

By: Nelson

S.B. No. 52

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the development of consumer information and protection
3 policies and to purchasing by the Texas Lottery Commission.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter C, Chapter 467, Government Code, is
6 amended by adding Section 467.109 to read as follows:

7 Sec. 467.109. CONSUMER INFORMATION AND PROTECTION POLICIES
8 AND COMPLAINT PROCEDURE. (a) The commission shall identify
9 applicable laws governing consumer information and protection,
10 including laws governing deceptive trade practices and deceptive
11 advertising, and develop policies to ensure the commission complies
12 with the requirements of those laws and does not violate the
13 prohibitions under those laws.

14 (b) A consumer may file a complaint with the attorney
15 general if the consumer believes the commission has failed to
16 comply with or is violating a law identified or a policy developed
17 as provided by Subsection (a). After investigating the complaint
18 and conducting a hearing, if appropriate, the attorney general may:

19 (1) make recommendations to the commission regarding
20 modification of the commission's policies; or

21 (2) issue an opinion on whether the commission is
22 complying with or violating the law or policy.

23 SECTION 2. Section 466.101, Government Code, is amended to
24 read as follows:

1 Sec. 466.101. PROCUREMENT PROCEDURES. Except as otherwise
2 provided by this subchapter, the general law governing purchasing
3 and contracts by state agencies applies to the commission.

4 ~~[(a) The executive director may establish procedures for the~~
5 ~~purchase or lease of facilities, goods, and services and make any~~
6 ~~purchases, leases, or contracts that are necessary for carrying out~~
7 ~~the purposes of this chapter. The procedures must, as determined~~
8 ~~feasible and appropriate by the executive director, promote~~
9 ~~competition to the maximum extent possible.~~

10 ~~[(b) In all procurement decisions, the executive director~~
11 ~~shall take into account the particularly sensitive nature of the~~
12 ~~lottery and shall act to promote and ensure integrity, security,~~
13 ~~honesty, and fairness in the operation and administration of the~~
14 ~~lottery and the objective of producing revenues for the state~~
15 ~~treasury.~~

16 ~~[(c) The procurement procedures adopted by the executive~~
17 ~~director must, as determined feasible and appropriate by the~~
18 ~~executive director, afford any party who is aggrieved by the terms~~
19 ~~of a solicitation or the award of a contract an opportunity to~~
20 ~~protest the executive director's action to the commission. The~~
21 ~~protest procedures must provide for an expedient resolution of the~~
22 ~~protest in order to avoid substantially delaying a solicitation or~~
23 ~~contract award that is necessary for the timely implementation of a~~
24 ~~lottery game. A protest must be in writing and be filed with the~~
25 ~~commission not later than 72 hours after receipt of notice of the~~
26 ~~executive director's action.~~

27 ~~[(d) A party who is aggrieved by the commission's resolution~~

1 ~~of a protest under Subsection (c) may file an action in the district~~
2 ~~court of Travis County. The court shall give preference to hearings~~
3 ~~and trials of actions under this section. If the party filing the~~
4 ~~action seeks to enjoin the implementation of a solicitation or~~
5 ~~contract, the party shall post a bond that is payable to the state~~
6 ~~if the party does not prevail in the appeal, and is in an amount~~
7 ~~sufficient to compensate the state for the revenue that would be~~
8 ~~lost due to the delay in lottery operations.~~

9 ~~[(c) The commission shall require any person seeking to~~
10 ~~contract for goods or services relating to the implementation and~~
11 ~~administration of this chapter to submit to competitive bidding~~
12 ~~procedures in accordance with rules adopted by the commission. The~~
13 ~~procedures must be for the purpose of ensuring fairness and~~
14 ~~integrity.]~~

15 SECTION 3. Sections 466.102, 466.104, 466.105, 466.106,
16 466.107, and 466.108, Government Code, are repealed.

17 SECTION 4. Not later than March 1, 2006, the Texas Lottery
18 Commission shall adopt the policies required by Section 467.109,
19 Government Code, as added by this Act.

20 SECTION 5. The change in law made by this Act governing
21 purchasing and contracts by the Texas Lottery Commission applies to
22 a purchase or contract made on or after the effective date of this
23 Act, except that a contract or purchase for which the initial notice
24 soliciting bids or proposals or other applicable expressions of
25 interest is given before that date is governed by the law in effect
26 when the initial notice for the contract or purchase is given, and
27 the former law is continued in effect for that purpose. The change

1 in law made by this Act does not affect a contract entered into
2 before the effective date of this Act, and does not apply to a
3 purchase made on or after the effective date of this Act under a
4 contract entered into before the effective date of this Act if the
5 purchase is made during the period covered by the contract.

6 SECTION 6. This Act takes effect January 1, 2006.