by the Senate. Subsequent  
25 appointments shall be subject to Senate confirmation. If a  
26 vacancy occurs when the Legislature is not in session, an  
27 interim appointment shall be made by the appropriate

1 appointing authority, and shall be subject to Senate  
2 confirmation upon the next session of the Legislature.

3 "(g) Members shall serve a term of four years and  
4 may serve two complete terms and any portion of an initial  
5 term less than four years or any portion of an unexpired term  
6 to which appointed. Any vacancy occurring on the commission  
7 shall be filled for the unexpired term by the appointing  
8 authority as described in this part or as otherwise provided  
9 by an act of the Legislature. The initial terms of office  
10 shall be as follows:

11 "(1) Three years for the member appointed by the  
12 Speaker of the House of Representatives.

13 "(2) Four years for the member appointed by the  
14 President Pro Tempore of the Senate.

15 "(3) Three years for the member appointed by the  
16 Lieutenant Governor.

17 "(4) Four years for the members appointed by the  
18 Governor.

19 "(h) Each member shall serve for the duration of his  
20 or her term and until his or her successor is duly appointed  
21 and confirmed by the Senate.

22 "(i) The corporation shall conduct and administer  
23 lottery games that provide continuing entertainment to the  
24 public, maximize revenues, and ensure that the lottery is  
25 operated with integrity and dignity and free of political  
26 influence.

1           "(j) An officer, director, or employee of the  
2 corporation may not have a financial interest in any vendor  
3 doing business or proposing to do business with the  
4 corporation.

5           "(k) The corporation and its officers and employees  
6 are subject to the Ethics Law, Section 36-25-1, et. seq., Code  
7 of Alabama 1975; the Open Records Act, Section 36-12-40, Code  
8 of Alabama 1975; and the Open Meetings Act, Section 36-25A-1,  
9 et. seq., Code of Alabama 1975.

10           "Section 3. Lottery Trust Fund.

11           "(a) The proceeds from the Alabama Lottery shall be  
12 applied first to the payment of the expenses of administering  
13 and operating the Alabama Lottery, including, without  
14 limitation, the payment of all prizes, without any further  
15 appropriation required by law, and the balance of the proceeds  
16 remaining after the payments shall be deposited and held in a  
17 special, separate account in the State Treasury hereby created  
18 and designated as the Lottery Trust Fund.

19           "(b) The corporation shall be self-sustaining and  
20 self-funded and no claim for the payment of an expense of the  
21 lottery or prizes of the lottery shall be made against any  
22 monies other than monies credited to the Lottery Trust Fund.

23           "(c) Monthly, no later than the last business day of  
24 the succeeding month, the corporation shall transfer to the  
25 Lottery Trust Fund the amount of net revenues which the  
26 corporation determines surplus to its needs.

1           "(d) Monies credited to the Lottery Trust Fund shall  
2 be invested in accordance with state investment practices and  
3 all earnings from the investment shall accrue to the fund.

4           "(e) On or before the last day of the month, the  
5 corporation shall distribute the excess monies in the Lottery  
6 Trust Fund as follows:

7           "(1) Twenty-five percent to the Education Trust Fund  
8 to be used for a scholarship program for the first two years  
9 attending a college or university.

10          "(2) Twenty percent to the Education Trust Fund to  
11 be expended as determined by the Legislature.

12          "(3) Fifteen percent to the state General Fund to be  
13 used to finance the expansion of the Medicaid program.

14          "(4) Twenty percent to the state General Fund to be  
15 used for community service grants pursuant to a program  
16 established by general law.

17          "(5) Twenty percent to the state General Fund to be  
18 expended as determined by the Legislature.

19          "Section 4. Prizes Taxable; Limitation on Sale

20          "(a) Lottery prizes are subject to Alabama state  
21 income tax. Any attachment, garnishment, or execution  
22 authorized and issued pursuant to law shall also be withheld  
23 if served upon the process agent of the corporation.

24          "(b) No ticket may knowingly be sold to any person  
25 under the age of 18, but this subsection does not prohibit the  
26 purchase of a ticket by a person 18 years of age or older for  
27 the purpose of making a gift to any person of any age. In that

1 case, the corporation shall direct payments to an adult member  
2 of the person's family or the legal guardian of the person on  
3 behalf of the person.

4 "(c) No person may sell a ticket at a price other  
5 than that established by the corporation unless authorized in  
6 writing by the executive director.

7 "(d) No person other than a duly certified lottery  
8 retailer may sell lottery tickets.

9 "(e) Lottery tickets may be given by merchants as a  
10 means of promoting goods or services to customers or  
11 prospective customers subject to approval by the corporation.

12 "(f) No lottery retailer may sell a ticket away from  
13 the locations listed in the contract of the retailer.

14 "Section 5. Games Allowed; Games Not Allowed.

15 "(a) Except as provided in subsection (b), the  
16 corporation may allow lottery games of all types. Games may  
17 include, but are not limited to, draw lotteries of various  
18 types, interstate lotteries such as Powerball and Mega  
19 Millions, and instant winners such as scratch-offs. The  
20 corporation shall make participation convenient by ensuring  
21 that purchases are available at retail outlets either by  
22 ticket purchase from an employee or from a kiosk or vending  
23 machine that does not require an employee to handle the  
24 transaction. The corporation may allow sale of tickets by  
25 mobile platforms and computer purchases.

26 "(b) The corporation may not approve or operate any  
27 casino or similar gambling establishment and may not approve

1 or operate any game played with playing cards, dice, dominos,  
2 slot machines, video lottery terminals, or roulette wheels.  
3 Any game using live dealers is strictly prohibited.

4 "Section 6. The Legislature shall provide for the  
5 control, management, and operation of the Alabama Lottery in  
6 one or more general laws supplemental to this amendment.

7 "Section 7. This part and any enabling legislation  
8 enacted by the Legislature with respect to this part  
9 supersedes and takes precedence over any other provision of  
10 law that may conflict or be inconsistent with this part or the  
11 legislation, and this part and the legislation shall operate  
12 and be construed without regard to the conflict or  
13 inconsistency.

14 Section 2. An election upon the proposed amendment  
15 shall be held, in accordance with Sections 284 and 285 of the  
16 Constitution of Alabama of 1901, now appearing as Sections 284  
17 and 285 of the Official Recompilation of the Constitution of  
18 Alabama of 1901, as amended, and the general election laws of  
19 this state.

20 Section 3. The appropriate election official shall  
21 assign a ballot number for the proposed constitutional  
22 amendment on the election ballot and shall set forth the  
23 following description on the proposed constitutional  
24 amendment:

25 "Proposing an amendment to the Constitution of  
26 Alabama of 1901, to establish an Alabama Lottery; create and  
27 allocate monies in the Alabama Lottery Trust Fund; create an

1 Alabama Lottery Corporation to administer the lottery; create  
2 the Alabama Lottery Commission to regulate and supervise the  
3 Alabama Lottery Corporation; and require the Legislature to  
4 implement the Alabama Lottery through appropriate general  
5 law."

6 This description shall be followed by the following  
7 language:

8 "Yes ( ) No ( )."