

STATE OF CALIFORNIA
TRANSCRIPT OF PROCEEDINGS

CALIFORNIA STATE LOTTERY COMMISSION
SPECIAL COMMISSION MEETING

TIME: 11:02 a.m.
DATE: Monday, March 30, 2020
PLACE: California State Lottery Headquarters
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Sacramento, California 95811

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A P P E A R A N C E S

California State Lottery Commission

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Commissioner

Peter Stern
Commissioner

Keetha Mills
Commissioner

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Monday, March 30, 2020

Sacramento, California

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MR. JOHNSON: -- on the line we also have Commissioner Keetha Mills on the line. This is being recorded. Thank you, John. Do we have any other -- Do we have any other commissioners on the line?

COMMISSIONER STERN: Hi. Peter Stern here.

MR. JOHNSON: Commissioner Stern. Very good. Thank you. Any other commissioners?

MALE: (Inaudible).

MR. JOHNSON: Okay. Welcome, unknown participant. All right. Chairman, we -- uh -- Chairmen, it appears we have a quorum. I'm counting at least three commissioners. So, I believe with that we can proceed at your direction.

CHAIRMAN AHERN: Okay. If I --

MR. JOHNSON: We'll start with a call to order when you're ready.

CHAIRMAN AHERN: Okay.

MALE: (Overlapping).

CHAIRMAN AHERN: Good morning, everyone. Today is March 30th -- March 30th, 2020 and the time is 11:02 in the morning. We'll call to order. We'll start with roll call.

CHAIRMAN AHERN: Do we have Elisa on the phone to do roll call?

MR. SCHLUSSLER: Her phone is probably muted.

CHAIRMAN AHERN: Okay.

MR. SCHLUSSLER: Hang on just a second.

CHAIRMAN AHERN: Is there someone else that can do roll call?

MR. SCHLUSSLER: Yes, hang on just one second.

MR. JOHNSON: Proceed with roll call. Sheriff Ahern?

CHAIRMAN AHERN: Yes, sir.

MR. JOHNSON: Commissioner Mills?

COMMISSIONER MILLS: Here.

MR. JOHNSON: Commissioner Stern?

COMMISSIONER STERN: Here.

MR. JOHNSON: Commissioner Kirtman? Okay. Chairman Ahern, everyone is present at this time save for Commissioner Kirtman.

CHAIRMAN AHERN: We'll move on to Item Number 3 for findings. We have a special meeting requirement. We'll call on Nick.

MR. JOHNSON: Very good. Nick, are you there? Can you proceed?

MR. BUCHEN: Yes. This is Nick Buchen, Deputy Director of Finance Division. In calling this special

meeting, the Lottery has determined that immediate action is required to protect the public interest. The specific facts constituting the impending harm to the public interest are as follows. Number one: On March 25th, 2020 the Powerball Product Group of which California is not a voting member voted to reduce Powerball's starting jackpot amount from \$40 million to \$20 million and to reduce the minimum required increase between draws from \$10 million to \$2 million with these changes commencing after the next Powerball grand prize win. These game changes were made as a result of the changes in consumer and retailer behavior resulting from the COVID-19 health crises to ensure Powerball continues to support good causes in all 48 United States lottery jurisdictions in which the game is sold. Fact Number 2: On March 27th, 2020 the Mega Millions Consortium of which California is a voting member discussed conducting similar changes to the Mega Millions game because of the change in consumer and retailer behavior resulting from the COVID-19 health crisis is also decreasing sales for this game which poses a risk of having grand prizes won that are not supported by sales. The Consortium is currently assessing the situation on a draw by draw basis but has asked for the member lotteries to be ready to take swift action to adopt changes to both the starting jackpot amount and the minimum required increase between draws should the Consortium vote

to make the change. Fact Number 3: Changing the starting jackpot amounts and minimum increases between draws for both games would help the California Lottery's mission to maximize supplemental funding to education. Because of the unrepresented -- unprecedented impact the COVID-19 health crisis is having on sales means each game is in imminent danger of having sales be insufficient to support the advertised jackpot. This would cause the Lottery's prize expense to be higher and the Lottery's contribution to education to be lower, all else being equal. Fact Number 4: To conform to these current and upcoming changes to ensure that there is no disruption to the Mega Millions and Power Ball games and to eliminate any potential liability from any discrepancies between the California Lottery's Mega Millions and Power Ball regulations and the official rules for both of these games, we called this special meeting to discuss needed changes to lottery regulations as a result of the current and impending game rule changes. Fact Number 5: As the draws for both of these games occur twice per week, Wednesdays and Saturdays for Powerball and Tuesdays and Fridays for Mega Millions, it is important for the Commission to meet within eight hours rather than the ten-day notice period because the Lottery would like to reduce any potential exposure and reduction in supplemental funding by revising its regulations to adhere to any new changes in

jackpots and minimum increases, which could occur for any of the upcoming draws in Powerball and Mega Millions. In summary, the COVID-19 health crisis is creating a substantial financial hardship to the Lottery and action must be taken to mitigate the impact and maximize funding for education. For context, California sales for last Saturday night's Powerball draw were more than \$775,000 less than a comparable Saturday night draw in December with a similar advertised jackpot amount. This is a decrease of 24 percent. And similarly, for last Friday night's Mega Millions draw, California sales were nearly \$1.1 million less than a comparable Friday night draw in January with a similar advertised jackpot amount. That is a decrease of more than 34 percent. Thank you.

MR. JOHNSON: Thanks very much, Nick. Mr. Chairman?

CHAIR AHERN: Okay. does anybody have any questions in regards to the five facts that have been listed in the findings by Nick?

COMMISSIONER MILLS: Chair Ahern, this is Commissioner Mills. I do have a couple of questions.

CHAIRMAN AHERN: Okay.

COMMISSIONER MILLS: So Nick, you talked about the contribution to education and I just want to make sure that I understand the correlation and what the impact is going to

be, especially given that we are in a period of current disagreement I believe with the California State Auditor on proportionality and the percentage of sales that go to education. So can you just reiterate how this particular change will impact our contribution to education and if we -- and maybe even if we don't make this change, how would our contribution to education be impacted?

MR. BUCHEN: Sure. So, if we do not make this change and sales continue to drop, we're at risk of having advertised jackpot amounts that sales cannot support. And what that would mean is we'd be paying out a higher prize expense for -- to the winners and therefore less funding would be going to California public schools.

COMMISSIONER MILLS: Okay. Thank you. So this change is less about driving more sales. It's more about making sure that we can fund the jackpots that will be paid from existing sales. Is that correct?

MR. BUCHEN: Yes, that's exactly correct.

COMMISSIONER MILLS: Okay. Okay. And these particular games typically have the largest percentage of sales that gets paid to education. Do we expect that to continue or will the game payout or the dollar amount of the payout change the percentage of these sales that will go to education?

MR. BUCHEN: So assuming the consumers don't

react too adversely to the decreased starting jackpot and the decreased minimum roll increase then there should be no substantial impact to the prize expense for either of the games.

COMMISSIONER MILLS: Okay. Okay. Thank you. So it -- your comment leads me actually to another question because as I'm learning more and more the Lottery and how it works I've been told that the higher jackpots are what typically drives sales and I think the stat that's been said is that it now takes a jackpot of over like 500 million to really incite sales. So, lowering the jackpot will likely decrease total sales. Is that what we're kind of anticipating? But we just -- we want to make sure that the amount of sales that we're generating will cover the jackpot.

MR. BUCHEN: Correct. And it should be noted that at earlier amounts like the -- below the 500 million that you referenced we do have a considerable consumer base that plays essentially regardless of the jackpot amount. So, we would expect those consumers to continue to the extend that they're still purchasing. The one factor that comes with both a starting jackpot amount and the lower minimum rolls is it'll take a number of rolls longer to get to much higher jackpot amounts.

COMMISSIONER MILLS: Okay. And so, we're in this

unprecedented time. And amid the kind of COVID-19 crisis, many people are losing their jobs and otherwise experiencing kind of financial hardships. I don't know if this is a question for you, Nick, or somebody else on the team, but how do we make sure that for kind of keeping the Lottery going, trying to maximize our contribution to education given these unprecedented times, but also encouraging responsible gaming and that, you know, are we making any changes to our marketing plan or how are we ensuring that we're promoting kind of responsible gaming during this unprecedented time?

MS. ALLEN: I can take that. Sharon Allen. Hi. We have been very careful in our marketing to ensure that we're not driving people into stores. We paused a lot of our jackpot alerts and things that we would do because we don't want to be irresponsible in terms of the Stay at Home Order. That said, the draws are still continuing and they're there. We have -- we want to be completely transparent. We post the winning numbers. We sent out opt-in alerts for those who want to know the winning numbers, the jackpot amounts. All of that information is also on our website. We have jackpot signage that's still at the stores. So, we're balancing the order from the Governor to stay in place and at home but also communicating that the games are still happening.

COMMISSIONER MILLS: Okay. Thank you. That's very helpful. And I'm sorry, I just have just two more questions. One, I think Nick, this is a question for you. I know we're just fairly new into this period. And there's been a lot going on, people trying to get remote and figure out how to work remote. But have we started to do any financial modeling around what we believe this COVID-19 crisis will have both on the Lottery's operations but also on our expected contribution to education?

MR. BUCHEN: Yes. We're in the process of running a few different scenarios. The tough part obviously is no one can definitively predict when we'll be rebounding. So, we're running a variety of scenarios that have different kind of dates that we've turned the corner on this. But we're certainly in the process of trying to reduce the discretionary expenditures that the Lottery has for its administrative costs for the remainder of this fiscal year. There's no question that sales are declining.

CHAIRMAN AHERN: Uh-huh.

MR. BUCHEN: Compared to what they normally would be outside of this pandemic. So, we're trying to be responsible and again maximize supplemental funding to education.

COMMISSIONER MILLS: Okay. Great. Thank you. And once you've modeled out some of those scenarios, will that

be something that you will be able to share with commissioners so that we kind of understand the potential impacts on the Lottery -- both the Lottery's operations and our contribution to education?

MR. BUCHEN: Certainly. So we will be vetting these scenarios internally first to make sure all of the divisions agree with, you know, there's going to be a lot of assumptions made in these scenarios.

COMMISSIONER MILLS: Right.

MR. BUCHEN: And then once they're through the directorate then we'd be glad to share with the commissioners.

COMMISSIONER MILLS: Okay. Thank you. And then I promise my final question, thank you. So, it sounds like this particular provision isn't required to be in the regulation. So, can anybody comment on like why it was put in there to begin with? Was it just kind of an oversight that it wasn't required? And then how were the initial dollar amounts determined and why were those deemed kind of the right dollar amounts and important to include in the regulation -- initially to include in the regulation?

MR. JOHNSON: I don't know if Jim Hasegawa was on the line. He would have the most history with how we got involved in the amounts. Nick, do you have any information on that? You've got some background on this a little bit I

think, right?

MR. BUCHEN: So, I can speak to why there's no issue with removing them from the regulations. For Super Lotto Plus, it's our in-state jackpot game and we do not specify that the jackpot starts at 7 million and that the minimum rolls are a million dollars. So, this change to the Powerball and Mega Millions would actually make it consistently (recording malfunction). I don't believe it was a blatant oversight to include the specificity for both Mega Millions and Powerball. I think it was just, you know, essentially putting into regulations what the rules for these two multi-state games were.

MR. JOHNSON: That makes sense to me.

COMMISSIONER MILLS: Okay. Thank you. Thank you. So, it's really nice to see everyone and I hope everyone is safe and healthy and thank you, Director Johnson, for your leadership in making sure that the employees of the Lottery are safe during this time. Thank you. That's all the questions I had.

MR. JOHNSON: Thank you, Commissioner.

CHAIRMAN AHERN: All right. Do any other commissioners have any questions regarding special meeting requirement?

COMMISSIONER STERN: I just have two quick questions. So, you had indicated a decrease of 24 percent

in sales on Saturday. What is the break point as it relates to the higher prize expense? Is it -- how much farther will it have to -- will sales ultimately have to drop before we're in the red?

MR. BUCHEN: So, one clarifying point for Mega Millions in particular, which we are a member of, the way it works, when the jackpot gets hit past the point where it's you know, past the minimum roll requirement the actual payout to the grand prize winner is based on the amount that sales have supported. So, if sales were to take a substantial dive regardless of the amount that was advertised at that point the winner would just get what sales support. It's really the -- once the jackpot is hit and resets, that's our bigger risk. With the jackpot currently starting at 40 million, with a substantially decreased level of sales it'll take a lot longer for that jackpot to become supported by sales. So, the risk is the more jackpots you have that are at a level that's not supported by sales, essentially that jackpot amount is guaranteed and that's what will increase the prize expense.

COMMISSION STERN: Great. Thank you. And then last question expanding on Commissioner Mills' question around a decrease in a payout will result in a decrease in revenue. Do we have a point of view or a forecast of what the coming weeks might look like or any indication of what

that might look like?

MR. BUCHEN: Sure. So that's part of the scenarios that I mentioned that we're working on. So, we're still again, making a number of assumptions and looking at a number of different recovery points that will factor into what the sales projection and resulting expenditures and contribution to education will all look like under the different scenarios.

COMMISSIONER STERN: Thank you. Yeah. Looking forward to seeing that data when available but I appreciate your time and no further questions.

CHAIRMAN AHERN: All righty. Are there any other commissioners with questions regard to special meeting requirement of substantial hardship finding? All right, hearing none, do I hear a motion to adopt finding of substantial hardship on the Lottery or the impending harm to the public interest/supplemental funds to public education as the reason why this special meeting was called with 48-hour notice?

COMMISSIONER MILLS: So moved. It's Commissioner Mills.

CHAIRMAN AHERN: We have a motion. Is there a second?

COMMISSIONER STERN: Second by Peter Stern.

CHAIRMAN AHERN: We have a motion and a second.

Will the secretary please call the roll?

MS. TOPETE: Commissioner Kirtman? Commissioner Stern?

COMMISSIONER STERN: Yes.

MS. TOPETE: Commissioner Mills?

COMMISSIONER MILLS: Yes.

MS. TOPETE: Chairman Ahern?

CHAIRMAN AHERN: Yes. Okay. Thank you very much. With that motion we'll move on to Action Item 4(a), Multi-State game changes with Sharon Allen.

MS. ALLEN: Hi, good morning. I'm going to take you through a number -- Item Number 4(a). This is Sharon Allen, Deputy Director of Sales and Marketing. We covered a lot of this, but I'll summarize it altogether. Changes to Lottery regulations are needed to account for game changes recently adopted by the Powerball Product Group and to prepare for possible changes by the Mega Millions Consortium as both games have been experiencing significant decreases in sales during the COVID-19 health crisis. The Lottery is a voting member of the Mega Millions Consortium, the group responsible for Mega Millions. And the Lottery participates in Powerball pursuant to a cross sale license between the Consortium and the Powerball Product Group. The Lottery is not a voting member of the Powerball Product Group. As Nick mentioned, on March 25th the Powerball

Product Group voted to reduce the starting jackpot amounts from 40 million to \$20 million and to reduce the minimum increase between draws from 10 million to \$2 million beginning after the next Powerball jackpot is hit. The Lottery was informed of this decision after the vote took place. The Mega Millions Consortium has not made any adjustments at this time as the jackpot and increases between rolls are currently sufficiently funded. However, the group has discussed and is prepared to make changes if continued sales decreases warrant it. If these changes are adopted, the starting jackpot would be lowered from 40 million to \$20 million and the minimum increases between draws would be reduced from 5 million to \$2 million. California Lottery regulations currently specify the starting jackpot amounts and minimum increases per draw for both Mega Millions and Powerball. However, the Lottery Act does not require this information to be included in the regulations. Moreover, this information is already included in the official rules for both games. Lottery regulations specifically reference those documents stating that these rules govern the administration and operation of the games. Removing these subsections will eliminate unnecessary sources of conflict between lottery regulations and the official rules of both games. It would also eliminate the need for future regulation changes when starting jackpot

amounts and minimum increase are adjusted, allowing for an official return to standard operation of Mega Millions and Powerball once the current health crisis is resolved. Staff recommends that the Commission adopt the attached regulations which would become effective immediately. Also, a minor technical cleanup is included to correct a numbering error that was identified in Section 3.0. And with that, I'd be happy to address any questions.

MR. JOHNSON: Thank you, Shannon.

CHAIR AHERN: All right. Do any commissioners have any questions or comments in regards to Action Item 4(a)?

COMMISSIONER MILLS: Chairman Ahern, this is Commissioner Mills. I just have one question. So, it sounds like this particular change is being triggered by a change in the game. And that we did do a review of the regulations to correct a number change. Can you just confirm that there was a review done, just kind of, you know, a readthrough of the regulations as a whole, looking for other items that may need to be adjusted based on our current situation. Are you anticipating any other changes in regulation that may need to occur as a result of this current COVID-19 crisis?

MS. ALLEN: Currently we're not anticipating any additional changes. This is unprecedented though and so

if there's something we haven't considered and Fernando, your team, the legal team, did a thorough review of the regulations. At this time, if you want to add anything.

MR. ACEVES: That is correct. No, there is -- yeah, that is correct.

MS. ALLEN: Okay.

COMMISSIONER MILLS: Thank you.

CHAIRMAN AHERN: Okay. Do any other commissioners have any questions regarding Action Item 4(a)? All right. Hearing no questions from the commissioners, is there anyone from the public that wants to address the Commission at this time regarding Action Item 4(a)? Hearing none, do I hear a motion to approve Action Item 4(a) Multi-State game changes?

COMMISSIONER STERN: So moved, Item 4(a) by Commissioner Stern.

CHAIRMAN AHERN: All right. I heard a motion. Is there a second?

COMMISSIONER MILLS: Second, Commissioner Mills.

CHAIR AHERN: There's a motion and a second. Will the secretary please call the roll?

MS. TOPETE: Commissioner Kirtman? Commissioner Stern?

COMMISSIONER STERN: Yes.

MS. TOPETE: Commissioner Mills?

COMMISSIONER MILLS: Yes.

MS. TOPETE: Chairman Ahern?

CHAIRMAN AHERN: Yes. All righty. Thank you very much. Great work on the part of the Lottery to stay ahead of this and call this meeting. Item Number 5 is public discussion. Is there any comments from anyone on the phone in regards to actions taken?

MS. VASQUEZ: Hello, Commissioner Ahern.

CHAIR AHERN: Yes.

MS. VASQUEZ: Can you hear me?

CHAIR AHERN: You bet.

MS. VASQUEZ: Hi Commissioners, my name is Paulina Vasquez. I'm a Lottery Sales Field Representative and a Union Steward. Commissioners, I'm on this phone here with you today to bring something home to you. We have lost confidence in Lottery leadership to guide the Lottery during this global crisis to protect the workers, to protect the retailers, and to protect the public. Sales reps across the state went to work afraid. Afraid every day about our exposure and risks of exposing others should we become infected and not know. We collectively warned Lottery management due to our special unique positions working in the field, working with the public, working with the vulnerable. Our warnings were not heeded in a timely manner. We were left on the front lines too long. I cannot

express the disappointment, anger, and resentment our colleagues and families are feeling with Lottery leadership who at every turn let us down. And now we are staring death in the face. Commissioners, I'm not sure if you're aware, but we have a Lottery sales rep in Walnut Creek who is on life support, who is in a coma, who is fighting Corona Virus and fighting for his life. His wife spoke to me last night. The entire household is now sick. There is a baby in that household. And her biggest fear is that he is going to die alone with no one holding his hand. There is a level of irresponsibility here. This could have been prevented, and we collectively warned Lottery managements about it. This isn't about politics. This is about lives. This was the time to protect the lives of our workers. The public is struggling to find food and essentials. Huge base of our players are losing their jobs and we're sitting here talking about how to maximize sales during a global crisis. This has impacted our lives. This is impacting the lives of the public and our Lottery management failed us. They let us down. It was a little too late when they pulled us out of the field. There are others who are sick and can't get tested. I spent ten days with fever and cough, and I couldn't get tested. And somehow, we're as essential as the prisons that Sheriff Ahern manages? I don't think we're that essential. (Overlapping).

MR. SCHLUSSLER: There's only a three-minute limit on public discussion, so unfortunately, I'm going to have to mute you at this point.

MS. VASQUEZ: Thank you.

CHAIRMAN AHERN: Okay. Your comments were very well spoken and heard. Does any other member of the public wish to address the Commission at this time? Okay, hearing none, Alva, do you have anything else you'd like to say to the group?

MR. JOHNSON: Thank you, Mr. Chairman. I just want to briefly comment that we've been adapting to this crisis and working 24-7 to address the needs of our team members and our communities. We've implemented a number of changes, sometimes being amongst the first in state agencies to respond. We are proud of the work that all of our team members, from DSR's all the way up to Headquarters staff, have been doing to keep the Lottery going in its essential functions to provide funding to California schools. As you know, Mr. Chairman, the California Lottery provides tens of millions of dollars every month to California schools and this is in fact a critical function. And that is why we're still open. Our operations have been impacted but our executive staff has made adjustments. We've rolled out a telework program. We've increased our attempts to keep our facilities maintained, including extra cleaning efforts and

social distancing measures and we, as I mentioned, have deployed a telework program to allow folks to work in the field. We've also made it clear to folks if you're sick, stay home, and to use their leave credits as appropriate and necessary. We've been working closely with folks who've fallen through the cracks who've had issues with their ability to come to work or with their leave, and we're working through those on a case-by-case basis with guidance from HR. This has been a difficult time. It's an unprecedented time. But we care about the health and safety of our team members and we're doing everything we can 24-7 to make it a better situation.

CHAIRMAN AHERN: All righty. Thank you and well said. Obviously as Sheriff and Director of Emergency Services for Alameda County and Region 2, which is 16 counties in the western part of the state, this is a very serious critical time. We're doing everything we can to keep the citizens safe and the people that we employ and every member of the county. So, I know the Lottery is taking the steps that they're considering to be the best steps for that and I appreciate your work. If there's nothing else, I would like to adjourn the meeting. Hearing none, thank you very much. You guys all be safe. Be virus free. Thank you.

MR. JOHNSON: Thanks, everybody.

COMMISSIONER MILLS: Thanks, everyone.

(End of Recording)

(MEETING ADJOURNED)

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