

**MEMORANDUM**

**TO:** Christine Jasica, Ohio Lottery Commission

**FROM:** Todd Colquitt, Director of Business Advocacy

**DATE:** August 28, 2017

**RE:** **CSI Review – Video Lottery Operations Five-Year Review (OAC 3770:2-6-02, 3770:2-6-03, and 3770:2-6-04)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (O.R.C.) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in O.R.C. 107.54.

**Analysis**

This revised rule package consisting of 3 amended rules is being proposed by the Ohio Lottery Commission (Commission) for review under the statutory five-year rule review requirement. The original rule package consisted of four amended rules and was submitted to the CSI Office on March 20, 2017, with a comment period end date of March 31, 2017. Review of the package was mutually suspended to accommodate a temporary reduction of Commission resources. Subsequently, the Commission determined on its own that one of the four rules required substantial redrafting and withdrew it for resubmittal at a future date. After revising its BIA accordingly to reflect the withdrawal of the single rule, the Commission submitted the revised rule package and revised BIA to the CSI Office for review on August 1, 2017. The Commission received one comment during its early stakeholder outreach, one comment during the March comment period, and one after the March comment period had closed.

The rules cover video lottery terminal operations such as maintenance and repair; security and

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surveillance; and transportation, relocation, installation and certification.

The proposed changes include items such as: adding an active shooter plan to security procedures; annual updating of security and surveillance plans; setting prior notice to the Commission of transportation of video lottery terminals at five days; and directing that video lottery terminals not in use be stored in approved secure areas. In response to stakeholder input, the Commission decided against making grammatical changes to existing language because it caused confusion among stakeholders as possibly requiring open-ended additional security and surveillance responsibilities, which was not the Commission's intent. The Commission also agreed with a stakeholder-suggested change clarifying that changes to security camera placement could be approved onsite by a designee of the Director of the Commission, e.g., Commission agents, rather than solely by the Director. One area of potential concern to the CSI Office involved language stating that the Commission reserved the right to require adjustments to surveillance systems. A stakeholder asked the Commission how substantive such changes might be, i.e., relatively minor such as camera views or major such as entire system reconfigurations. This question was also raised separately by the CSI Office. Commission staff stated that any potential adjustments were contemplated to be minor in nature.

The purpose of a CSI recommendation memo is not to catalogue in detail each rule in all its subparts, but rather to weigh the rule package on the whole in whether stakeholders were included and their input considered, whether the appropriate balance has been struck, and whether the agency has adequately articulated the necessity for the adverse business impact. After reviewing the proposed rules and subsequent revisions, original and revised BIAs, and stakeholder feedback, the CSI Office has determined that the rule package as a whole satisfactorily meets the standards espoused by the CSI Office and the purpose of the rule package justifies the adverse impacts identified in the BIA.

### **Recommendations**

For the reasons described above, the CSI Office has no recommendations regarding this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Ohio Lottery Commission should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Emily Kaylor, Director of Regulatory Policy – CSI