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The Senate of the State of Texas

Jane Nelson
Senate District 12

Committees:

HEALTH AND HUMAN SERVICES, CHAIR
TEXAS LEGISLATIVE COUNCIL
GOVERNMENT ORGANIZATION
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JUN 27 2007

OPINION COMMITTEE

The Honorable Greg Abbott
Attorney General of Texas
209 W. 14th Street
Austin, Texas 78701

Dear General Abbott:

In an October 24, 2006 request, I asked you if electronic pull-tab bingo as described in Senate Floor Amendment #24 to House Bill 3 (Armbrister amendment) of the Seventy-ninth Regular Legislative Session would be constitutional under Texas Constitution article III, section 47(b), which authorized the Legislature to adopt laws authorizing and regulating bingo games conducted by various charitable entities. In Opinion GA-0541 released April 19, 2007, you concluded that the "proposed legislation would be unconstitutional under article III, section 47(a)".

On June 25, 2007, the Texas Lottery Commission through rulemaking, adopted amendments to 16 TAC 402.300 relating to pull-tab bingo. Of concern, this amendment included language that allows a licensed authorized bingo organization to display a graphic and dynamic representation of the outcome of a pull-tab bingo ticket. Though the Lottery Commission did not call this amendment "electronic pull-tab bingo", the "video confirmation" language involves the same substantive concept, intent and ultimate outcome found in the Armbrister amendment reviewed and opined by you in GA-0541.

As chair of the Senate Committee on Health and Human Services, I ask for your opinion on whether the Texas Lottery Commission has the authority to introduce new and/or change existing bingo games that provide the player with a graphic and dynamic representation that corresponds to, or represents the outcome of any instant bingo game, including but not limited to pull-tab bingo games as adopted by the Texas Lottery Commission on June 25, 2007.

I believe that the outcome of the adopted changes to 406.300 will result in the same type of electronic pull-tab bingo as contemplated in the Armbrister amendment, which you have already

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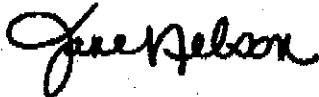
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opined requires a constitutional amendment (GA-0541). Although the Armbrister amendment included more specific information on where and how electronic pull-tab bingo would be played, the Lottery Commission's rule lacks these specific details; but does include the same authority to display the outcome of pull-tab bingo games in a graphic and dynamic representation. Both the new authority and the absence of any critical definition(s) and limitation(s) are extremely alarming. The Lottery Commission's silence does not equate to a prohibition, but rather, opens the door to unconstitutional changes to our State's bingo games.

Thank you in advance for your consideration of this matter. Please do not hesitate to contact me if you have any questions or need further information.

Very truly yours,



Senator Jane Nelson
Chair, Senate Committee on Health and Human Services