

Arkansas Lottery Commission
LEGAL COMMITTEE MEETING
Arkansas Scholarship Lottery Boardroom
October 7, 2009

The meeting was called to order at 12:30 p.m.

Arkansas Lottery Commissioners in attendance were Derrick Smith, Patty Shipp, Diane Lamberth, and Ben Pickard. George Hammons attended by teleconference.

Arkansas Scholarship Lottery staff present: Staff Attorney Bridgette Frazier and Patti Vick, paralegal.

Commissioner Smith called the meeting to order. The minutes of the September 9, 2009, meeting were reviewed and approved after a motion by Commissioner Hammons and a second by Commissioner Shipp.

The next order of business was the discussion of the invitation to bid for Directors and Officers insurance. Commissioner Smith presented to the committee the ITB prepared by Bishop Woosley, ALC Procurement Officer. Commissioner Smith stated that the insurance would cover any and all claims made against ALC Commissioners or Officers. Bidders for the ITB must have a minimum A.M. Best Rating of A VIII. Bidders are requested to provide pricing coverage in the amounts of \$10 Million, \$5 Million, \$2.5 Million and \$1 Million, as well as pricing for deductible amounts (per occurrence) of \$10,000 and \$50,000. There was a discussion of whether or not sovereign immunity would impact the insurance coverage provided. There was also a question regarding whether or not the Commissioners could choose their own counsel. Commissioner Smith stated that both areas could be negotiated with the bidders at the point at which bids are received. Commissioner Shipp moved that the legal committee recommend to the full commission that there be additional language in the ITB that states that the commission can negotiate terms with responsive bidders. Commissioner Hammons seconded the motion.

The next item on the agenda was the discussion of permanent promulgation of the Rules of Practice and Procedure. Commissioner Smith stated that some changes had been made. The following are the sections as newly revised:

1.2. Name. The Arkansas Lottery Commission may be referred to as the Arkansas Scholarship Lottery ("ASL") and the staff shall use the latter name in communications and advertising as appropriate.

1.3 Location. The Commission's principal office is situated at 124 West Capitol Avenue, Little Rock, Arkansas 72201, and may be moved as necessary by a majority vote of the Commission. Its mailing address is Post Office Box 3238, Little Rock, Arkansas 72203.

1.4 Seal. The Commission may maintain a corporate seal, which shall be in a form adopted by the Commission.

3.2 A Regular Meetings. The business of the Commission shall be conducted in public meetings pursuant to the Arkansas Freedom of Information Act and guided by Robert's Rules of Order. Regular meetings will be held at least quarterly. Special meetings will be held on the call of the Chair or five (5) Commission members.

3.2 B Notice. The Commission shall post a notice of its regular meetings on its website and at www.arkansas.gov at least three (3) days before the meeting. Notices for emergency or special meetings shall be posted on the Commission website at least two (2) hours before the meeting takes place.

3.2 D Agenda. The Chair shall prepare a proposed agenda for each regular meeting with assistance from the Director or his or her designee, and the proposed agenda shall be distributed to the Commission members and made available to the public in advance of the meeting. Any Commissioner may add items to the agenda by notification to the Chair at least twenty-four (24) hours before the scheduled meeting date time. Any item may be added to the agenda during the meeting upon the majority vote of the Commissioners present at the meeting.

4.10 Incorporation by Reference. By reference in a rule, the Commission may incorporate all or any part of a code, standard, rule, or other matter if the Commission finds that copying the matter in the Commission's rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the Commission rule shall fully and precisely identify the incorporated matter by title, citation, date, and edition, if any; briefly indicate the precise subject and general contents of the incorporated matter; and state that the rule does not include any later amendments or editions of the incorporated matter. The Commission may incorporate such a matter by reference in a proposed or adopted rule only if the incorporated matter is readily available to the public. The Commission must retain permanently a copy of any materials incorporated by reference in a rule of the Commission.

7.2 Subpoena Power.

- A. At the request of any party, the Commission shall issue subpoenas for the attendance of witnesses at the hearing. The requesting party shall specify whether the witness is also requested to bring documents and reasonably identify said documents.
- B. A subpoena may be served by any person specified by law to serve process or by any person who is not a party and who is eighteen (18) years of age or older. Delivering a copy to the person named in the subpoena shall make service. Proof of service may be made by affidavit of the person making service. The party seeking the subpoena shall have the burden of obtaining service of the process and shall be charged with the responsibility of tendering appropriate mileage fees and witness fees pursuant to Rule 45, Arkansas Rules of Civil Procedure. The witness must be served at least two days prior to the hearing. For good cause, the Commission may authorize the subpoena to be served less than two days before the hearing.
- C. Any motion to quash or limit the subpoena shall be filed with the staff attorney of the Commission and shall state the grounds relied upon.

Commissioner Shipp moved that the Rules of Practice and Procedure, as amended, be brought before the Commission for permanent adoption, Commissioner Hammons seconded the motion, and the motion passed.

The final item on the agenda was discussion of authorization to begin permanent rulemaking of the Operational Rules. Commissioner Shipp moved that the legal committee recommend that the Commission begin permanent rulemaking of the Operational Rules, and that language in the Rules include the Commission's authority to define categories or types of games. This motion was seconded by Commissioner Hammons and the motion unanimously carried.

There being no further business, by a motion made by Commissioner Hammons, seconded by Commissioner Shipp, the meeting adjourned at 1:05 p.m.