

BILL ANALYSIS

C.S.H.B. 1434

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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1991, Texas voters approved a constitutional amendment authorizing a state lottery. In 1993, the Legislature created the Texas Lottery Commission to assume the administration of the lottery and transferred the administration of the Bingo Enabling Act to the new agency. Today, the Commission administers and markets the state lottery and regulates the charitable bingo industry through licensing and enforcement.

The Lottery Commission is subject to the Sunset Act and will be abolished on September 1, 2005, unless continued by the Legislature. The Sunset review found that the Commission has been successful in generating revenue for the State through lottery sales, but that having a three-member Commission limits its effectiveness and that the agency does not perform sufficient analyses to guide major financial decisions. The review also found a need to improve the effectiveness of the Bingo Advisory Committee and the agency's bingo enforcement processes.

C.S.H.B. 1434 continues the agency for the standard 12-year period until September 1, 2017 and contains other recommendations of the Sunset Advisory Commission.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly delegated to the Texas Lottery Commission in SECTION 26 (Sec. 467.112 (d), Government Code), SECTION 27 (Sec. 2001.0555, Occupations Code), SECTION 29 (Sec. 2001.101, Occupations Code), SECTION 30 (Sec. 2001.3015, Occupations Code), SECTION 32 (Sec. 2001.351, Occupations Code), SECTION 33 (Sec. 2001.353, Occupations Code), SECTION 34 (Sec. 2001.355, Occupations Code), and SECTION 35 (Sec. 2001.358, Occupations Code) of this bill.

ANALYSIS

C.S.H.B. 1434 amends the Government Code and the Occupations Code relating to the continuation and functions of the Texas Lottery Commission, including the operation of the lottery and the regulation of charitable bingo. The bill also incorporates several standard across-the-board recommendations of the Sunset Commission.

The bill continues the Texas Lottery Commission for the standard 12-year period, until September 1, 2017. C.S.H.B 1434 also repeals language added last session requiring the Sunset Commission's limited review of the agency. The bill language also allows for contract termination if the agency is abolished.

C.S.H.B 1434 allows an existing lottery retailer to apply to have a license reassigned to a different location, rather than applying for a new license.

C.S.H.B 1434 allows a lottery retailer to renew a license up to ten days after expiration for an additional fee, rather than applying for a new license.

C.S.H.B 1434 allows the Commission to suspend a lottery retailer license for failure to provide the required fingerprints or information to verify the identity of the applicant for a criminal background investigation. The bill also allows the director to summarily suspend a license for failure to provide information to verify the identity of the applicant.

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C.S.H.B 1434 requires an officer, director, or owner of a lottery ticket sales agent to notify the director of any change in officership, directorship, or ownership. Failure to notify the director of a change will not relieve the individual from liability for money owed to the State.

C.S.H.B 1434 defines the term “minor” as meaning an individual who is younger than 18 years of age for the purposes of claiming a winning lottery ticket, rather than referring to the Property Code, which defines a minor as someone under the age of 21. Defines "member of a minor's family."

C.S.H.B 1434 requires the agency to develop a comprehensive business plan and the Commission to annually review the plan.

C.S.H.B 1434 makes the agency subject to the general law governing purchasing and contracts by state agencies by removing the agency's exemption from the State Purchasing and General Services Act, Information Resources Management Act, and Professional Services Procurement Act.

C.S.H.B 1434 increases the Commission’s size from three to five public members.

C.S.H.B 1434 grants the Bingo Operations Director authority standard to executive directors in other state agencies. Requires the commission to employ a director of bingo operations to administer the Bingo Enabling Act. C.S.H.B 1434 allows the bingo director to enter into contracts and requires the bingo director to employ personnel necessary to administer the Act; these employees serve at the will of the bingo director. C.S.H.B 1434 also states that the bingo director serves at the will of the Commission. C.S.H.B 1434 requires the executive director to employ personnel who perform services for both the lottery and the bingo divisions; these employees serve at the will of the executive director.

C.S.H.B 1434 prohibits the agency from employing any person who would be denied a license as a sales agent. The bill also requires employees to pass the same background investigation required of sales agents.

C.S.H.B 1434 requires the Bingo Advisory Committee to develop an annual work plan and make recommendations to the Commission that identify specific issues to be addressed during the year. C.S.H.B. 1434 also repeals the statutory designation for a system service provider slot on the Committee.

C.S.H.B 1434 abolishes an outdated and unused licensing requirement for system service providers and the regulation of the automated bingo services.

C.S.H.B 1434 conforms key elements of the State Lottery Act and the Bingo Enabling Act to commonly applied licensing and enforcement practices, including the following provisions:

- Requires the Commission to adopt clear qualifications for bingo licensure.
- Eliminates statutory requirements governing the length of time bingo conductors must be in existence to be eligible for a license.
- Requires the agency to develop a standard bingo license renewal process.
- Requires the agency to review compliance history before renewing bingo licenses.
- Requires the Commission to analyze complaints to identify problem areas or trends.
- Requires the Commission to adopt rules to ensure complaints are investigated within a reasonable amount of time.
- Requires the Commission to establish standards of conduct for bingo licensees.
- Grants the Commission a full range of administrative sanctions for bingo licenses, including allowing the agency to put a suspended license on probation.

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- Requires the Commission to adopt rules governing all bingo compliance monitoring efforts, such as audits and inspections, and enforcement procedures.
- Requires the Commission to adopt, in rule, a schedule of sanctions for bingo enforcement actions.
- Expands the Commission's authority to temporarily suspend bingo licenses to prevent financial loss to the State. If the Commission temporarily suspends a bingo conductor, the bill requires the Commission to notify the remaining bingo conductors at that location and to grant those conductors temporary approval to fill in the game times of the suspended conductor.

Requires the Commission to adopt policies to ensure that it complies with applicable laws governing consumer information and protection.

C.S.H.B. 1434 requires the commission, through the lottery division and its director, to prescribe form and amount of the license amendment fee.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds new language allowing an existing lottery retailer to apply to have a license reassigned to a different location, rather than applying for a new license.

The substitute adds new language allowing a lottery retailer to renew a license up to ten days after expiration for an additional fee, rather than applying for a new license.

The substitute adds new language allowing the commission to suspend a lottery retailer license for failure to provide the required fingerprints or information to verify the identity of the applicant for a criminal background investigation. The substitute also allows the director to summarily suspend a license for failure to provide information to verify the identity of the applicant.

The substitute adds new language requiring an officer, director, or owner of a lottery ticket sales agent to notify the director of any change in officership, directorship, or ownership. The substitute also states that failure to notify the director of a change will not relieve the individual from liability for money owed to the State.

The substitute adds new language defining the term "minor" as meaning an individual who is younger than 18 years of age for the purposes of claiming a winning lottery ticket, rather than referring to the Property Code, which defines a minor as someone under the age of 21.

The substitute removes the provision in the original which vested major procurement approval authority with the Commission, rather than just the executive director. The substitute also removes language allowing the Commission to delegate to the executive director authority to approve contracts that it does not consider major.

The substitute makes the agency subject to the general law governing purchasing and contracts by state agencies by removing the agency's exemption from the State Purchasing and General Services Act, Information Resources Management Act, and Professional Services Procurement Act.

The substitute adds new language granting the Bingo Operations Director authority standard to executive directors in other state agencies. The substitute clarifies that the Commission shall employ a director of bingo operations to administer the Bingo Enabling Act and makes conforming changes. The substitute allows the bingo director to enter into contracts and requires the director to employ personnel necessary to administer the Act; these employees serve at the will of the bingo operations director. The substitute also states that the bingo director serves at

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the will of the Commission. The substitute requires the executive director to employ personnel who perform services for both the lottery and the bingo divisions; these employees serve at the will of the executive director.

The substitute adds new language excepting the records of the bingo division from being kept by the executive director of the commission; instead, requires the records to be kept by the bingo operations director.

The substitute adds new language prohibiting the agency from employing any person who would be denied a license as a sales agent. The substitute also requires employees to pass the same background investigation required of sales agents.

The substitute adds new language requiring the Commission, if it temporarily suspends a bingo conductor, to notify the remaining bingo conductors at that location and to grant those conductors temporary approval to fill in the game times of the suspended conductor.

The substitute adds new language providing that a limitation on the number of temporary licenses that may be issued to a licensed authorized organization provided by another provision of this chapter does not apply to temporary licenses issued under Subsection (e) (2) if each licensed authorized organization conducting bingo at that location has previously been issued the maximum number of temporary licenses otherwise authorized by this chapter; and all bingo games held under the temporary licenses are held within 60 days of the date of suspension.

The substitute repeals the following sections: 467.032 (c), 2054.007 (a), Government Code and 2001.052, Occupations Code.

The substitute adds language requiring the commission, no later than March 1, 2006, to prescribe the form and amount of the license amendment fee as required by Section 466.151 (f), Government Code, through the lottery division and its director.