

1 HB43  
2 179083-2  
3 By Representative Rogers (Constitutional Amendment)  
4 RFD: Economic Development and Tourism  
5 First Read: 16-AUG-16

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8 SYNOPSIS: This bill would propose a constitutional  
9 amendment to require the Legislature to establish  
10 an Alabama Lottery; to create an Alabama Lottery  
11 Corporation to regulate the Alabama Lottery; to  
12 authorize, tax, and regulate the use of covered  
13 games in the state; to require the creation of a  
14 State Gaming Commission; to license and regulate  
15 the covered games locations licensed to the highest  
16 responsible bidder; to provide for a state gross  
17 receipts tax of 40 percent and a local gross  
18 receipts tax of eight percent; to create the State  
19 Casino Gaming Fund in the State General Fund and  
20 provide for the allocation of the proceeds  
21 deposited in the fund; and to prohibit certain  
22 political contributions by licensees or persons  
23 with a pecuniary interest in the covered games.

24  
25 A BILL  
26 TO BE ENTITLED

1 AN ACT

2  
3 To amend the Constitution of Alabama of 1901, to  
4 require the Legislature to establish an Alabama Lottery; to  
5 create an Alabama Lottery Corporation to regulate the Alabama  
6 Lottery; to authorize, tax, and regulate the use of covered  
7 games in the state; to require the creation of a State Gaming  
8 Commission; to license and regulate the covered games  
9 locations licensed to the highest responsible bidder; to  
10 provide for a state gross receipts tax of 40 percent and a  
11 local gross receipts tax of eight percent; to provide for the  
12 distribution of the revenue; and to prohibit certain political  
13 contributions by licensees or persons with a pecuniary  
14 interest in the covered games.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. The following amendment to the  
17 Constitution of Alabama of 1901, as amended, is proposed and  
18 shall become valid as a part thereof when approved by a  
19 majority of the qualified electors voting thereon and in  
20 accordance with Sections 284, 285, and 287 of the Constitution  
21 of Alabama of 1901, as amended:

22 PROPOSED AMENDMENT

23 Section 65 of the Constitution of Alabama of 1901,  
24 is amended to read as follows:

25 "Section 65.

1           ~~"The legislature~~ (a) Except as provided in  
2           subsections (b) and (c), the Legislature shall have no power  
3           to authorize lotteries or gift enterprises for any purposes,  
4           and shall pass laws to prohibit the sale in this state of  
5           lottery or gift enterprise tickets, or tickets in any scheme  
6           in the nature of a lottery; and all acts, or parts of acts  
7           heretofore passed by the legislature of this state,  
8           authorizing a lottery or lotteries, and all acts amendatory  
9           thereof, or supplemental thereto, are hereby avoided.

10           "(b) (1) The Legislature shall provide for the  
11           establishment and regulation of an Alabama Lottery.

12           "(2) The administration of the Alabama Lottery shall  
13           be vested in a corporation to be known as the Alabama Lottery  
14           Corporation, which is hereby created.

15           "(3) The duties, powers, authority, and composition  
16           of the Alabama Lottery Corporation shall be provided by  
17           general law.

18           "(4) The Alabama Lottery Corporation may enter into  
19           reciprocal agreements with other jurisdictions for the  
20           operation and promotion of a lottery or lotteries.

21           "(c) (1) In this subsection, the following terms  
22           shall have the following meanings:

23           "a. COVERED GAME. Any game or device included within  
24           the definition of Class III gaming, as that term is defined in  
25           the Indian Gaming Regulatory Act, Section 2703(8) of Title 25  
26           of the United States Code, including any and all table games

1 and electronic representations of such games, and any  
2 electronic gaming devices. The term does not include  
3 pari-mutuel wagering.

4 "b. COVERED GAME VENDOR. Any person who  
5 manufactures, distributes, supplies, vends, or leases covered  
6 games or equipment necessary to conduct covered games.

7 "c. GAMING GROSS REVENUE. The total amount of money  
8 or value in any form received by a person licensed by the  
9 State Gaming Commission with respect to the playing of any  
10 form of covered game, less the total money or value in any  
11 form paid as prizes or winnings to the players of the covered  
12 game and free play or promotional credits, but before  
13 deduction of any expenses incurred in operating the  
14 establishment, including, but not limited to, depreciation or  
15 leasing costs of physical facilities and equipment, wages and  
16 other employment costs, utilities, interest, and taxes.

17 "d. LICENSEE. A corporation, limited liability  
18 company, or other business entity licensed by the State Gaming  
19 Commission to operate covered games.

20 "(2) a. Following the effective date of this  
21 amendment, covered games may be operated or conducted by a  
22 licensee.

23 "b. The conduct of covered games may not be subject  
24 to or prohibited, limited, or impaired by:

25 "c. Any otherwise applicable provisions of Article 8  
26 (commencing with Section 8-1-150) of Chapter 1 of Title 8 of

1 or Article 2 (commencing with Section 13A-12-20) of Chapter 12  
2 of Title 13A of the Code of Alabama 1975.

3 "d. Any other statute whenever enacted that is  
4 inconsistent with any provision of this amendment.

5 "e. Any judicial order, decision, or opinion issued  
6 prior to the operative date of this amendment that would  
7 otherwise have the effect of prohibiting, limiting, or  
8 impairing the conduct of covered games. No provision of this  
9 amendment may be construed to allow a person to operate or  
10 conduct covered games except as permitted pursuant to this  
11 amendment.

12 "(3) Except as otherwise provided in this  
13 subsection, nothing herein shall be deemed to impair, impede,  
14 or restrict the operation of charitable bingo conducted  
15 pursuant to any validly enacted constitutional amendment  
16 authorizing such activity.

17 "(4) In addition to any other taxes imposed by law  
18 on covered games, the Legislature shall levy upon licensed  
19 operators of covered games a state gross receipts tax in an  
20 amount no less than 40 percent and a local gross receipts tax  
21 in an amount no less than eight percent of the covered games  
22 gross revenue.

23 "(5) Covered game operators and covered games  
24 vendors shall be regulated and licensed by a State Gaming  
25 Commission as provided by law enacted after the ratification  
26 of this amendment. Any license issued by the State Gaming

1 Commission may be suspended or revoked, as provided by law  
2 enacted after ratification of this amendment. No such license  
3 may be assigned or transferred, but a license may be  
4 relinquished and surrendered to the State Gaming Commission.

5 "(6) It shall be unlawful to engage in any covered  
6 game activity without a license issued by the State Gaming  
7 Commission. A violation is a Class C felony.

8 "(7) No more than five covered game locations and no  
9 more than one covered game operator per location may be  
10 licensed by the State Gaming Commission.

11 "(8) The Legislature shall provide that a covered  
12 game location may not be licensed unless the covered game  
13 location is approved by a local referendum of the county in  
14 which the covered game location is to operate.

15 "(9) a. Covered game operator licenses must be  
16 competitively bid and awarded to the highest responsible  
17 bidder agreeing to spend at least one hundred million dollars  
18 (\$100,000,000) in capital costs for the covered games  
19 location. Each bidder shall pay to the State Gaming Commission  
20 a nonrefundable application fee of two hundred fifty thousand  
21 dollars (\$250,000). Each operator issued a license shall pay  
22 an initial license fee to the State Gaming Commission of at  
23 least five million dollars (\$5,000,000). Each operator issued  
24 a license shall pay an annual license renewal fee of at least  
25 two million five hundred thousand dollars (\$2,500,000) if the  
26 site is in a municipality or the police jurisdiction of a

1 municipality, and a local licensing fee of at least one  
2 thousand five hundred dollars (\$1,500) per slot machine to the  
3 municipality, to a maximum of one million five hundred  
4 thousand dollars (\$1,500,000). If the site is not in a  
5 municipality or the police jurisdiction of a municipality,  
6 each operator issued a license shall pay a licensing fee of at  
7 least one thousand five hundred dollars (\$1,500) per slot  
8 machine, to a maximum of one million five hundred thousand  
9 dollars (\$1,500,000) to the county in which it is located.

10 "b. The State Casino Gaming Fund is created in the  
11 General Fund. The fund is to be administered by the State  
12 Treasurer in accordance with this amendment. The proceeds from  
13 the tax on gaming gross revenue, the license fees, and the  
14 fees on slot machines plus all other fees, fines, and charges  
15 imposed by the state shall be deposited into the State Casino  
16 Gaming Fund. The tax shall be remitted monthly by the holder  
17 of a license by electronic wire transfer of funds. The state  
18 shall remit the municipality's portion of the proceeds to the  
19 municipality monthly by electronic wire transfer of funds.

20 "(10) No person or other legal entity whose gaming  
21 device, vehicle, or money has been forfeited to the state  
22 under Section 13A-12-30, Code of Alabama 1975, is eligible to  
23 hold a license issued by the State Gaming Commission for five  
24 years after the date of judgment.

25 "(11) No person who is convicted of any  
26 gaming-related offense under Title 13A, Chapter 12, Article 2,



1 Code of Alabama 1975, for conduct occurring prior to the  
2 ratification of this amendment, is eligible to hold a license  
3 issued by the State Gaming Commission for five years after the  
4 date of the conviction.

5 "(12) In order to discourage predatory monopolies,  
6 it shall be unlawful, punishable as a Class C felony, for any  
7 licensed operator to enter into a profit-sharing agreement or  
8 any other business or cooperative agreement with any other  
9 licensed operator or to hold any stake or interest in any  
10 other covered games operation.

11 "(13) Nothing in this subsection shall be construed  
12 to affect any form of gaming on cruise ships covered by  
13 federal law, provided that, consistent with 15 U.S.C. §1175,  
14 the cruise ship makes an intervening stop within the  
15 boundaries of a foreign country, does not conduct any gaming  
16 activity while within the boundaries of the state, if the  
17 gaming devise used in the games remain on board the vessel  
18 while the vessel is within the boundaries of the State of  
19 Alabama.

20 "(14) In order to prevent undue political influence  
21 by gaming interests, it shall be unlawful, punishable as a  
22 Class C felony, for any licensee or any person or legal entity  
23 with a pecuniary interest in any covered machine activity, or  
24 any political action committee that receives a contribution  
25 therefrom, to make a political contribution to any of the  
26 following:

1           "a. Any member of the Legislature or any candidate  
2 or the principal campaign committee of any candidate for  
3 election to the Legislature.

4           "b. Any elected official who has authority to  
5 appoint any member of the State Gaming Commission.

6           "c. Any candidate or the principal campaign  
7 committee of any candidate for election to an office having  
8 authority to appoint any member of the State Gaming  
9 Commission.

10           "d. Any political action committee for the purpose  
11 of making a contribution to any other political action  
12 committee for the purpose of making a contribution to the  
13 principal campaign committee of an individual identified in  
14 paragraph a., b., or c.

15           "(15) The State Gaming Commission may not issue any  
16 license to any applicant who has made a political contribution  
17 enumerated in subdivision (1) within three years of the date  
18 of application unless the contribution was made before May 1,  
19 2016.

20           "(16) The Legislature shall enact general laws  
21 supplemental to this amendment to further its purposes and  
22 provide for its implementation; provided, however, that such  
23 laws shall not be inconsistent with the express provisions of  
24 this amendment."

1           Section 2. This amendment shall take effect as part  
2 of the Constitution of Alabama of 1901, upon its adoption and  
3 ratification by the electors of the state.

4           Section 3. The provisions of this amendment are not  
5 severable. If any provision of this amendment is held  
6 unconstitutional, the entire amendment shall be void.

7           Section 4. An election upon the proposed amendment  
8 shall be held in accordance with Sections 284 and 285 of the  
9 Constitution of Alabama of 1901, now appearing as Sections 284  
10 and 285 of the Official Recompilation of the Constitution of  
11 Alabama of 1901, as amended, and the election laws of this  
12 state.

13           Section 5. The appropriate election official shall  
14 assign a ballot number for the proposed constitutional  
15 amendment on the election ballot and shall set forth the  
16 following description of the substance or subject matter of  
17 the proposed constitutional amendment:

18           "Proposing an amendment to Section 65 to the  
19 Constitution of Alabama of 1901, to require the Legislature to  
20 establish an Alabama Lottery; to create an Alabama Lottery  
21 Corporation to regulate the Alabama Lottery; to authorize,  
22 tax, and regulate the use of covered games in the state; to  
23 require the creation of a State Gaming Commission; to license  
24 and regulate the covered games locations licensed to the  
25 highest responsible bidder; to provide for a state gross  
26 receipts tax of 40 percent and a local gross receipts tax of

1 eight percent; and to prohibit certain political contributions  
2 by licensees or persons with a pecuniary interest in the  
3 covered games.

4 "Proposed by Act \_\_\_\_\_."

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

7 "Yes ( ) No ( )."