

JOINT MEETING OF THE SPECIAL SUBCOMMITTEES  
OF THE HOUSE COMMITTEE ON GENERAL LAWS AND THE SENATE  
COMMITTEE ON GENERAL LAWS AND TECHNOLOGY STUDYING CHARITABLE  
GAMING LAWS

May 11, 2009  
Meeting Summary

The Special Subcommittees of the House Committee on General Laws and the Senate Committee on General Laws and Technology Studying Charitable Gaming Laws held a second joint meeting on May 11, 2009.<sup>1</sup>

Betty Bowman, Director of the Division of Charitable Gaming, Virginia Department of Agriculture and Consumer Services (the Division) presented 2008 financial report information to the Subcommittees, a copy of which is available on the Subcommittees' website (<http://dls.state.va.us/gaming.htm>). Ms. Bowman reported that charitable organizations are required to report quarterly and annually on their conduct of charitable gaming (bingo and raffles). She indicated that these reporting requirements are analogous to estimating taxes for proper withholdings. It is a tool for a charitable organization to run its charitable gaming "business" in accordance with state law. Under state law, a charitable organization must use a minimum of 10 percent of its gross proceeds for the charitable purposes for which it was organized. After that threshold is met, a charitable organization may use the remaining proceeds for other purposes of the organization. In 2008, 551 organizations filed annuals reports reflecting total gross receipts of \$297 million with total use of proceeds at \$38.9 million or 13.1 per cent of gross receipts. One hundred and fifty-four organizations did not meet the 10 percent use of proceeds; however, upon further examination by the Division, only 53 organizations did not generate sufficient revenue from charitable gaming sales to meet the 10 percent. The remaining 101 organizations had sufficient revenues, but did not use the proceeds for allowable purposes.

Ms. Bowman noted that essentially the conduct of charitable gaming is a business and needs to be run like one especially as charitable gaming is a cash business. Responding to a question about the penalty for failing to meet the 10 percent requirement, Ms. Bowman stated that the penalties are administrative in nature—the permit to conduct charitable gaming can be revoked or suspended. She noted that instead of revocation/suspension, the Division works with charitable organizations, especially repeat violators having trouble meeting the 10 percent use of proceeds and suggests corrective action. Ms. Bowman stated that five permits have been revoked in the last five years as a result of repeated violations of the law. She indicated that all things being equal, every properly run charitable organization should be able to make its 10 percent; however, she explained that she is aware of the practical difficulties, including, competition with other organizations, and finding and keeping volunteers willing to work the games. She stated that the answer to these difficulties is not the reduction of the 10 percent use of proceeds, but to take corrective action to reconcile their books and in the last resort to stop gaming.

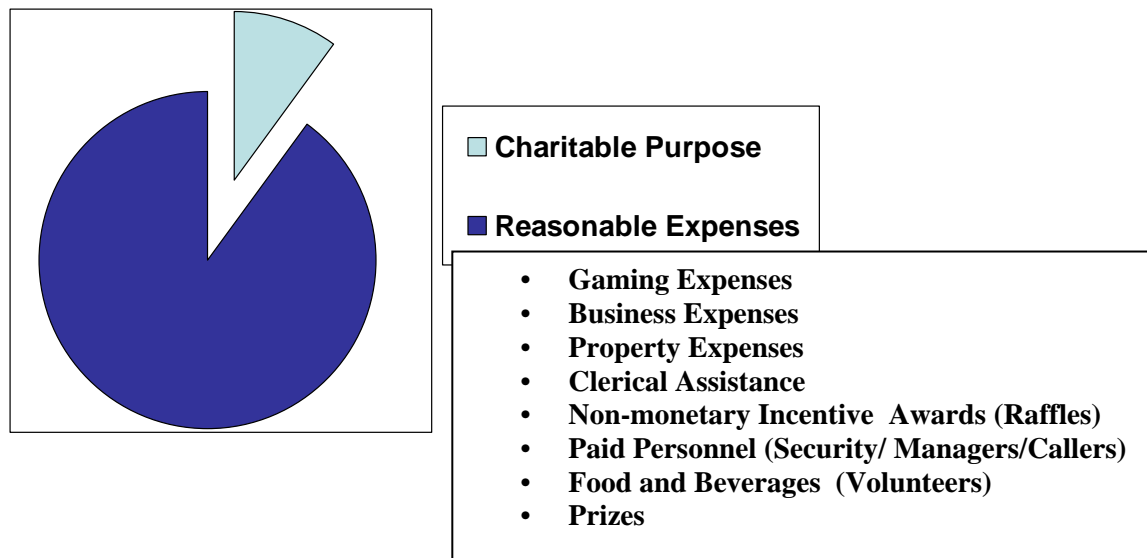
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<sup>1</sup> House membership: Delegates Jones (chair), Albo, Scott, Abbitt, and Dance were present; Delegate Hull was absent. Senate membership: Senators McEachin and Barker were present; Senator Vogel was absent.

The Subcommittees were next briefed by staff concerning the calculation of gross receipts, what is included and what is excluded; other allowable uses of gross receipts under state law; and a review of the 2009 charitable gaming legislation.

Under charitable gaming law, "*gross receipts*" is defined as the total amount of money generated by an organization from charitable gaming before the deduction of expenses, including prizes. (§ 18.2-340.16). Included, therefore is all money generated from charitable gaming *before* the deduction of expenses and prizes. However, by law, there are proceeds that are excluded from the calculation of gross receipts. The proceeds from instant bingo, pull tabs or seal cards are not included in determining the gross receipts for a qualified organization provided the gaming (i) is limited exclusively to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is no public solicitation or advertisement made regarding such gaming. (§ 18.2-340.26:1). The proceeds from any bingo game commonly referred to as "winner-take-all" games are also not be included in determining the gross receipts for a qualified organization provided that such games are conducted as provided in subdivision 10 of § 18.2-340.33<sup>2</sup>. (§ 18.2-340.30:1)

In addition, there are many allowable uses of proceeds by an organization *other than* charitable contributions. See chart below.



<sup>2</sup> Subdivision 10 of § 18.2-340.33 reads as follows: "Winner-take-all" games, in which all the gross receipts from players for that game, up to \$1,000, are paid as prize money back to the players, provided (i) there are no more than two such games per session of play, (ii) the prize money from such games does not exceed the lesser of the gross receipts directly attributable to the sale of bingo cards or sheets for such games or \$1,000, (iii) the bingo cards or sheets used for such games are sold separately from the bingo cards or sheets used for any other bingo games, and (iv) the organization separately accounts for the proceeds from such sales;

The Subcommittees next discussed the 2009 charitable gaming legislation that was the basis for the study. Of the seven charitable gaming bills, only one bill, HB 2595 passed. Below is a summary of each of these bills.

**1. PASSED (1):**

**HB 2595, Lewis–Charitable gaming; certain permits.** Raises the permit exemption threshold from \$25,000 to \$40,000 for all organizations authorized to conduct charitable gaming.  
(Acts of Assembly Chapter 121)

**2. FAILED (6):**

**HB 1702/SB 1518, Cosgrove/Stolle–Charitable gaming; use of proceeds.** Provides that the percentage, determined by the Charitable Gaming Board, which an organization must use for charitable purposes, is based on net receipts of the organization and not its gross receipts from charitable gaming.

House: Left in General Laws

**HB 2025, Marshall D W–Charitable gaming; use of proceeds; audit fee.** Allows proceeds from charitable gaming to be used for those expenses relating to the acquisition, construction, maintenance, or repair of any interest in real or personal property involved in the operation of the organization and used for lawful religious, charitable, community, or educational purposes. Currently, proceeds may be used only for real property. The bill also based the annual audit fee on net receipts and not gross receipts.

House: Left in General Laws

**HB 2053, Gear–Charitable gaming; prohibited acts; exceptions.** Provides that where a qualified organization that (i) is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code and (ii) owns the building or other premises utilized in whole or in part for the purpose of conducting bingo games, such organization may conduct more frequent operations of bingo games, not to exceed four calendar days in any calendar week. The bill also increases bingo prize amounts, allows nonmembers of an organization to operate bingo games provided they are under the direct supervision of a member, and limits to 50 the number of bingo games in a session.

House: Tabled in General Laws (8-Y 6-N)

**HB 2331, Athey–Sale of raffle tickets.** Provides that raffle tickets may be sold by and that the proceeds of sale shall not be included in determining the gross receipts for a qualified organization. Currently this is limited to instant bingo, pull tabs and seal cards.

House: Left in General Laws

**SB 1121, Colgan–Division of Charitable Gaming; conduct of fifty-fifty certain raffles.** Authorizes a qualified organization to conduct a raffle commonly referred to as a fifty-fifty raffle subject to certain limitations. The bill also provides that the proceeds from the from a fifty-fifty raffle shall not be included in determining the gross receipts for the qualified organization provided the gaming (i) is limited exclusively to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is no public solicitation or advertisement made regarding such gaming.

Senate: Left in General Laws and Technology (15-Y 0-N)

The Subcommittees then called for public comment. Mr. Chuck Lesson, Charitable Bingo Association, reported that the playing of bingo is on the decline and that the law needs to open the horizon for new games to bring in players. Mr. Benjamin Freedlander advised the Subcommittees that he published a local bingo newsletter and that weekly games are played at his Synagogue. Mr. Freedlander distributed a handout that reflected that 29 of the 37 organizations that conduct charitable gaming in the Richmond area are opposed to any increase in prize payouts because such an increase would significantly reduce their ability to meet their 10 percent use of proceeds for a charitable purpose. He advised that the representative sampling of the Richmond area could be easily extrapolated to the entire state. He stated that charitable gaming is very competitive and smaller organizations cannot compete with commercial bingo halls. Mr. Marty Williams, Fraternal Order of Police (FOP), Chesapeake, indicated that he had testified during the 2009 General Assembly Session that FOPs have problems meeting their 10 percent. He acknowledged that charitable gaming is a business and stated that his lodge may have to stop gaming. Mr. Williams indicated that this was due in large part to the current economic conditions and not necessarily the Division. He stated that the audit fee was essentially a tax on the prizes and should not be included in the calculation of gross receipts. He stated that his FOP makes more money on instant games than on bingo. In Tidewater, 300 players are needed to run a successful game. He favors the implementation of video bingo because it is very successful. Mr. Skip Blanchard, Portsmouth FOP Lodge told the Subcommittees that raffle proceeds should not be included when talking about bingo. Mr. Jim Walsh, American Legion Post 144 in Glen Allen, Virginia, reported that his post runs small- to mid-sized games. A balancing act is required because as prize amounts increase there are more players, but the hall must be big enough to accommodate the increased number of players. Mr. Walsh stated that his post has struggled to meet its 10 percent in past years, especially with callers and managers now being paid. He noted that it is difficult to get volunteers to run the games. In addition, he stated that with "winner-take-all" games, they take in \$800 and pay out \$800 in prizes, and that is the reason these games are excluded from the calculation of gross receipts. These games help smaller organizations attract players. Richard Mayer, Knights of Columbus in Chesterfield, Virginia, told the Subcommittees that his organization was opposed to any prize increases because they would lose their niche.

At the conclusion of the public comment segment, responding to a comment that the study had not been properly publicized, the Subcommittees directed staff to prepare a press release about the study and widely disseminate it. In addition, any person or organization that had additional issues concerning charitable gaming to bring before the Subcommittee was encouraged to submit their comments/suggestions to staff, who will ensure those issues are brought to the Subcommittees' attention. In response to comments by Delegate Albo, organizations were also encouraged to meet independently of study meetings to identify issues and offer a consensus resolution of those issues. Staff volunteered to facilitate any meetings of the stakeholders and will include this as part of the press release. Delegate Jones, Chair, indicated that he anticipates two or three more meetings before September, including a visit by the Subcommittees to a bingo game during its next meeting on June 22, 2009. Staff will work with the Division to schedule such a visit. Next meeting of the Subcommittees is scheduled for June 22, 2009 in Richmond.

The Honorable S. Chris Jones Chair  
Maria J.K. Everett, Senior Staff Attorney