

BILL ANALYSIS

C.S.H.B. 2519

By: Flores

Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law the Texas Lottery Commission regulates bingo, which may only be conducted by certain charitable organizations. Several areas of current law are vague and charities conducting bingo and other licenses often find it difficult to comply with the law and regulations of the Commission.

The substitute authorizes new procedures for charitable bingo regulation to reduce unnecessary disputes, clarifies parts of current law that are vague, provides for extended license terms and implements policies and procedures that may increase net proceeds, and reduce the cost of bingo regulation, to charities that conduct bingo.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Lottery Commission in SECTION 16 (Section 2001.314(a), Occupations Code) and in SECTION 21 (2001.4155 (b), Occupations Code) of this substitute.

ANALYSIS

SECTION 1: Defines "bingo equipment" to include bingo balls and "sale" to mean the transfer of title to bingo equipment from seller to a buyer.

SECTION 2: Provides the commission does not have regulatory authority over premises, personnel or activities of an authorized commercial lessor or authorized organization except as expressly granted by Chapter 2001, Occupations Code, or as necessary to administer that statute. Provides the commission has no control over any person engaged in a business that is not subject to Chapter 2001, Occupations Code, or Chapters 466 and 467, Government Code.

SECTION 3: Provides that officers and investigators of the commission may not wear law enforcement insignia or carry firearms while conducting routine inspections of premises related to charitable bingo.

SECTION 4: Provides that the commission, to the extent consistent with law, shall support charities' efforts to develop and offer new charitable bingo games and apply new technology to charitable bingo games.

SECTION 5: Authorizes a person to request an advisory opinion from the bingo division director regarding compliance with charitable bingo laws and establishes a 30 day limit for the director to respond, with some exceptions. Provides that a person may act in reliance on an advisory opinion issued by the director.

SECTION 6: Provides that a holder of a regular license to conduct charitable bingo may receive up to 12 temporary licenses a year. Authorizes the issuance of all temporary licenses based on a single application without specifying dates and times the licenses will be used. Provides that a charity must give the commission prior notice of the date and time a temporary license will be used and requires the commission to verify receipt of the notice within time limits.

SECTION 7: Provides that license fees are annual unless the licensee obtains a two-year license by paying twice the annual fee plus a \$25 convenience fee.

SECTION 8: Provides that a license is for one year unless the person obtains a two-year license as provided in the chapter.

SECTION 9: Allows a charity and commercial lessor to jointly file a license application or amendment to fill a

licensed bingo occasion time of another charity that has or will cease to conduct charitable bingo during that time. Establishes time limits by which the commission must act on the application, depending on whether there is an abandonment of a licensed time or a termination of a lease involved. Authorizes the commission to issue additional temporary licenses to a charity rather than meet the time limits for acting on a joint application.

SECTION 10: Provides a two-year moratorium during which the commission may not issue a new commercial lessor, except to charities or associations of charities or if there is no commercial lessor in the county.

SECTION 11: Provides that license fees are annual unless the licensee obtains a two-year license by paying twice the annual fee plus a \$25 convenience fee.

SECTION 12: Provides that the licensing period is one year unless the licensee obtains a two-year license as provided in the chapter.

SECTION 13: Provides that a bingo manufacturer or distributor license is for one year unless the licensee obtains a two-year license by paying twice the annual fee plus a \$1000 convenience fee.

SECTION 14: Provides that a sale or lease of bingo equipment must be paid for not later than the 30th day after the date of actual delivery.

SECTION 15: Provides that a license is for one year except as otherwise provided in the chapter.

SECTION 16: Provides for a registry of persons approved to work in charitable bingo following a criminal background check and that a person listed in the registry may work in any location where bingo is lawfully conducted. Authorizes the commission to prescribe the form and content of an identification card for such workers and to issue identification cards or provide forms for identification cards for a fee. Authorizes the commission to require bingo workers to wear an identification card but not to require that the bingo worker obtain the card from the commission. Requires the commission to make the information in the registry available on its website and by responding to telephone, email and facsimile inquiries.

SECTION 17: Prohibits the commission from keeping a person who serves as an operator from serving as a bingo caller but requires the person to be available to commission employees and bingo players as required by the chapter.

SECTION 18: Authorizes two or more charities to jointly employ bingo workers, with one charity serving as the employer and the others reimbursing the employing charity for each charity's share of the employment-related costs.

SECTION 19: Prohibits offering or providing the opportunity to play charitable bingo without charge, except with authorized gift certificates.

SECTION 20: Prohibits anyone other than a charity, commercial lessor or the commission from advertising charitable bingo.

SECTION 21: Provides that nothing in Chapter 2001, Occupations Code, prevents a charity or commercial lessor from distributing or accepting gift certificates for the opportunity to play charitable bingo games. Requires records documenting gift certificates to be kept.

SECTION 22: Authorizes funds from a debit card transaction to be deposited in the bingo account within 72 hours of the transaction.

SECTION 23: Provides that a charity must spend net proceeds of charitable bingo for the charitable purposes of the organization. Provides that the charitable purposes of the organization include only those causes, deeds or activities that are consistent with the charity's federal tax exemption.

SECTION 24: Includes the following expenses in the list of authorized expenses that may be paid from the bingo

account: the cost of bingo gift certificates, repair or maintenance of premises, sales personnel, attendance at bingo seminars and conventions, debit card transaction fees and a salary for a bingo manager.

SECTION 25: Provides that advertising costs, including the cost of gift certificates, must be paid from the bingo account.

SECTION 26: Provides replacement revenue to cover the lost revenue from eliminating the sales tax on bingo equipment paid by charities by moving the incidence of the tax to one based on sales of bingo equipment by licensed manufacturers to distributors.

SECTION 27: Provides that a bingo tax or fee is due by the 25th of the month following the calendar quarter.

SECTION 28: Provides that certain actions related to charitable bingo taken by the executive director of the lottery under current law are to be performed by the director of the bingo division.

SECTION 29: Provides that certain actions related to charitable bingo taken by the executive director of the lottery under current law are to be performed by the director of the bingo division.

SECTION 30: Provides that certain actions related to charitable bingo taken by the executive director of the lottery under current law are to be performed by the director of the bingo division.

SECTION 31: Provides that certain actions related to charitable bingo taken by the executive director of the lottery under current law are to be performed by the director of the bingo division.

SECTION 32: Provides that certain actions related to charitable bingo taken by the executive director of the lottery under current law are to be performed by the director of the bingo division.

SECTION 33: Provides that certain actions related to charitable bingo taken by the executive director of the lottery under current law are to be performed by the director of the bingo division.

SECTION 34: Provides that certain actions related to charitable bingo taken by the executive director of the lottery under current law are to be performed by the director of the bingo division.

SECTION 35: Provides that bingo equipment purchased by charities for use in charitable bingo is not subject to sales tax.

SECTION 36: Repeals the limits on the use of electronic card minding devices to 40 percent of attendance and on the use of pulltab dispensers to five dispensers.

SECTION 37: Provides that changes in this bill that affect licenses apply to individual licenses after the effective date of the act as applications for new licenses or license renewals occur and that licenses issued prior to the effective date of this bill are governed by the law in effect on the date the application was filed.

SECTION 38: Provides an effective date of September 1, 2003, except that the changes in taxation of sales of bingo equipment are effective January 1, 2004.

EFFECTIVE DATE

September 1, 2003, except for changes related to the taxation of sales of bingo equipment, which take effect January 1, 2004.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original bill by eliminating the policy board created in the original bill and provisions that restructured the regulation under the policy board and the director of bingo. New definitions are included in the substitute that were not in the original. New procedures relating to license amendments for changes to bingo premises or location are included in the substitute and the authority of a commercial lessor to apply for additional

temporary licenses under some circumstances is stricken. The provisions of the original bill relating to identification cards for bingo workers have been modified to allow the commission to require that such cards be worn, to prescribe the form and content of the cards and to provide cards or forms for the cards. Other changes to the regulation and procedures used in charitable bingo were made to conform to these changes. The substitute is legislative council drafted while the original was not.