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HOUSE BILL 2686

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Alexander, Finn, Haler, and Angel

Read first time 01/25/12. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to structure and duties of the gambling commission,  
2 horse racing commission, lottery commission, and liquor control board;  
3 amending RCW 9.46.040, 9.46.050, 9.46.080, 9.46.085, 9.46.360,  
4 67.70.050, 42.17A.705, 67.70.010, 67.70.050, 67.70.180, 67.70.240, and  
5 67.70.260; adding new sections to chapter 67.70 RCW; adding a new  
6 chapter to Title 43 RCW; recodifying RCW 9.46.040, 9.46.050, 9.46.060,  
7 9.46.070, 9.46.080, and 9.46.085; repealing RCW 66.08.012, 66.08.014,  
8 66.08.016, 66.08.080, 67.16.012, 67.16.014, 67.16.015, 67.16.017,  
9 67.16.140, 67.16.150, 67.16.160, 67.70.030, 67.70.055, and 67.70.270;  
10 and providing an effective date.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

12 NEW SECTION. **Sec. 1.** The legislature recognizes the need to  
13 increase government efficiency and that greater government efficiency  
14 may be achieved by consolidating agencies, merging similar and  
15 duplicative functions, and privatizing state functions when possible.  
16 Recently, citizens passed Initiative Measure No. 1183, which will soon  
17 significantly reduce the functions of the liquor control board.  
18 Privatizing lottery functions may generate savings and new revenue for  
19 the state. This act, which consolidates the horse racing commission,

1 gambling commission, state lottery commission, and liquor control board  
2 into a single agency, and seeks revenue opportunities through private  
3 management of the state lottery, is intended to increase efficiency by  
4 streamlining government.

5 **PART I**

6 **GAMING AND LIQUOR CONTROL COMMISSION**

7 NEW SECTION. **Sec. 101.** There is created a gaming and liquor  
8 control commission that is vested with all powers and duties  
9 transferred to it under this chapter and such other powers and duties  
10 as may be authorized by law.

11 NEW SECTION. **Sec. 102.** As used in this chapter, unless the  
12 context clearly requires otherwise, "commission" means the gaming and  
13 liquor control commission.

14 **Sec. 103.** RCW 9.46.040 and 1974 ex.s. c 155 s 12 are each amended  
15 to read as follows:

16 There shall be a commission, known as the (~~"Washington state~~  
17 ~~gambling commission"~~) gaming and liquor control commission, consisting  
18 of five members appointed by the governor with the consent of the  
19 senate. The members of the commission shall be appointed (~~within~~  
20 ~~thirty days of July 16, 1973~~) for terms beginning (~~July 1, 1973~~)  
21 October 1, 2012, and expiring as follows: One member of the commission  
22 for a term expiring July 1, (~~1975~~) 2014; one member of the commission  
23 for a term expiring July 1, (~~1976~~) 2015; one member of the commission  
24 for a term expiring July 1, (~~1977~~) 2016; one member of the commission  
25 for a term expiring July 1, (~~1978~~) 2017; and one member of the  
26 commission for a term expiring July 1, (~~1979~~) 2018; each as the  
27 governor so determines. Their successors, all of whom shall be citizen  
28 members appointed by the governor with the consent of the senate, upon  
29 being appointed and qualified, shall serve six year terms: PROVIDED,  
30 That no member of the commission who has served a full six year term  
31 shall be eligible for reappointment. In case of a vacancy, it shall be  
32 filled by appointment by the governor for the unexpired portion of the  
33 term in which said vacancy occurs. No vacancy in the membership of the

1 commission shall impair the right of the remaining member or members to  
2 act, except as provided in RCW 9.46.050(2) (~~provided~~) (as recodified  
3 by this act).

4 In addition to the members of the commission there shall be four ex  
5 officio members without vote from the legislature consisting of: (1)  
6 Two members of the senate, one from the majority political party and  
7 one from the minority political party, both to be appointed by the  
8 president of the senate; (2) two members of the house of  
9 representatives, one from the majority political party and one from the  
10 minority political party, both to be appointed by the speaker of the  
11 house of representatives; such appointments shall be for the term of  
12 two years or for the period in which the appointee serves as a  
13 legislator, whichever expires first; members may be reappointed;  
14 vacancies shall be filled in the same manner as original appointments  
15 are made. Such ex officio members who shall collect data deemed  
16 essential to future legislative proposals and exchange information with  
17 the (~~board~~) commission shall be deemed engaged in legislative  
18 business while in attendance upon the business of the (~~board~~)  
19 commission and shall be limited to such allowances therefor as  
20 otherwise provided in RCW 44.04.120, the same to be paid from the  
21 (~~(=)~~)gambling revolving fund(~~(=)~~) as being expenses relative to  
22 commission business.

23 **Sec. 104.** RCW 9.46.050 and 2011 c 336 s 302 are each amended to  
24 read as follows:

25 (1) Upon appointment of the initial membership the commission shall  
26 meet at a time and place designated by the governor and proceed to  
27 organize, electing one of such members as chair of the commission who  
28 shall serve until July 1, (~~(1974))~~ 2014; thereafter a chair shall be  
29 elected annually.

30 (2) A majority of the members shall constitute a quorum of the  
31 commission: PROVIDED, That all actions of the commission (~~(relating to~~  
32 ~~the regulation of licensing under this chapter shall))~~ require an  
33 affirmative vote by three or more members of the commission.

34 (3) The principal office of the commission shall be at the state  
35 capitol, and meetings shall be held at least (~~(quarterly))~~ monthly and  
36 at such other times as may be called by the chair or upon written  
37 request to the chair of a majority of the commission.

1 (4) Members shall be compensated in accordance with RCW 43.03.250  
2 and shall receive reimbursement for travel expenses incurred in the  
3 performance of their duties as provided in RCW 43.03.050 and 43.03.060.

4 (5) Before entering upon the duties of his or her office, each of  
5 the members of the commission shall enter into a surety bond executed  
6 by a surety company authorized to do business in this state, payable to  
7 the state of Washington, to be approved by the governor, in the penal  
8 sum of fifty thousand dollars, conditioned upon the faithful  
9 performance of his or her duties, and shall take and subscribe to the  
10 oath of office prescribed for elective state officers, which oath and  
11 bond shall be filed with the secretary of state. The premium for said  
12 bond shall be paid by the commission.

13 (6) Any member of the commission may be removed (~~((for inefficiency,  
14 malfeasance, or misfeasance in office, upon specific written charges  
15 filed by the governor, who shall transmit such written charges to the  
16 member accused and to the chief justice of the supreme court. The  
17 chief justice shall thereupon designate a tribunal composed of three  
18 judges of the superior court to hear and adjudicate the charges. Such  
19 tribunal shall fix the time of the hearing, which shall be public, and  
20 the procedure for the hearing, and the decision of such tribunal shall  
21 be final. Removal of any member of the commission by the tribunal  
22 shall disqualify such member for reappointment)) at any time at the  
23 pleasure of the governor.~~

24 **Sec. 105.** RCW 9.46.080 and 1994 c 218 s 14 are each amended to  
25 read as follows:

26 The governor shall recommend and the commission shall employ a full  
27 time director, who shall be the administrator for the commission in  
28 carrying out its powers and duties and who shall issue rules (~~((and  
29 regulations))~~) adopted by the commission governing the activities  
30 authorized (~~((hereunder))~~) under this chapter and shall supervise  
31 commission employees in carrying out the purposes and provisions of  
32 this chapter. In addition, the director shall employ (~~((a deputy  
33 director, not more than three assistant directors, together with such  
34 investigators and enforcement officers and))~~) such staff as the  
35 commission determines is necessary to carry out the purposes and  
36 provisions of this chapter. The director(~~(, the))~~) and any deputy  
37 directors(~~(, the))~~) and assistant directors, and personnel occupying

1 positions requiring the performing of undercover investigative work  
2 shall be exempt from the provisions of chapter 41.06 RCW, as now law or  
3 hereafter amended. (~~Neither the director nor any commission employee~~  
4 ~~working therefor shall be an officer or manager of any bona fide~~  
5 ~~charitable or bona fide nonprofit organization, or of any organization~~  
6 ~~which conducts gambling activity in this state.))~~

7 The director, subject to the approval of the commission, is  
8 authorized to enter into agreements on behalf of the commission for  
9 mutual assistance and services, based upon actual costs, with any state  
10 or federal agency or with any city, town, or county, and such state or  
11 local agency is authorized to enter into such an agreement with the  
12 commission. If a needed service is not available from another agency  
13 of state government within a reasonable time, the director may obtain  
14 that service from private industry.

15 **Sec. 106.** RCW 9.46.085 and 1986 c 4 s 1 are each amended to read  
16 as follows:

- 17 A member or employee of the (~~gambling~~) commission shall not:
- 18 (1) Serve as an officer or manager of any corporation or  
19 organization which conducts a lottery or gambling activity;
  - 20 (2) Receive or share in, directly or indirectly, the gross profits  
21 of any gambling activity regulated by the commission;
  - 22 (3) Be beneficially interested in any contract for the manufacture  
23 or sale of gambling devices, the conduct of (~~fa~~) a gambling  
24 activity, or the provision of independent consultant services in  
25 connection with a gambling activity.

26 **Sec. 107.** RCW 9.46.360 and 1992 c 172 s 2 are each amended to read  
27 as follows:

- 28 (1) The negotiation process for compacts with federally recognized  
29 Indian tribes for conducting class III gaming, as defined in the Indian  
30 Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., on federal Indian  
31 lands is governed by this section.
- 32 (2) The (~~gambling~~) commission through the director or the  
33 director's designee shall negotiate compacts for class III gaming on  
34 behalf of the state with federally recognized Indian tribes in the  
35 state of Washington.

1 (3) When a tentative agreement with an Indian tribe on a proposed  
2 compact is reached, the director shall immediately transmit a copy of  
3 the proposed compact to all voting and ex officio members of the  
4 ((gambling)) commission and to the standing committees designated  
5 pursuant to subsection (5) of this section.

6 (4) Notwithstanding RCW 9.46.040 (as recodified by this act), the  
7 four ex officio members of the ((gambling)) commission shall be deemed  
8 voting members of the ((gambling)) commission for the sole purpose of  
9 voting on proposed compacts submitted under this section.

10 (5) Within thirty days after receiving a proposed compact from the  
11 director, one standing committee from each house of the legislature  
12 shall hold a public hearing on the proposed compact and forward its  
13 respective comments to the ((gambling)) commission. The president of  
14 the senate shall designate the senate standing committee that is to  
15 carry out the duties of this section, and the speaker of the house of  
16 representatives shall designate the house standing committee that is to  
17 carry out the duties of this section. The designated committees shall  
18 continue to perform under this section until the president of the  
19 senate or the speaker of the house of representatives, as the case may  
20 be, designates a different standing committee.

21 (6) The ((gambling)) commission may hold public hearings on the  
22 proposed compact any time after receiving a copy of the compact from  
23 the director. Within forty-five days after receiving the proposed  
24 compact from the director, the ((gambling)) commission, including the  
25 four ex officio members, shall vote on whether to return the proposed  
26 compact to the director with instructions for further negotiation or to  
27 forward the proposed compact to the governor for review and final  
28 execution.

29 (7) Notwithstanding provisions in this section to the contrary, if  
30 the director forwards a proposed compact to the ((gambling)) commission  
31 and the designated standing committees within ten days before the  
32 beginning of a regular session of the legislature, or during a regular  
33 or special session of the legislature, the thirty-day time limit set  
34 forth in subsection (5) of this section and the forty-five day limit  
35 set forth in subsection (6) of this section are each forty-five days  
36 and sixty days, respectively.

37 (8) Funding for the negotiation process under this section must  
38 come from the gambling revolving fund.

1 (9) In addition to the powers granted under this chapter, the  
2 commission, consistent with the terms of any compact, is authorized and  
3 empowered to enforce the provisions of any compact between a federally  
4 recognized Indian tribe and the state of Washington.

5 **Sec. 108.** RCW 67.70.050 and 2012 c --- s 205 (section 205 of this  
6 act) are each amended to read as follows:

7 ~~((There is created the office of director of the state lottery.  
8 The director shall be appointed by the governor with the consent of the  
9 senate. The director shall serve at the pleasure of the governor and  
10 shall receive such salary as is determined by the governor, but in no  
11 case may the director's salary be more than ninety percent of the  
12 salary of the governor.))~~ The director shall:

13 (1) Supervise and administer the operation of the lottery in  
14 accordance with the provisions of this chapter and with the rules of  
15 the commission.

16 (2) ~~((Appoint such deputy and assistant directors as may be  
17 required to carry out the functions and duties of his or her office.  
18 The provisions of the state civil service law, chapter 41.06 RCW, shall  
19 not apply to such deputy and assistant directors.~~

20 ~~(3) Appoint such professional, technical, and clerical assistants  
21 and employees as may be necessary to perform the duties imposed by this  
22 chapter. The provisions of the state civil service law, chapter 41.06  
23 RCW, shall not apply to such employees as are engaged in undercover  
24 audit or investigative work or security operations but shall apply to  
25 other employees appointed by the director, except as provided for in  
26 subsection (2) of this section.~~

27 ~~(4))~~ In accordance with the provisions of this chapter and the  
28 rules of the commission, license as agents to sell or distribute  
29 lottery tickets such persons as in ~~((his))~~ the director's opinion will  
30 best serve the public convenience and promote the sale of tickets or  
31 shares. The director may require a bond from any licensed agent, in  
32 such amount as provided in the rules of the commission. Every licensed  
33 agent shall prominently display ~~((his))~~ the agent's license, or a copy  
34 thereof, as provided in the rules of the commission. License fees may  
35 be established by the commission, and, if established, shall be  
36 deposited in the state lottery account created by RCW 67.70.230.

1           ((+5+)) (3) Confer regularly as necessary or desirable with the  
2 commission on the operation and administration of the lottery; make  
3 available for inspection by the commission, upon request, all books,  
4 records, files, and other information and documents of the lottery; and  
5 advise the commission and recommend such matters as the director deems  
6 necessary and advisable to improve the operation and administration of  
7 the lottery.

8           ((+6+)) (4) Subject to the applicable laws relating to public  
9 contracts, enter into contracts for the operation of the lottery, or  
10 any part thereof, and into contracts for the promotion of the lottery.  
11 No contract awarded or entered into by the director may be assigned by  
12 the holder thereof except by specific approval of the commission.

13           ((+7+)) (5) Certify quarterly to the state treasurer and the  
14 commission a full and complete statement of lottery revenues, prize  
15 disbursements, and other expenses for the preceding quarter.

16           ((+8+)) (6) Carry on a continuous study and investigation of the  
17 lottery throughout the state: (a) For the purpose of ascertaining any  
18 defects in this chapter or in the rules issued thereunder by reason  
19 whereof any abuses in the administration and operation of the lottery  
20 or any evasion of this chapter or the rules may arise or be practiced,  
21 (b) for the purpose of formulating recommendations for changes in this  
22 chapter and the rules (~~(promulgated)~~) adopted thereunder to prevent  
23 such abuses and evasions, (c) to guard against the use of this chapter  
24 and the rules (~~(issued)~~) adopted thereunder as a cloak for the carrying  
25 on of professional gambling and crime, and (d) to ensure that this  
26 chapter and rules shall be in such form and be so administered as to  
27 serve the true purposes of this chapter.

28           ((+9+)) (7) Make a continuous study and investigation of: (a) The  
29 operation and the administration of similar laws which may be in effect  
30 in other states or countries, (b) the operation of an additional game  
31 or games for the benefit of a particular program or purpose, (c) any  
32 literature on the subject which from time to time may be published or  
33 available, (d) any federal laws which may affect the operation of the  
34 lottery, and (e) the reaction of the citizens of this state to existing  
35 and potential features of the lottery with a view to recommending or  
36 effecting changes that will tend to serve the purposes of this chapter.

37           ((+10+)) (8) Have all enforcement powers granted in chapter 9.46  
38 RCW.



1           (~~(11)~~) (9) Perform all other matters and things necessary to  
2 carry out the purposes and provisions of this chapter.

3           **Sec. 109.** RCW 42.17A.705 and 2011 1st sp.s. c 43 s 109 are each  
4 amended to read as follows:

5           For the purposes of RCW 42.17A.700, "executive state officer"  
6 includes:

7           (1) The chief administrative law judge, the director of  
8 agriculture, the director of the department of services for the blind,  
9 the chief information officer of the office of chief information  
10 officer, the director of the state system of community and technical  
11 colleges, the director of commerce, the director of the consolidated  
12 technology services agency, the secretary of corrections, the director  
13 of early learning, the director of ecology, the commissioner of  
14 employment security, the chair of the energy facility site evaluation  
15 council, the director of enterprise services, the secretary of the  
16 state finance committee, the director of financial management, the  
17 director of fish and wildlife, the executive secretary of the forest  
18 practices appeals board, the director of the (~~(gambling)~~) gaming and  
19 liquor control commission, the secretary of health, the administrator  
20 of the Washington state health care authority, the executive secretary  
21 of the health care facilities authority, the executive secretary of the  
22 higher education facilities authority, (~~(the executive secretary of the~~  
23 ~~horse racing commission,~~) the human resources director, the executive  
24 secretary of the human rights commission, the executive secretary of  
25 the indeterminate sentence review board, the executive director of the  
26 state investment board, the director of labor and industries, the  
27 director of licensing, (~~(the director of the lottery commission,~~) the  
28 director of the office of minority and women's business enterprises,  
29 the director of parks and recreation, the executive director of the  
30 public disclosure commission, the executive director of the Puget Sound  
31 partnership, the director of the recreation and conservation office,  
32 the director of retirement systems, the director of revenue, the  
33 secretary of social and health services, the chief of the Washington  
34 state patrol, the executive secretary of the board of tax appeals, the  
35 secretary of transportation, the secretary of the utilities and  
36 transportation commission, the director of veterans affairs, the

1 president of each of the regional and state universities and the  
2 president of The Evergreen State College, and each district and each  
3 campus president of each state community college;

4 (2) Each professional staff member of the office of the governor;

5 (3) Each professional staff member of the legislature; and

6 (4) Central Washington University board of trustees, the boards of  
7 trustees of each community college and each technical college, each  
8 member of the state board for community and technical colleges, state  
9 convention and trade center board of directors, Eastern Washington  
10 University board of trustees, Washington economic development finance  
11 authority, Washington energy northwest executive board, The Evergreen  
12 State College board of trustees, executive ethics board, fish and  
13 wildlife commission, forest practices appeals board, forest practices  
14 board, (~~gambling~~) gaming and liquor control commission, Washington  
15 health care facilities authority, higher education coordinating board,  
16 higher education facilities authority, (~~horse racing commission,~~)  
17 state housing finance commission, human rights commission,  
18 indeterminate sentence review board, board of industrial insurance  
19 appeals, state investment board, commission on judicial conduct,  
20 legislative ethics board, life sciences discovery fund authority board  
21 of trustees, (~~liquor control board, lottery commission,~~) Pacific  
22 Northwest electric power and conservation planning council, parks and  
23 recreation commission, Washington personnel resources board, board of  
24 pilotage commissioners, pollution control hearings board, public  
25 disclosure commission, public employees' benefits board, recreation and  
26 conservation funding board, salmon recovery funding board, shorelines  
27 hearings board, board of tax appeals, transportation commission,  
28 University of Washington board of regents, utilities and transportation  
29 commission, Washington State University board of regents, and Western  
30 Washington University board of trustees.

31 NEW SECTION. **Sec. 110.** The following acts or parts of acts are  
32 each repealed:

33 (1) RCW 66.08.012 (Creation of board--Chairman--Quorum--Salary) and  
34 1961 c 307 s 7, 1949 c 5 s 8, 1945 c 208 s 1, 1937 c 225 s 1, & 1933  
35 ex.s. c 62 s 63;

36 (2) RCW 66.08.014 (Terms of members--Vacancies--Principal office--

1 Removal--Devotion of time to duties--Bond--Oath) and 1986 c 105 s 1,  
2 1949 c 5 s 9, 1947 c 113 s 1, 1945 c 208 s 2, & 1933 ex.s. c 62 s 64;

3 (3) RCW 66.08.016 (Employees of the board) and 1961 c 1 s 30, 1947  
4 c 113 s 2, & 1933 ex.s. c 62 s 65;

5 (4) RCW 66.08.080 (Interest in manufacture or sale of liquor  
6 prohibited) and 1994 c 154 s 313, 1981 1st ex.s. c 5 s 3, & 1933 ex.s.  
7 c 62 s 68;

8 (5) RCW 67.16.012 (Washington horse racing commission--Creation--  
9 Terms--Vacancies--Bonds--Oaths) and 2011 1st sp.s. c 21 s 13, 1998 c  
10 345 s 4, 1987 c 453 s 2, 1973 1st ex.s. c 216 s 1, 1969 ex.s. c 233 s  
11 1, & 1933 c 55 s 2;

12 (6) RCW 67.16.014 (Washington horse racing commission--Ex officio  
13 nonvoting members) and 1991 c 270 s 2 & 1987 c 453 s 3;

14 (7) RCW 67.16.015 (Washington horse racing commission--  
15 Organization--Secretary--Records--Annual reports) and 1977 c 75 s 80 &  
16 1933 c 55 s 3;

17 (8) RCW 67.16.017 (Washington horse racing commission--Compensation  
18 and travel expenses) and 1984 c 287 s 100, 1975-'76 2nd ex.s. c 34 s  
19 155, & 1969 ex.s. c 233 s 2;

20 (9) RCW 67.16.140 (Employees of commission--Employment restriction)  
21 and 1973 1st ex.s. c 216 s 3;

22 (10) RCW 67.16.150 (Employees of commission--Commissioners--  
23 Financial interest restrictions) and 1973 1st ex.s. c 216 s 4;

24 (11) RCW 67.16.160 (Rules implementing conflict of interest laws--  
25 Wagers by commissioner) and 2004 c 274 s 3, 1994 c 154 s 314, & 1973  
26 1st ex.s. c 216 s 5;

27 (12) RCW 67.70.030 (State lottery commission created--Membership--  
28 Terms--Vacancies--Chairman--Quorum) and 1982 2nd ex.s. c 7 s 3;

29 (13) RCW 67.70.055 (Activities prohibited to officers, employees,  
30 and members) and 1987 c 511 s 4 & 1986 c 4 s 2; and

31 (14) RCW 67.70.270 (Members of commission--Compensation--Travel  
32 expenses) and 1984 c 287 s 101 & 1982 2nd ex.s. c 7 s 27.

33 NEW SECTION. **Sec. 111.** (1) The gambling commission, horse racing  
34 commission, lottery commission, and liquor control board are hereby  
35 abolished and their powers, duties, and functions are hereby  
36 transferred to the gaming and liquor control commission. All  
37 references to the director of the gambling commission, the executive

1 secretary of the horse racing commission, the director of the lottery  
2 commission, or the chairman of the liquor control board or the gambling  
3 commission, horse racing commission, lottery commission, or liquor  
4 control board in the Revised Code of Washington shall be construed to  
5 mean the director or the gaming and liquor control commission.

6 (2)(a) All reports, documents, surveys, books, records, files,  
7 papers, or written material in the possession of the gambling  
8 commission, horse racing commission, lottery commission, or liquor  
9 control board shall be delivered to the custody of the gaming and  
10 liquor control commission. All cabinets, furniture, office equipment,  
11 motor vehicles, and other tangible property employed by the gambling  
12 commission, horse racing commission, lottery commission, or liquor  
13 control board shall be made available to the gaming and liquor control  
14 commission. All funds, credits, or other assets held by the gambling  
15 commission, horse racing commission, lottery commission, or liquor  
16 control board shall be assigned to the gaming and liquor control  
17 commission.

18 (b) Any appropriations made to the gambling commission, horse  
19 racing commission, lottery commission, or liquor control board shall,  
20 on the effective date of this section, be transferred and credited to  
21 the gaming and liquor control commission.

22 (c) If any question arises as to the transfer of any personnel,  
23 funds, books, documents, records, papers, files, equipment, or other  
24 tangible property used or held in the exercise of the powers and the  
25 performance of the duties and functions transferred, the director of  
26 financial management shall make a determination as to the proper  
27 allocation and certify the same to the state agencies concerned.

28 (3) All employees of the gambling commission, horse racing  
29 commission, lottery commission, or liquor control board are transferred  
30 to the jurisdiction of the gaming and liquor control commission. All  
31 employees classified under chapter 41.06 RCW, the state civil service  
32 law, are assigned to the gaming and liquor control commission to  
33 perform their usual duties upon the same terms as formerly, without any  
34 loss of rights, subject to any action that may be appropriate  
35 thereafter in accordance with the laws and rules governing state civil  
36 service.

37 (4) All rules and all pending business before the gambling  
38 commission, horse racing commission, lottery commission, or liquor

1 control board shall be continued and acted upon by the gaming and  
2 liquor control commission. All existing contracts and obligations  
3 shall remain in full force and shall be performed by the gaming and  
4 liquor control commission.

5 (5) The transfer of the powers, duties, functions, and personnel of  
6 the gambling commission, horse racing commission, lottery commission,  
7 or liquor control board shall not affect the validity of any act  
8 performed before the effective date of this section.

9 (6) If apportionments of budgeted funds are required because of the  
10 transfers directed by this section, the director of financial  
11 management shall certify the apportionments to the agencies affected,  
12 the state auditor, and the state treasurer. Each of these shall make  
13 the appropriate transfer and adjustments in funds and appropriation  
14 accounts and equipment records in accordance with the certification.

15 NEW SECTION. **Sec. 112.** RCW 9.46.040, 9.46.050, 9.46.060,  
16 9.46.070, 9.46.080, and 9.46.085 are each recodified as sections in  
17 chapter 43.--- RCW (the new chapter created in section 301 of this  
18 act).

19 **PART II**

20 **STATE LOTTERY MANAGEMENT**

21 NEW SECTION. **Sec. 201.** (1) The department of enterprise services,  
22 in consultation with the office of financial management and the  
23 Washington state lottery, must establish and conduct a competitive  
24 process for the selection of a private sector entity to manage the  
25 state lottery. The department of enterprise services may enter into a  
26 contract if it determines that it is in the best interest of the state  
27 following the competitive process. The competitive process must assume  
28 that the Washington state lottery or its successor state entity retains  
29 its ownership, control over, and the authority to regulate the lottery  
30 system in Washington state.

31 (2)(a) Pursuant to the required competitive process under  
32 subsection (1) of this section, the department of enterprise services  
33 must request proposals to establish a contract between the state  
34 lottery and a private manager, as an independent contractor, to provide  
35 management services to the state lottery for compensation.

1 (b) The request for proposals must include without limitation:

2 (i) A requirement that proposals demonstrate to the satisfaction of  
3 the department of enterprise services relevant previous experience as  
4 well as the financial capacity to perform obligations under the  
5 contract;

6 (ii) A requirement that proposals demonstrate, to the satisfaction  
7 of the office of financial management, a net positive financial benefit  
8 to the state of Washington over the term of the proposed contract;

9 (iii) A requirement that proposals include a commitment to offer  
10 employment to the state employees currently in affected positions at  
11 the state lottery and to recognize and bargain with any existing  
12 bargaining representative of such employees with respect to terms and  
13 conditions of employment;

14 (iv) Measurable standards for the performance of the contract; and

15 (v) A requirement that lottery games may not be marketed to minors  
16 or conducted over the internet.

17 (c) The office of financial management must publicly disclose an  
18 analysis of the fiscal impacts to the state of each of the offers in  
19 the procurement process.

20 (d) After consultation with the office of financial management and  
21 the state lottery, the department of enterprise services is authorized  
22 to enter into a contract on behalf of the state with the apparent  
23 successful proposer that it determines best meets the criteria required  
24 under this subsection (2), in the best interests of the state. If, in  
25 the determination of the department of enterprise services, after  
26 consultation with the office of financial management and the state  
27 lottery, there is no proposal that meets the best interest of the  
28 state, no contract may be entered into.

29 (3) Any challenge to or protest of the determination of an apparent  
30 successful proposer by the department of enterprise services must be  
31 filed by a respondent that submitted a proposal with the department of  
32 enterprise services within five days after such determination and  
33 acceptance. The department of enterprise services may require a bid  
34 protest bond in an amount specified in the request for proposals. The  
35 grounds for such challenge or protest are limited to claims that the  
36 determination and acceptance were arbitrary or capricious. The  
37 department of enterprise services must, within five days, render its  
38 decision on the protest.

1           The respondent that filed the protest may, within five days after  
2 such decision, appeal to the superior court of Thurston county by  
3 petition setting forth objections to the decision. A copy of the  
4 petition on appeal together with a notice that an appeal has been taken  
5 must be served upon the secretary of state, the attorney general, the  
6 department of enterprise services, and the proposer that submitted the  
7 apparently successful proposal. The court must accord first priority  
8 to examining the objections, may hear arguments, and must, within ten  
9 days, render its decision. The court shall grant relief to the  
10 petitioner only if the court determines that the department's decision  
11 is arbitrary or capricious. The decision of the superior court is  
12 final.

13           NEW SECTION. **Sec. 202.** The department of enterprise services may  
14 retain the services of an advisor or advisors, including legal counsel,  
15 experienced and qualified in the field of financial services or the  
16 management and operation of a government run lottery to assist in the  
17 preparation of the terms of the request for proposal and selection of  
18 the private manager. Any advisor seeking to provide services under  
19 this section shall disclose any relationship during the past three  
20 years with any potential responder to the request for proposal or with  
21 a contractor or subcontractor presently providing goods, services, or  
22 equipment to the department of enterprise services to support the  
23 lottery. The department of enterprise services shall not select any  
24 advisor with a substantial business or financial relationship that the  
25 department of enterprise services deems to impair the objectivity of  
26 the services to be provided by the prospective advisor. During the  
27 course of the advisor's engagement by the department of enterprise  
28 services, and for a period of one year thereafter, the advisor shall  
29 not enter into any business or financial relationship with any entity  
30 responding to the request for proposal. Any advisor retained by the  
31 department of enterprise services is disqualified from responding to  
32 the request for proposal.

33           NEW SECTION. **Sec. 203.** (1) After the acceptance of the apparently  
34 successful proposal under section 201 of this act, the department of  
35 enterprise services shall enter into a contract with that entity for  
36 the management of the state lottery. The contract must grant the

1 exclusive right to manage the lottery under supervision of the lottery  
2 director for the period of the contract. The contract must include  
3 enforceable performance standards and minimum financial returns to the  
4 state. The contract must include a provision that allows the state to  
5 terminate the contract should specific performance standards or  
6 financial returns to the state not be realized. The contract must  
7 provide for a reasonable termination notification process as well as  
8 financial terms of termination should termination of contract take  
9 place.

10 (2) The contract must also include provisions specifying that:

11 (a) The state lottery shall exercise actual control over all  
12 significant business decisions of the lottery;

13 (b) The state lottery retains the authority to direct or overrule  
14 operating decisions made by the private manager;

15 (c) The state lottery has full access to information regarding  
16 lottery operations and the right to demand and receive information from  
17 the private manager regarding the operation of the lottery;

18 (d) The state lottery retains ownership of all trade names,  
19 trademarks, and intellectual property associated with the lottery;

20 (e) The state lottery shall monitor and oversee the private  
21 manager's practices and take action that the commission deems  
22 appropriate to ensure that the private manager is complying with its  
23 obligations under the contract;

24 (f) The private manager shall file, at least annually, financial  
25 statements in a form and manner acceptable to the commission;

26 (g) The private manager must receive the prior approval of the  
27 commission when the contract or an interest in the contract is sold,  
28 assigned, transferred, or pledged as collateral to secure financing;

29 (h) The private manager has an affirmative duty to timely provide  
30 the state lottery with any information the private manager possesses,  
31 regardless of form, that the state lottery reasonably needs to enable  
32 it to properly perform its duties.

33 (i) The use of any copyrights, trademarks, and service marks held  
34 by the state lottery shall only be used for the purpose of fulfilling  
35 the manager's obligations under the contract;

36 (j) The Washington state lottery maintains the exclusive ownership,  
37 control over, and authority to regulate the state lottery; and



1 (k) Any financial deficiencies or losses of the private entity  
2 contracting for the management of the lottery in the state must not be  
3 compensated for in any way by the state.

4 **Sec. 204.** RCW 67.70.010 and 2002 c 349 s 1 are each amended to  
5 read as follows:

6 For the purposes of this chapter:

7 (1) "Commission" means the state lottery commission established by  
8 this chapter;

9 (2) "Director" means the director of the state lottery established  
10 by this chapter;

11 (3) "Lottery" or "state lottery" means the lottery established and  
12 operated pursuant to this chapter;

13 (4) "Online game" means a lottery game in which a player pays a fee  
14 to a lottery retailer and selects a combination of digits, numbers, or  
15 symbols, type and amount of play, and receives a computer-generated  
16 ticket with those selections, and the lottery separately draws or  
17 selects the winning combination or combinations;

18 (5) "Private manager" means an entity that provides management  
19 services to the state lottery under a contract.

20 (6) "Shared game lottery" means any lottery activity in which the  
21 commission participates under written agreement between the commission,  
22 on behalf of the state, and any other state or states.

23 **Sec. 205.** RCW 67.70.050 and 1998 c 245 s 106 are each amended to  
24 read as follows:

25 There is created the office of director of the state lottery. The  
26 director shall be appointed by the governor with the consent of the  
27 senate. The director shall serve at the pleasure of the governor and  
28 shall receive such salary as is determined by the governor, but in no  
29 case may the director's salary be more than ninety percent of the  
30 salary of the governor. The director shall:

31 (1) Supervise and administer the operation of the lottery in  
32 accordance with the provisions of this chapter and with the rules of  
33 the commission.

34 (2) Appoint such deputy and assistant directors as may be required  
35 to carry out the functions and duties of his or her office((+)

1 ~~PROVIDED, That~~). The provisions of the state civil service law,  
2 chapter 41.06 RCW, shall not apply to such deputy and assistant  
3 directors.

4 (3) Appoint such professional, technical, and clerical assistants  
5 and employees as may be necessary to perform the duties imposed by this  
6 chapter(~~PROVIDED, That~~). The provisions of the state civil  
7 service law, chapter 41.06 RCW, shall not apply to such employees as  
8 are engaged in undercover audit or investigative work or security  
9 operations but shall apply to other employees appointed by the  
10 director, except as provided for in subsection (2) of this section.

11 (4) In accordance with the provisions of this chapter and the rules  
12 of the commission, license as agents to sell or distribute lottery  
13 tickets such persons as in his opinion will best serve the public  
14 convenience and promote the sale of tickets or shares. The director  
15 may require a bond from any licensed agent, in such amount as provided  
16 in the rules of the commission. Every licensed agent shall prominently  
17 display his license, or a copy thereof, as provided in the rules of the  
18 commission. License fees may be established by the commission, and, if  
19 established, shall be deposited in the state lottery account created by  
20 RCW 67.70.230.

21 (5) Confer regularly as necessary or desirable with the commission  
22 on the operation and administration of the lottery; make available for  
23 inspection by the commission, upon request, all books, records, files,  
24 and other information and documents of the lottery; and advise the  
25 commission and recommend such matters as the director deems necessary  
26 and advisable to improve the operation and administration of the  
27 lottery.

28 (6) Subject to the applicable laws relating to public contracts,  
29 enter into contracts for the operation of the lottery, or any part  
30 thereof, and into contracts for the promotion of the lottery. No  
31 contract awarded or entered into by the director may be assigned by the  
32 holder thereof except by specific approval of the commission(~~PROVIDED, That nothing in this chapter authorizes the director to enter  
33 into public contracts for the regular and permanent administration of  
34 the lottery after the initial development and implementation~~)).

35 (7) Certify quarterly to the state treasurer and the commission a  
36 full and complete statement of lottery revenues, prize disbursements,  
37 and other expenses for the preceding quarter.  
38

1 (8) Carry on a continuous study and investigation of the lottery  
2 throughout the state: (a) For the purpose of ascertaining any defects  
3 in this chapter or in the rules issued thereunder by reason whereof any  
4 abuses in the administration and operation of the lottery or any  
5 evasion of this chapter or the rules may arise or be practiced, (b) for  
6 the purpose of formulating recommendations for changes in this chapter  
7 and the rules promulgated thereunder to prevent such abuses and  
8 evasions, (c) to guard against the use of this chapter and the rules  
9 issued thereunder as a cloak for the carrying on of professional  
10 gambling and crime, and (d) to ensure that this chapter and rules shall  
11 be in such form and be so administered as to serve the true purposes of  
12 this chapter.

13 (9) Make a continuous study and investigation of: (a) The  
14 operation and the administration of similar laws which may be in effect  
15 in other states or countries, (b) the operation of an additional game  
16 or games for the benefit of a particular program or purpose, (c) any  
17 literature on the subject which from time to time may be published or  
18 available, (d) any federal laws which may affect the operation of the  
19 lottery, and (e) the reaction of the citizens of this state to existing  
20 and potential features of the lottery with a view to recommending or  
21 effecting changes that will tend to serve the purposes of this chapter.

22 (10) Have all enforcement powers granted in chapter 9.46 RCW.

23 (11) Perform all other matters and things necessary to carry out  
24 the purposes and provisions of this chapter.

25 **Sec. 206.** RCW 67.70.180 and 1987 c 511 s 7 are each amended to  
26 read as follows:

27 (1) A ticket or share shall not be purchased by, and a prize shall  
28 not be paid to any member of the commission, the director, or an  
29 employee of the lottery or to any spouse, child, brother, sister, or  
30 parent residing as a member of the same household in the principal  
31 place of abode of any member of the commission, the director or an  
32 employee of the lottery.

33 (2) A ticket or share shall not be purchased by, and a prize shall  
34 not be paid to any officer or employee of a private manager or to any  
35 spouse, child, brother, sister, or parent residing as a member of the  
36 same household in the principal place of abode of any officer or  
37 employee of a private manager.

1 A violation of this section is a misdemeanor.

2 **Sec. 207.** RCW 67.70.240 and 2011 c 352 s 3 are each amended to  
3 read as follows:

4 The moneys in the state lottery account shall be used only:

5 (1) For the payment of prizes to the holders of winning lottery  
6 tickets or shares;

7 (2) For purposes of making deposits into the reserve account  
8 created by RCW 67.70.250 and into the lottery administrative account  
9 created by RCW 67.70.260;

10 (3) For purposes of making deposits into the education construction  
11 fund created in RCW 43.135.045 and the Washington opportunity pathways  
12 account created in RCW 28B.76.526. On and after July 1, 2010, all  
13 deposits not otherwise obligated under this section shall be placed in  
14 the Washington opportunity pathways account. Moneys in the state  
15 lottery account deposited in the Washington opportunity pathways  
16 account are included in "general state revenues" under RCW 39.42.070;

17 (4) For distribution to a county for the purpose of paying the  
18 principal and interest payments on bonds issued by the county to  
19 construct a baseball stadium, as defined in RCW 82.14.0485, including  
20 reasonably necessary preconstruction costs. Three million dollars  
21 shall be distributed under this subsection during calendar year 1996.  
22 During subsequent years, such distributions shall equal the prior  
23 year's distributions increased by four percent. Distributions under  
24 this subsection shall cease when the bonds issued for the construction  
25 of the baseball stadium are retired, but not more than twenty years  
26 after the tax under RCW 82.14.0485 is first imposed;

27 (5) For distribution to the stadium and exhibition center account,  
28 created in RCW 43.99N.060. Subject to the conditions of RCW  
29 43.99N.070, six million dollars shall be distributed under this  
30 subsection during the calendar year 1998. During subsequent years,  
31 such distribution shall equal the prior year's distributions increased  
32 by four percent. No distribution may be made under this subsection  
33 after December 31, 1999, unless the conditions for issuance of the  
34 bonds under RCW 43.99N.020(2) are met. Distributions under this  
35 subsection shall cease when the bonds are retired, but not later than  
36 December 31, 2020;

1 (6) For transfer to the veterans innovations program account. The  
2 net revenues received from the sale of the annual Veteran's Day lottery  
3 raffle conducted under RCW 67.70.500 must be deposited into the  
4 veterans innovations program account created in RCW 43.60A.185 for  
5 purposes of serving veterans and their families. For purposes under  
6 this subsection, "net revenues" means all revenues received from the  
7 sale of veteran lottery raffle tickets less the sum of the amount paid  
8 out in prizes and the actual administration expenses of the lottery  
9 solely related to the veteran lottery raffle;

10 (7) For the purchase and promotion of lottery games and game-  
11 related services; (~~and~~))

12 (8) For the payment of agent compensation; and

13 (9) For the payment of private manager compensation.

14 The office of financial management shall require the allotment of  
15 all expenses paid from the account and shall report to the ways and  
16 means committees of the senate and house of representatives any changes  
17 in the allotments.

18 **Sec. 208.** RCW 67.70.260 and 2011 1st sp.s. c 50 s 962 are each  
19 amended to read as follows:

20 There is hereby created the lottery administrative account in the  
21 state treasury. The account shall be managed, controlled, and  
22 maintained by the director. The legislature may appropriate from the  
23 account for the payment of costs incurred in the operation and  
24 administration of the lottery. During the 2001-2003 fiscal biennium,  
25 the legislature may transfer from the lottery administrative account to  
26 the state general fund such amounts as reflect the appropriations  
27 reductions made by the 2002 supplemental appropriations act for  
28 administrative efficiencies and savings. During the 2011-2013 fiscal  
29 biennium, the lottery administrative account may also be used to fund  
30 an independent forecast of the lottery revenues conducted by the  
31 economic and revenue forecast council. The lottery administrative  
32 account may also be used to fund the competitive process and contract  
33 award activities under this act conducted by the department of  
34 enterprise services.

35 NEW SECTION. **Sec. 209.** Contracting for services under this

1 chapter is not subject to the processes of RCW 41.06.142 (1), (4), and  
2 (5).

3 **PART III**

4 **MISCELLANEOUS PROVISIONS**

5 NEW SECTION. **Sec. 301.** Sections 1, 101, 102, and 111 of this act  
6 constitute a new chapter in Title 43 RCW.

7 NEW SECTION. **Sec. 302.** Sections 201 through 203 and 209 of this  
8 act are each added to chapter 67.70 RCW.

9 NEW SECTION. **Sec. 303.** Sections 1 and 101 through 111 of this act  
10 take effect October 1, 2012.

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