

SUBJECT: Eliminating limit on lottery advertising based on prize payout percentage

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 6 ayes — Flores, Hamilton, Jones, Miles, Quintanilla, Thompson
0 nays
3 absent — Geren, Isett, Goolsby

WITNESSES: For — None
Against — None
On — Anthony J. Sadberry, Texas Lottery Commission

BACKGROUND: Government Code, sec. 466.015(d) outlines rules for the Texas Lottery Commission's advertising budget in fiscal 2001 and beyond. If awarded lottery prizes exceed an amount equal to 52 percent of that year's ticket sale revenue, the next fiscal year's advertising budget may not exceed \$40 million, minus \$1 million for each full percent that the previous year's lottery prizes exceeded the 52 percent limit.

DIGEST: HB 2160 would repeal Government Code, sec. 466.015(d).

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS SAY: HB 2160 would allow the Texas Lottery Commission to use all available funds to maximize the return on its advertising investment. A 2002 study evaluating the effect of advertising on lottery sales found a link between effective, properly funded advertising and the success of lottery systems in many states. At the same time, the study determined that the Texas Lottery Commission underinvests in advertising. Revenue earned through the Texas Lottery serves as an important source of funding for the Foundation School Fund, and the state should do all it can to maximize this stream of revenue.

To increase the lottery's popularity, the general public needs more information on the array of offerings. The Texas Lottery offers five different online games and launches approximately 100 scratch-off games each year. The market in Texas is increasingly diverse, requiring more dynamic strategies to advertise the many prizes and games. When the Texas Lottery began operating in 1992, it benefited from free media exposure due to coverage of winners, games, and ball drawings. Now, very limited coverage of live drawings occurs, thereby justifying additional advertising expenses.

The Texas Lottery exhibited sales growth during its first five years of operation. In 1997, the 75th Legislature adopted a limit on prize payouts by the lottery. This resulted in a substantial fall in sales, with a 17.5 percent decline in total sales exhibited in fiscal 1998. In response, the 76th Legislature in 1999 repealed the cap on prize payouts. The legislation included a compromise measure designed to appease those in opposition to the state lottery, placing limits on the agency's advertising budget. Over the past five years, the Texas Lottery Commission increased prize payouts from an estimated 57 percent to 61 percent. At 61 percent, the payout is 9 percentage points higher than the 52 percent payout stipulated in the State Lottery Act. Consequently, the agency can only spend \$31 million of its \$40 million advertising budget. The bill would enable the agency to spend all money appropriated for advertising purposes. However, the bill only allow more funds to be used for lottery advertising, with the actual amount still subject to the appropriations process.

**OPPONENTS
SAY:**

Current restrictions on lottery advertising are appropriate and should not be modified. The general public already is aware of lottery games and prize offerings.

More individuals may be enticed to gamble if the limitation on the Lottery Commission's advertising budget were repealed. Although lottery sales growth increases state revenue, the upsurge in gambling results in higher costs to the state. Gambling promotes problems that exert a social and financial toll. The state should not encourage more individuals to gamble.