

## **BILL ANALYSIS**

H.B. 2160  
By: Flores  
Licensing & Administrative Procedures  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The first five years of the Texas Lottery's operation, from 1992 through Fiscal Year 1997, provided lucrative lottery sales growth. It was not until the 75th Legislature first established a cap on the prize payout in 1997 that immediate and substantial declines in sales were encountered. The prize payout cap resulted in a \$655 million (17.5%) decline in total sales for Fiscal Year 1998 and an additional \$518 million (16.8%) in Fiscal Year 1999.

In reaction to the exponential decline in lottery sales, the 76th Legislature in 1999 considered legislation to repeal the cap on prize payouts. In a compromise measure, the Legislature agreed to repeal the prize cap but linked the repeal to a formula that reduces the agency's advertising budget (from a base level of \$40 million annually) by \$1 million for each one percent by which the Lottery's prize payout exceeds 52 percent of gross sales revenue. This provision remains in effect today under the State Lottery Act found in the Texas Government Code.

For the past several years, the Texas Lottery Commission has experienced an increase in the overall prize payout, which can be attributed both to the continued decline in overall on-line product sales and an increase in overall instant product sales. This has led to a payout increase over the past five years from approximately 57% to approximately 61%. This increase is 9 percentage points higher than the 52% referenced in the State Lottery Act, and thus, results in an overall reduction in the agency's advertising budget for Fiscal Year 2007 from \$40 million to \$31 million without accounting for the impact of inflation.

In an effort to determine the effect that a reduction in advertising dollars has on lottery sales, the Texas Lottery Commission requested a study be conducted on this point by the McCombs School of Business at the University of Texas at Austin. This study considered both the Texas Lottery as well as the lotteries for 38 other states for the year 2002. The researchers determined that "the evidence is compelling that lottery sales are stimulated by well-informed advertising," and that "[a]ll state lotteries, including the Texas Lottery Commission, appear to be under-investing currently in advertising."

In order to ensure success of the Texas Lottery and in turn to provide revenue to the Foundation School Fund, it is imperative that the Texas Lottery Commission be able to fully utilize the funds provided to them by the Legislature.

HB 2160 will repeal the limitation on the Texas Lottery Commission's advertising budget which is based on the percentage of lottery prize payouts. HB 2160 will not appropriate additional funds for lottery advertising, which would be subject to the legislative appropriations process.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Repeals Section 466.015(d), Government Code.

SECTION 2. Effective date: Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

**EFFECTIVE DATE**

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