

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, there is no legislation in place for the creation and operation of casino destination resorts. Statutory change providing for the creation of these resorts may bring significant economic development to Texas and protect Texas' tradition of thoroughbred and quarter horse racing.

As proposed, S.B. 1359 creates the Texas Gaming Commission, authorizes the creation of 12 destination resort casinos based on certain criteria, establishes license and application fees for those casinos, and provides a tax on gross gaming revenue and prescribes the allocation of that revenue.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Gaming Commission in SECTION 1 (Sections 2004.102, 2004.155, 2004.158, 2004.251, 2004.252, 2004.351, 2004.451, 2004.457, 2004.501, and 2004.504, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 13, Occupations Code, by adding Chapter 2004, as follows:

CHAPTER 2004. CASINO GAMBLING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. SHORT TITLE. Authorizes the citation of this chapter as the Texas Economic Development and Gaming Control Act.

Sec. 2004.002. PUBLIC POLICY. (a) Requires all casino gaming conducted in this state and authorized by law to be regulated and licensed under this chapter, unless specifically provided otherwise by the legislature or federal law.

(b) Sets forth certain provisions further outlining the state policy on casino gaming.

Sec. 2004.003. DEFINITIONS. Defines "affiliate," "applicant," "associated equipment," "casino," "casino operator," "casino service," "casino service license," "casino service license holder," "commission," "commission member," "company," "creditor interest," "director," "equity interest," "executive director," "family," "game" or "gambling game," "gaming" or "gambling," "gaming device," "gaming employee," "gross gaming revenue," "hearing examiner," "institutional investor," "key executive," "license," "license holder," "manufacturer license holder," "manufacturer's license," "negotiable instrument," "occupational license," "occupational license holder," "operator's license," "operator license holder," "owner's license," "owner license holder," "principal manager," "project commitment," "publicly traded company," "race book," and "slot machine."

Sec. 2004.004. EXEMPTION FROM FEDERAL STATUTES. (a) Provides that the state declares itself exempt from Section 1172 (Transportation of Gaming Machines as

Unlawful; Exceptions; Authority of Federal Trade Commission) of the federal Gambling Devices Act of 1962, as amended.

(b) Provides that all shipments of gaming devices into this state, including slot machines, conducted in compliance with applicable federal provisions of Sections 1173 (Registration of Manufacturers and Dealers) and 1174 (Labeling and Marking of Shipping Packages) of the federal Gambling Devices Act of 1962, are legal shipments.

Sec. 2004.005. APPLICATION OF SUNSET ACT. Provides that the Texas Gaming Commission (commission) is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that the commission is abolished and that this chapter expires September 1, 2019, unless continued in existence as provided by that chapter.

[Reserves Sections 2004.006-2004.050 for expansion.]

SUBCHAPTER B. TEXAS GAMING COMMISSION

Sec. 2004.051. TEXAS GAMING COMMISSION. (a) Provides that the commission is composed of five members appointed as provided by Section 47a, Article III, Texas Constitution.

(b) Requires the appointing authorities, in making appointments to the commission, to attempt to achieve representation of all the population groups of this state.

Sec. 2004.052. QUALIFICATIONS OF COMMISSION MEMBERS. (a) Sets forth certain qualifications of an individual to be eligible for appointment to the commission.

(b) Prohibits a person holding an elective office or an officer or official of a political party from being appointed to the commission.

Sec. 2004.053. TERM. Provides that commission members serve staggered terms of six years, with the terms of one or two members, as applicable, expiring on January 1 of each even-numbered year.

Sec. 2004.054. PRESIDING OFFICER. Requires the governor to designate one commission member to serve as the commission's presiding officer for a two-year term.

Sec. 2004.055. BOND. (a) Requires a commission member to execute a \$25,000 bond payable to the state and conditioned on the member's faithful performance of the member's duties of office before assuming said duties.

(b) Requires the bond to be approved by the governor.

(c) Requires the commission to pay the cost of the bond.

Sec. 2004.056. PROHIBITION OF CERTAIN ACTIVITIES. (a) Prohibits a commission member from using the member's official authority to affect the result of an election or nomination for public office, or to directly or indirectly coerce, attempt to coerce, command, or advise a person to pay, lend, or contribute anything of value to another person for political purpose.

(b) Prohibits a commission member or a member's spouse from soliciting or accepting employment from a license holder or a license applicant before the second anniversary of the date that the commission member's service on the commission ends.

Sec. 2004.057. REMOVAL. (a) Sets forth certain circumstances that are grounds for removal of a member from the commission.

(b) Provides that the validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) Requires the presiding officer to notify the governor and attorney general if the presiding officer has knowledge that a potential ground for removal exists.

Sec. 2004.0571. APPLICATION OF FINANCIAL DISCLOSURE LAW. Provides that a commission member, the executive director of the commission (executive director), and division directors are considered appointed officers of a major state agency for purposes of Chapter 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), Government Code.

Sec. 2004.058. PER DIEM; EXPENSES. (a) Entitles each commission member to a per diem in an amount prescribed by appropriation for each day spent in performing member's duties and reimbursement for actual and necessary expenses incurred in performing those duties.

(b) Provides that any reimbursement for expenses under this section is subject to any applicable limitation in the General Appropriations Act.

Sec. 2004.059. EXECUTIVE DIRECTOR. (a) Requires the commission to appoint an executive director to serve at the pleasure of the commission.

(b) Prohibits a person holding an elective office or an officer or official of a political party from being appointed as executive director.

(c) Requires the executive director to have five or more years of responsible administrative experience in public or business administration or to possess broad management skills.

(d) Prohibits the executive director from pursuing other business or occupation or holding any other office for profit.

(e) Requires the executive director to meet all eligibility requirements relating to commission members except the requirement for prior residency in this state.

(f) Entitles the executive director to an annual salary and other compensation specified by the commission.

(g) Prohibits the executive director, before the second anniversary of the date the director's employment by the commission ends, from acquiring a direct or indirect interest in or being employed by a person licensed in the conduct of gaming or the provision of casino services in this state.

Sec. 2004.060. OFFICES. Requires the commission to maintain its primary office in Travis County, and authorizes the commission to maintain other offices as determined necessary by the commission.

Sec. 2004.061. MEETINGS. (a) Requires the commission to meet not less than six times each calendar year.

(b) Requires the commission to meet at the call of the presiding officer or as provided by commission rule.

Sec. 2004.062. AUTHORITY TO SUE OR BE SUED. (a) Authorizes the commission to sue and be sued.

(b) Authorizes service of process in a suit against the commission to be secured by serving the executive director.

(c) Requires a suit against the commission to be brought in Travis County.

Sec. 2004.063. AUDIT. Provides that the commission's transactions are subject to audit by the state auditor under Chapter 321 (State Auditor), Government Code.

[Reserves Sections 2004.064-2004.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

Sec. 2004.101. GENERAL POWERS. (a) Requires all aspects of this chapter, including those relating to licensing, qualification, execution, and enforcement, to be administered by the executive director and the commission for the protection of the public and in the public interest.

(b) Provides that the commission or the executive director have full power and authority to hold hearings on matters before the commission, and are authorized to issue subpoenas, compel witness attendance, administer oaths, and require testimony under oath in connection to the hearings. Authorizes any process or notice relating to a hearing to be served in the manner provided for services of process and notices in civil actions. Authorizes the commission and the executive director to pay transportation and other reasonable expenses of witnesses.

(c) Authorizes the executive director and the executive director's authorized employees (authorized employees) to inspect and examine a premises where gaming is conducted, or certain equipment, supplies, and associated equipment for use in gaming; to seize, remove, and impound equipment or supplies from a premises for good cause and for the purpose of examination and inspection; and to demand access to and to take certain actions with certain records of license applicants and license holders, on the applicable premises or elsewhere as practicable and in the presence of the license holder or the license holder's agent, relating to and verifying the gross income produced by a game business and other matters affecting the enforcement of this chapter.

(d) Requires a former license holder to furnish, on demand of the executive director or authorized employees, certain documents for the purposes of conducting audits after the cessation of gaming by a license holder. Requires the former license holder to maintain all documents necessary for audits for three years after the date of the surrender or revocation of the license. Requires a former license holder who seeks judicial review of a deficiency determination or who files a petition for redetermination to maintain all certain documents until a final order is entered on the determination.

Sec. 2004.102. RULEMAKING AUTHORITY. (a) Requires the commission to adopt rules considered by the commission necessary or desirable in the public interest in carrying out the provisions of this chapter.

(b) Requires the rules to set out certain information, procedures, fees, requirements, definitions, and criteria.

Sec. 2004.103. AUTHORITY OF EXECUTIVE DIRECTOR. (a) Authorizes the executive director, with commission approval, to create executive positions as the director considers necessary to implement this chapter.

(b) Requires the executive director to employ division directors in the areas of audit, investigation, and enforcement. Requires the director of the audit division to be a certified public accountant, to have five or more years of progressively responsible experience in general accounting, and to have a comprehensive knowledge of the principles and practices of corporate finance, or to possess qualifications of an expert in the field of corporate finance and certain fields relating to this position.

(b-1) Requires other division directors to possess five or more years of training and experience in the fields of investigation, law enforcement, law, or gaming.

(c) Authorizes the executive director to investigate a suspected criminal violation of this chapter for the purposes of prosecution. Authorizes the executive director and employees designated by the executive director to be commissioned as peace officers for the purpose of the administration and enforcement of this chapter.

(d) Authorizes the executive director to take certain administrative and legal actions that the executive director considers necessary to further the objectives and purposes of this chapter.

Sec. 2004.104. OFFICE OF HEARING EXAMINERS. (a) Requires the commission to create an office of hearing examiners (office) to assist the commission in carrying out its powers and duties.

(b) Requires the office to hold hearings under the commission's authority on matters relating to the commission's administration of this chapter, as the commission orders, and to report after hearing in the manner prescribed by the commission.

(c) Requires the commission to refer any contested case arising under this chapter to the office.

(d) Provides that the office is independent of the executive director and is under the commission's exclusive control.

(e) Provides that the office is under the direction of a chief hearing examiner (chief examiner) appointed by the commission.

(f) Authorizes the commission to authorize the chief examiner to delegate to one or more hearing examiners the authority to hold any hearing called by the chief examiner.

(g) Requires the chief examiner and all assistant hearing examiners employed by the office (assistant examiners) to be attorneys licensed to practice law in this state.

(h) Authorizes the chief examiner and assistant examiners to administer oaths, receive evidence, and to issue subpoenas to compel the attendance of witnesses and the production of papers and documents in all matters delegated by the commission.

(i) Entitles the chief examiner and all assistant examiners to an annual salary and other compensation specified by the commission.

(j) Authorizes the office to contract for additional services it considers necessary to carry out its powers.

Sec. 2004.105. JUDICIAL REVIEW IN CONTESTED CASES. Provides that a final ruling of the commission in a contested case is subject to judicial review under Chapter 2001 (Administrative Procedure), Government Code. Provides that judicial review is under the substantial evidence rule.

Sec. 2004.106. RECORDS. (a) Requires the executive director to maintain a file of all applications for licenses under this chapter, together with a record for all action taken with respect to those applications.

(b) Authorizes the commission and the executive director to maintain other records as considered desirable.

(c) Authorizes information made confidential under this subsection to be revealed, in whole or in part, only in the course of the necessary administration of this chapter, under Section 2004.553 or on the order of a court of competent jurisdiction, except that the executive director or the commission is authorized to disclose the information to an authorized agent of an agency of the United States, another state, or a political subdivision of this state authorized under commission rules. Authorizes the notice of the content of any information furnished or released under this subsection to be given to an affected applicant or license holder as prescribed by commission rule. Sets forth certain information that is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 2004.107. REPRESENTATION BY ATTORNEY GENERAL. (a) Requires the attorney general to represent the commission and the executive director in any proceeding to which the commission or the executive director is a party under this chapter or in any suit filed against the commission or executive director.

(b) Requires the office of the attorney general, on request, to advise the commission and the executive director in all other matters, including representing the commission when it acts in its official capacity.

[Reserves Sections 2004.108-2004.150 for expansion.]

SUBCHAPTER D. OWNER'S LICENSE.

Sec. 2004.151. OWNER'S LICENSE. (a) Authorizes the lawful conduct of gaming in a casino operating under an owner's license.

(b) Provides that it is unlawful for a person to own an equity interest in a casino conducting gaming in this state for which an owner's license is not in effect.

(c) Requires a separate owner's license to be obtained for each casino conducting gaming.

Sec. 2004.152. ALLOCATION OF OWNER'S LICENSES. (a) Requires the commission to award 12 owner's licenses to applicants for casino-anchored destination attraction development projects (projects), seven of which are to be in urban areas, allocated by population, two of which are to be on islands in the Gulf of Mexico that meet certain standards relating to tourism on January 1, 2007, and three of which are to be allocated at locations determined by the commission to achieve targeted economic development or permanent new job creation, or that are selected for other considerations determined appropriate by the commission.

(b) Prohibits the issuance of a license in a county unless the county's voters have adopted a proposition legalizing casino gaming at a local option election held under this chapter. Prohibits the issuance of more than four owner's licenses in one county. Prohibits the issuance of a license in a county or municipality in which gaming is being conducted under the federal Indian Gaming Regulatory Act as of the effective date of this chapter.

(c) Requires the commission, in allocating all licenses under this section and in addition to other suitability criteria described in this chapter, to consider the ability of the proposed casino facility to attract interstate or international tourism and to develop jobs in political subdivisions in which there has been a history of unemployment in excess of six percent for a period of three years out of the preceding five years, as determined by the commission.

(d) Provides that a casino is considered to be located in the county in which the main public entrance to the casino is located for purposes of determining the location of a casino.

(e) Prohibits a person from beneficially owning, directly or indirectly, an equity interest of more than five percent of the total equity interest in more than three owner license holders (casino owner).

(f) Prohibits a person from operating more than three casinos, either under an owner's license or under an operator's license.

(g) Prohibits the commission from awarding an owner's licenses to a person unless the owner of the proposed project meets the residence requirement under Section 47a(i), Article III, Texas Constitution.

Sec. 2004.153. APPLICATION. (a) Requires an application for an owner's license (owner application) to be made according to the commission's rules and to contain information that the commission finds necessary to determine the suitability and eligibility of the applicant, the eligibility of the proposed location, and the economic impact of the overall casino project.

(b) Requires certain information to be included on the owner application concerning the feasibility of the overall casino project in addition to any other information the commission is authorized to require.

(c) Authorizes an applicant for an owner's license to apply for more than one owner's license relating to more than one casino, but requires the applicant to submit a separate application for each casino for which an owner's license is sought.

(d) Requires an application for an owner's license to be accompanied by the nonrefundable application fee set out in Section 2004.351, Occupations Code.

Sec. 2004.154. MANDATORY REQUIREMENTS. (a) Requires an individual who holds an owner's license to be a resident of this state and to comply with the commission's residency requirements during the first two years that the individual holds that license.

(b) Provides that a company is eligible to apply for and hold an owner's license only if the company is incorporated or organized and in good standing in this state or is organized under the laws of another state of the United States and is qualified to do business in this state, and if the company complies with all the law of this state.

(c) Requires an applicant for an owner's license, in order to be eligible, to submit an application to the commission not less than 60 days after the later of the date the commissioners court of the county gives written notice to the commission under Section 2004.656 that gaming as authorized under this chapter has been legalized through a local option election or the date the commission establishes procedures for application.

(d) Prohibits an owner application from being considered filed for the purposes of this chapter if it does not include the information prescribed by Section 2004.153(b) or is not accompanied by the prescribed application fee.

Sec. 2004.155. LICENSE AWARD CONSIDERATIONS. (a) Requires the commission to determine the initial and continuing suitability of each applicant for or holder of an owner's license based on suitability criteria adopted by the commission to ensure that all casino owners are of good character, honesty, integrity and financial stability, that a casino owner has sufficient business probity, competence, and experience in gaming, and that an casino owner is otherwise qualified to be licensed.

(b) Requires the commission to give due consideration to the protection of public health, safety, morals, and general welfare of the people of this state and for the reputation of the state's gaming industry.

(c) Provides that the applicant or license holder has the burden of proving suitability to receive or hold an owner's license.

(d) Authorizes the commission, in considering the initial and continuing suitability of an applicant for or holder of an owner's license, to consider the suitability of each person holding an equity interest or creditor interest in the applicant or holder; each person holding, or proposed to receive, and operator's license, occupational license, or manufacturer's license employed by or doing business with the applicant or holder; and each affiliate of the applicant or holder.

(e) Sets forth certain conditions under which an applicant for or holder of an owner's license is prohibited from receiving or owning an owner's license.

(f) Authorizes the commission to adopt rules providing for a person's reciprocal determination of suitability to hold an owner's license based on a determination of suitability to own and operate a casino in any other jurisdiction the commission considers reasonable in light of the purpose of this chapter, or on the person's ownership of a greyhound or horse racing facility under the Texas Racing Act (Article 179e, V.T.C.S.).

Sec. 2004.156. ECONOMIC IMPACT ANALYSIS. (a) Requires the commission to consider certain factors in determining whether or, in the case of multiple applicants competing for a limited number of owner's licenses within a county, to whom to grant an owner's license. Sets forth the factors that are required to be considered.

(b) Requires the commission to require an applicant, as a condition to receiving and holding an owner's license, to commit to building a casino project that meets the requirements for a casino-anchored destination attraction development project established under Section 47a(g), Article III, Texas Constitution, to ensure that a requisite level of economic development accompanies each casino for which an owner's license is granted.

Sec. 2004.157. PROOF OF LOCAL OPTION ELECTION. Prohibits the commission from accepting an owner application relating to a proposed casino before receiving certification from the commissioners court of the county of the casino's intended location that gaming has been legalized through a local option election.

Sec. 2004.158. REVIEW OF APPLICATION. (a) Requires the commission to issue an order approving or denying an owner application within six months after the date of the filing of the application.

(b) Authorizes the commission to adopt rules for the awarding of temporary or interim licensing that the commission finds necessary to administer this chapter.

Sec. 2004.159. TRANSFERABILITY. Provides that an owner's license is not transferable and applies only to the specific site identified in the license.

Sec. 2004.160. DENIAL AND REVOCATION. (a) Authorizes the commission to deny an application or to revoke an owner's license for a reasonable cause.

(b) Requires the commission, on determination of reasonable grounds to believe that a casino owner may be unsuitable to continue holding that license, to conduct an investigation and hearing under Section 2004.551, and authorizes the commission to suspend, limit, or revoke the license based on that determination. Requires the license holder to immediately cease all gaming on suspension or revocation of the owner's license.

(c) Provides that a license granted by the commission is forfeited if the casino owner fails to begin construction of a casino within one year after the receipt of the owner's license, or fails to begin gaming operations within three years after

receipt of the license, unless the commission has previously granted an appropriate extension of time for good cause.

(d) Provides that the right to receive and hold an owner's license is a revocable privilege, and not a right or property under the United States Constitution or the Texas Constitution. Provides that an applicant for or holder of an owner's license does not have a vested interest or right in a license granted under this chapter.

Sec. 2004.161. REGISTRATION OF INTEREST IN LICENSE. (a) Requires a person who directly or indirectly owns an interest in an applicant for or owner of an owner's license to register and qualify with the commission under the commission's rules, and to provide information the commission finds necessary to determine the suitability and eligibility of the person to retain the interest, except as provided by Subsection (b).

(b) Sets forth certain persons who are not required to register or qualify under this section.

(c) Requires a registration filed under this section to be accompanied by the application fee set out in Section 2004.351.

Sec. 2004.162. TRANSFERABILITY OF INTEREST. (a) Prohibits a casino owner from issuing an interest to a person without the commission's determination of the qualification of the proposed subscriber or purchaser to hold the interest (qualification), except as provided by this subsection. Authorizes a casino owner that is a publicly held company to issue equity or creditor interests of five percent or less of its interest to any person without the commission's consent.

(b) Prohibits a person beneficially owning more than five percent of the equity or creditor interest of an owner license holder from transferring any portion of that interest to any person without the commission's determination of that person's qualification.

(c) Requires a subscriber or proposed transferee of an interest by a casino owner to provide the commission with information considered necessary for the commission's determination of qualification. Requires the commission, within 60 days after the date of the application, to issue the commission's determination of qualification and to approve or deny the issuance or transfer.

Sec. 2004.163. DETERMINATION OF QUALIFICATION. (a) Requires the commission to determine the qualification of a person to acquire or continue to hold an interest in an applicant for or holder of an owner's license based on the commission's adopted qualification requirements for the protection of the public interest to ensure that the persons holding securities issued by licensed holders meet certain standards in order to hold the interest.

(b) Provides that the burden of proving qualification is on the person acquiring or holding the interest.

(c) Provides that a person is unsuitable to acquire or retain an interest in an applicant for or holder of an owner's license if the person would be unsuitable to receive an owner's license under Section 2004.155(e).

(d) Requires the commission to conduct an investigation and hearing under Section 2004.551, upon the commission's belief that reasonable grounds for the disqualification of a person from holding an interest in an applicant for or holder of an owner's license to retain said interest exists, and authorizes the commission to issue an unsuitability finding and divestiture order to the holder of the interest and the issuer of the interest upon the commission's determination. Requires the person holding the interest, on receipt of a divestiture order, to tender its entire interest for purchase to the issuer or a third part on terms approved by the commission.

(e) Prohibits the person subject to an unsuitability finding and a divestiture order from receiving certain distributions of any kind relating to the security that is subject of the order, either directly or indirectly, or from exercising any voting power or other right with respect to the security to which the order relates, either directly or indirectly.

(f) Authorizes a person subject to a divestiture order to receive payment for the sale of the person's interest on terms approved by the commission.

[Reserves Sections 2004.164-2004.200 for expansion.]

SUBCHAPTER E. OPERATOR'S AND OCCUPATIONAL LICENSES

Sec. 2004.201. OPERATOR'S LICENSE. (a) Prohibits a person from providing services as a casino operator without holding an operator's license.

(b) Requires a casino operator to hold a separate license for each casino operated by the casino operator unless the operator is also the owner of the premises and holds an owner's license for those premises.

Sec. 2004.202. OCCUPATIONAL LICENSE. (a) Prohibits a person from being employed as a gaming employee without holding an occupational license.

(b) Provides that a holder of an owner's or operator's license is not required to obtain an occupational license to provide services as a gaming employee in the casino to which the license relates.

(c) Requires an owner to have at least one occupational license holder designated as a key employee having responsibility over all gaming activities who is available at the casino at all times when gaming is conducted on the casino owner's premises.

(d) Requires a gaming employee designated or determined to be a key employee by the commission to be issued an occupational license designated as a key employee occupational license. Provides that the commission is not restricted by the title of the job performed by the employee in determining whether than employee is a key employee, but authorizes the commission to consider the functions and responsibilities of the employee in making decisions.

(e) Requires a person employed as a gaming employee to obtain an occupational license designated as a support occupational license. Prohibits a person required to hold a support occupational license from being a gaming employee or from assisting the owner or operator license holder until the employee obtains a support occupational license. Provides that a person licensed as a key employee is not required to obtain a support occupational license.

Sec. 2004.203. APPLICATION. (a) Requires an application for an operator's or occupational license to be made according to the commission's rules and to contain information that the commission finds necessary to determine the suitability and eligibility of the applicant to function as a casino operator or to be employed and retained as a gaming employee.

(b) Requires an application for an operator's or occupational license to be accompanied by the required application fee.

(c) Authorizes the commission to issue a temporary operator's or occupational license.

Sec. 2004.204. RESIDENCY. Provides that a person is eligible to apply for and hold an operator's or occupational license without regarding to the applicant's residency.

Sec. 2004.205. DETERMINATION OF SUITABILITY. (a) Requires the commission to determine the suitability of an applicant for or holder of an operator's or occupational license based on the commission's adopted suitability criteria in order to ensure that a license holder maintains certain attributes that qualifies the person for a license.

(b) Provides that the burden of proving suitability under this subsection is on the applicant or license holder.

(c) Requires the commission, in considering the suitability of a company applying for or holding an operator's or occupational license, to consider the suitability of each principal manager and each holder of an interest of the company to individually receive and hold an occupational license based on the general suitability standards that apply to license applicants.

(d) Prohibits a person from being found suitable to receive or hold an operator's or occupational license if that person would be found unsuitable to hold an owner's license under Section 2004.155(e), except that an applicant who has been convicted of a felony is authorized to be found suitable if the person is found to be adequately rehabilitated under the commission's adopted rehabilitation requirements and is otherwise suitable for licensing.

Sec. 2004.206. DENIAL OR REVOCATION OF LICENSE. (a) Authorizes the commission to deny an application or to revoke an owner's license for a reasonable cause.

(b) Requires the commission, on determination of reasonable grounds to believe that an license holder may be unsuitable to continue holding that license, giving consideration to the protection of the health, safety, morals, and general welfare of this state, to conduct an investigation and hearing under Section 2004.551, and authorizes the commission to suspend, limit, or revoke the license based on that determination.

(c) Requires the license holder to cease the provision of all services in any capacity requiring an operator's or occupational license on the suspension or revocation of that license.

(d) Prohibits the holder of a revoked or suspended occupational license from receiving certain types of payment relating to conduct of gaming in any capacity requiring an operator's or occupational license, other than the payment for services rendered before the suspension or revocation, or from serving or functioning in a capacity that would require an operator's or occupational license.

(e) Provides that the receipt and holding of a license is a privilege, and not a right or property under the United States Constitution or the Texas Constitution. Provides that an applicant for or holder of an owner's license does not have a vested interest or right in a license granted under this chapter.

[Reserves Sections 2004.207-2004.250 for expansion.]

SUBCHAPTER F. MANUFACTURER'S AND OTHER SERVICE PROVIDERS' LICENSES

Sec. 2004.251. MANUFACTURER'S LICENSE. (a) Prohibits a person from engaging in any segment of the slot machine manufacturing industry (manufacturing segment) in this state for which a manufacturer's license is required without obtaining said license for the appropriate segment of the industry.

(b) Requires the commission to adopt rules identifying certain manufacturing segments in the creation of a slot machine as the commission finds appropriate for licensing under this section.

(c) Provides that a manufacturer's license is personal to the license holder and authorizes the license holder to conduct business with any casino.

Sec. 2004.252. CASINO SERVICE LICENSE. (a) Prohibits a person from engaging in any segment of the casino service industry (industry segment) that requires a casino service license without obtaining said license.

(b) Requires the commission to adopt rules identifying certain industry segments that the commission finds appropriate for licensing under this section.

(c) Requires a person who operates, conducts, or maintains a gaming-related business in a casino, or who furnishes goods, property, or services to the casino in exchange for certain kinds of payment, to obtain a casino service license.

(d) Provides that a utility company, a municipality, or another political subdivision is not required to obtain a casino service license under this section.

(e) Provides that a casino service license is personal to the license holder and authorizes the license holder to conduct business with any casino.

Sec. 2004.253. APPLICATION. (a) Requires an application for a manufacturer's or casino service license to be made in compliance with commission rules and to contain information deemed necessary by the commission to determine the suitability and eligibility of the applicant.

(b) Requires an application for a manufacturer's or casino service license to be accompanied by the required application fee.

Sec. 2004.254. DETERMINATION OF SUITABILITY. (a) Requires the commission to determine the suitability of a company applying for or holding a manufacturer's or casino services license based on the suitability of each principal manager and each holder of an interest of the company to individually receive and hold a manufacturer's or casino services license. Prohibits a person from being found suitable to receive or hold a manufacturer's or casino services license if that person would be found unsuitable to hold an owner's license under Section 2004.155(e).

(b) Requires the commission, on determination of reasonable grounds to believe that a license holder may be unsuitable to continue holding a manufacturer's or casino services license, to conduct an investigation and hearing under Section 2004.551, and authorizes the commission to suspend, limit, or revoke the license based on that determination.

(c) Requires the license holder to cease the provision of all actions or services in any capacity requiring a manufacturer's or casino service license on the suspension or revocation of that license. Prohibits the affected license holder from directly or indirectly receiving payment of any kind relating to actions or services that require the suspended or revoked license, other than for the payment for goods and services provided before the suspension or revocation.

(d) Authorizes an owner or casino operator who has entered into a lease contract with the holder of a suspended or revoked manufacturer's or casino services license to continue to make payments on the lease without modification or to accelerate the lease and pay it off, at the sole option of the owner or operator.

(e) Provides that the burden of proving suitability under this subsection is on the applicant or license holder.

[Reserves Section 2004.255-2004.300 for expansion.]

SUBCHAPTER G. LICENSE RENEWAL

Sec. 2004.201. TERMS; RENEWAL; TEMPORARY LICENSE. (a) Authorizes the commission to issue a temporary license for six months or less and to renew that license as many times as deemed appropriate on the payment of the fee and the execution of the bond, if required, before the issuance of a license.

(b) Authorizes the commission to issue a temporary license only to a person the commission believes will be determined to be qualified based on certain reviews and determinations.

(c) Provides that an original or renewal license expires one year after the license is issued.

(d) Provides that the fees for certain casino-related licenses are in the amounts established by Section 2004.352 and are to be paid annually. Authorizes a license holder to renew an unexpired license annually by meeting the commission's licensing requirements and by paying the annual fee.

[Reserves Section 2004.302-2004.350 for expansion.]

SUBCHAPTER H. APPLICATION AND LICENSE FEES

Sec. 2004.351. APPLICATION FEES. (a) Requires an applicant for an owner's license submitted before January 1, 2010, to pay a \$250,000 application fee for each application. Requires that the fee be deposited in the Texas casino gambling fund and that it is used for the commission's timely mobilization.

(b) Provides that an application fee tendered before January 1, 2008, does not have to accompany an application. Requires an application submitted before January 1, 2010, to be filed on a date determined by commission rule.

(c) Requires an owner application fee paid before January 1, 2008, to be accompanied by a document indicating the name of the applicant or the applicant's affiliate or partner and the name of the county in which the proposed casino is to be located.

(d) Prohibits an applicant submitting an application before January 1, 2010, from applying for an owner's license unless the application fee was paid during the period set in this section. Requires an applicant seeking more than one license in a county, or the applicant's affiliates or partners, who submits an application before January 1, 2010, to file an application fee for each license holder in that county that the applicant is seeking.

(e) Authorizes the commission to accept applications for a site in the county that passed the local option election from persons who filed applications for other sites in the county where the local option election failed, and to apply the applicant's initial application fee to the new site, notwithstanding Subsections (a) through (d) and provided that certain scenarios arise.

(f) Requires an applicant for an owner's license who submits an application on or after January 1, 2010, to pay an application fee of \$100,000.

(g) Requires an applicant for a manufacturer's license to pay an application fee of \$200,000.

(h) Requires an applicant for an operator's license to pay an application fee of \$50,000.

(i) Requires an applicant for a casino service license to pay an application fee of \$100.

(j) Requires a person registering and applying to qualify to hold an interest in a license holder to pay an application fee of \$100.

(k) Requires an applicant for an occupational license to pay an application fee of \$100.

(l) Requires all application fees to be in the form of a money order or cashier's check and to be made payable to the Texas Gaming Commission. Provides that application fees are nonrefundable.

(m) Requires application fees to be applied towards the cost of investigating applicants' suitability for licensing or qualification under this chapter. Requires the applicant to pay all investigation costs exceeding the amount of the application fee.

Sec. 2004.352. LICENSE FEES. (a) Requires a holder of an owner's license to pay an annual license fee of \$100,000.

(b) Requires a holder of a manufacturer's license to pay an annual license fee of \$100,000.

(c) Requires a holder of an operator's license to pay an annual license fee of \$50,000.

(d) Requires a holder of a casino service license to pay an annual license fee of \$100.

(e) Requires a holder of interest in a license holder that is required to qualify with the commission to pay an annual fee of \$100.

(f) Requires a holder of an occupational license to pay an annual license fee of \$100.

[Reserves Sections 2004.353-2004.400 for expansion.]

SUBCHAPTER I. CASINO GAMING FUND

Sec. 2004.401. TEXAS CASINO GAMING FUND. (a) Provides that the casino gaming fund (fund) is a special fund in the state treasury.

(b) Provides that certain casino-related fees generated under this chapter (casino fees) collected by or on behalf of the commission are to be deposited in the fund.

(c) Authorizes the use of the fund only for the commission's operation and administration of this chapter. Authorizes the transfer of funds in excess of the costs of the commission's operation and administration by the legislature to the general revenue fund.

(d) Requires the commission's operation and administration of this chapter to be supported by casino fees and by a portion of gaming taxes imposed by Section 2004.451, Occupations Code. Prohibits the commission's operation from ever being a charge against the state's general revenues except to the extent those revenues are raised by gaming-related taxes or fees.

[Reserves Sections 2004.402-2004.450 for expansion.]

SUBCHAPTER J. TAX ON GROSS GAMING REVENUE

Sec. 2004.451. GAMING TAX; ALLOCATION OF TAX. (a) Provides that there is imposed on each casino owner a gaming tax (tax) of 15 percent the gross gaming revenue

of the casino operated under the license. Requires the tax to be computed and paid on a monthly basis as required by commission rule.

(b) Provides that five-sixths of the tax revenue is allocated to the general revenue fund, except as provided by Subsection (d).

(c) Provides that two-thirds and one-third of the remaining one-sixth of the tax revenue are to be allocated to the municipality and county, respectively, in which the licensed casino is located, or the remaining one-sixth of the tax revenue is to be allocated to the county in which the licensed casino is located if the casino is located in an unincorporated area.

(d) Provides that, of the tax revenue directed to the general revenue fund, one-tenth is to be appropriated solely to the Department of State Health Services (DSHS) for the DSHS' compulsive gambling program under Section 461.018 (Compulsive Gambling Program), Health and Safety Code, a certain amount as determined by the commission in consultation with the Texas Racing Commission regarding certain horse race purses, and \$200,000 to be appropriated solely to the Department of Public Safety towards the prosecution of offenses related to the possession of gambling devices.

(e) Requires an initial mobilization payment of \$200,000 from the tax revenues to DSHS toward the mobilization of a program dedicated to compulsive gambling resolution.

(f) Provides that the taxes imposed by this section in a given month are due and payable within the first 20 days of the following month.

(g) Requires the commission to assess and collect the additional gaming taxes determined to be due with interest until paid or to refund any overpayment, with interest, to the license holder, if the amount reported and paid is determined by the commission to be greater or lesser than the amount required to be reported and paid by the license holder.

(h) Requires the computation of interest, until paid, at the rate of one percent per month from the first month following either the due date of the additional taxes or the date of overpayment.

Sec. 2004.452. DETERMINATION OF GROSS GAMING REVENUE. (a) Prohibits the deduction of certain items redeemable for money, merchandise, or other promotional allowance, with certain exceptions, from gross gaming revenue as a loss at any game except a slot machine.

(b) Authorizes the deduction as a loss of the actual cost to the license holder of any personal property distributed to a patron as a result of a legitimate wager, but prohibits the deduction of certain other benefits offered to the patron in calculating gross gaming revenue from slot machines. Defines "as the result of a legitimate wager."

(c) Prohibits the deduction of cash or the value of noncash prizes awarded to patrons in a contest or tournament as losses for the purposes of determining gross gaming revenue.

Sec. 2004.453. REFUND OF OVERPAYMENT. (a) Authorizes gaming taxes that are erroneously collected to be refunded, on approval of the commission and as other claims against the state are paid.

(b) Authorizes the claimant to bring an action against the commission on the grounds stated in the refund claim (grounds for refund) filed under this chapter in any court of competent jurisdiction for the recovery of any part of the disallowed claim within 90 days of the mailing date of the commission's disallowance.

(c) Provides that the failure to bring an action within the time specified by Subsection (b) constitutes a waiver of any demand against the state on account of alleged overpayments.

(d) Authorizes the claimant, if the commission fails to mail its notice of action on a claim within six months after the date the claim is filed, to consider the claim disallowed and to bring an action on grounds for refund.

(e) Authorizes interest on a granted refund at the rates provided in Section 111.064 (Interest on Refund or Credit), Tax Code.

(f) Requires a claim for refund of taxes paid in excess amount required to be reported and paid to be filed within two years of the date of overpayment.

Sec. 2004.454. DETERMINATION OF DEFICIENCY. (a) Authorizes an executive director to compute and determine the amount of taxes required to be paid by a casino owner on the basis of certain methods if the casino owner fails to make a report on taxes as required by this chapter or if the executive director is not satisfied with the report on taxes provided by the casino owner.

(b) Authorizes the commission to offset overpayments and interest due against underpayments and interest or penalties due for the period of the audit in making a determination of deficiency (determination).

(c) Requires the executive director to give prompt written notice of a determination (determination notice) to the casino owner. Requires the determination notice to be mailed within two years after a certain date relating to the date the deficiency occurred or within two years after the report is filed by the casino owner, whichever is later.

(d) Requires the executive director to include an explanation of reasons that are not apparent in the determination notice.

(e) Requires the excess of overpayments of interest against underpayments, penalties, and interest to be refunded to the casino owner.

Sec. 2004.455. PETITION FOR REVIEW. (a) Authorizes an owner license holder against whom a determination is made to petition the commission for a redetermination (petition) not later than the 30th day after the date of the service of the determination notice. Provides that if a petition is not filed within said time period, the determination becomes final.

(b) Requires the commission to reconsider the determination if the petition is filed within the 30-day period and to grant a hearing if the petitioner requests.

(c) Requires a petition to contain certain information and be accompanied by payment in full of the uncontested portion of the determination, including any interest and penalties.

(d) Provides that the commission's order or decision on a petition is final 10 days after the date of service on the petitioner.

(e) Authorizes a petitioner against whom the commission's order or decision becomes final to petition for judicial review in the manner provided by Chapter 2001 (Administrative Procedures), Government Code, within 60 days after the date the order or decision becomes final. Prohibits the executive director from petitioning for judicial review.

Sec. 2004.456. CERTAIN POLITICAL SUBDIVISION TAXES PROHIBITED. (a) Prohibits a county, municipality, or other political subdivision of this state from imposing

a license fee or tax on a person licensed to conduct gaming under this chapter. Provides that this section does not prohibit the imposition of generally applicable taxes or of fees for standard municipal services.

Sec. 2004.457. TAX ADMINISTRATION. (a) Requires the commission to perform certain functions in relation to a fee or tax imposed under this chapter. Authorizes the commission to adopt rules and prescribe forms for those certain functions.

(b) Provides that Subtitle B (Enforcement and Collection), Title 2, Tax Code, applies to those certain functions relating to a tax imposed under this chapter. Provides that the powers and duties assigned to the comptroller of public accounts (comptroller) under that subtitle assigned to the commission for purposes of applying that subtitle.

[Reserves Sections 2004.458-2004.500 for expansion.]

SUBCHAPTER K. REGULATION OF CASINO OPERATIONS

Sec. 2004.501. REGULATION OF CASINO OPERATIONS. (a) Requires the commission to adopt rules applicable to the operation of casinos as deemed necessary by the commission for certain civic duties.

(b) Entitles casinos to operate 24 hours a day and seven days a week. Authorizes a license holder to elect other hours of operation.

(c) Prohibits the commission from authorizing a casino to conduct wagering on the outcome of a sports event or sports activity other than greyhound or horse racing.

Sec. 2004.502. USE OF CHIPS OR TOKENS. Requires all gaming to be conducted with chips or tokens approved by the commission or with the legal tender of the United States.

Sec. 2004.503. REPORTING REQUIREMENTS. (a) Requires a casino owner to keep the license holder's books and records in a manner that clearly shows the total amount of gross gaming revenue and other revenues received (financial books and records).

(b) Provides that financial books and records are not public records and that the publication and dissemination of those materials by the commission is prohibited. Authorizes the commission to publish and disseminate gaming revenues of each casino owner at a frequency and level of detail deemed appropriate by the commission.

(c) Requires a casino owner to file a report of each change of the corporate officers and directors with the commission. Requires the commission to approve or disapprove the change within 90 days after the date of the change. Entitles the officer or director to exercise the powers of the office to which the officer or director was elected or appointed during the 90-day period.

(d) Requires a casino owner to report a change in company employees who have been designated as key employees to the executive director in writing.

(e) Authorizes the commission to require that a company furnish the commission with a copy of its federal income tax return within 30 days after the date the return is filed with the federal government.

Sec. 2004.504. EXCLUSION OF PERSONS. (a) Requires the commission by rule to establish a list of persons who are to be excluded or ejected from a casino. Authorizes this list to include a person whose presence in the establishment is determined by the commission to pose a threat to this state's interests, to licensed gaming, or to both.

(b) Authorizes the commission to consider a person's prior conviction for specific crimes or for violation of or conspiracy to violate certain provisions of this chapter in making a determination under this section.

Sec. 2004.505. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) Requires an owner license holder to adopt an internal control system (system) that provides for the safeguarding of the casino's assets and revenues, especially the recording of cash and evidences of indebtedness, and the provision of certain items relating to the tracking of the casino's operations to the executive director and the commission.

(b) Requires the system to be designed to reasonably ensure the completion of certain tasks. Sets forth those certain tasks.

(c) Requires an owner license holder and an applicant for an owner's license to describe administrative and accounting procedures in detail in a written system of internal control and in a manner approved or required by the executive director. Requires an owner and an applicant for an owner's license to submit a copy of this written system to the executive director. Sets forth required provisions for the written system.

(d) Requires the commission to adopt minimum standards for internal control procedures.

Sec. 2004.506. AGE REQUIREMENTS. Prohibits a person under the age of 21 from engaging in certain actions of gaming personally or through an agent or from being employed as a gaming employee.

Sec. 2004.507. ACCEPTANCE OF NEGOTIABLE INSTRUMENTS. (a) Authorizes the enforcement by legal process of a negotiable instrument evidencing gaming transactions (instrument).

(b) Authorizes a license holder to accept an incomplete instrument that is signed by the patron and states the amount of debt. Authorizes the license holder to complete the instrument as is necessary for the instrument's presentation for payment.

(c) Prohibits a license holder from accepting an incomplete instrument, except as provided by Subsection (b), authorizes the license holder to accept an instrument payable to an affiliate or to complete an instrument in the name of the affiliate as payee if the instrument otherwise complies with this section and the affiliate's records pertaining to the instrument are made available to the executive director on request.

(d) Provides that this section does not prohibit the establishment of an account by cash deposit, recognized traveler's check, or any other instrument equivalent to cash.

(e) Provides that any person who violates this section is subject only to the penalties provided in this chapter relating to disciplinary actions. Provides that the failure of a person to comply with this section or commission rules does not invalidate an instrument, or the ability to enforce the instrument, or the transaction that the instrument represents.

Sec. 2004.508. GAMING DEBTS. (a) Provides that gaming debts not evidenced by an instrument are void, unenforceable, and do not give rise to any administrative or civil cause of action, except as otherwise provided by this chapter.

(b) Authorizes the executive director to resolve a patron's claim of a license holder for payment of a gaming debt that is not evidenced by an instrument.

(c) Requires the executive director to send a copy of the director's ruling by first class mail to the party's attorneys of record or directly to the party if the party is without attorneys, and is required to keep appropriate record of the mailing.

(d) Provides that a party or attorney of record notified by mail under this section is presumed to have been notified on the date on which the notice is mailed.

(e) Entitles a party aggrieved by the executive director's ruling to file a written complaint with the commission challenging the ruling within 20 days of the date of notification of the ruling and to have the claim resolved by the commission in a contested case.

Sec. 2004.509. QUESTIONING AND DETENTION OF PERSONS. (a) Authorizes an owner license holder or certain persons in the owner's employ (representatives) to question any person on the owner's premises suspected of violating this chapter. Provides that the owner or certain persons in the owner's employ are not criminally or civilly liable as a result of questioning or for reporting the person suspected of the violation to the executive director or law enforcement authorities.

(b) Authorizes the owner or the owner's representative, who has reasonable cause to believe that a person violated this chapter in the owner's establishment, to take the person into custody and detain the person in the establishment in reasonable manner and duration. Provides that the taking of this person into custody and detention does not render the owner or the owner's representative criminally or civilly liable unless it is established by clear and convincing evidence that circumstances did not provide for reasonable custody and detention.

(c) Provides that an owner or the owner's representative is not entitled to immunity from liability provided in Subsection (a) or (b) unless a clearly legible notice in bold-faced type relating to the owner's or the owner's representative's authority under this section to detain a person believed to have violated this chapter. Sets forth the substantial language of this notice.

[Reserves Sections 2004.510-2004.550 for expansion.]

SUBCHAPTER L. ENFORCEMENT

Sec. 2004.551. ENFORCEMENT. (a) Sets forth certain actions and conditions for which the executive director is required to conduct an appropriate investigation.

(b) Requires the executive director, after certain findings after an investigation, to initiate a hearing by filing a complaint with the commission, transmit a summary of evidence that bears on the matter, and the transcript of testimony at an investigative hearing conducted by or on behalf of the executive director regarding the license holder. Requires the complaint to be a written statement of charges required to set forth in ordinary and concise language the acts or omission with which the respondent is charged. Requires the complaint to specify the rule or statute allegedly violated by the respondent. Requires a complaint to contain factual allegations and prohibits the inclusion of charges raised on the language of the statute or rule. Requires the executive director to serve a copy of the complaint on the respondent on filing of the complaint.

(c) Requires the respondent to answer not later than 30 days of the date of service of the complaint, except as provided by Section 2004.455, Occupations Code.

(d) Requires the commission, on receipt of the executive director's complaint, to review all matter presented in support and to appoint a hearing examiner to conduct further proceedings.

(e) Requires the hearing examiner to conduct proceedings under Chapter 2001, Government Code. Authorizes the hearing examiner to recommend that the commission take any certain actions after the proceedings.

(f) Requires the commission to review the recommendation. Authorizes the commission to remand the case to the hearing examiner for the presentation of additional evidence on a showing of good cause regarding the omission of that evidence in the previous hearing.

(g) Requires the commission to accept, reject, or modify the recommendation.

(h) Requires the commission to issue its written order upon the taking of certain actions with respect to a license holder's license.

(i) Provides that certain actions taken on the hearing examiner's recommendation are effective until reversed following judicial review, except that the commission is authorized to stay its order pending a rehearing or judicial review on terms and conditions considered proper by the commission.

(j) Authorizes the judicial review of an order or decision of the commission under Chapter 2001, Government Code. Provides that judicial review is under the substantial evidence rule.

Sec. 2004.552. PRIVILEGED DOCUMENTS. (a) Provides that a communication or document of an applicant or license holder that is required by law, commission rule, or by a subpoena issued by the commission, and that is resultantly made or transmitted to the commission or executive director, is privileged and does not impose liability for defamation or constitute a ground for recovery in a civil action by a person other than the commission.

(b) Provides that a document or communication that contains privileged information and is disclosed to the commission or executive director does not constitute a waiver of that privilege due to the disclosure.

(c) Provides that certain requirements and prohibitions stand notwithstanding the powers granted to the commission and the executive director by this chapter. Prohibits the executive director and the commission from releasing or disclosing certain privileged information required by a lawful court order and after timely notice of the proceedings have been given to the applicant or license holder providing the privileged information without that applicant's or license holder's written consent. Requires the commission and the executive director to maintain all privileged information in a secure place accessible only to commission members and the executive director. Requires the commission to adopt procedures to protect privileged information provided by an applicant or license holder.

Sec. 2004.553. RELEASE OF CONFIDENTIAL INFORMATION. Requires the application for a court order requiring the commission or the executive director to release any information declared by law to be confidential to be made only on a motion delivered in writing within ten days before the date of the application to the commission, the attorney general, and all persons affected by the order. Requires the serving of copies of the motion and all papers filed in support with the notice delivered to the person.

Sec. 2004.554. EMERGENCY ORDERS. (a) Authorizes the commission to issue an emergency order to suspend, limit, or condition a license or work permit, or to issue an emergency order requiring a casino to ban an individual license holder from the gaming establishment's premises or to not pay the license holder any remuneration for profits, income, or accruals on the license holder's investment in the casino.

(b) Sets forth certain conditions only under which the commission is authorized to issue an emergency order.

(c) Requires the emergency order to state the grounds on which it is issued, including a statement of facts constituting the alleged emergency necessitating the action.

(d) Authorizes the issuance of an emergency order only with the approval of and under signature of four or more commission members.

(e) Provides that an emergency order is effective immediately on issuance and service on the license holder, gaming employee, or the entity involved and the entity's resident agent in cases involving registration or findings of suitability. Authorizes an emergency order to take certain actions in relation to the license of one or more persons in an operation without affecting other individual license holders or the casino. Provides that an emergency order remains effective until further order of the commission of final disposition of the case.

(f) Requires the executive director to file a complaint and to serve it on the person or entity involved within five days after the date of issuance of an emergency order. Entitles the person against whom the emergency order has been issued and served to a hearing before the commission and to judicial review of the decision and order of the commission under Chapter 2001, Government Code. Provides that judicial review is under the substantial evidence rule.

[Reserves Sections 2004.555-2004.600 for expansion.]

SUBCHAPTER M. PENALTIES AND OFFENSES

Sec. 2004.601. FAILURE TO PAY FEES. (a) Requires certain fees required by this chapter to be paid to the commission on or before the dates provided by law for each fee.

(b) Requires a person who fails to pay a fee or tax in a timely manner to pay the greater penalty of either an amount not less than \$50 or 25 percent of the amount due. Prohibits the penalty from exceeding \$1,000 if the fee or tax is less than 10 days late and from exceeding \$5,000 under any circumstances. Requires the penalty to be collected as other charges, license fees, and penalties are collected under this chapter.

Sec. 2004.602. FAILURE TO REPORT, PAY, OR ACCOUNT FOR FEE OR TAX. (a) Provides that a person commits an offense by willfully failing to report, pay, or truthfully account for a fee or tax imposed under this chapter or by willfully attempting to evade or defeat a fee or tax in any manner.

(b) Provides that an offense under this section is a Class A misdemeanor.

Sec. 2004.603. GAMING FRAUD. (a) Sets forth certain actions by which a person commits the offense of gaming fraud by knowingly taking such actions.

(b) Provides that an offense under this section is a third degree felony.

Sec. 2004.604. USE OF PROHIBITED DEVICES. (a) Provides that a person commits an offense by using, or possessing in certain ways with the intent to use, a device other than those customarily used while gaming for certain activities that constitute cheating.

(b) Provides that an offense under this section is a third degree felony.

Sec. 2004.605. USE OF COUNTERFEIT OR UNAUTHORIZED TOKEN, CHIP, OR COIN. (a) Provides that a person commits an offense by knowingly using counterfeit chips or tokens in a gambling game.

(b) Provides that a person commits an offense by knowingly using a chip, token, or coin approved by appropriate entities, using a coin that is not of the same

denomination as the coin intended to be used in that gambling game, or using any device or means to violate the provisions of this chapter, while playing any gambling game designed to otherwise require said chips, tokens, or coins.

(c) Provides that a person, other than an authorized employee of an owner acting in the employee's provided capacity, commits an offense if the person knowingly possesses in certain ways a device intended to be used to violate this chapter.

(d) Provides that a person, other than an authorized employee of an owner acting in the employee's provided capacity, commits an offense if the person knowingly possesses in certain ways a key or device designed to affect the operation of or for removing money or other contents from certain gaming objects.

(e) Provides that a person commits an offense possesses paraphernalia for manufacturing slugs for unauthorized use in gaming devices. Defines "paraphernalia for manufacturing slugs."

(f) Provides that possession of more than one of certain items described in these sections permits a rebuttable inference that the possessor intended to use those objects for cheating.

(g) Provides that an offense under this section is a third degree felony.

Sec. 2004.606. CHEATING. (a) Provides that a person commits an offense by knowingly cheating at any gambling game.

(b) Provides that an offense under this section is a state jail felony.

Sec. 2004.607. POSSESSION OF UNLAWFUL DEVICE. (a) Provides that a person commits an offense by knowingly possessing any slot machine or other gaming device that has been manufactured, sold, or distributed in violation of this chapter.

(b) Provides that an offense under this section is a Class A misdemeanor.

Sec. 2004.608. UNLAWFUL MANUFACTURE, SALE OR DISTRIBUTION OF GAMING EQUIPMENT. (a) Provides that a person commits an offense by manufacturing, selling, or distributing certain casino-related equipment intended to be used to violate this chapter.

(b) Provides that a person commits an offense by modifying any associated equipment or gaming device in a manner that affects the result of a wager by determining win or loss or that alters the normal criteria of random selection to affect the operation of a game or to determine the outcome of a game.

(c) Provides that a person commits an offense by instructing another person in cheating or the use of a device for cheating at any gambling game authorized at a casino with the knowledge or intent that the information or use may be employed to violate this chapter.

(d) Provides that an offense under this section is a third degree felony.

Sec. 2004.609. REPORTING PENALTIES. (a) Provides that a person commits an offense by knowingly making a false or misleading statement or entry into or by knowingly failing to take the required action of maintaining or making entries into certain casino-related documents.

(b) Provides that a person commits an offense by knowingly refusing to produce certain casino-related documents for inspection by the executive director.

(c) Provides that an offense under this section is a Class A misdemeanor.

Sec. 2004.610. GAMING BY MINORS. (a) Provides that a person commits an offense by knowingly permitting an individual under 21 years of age to participate in gaming at a casino.

(b) Provides that an individual younger than 21 years of age commits an offense by participating in gaming at a casino.

(c) Provides that an offense under this section is a Class C misdemeanor.

Sec. 2004.611. GENERAL PENALTY. (a) Provides that a person who knowingly or willfully violates, attempts to violate, or conspires to violate a provision of this chapter specifying a prohibited act commits an offense.

(b) An offense under this section is a Class C misdemeanor unless another penalty is specified for the offense.

[Reserves Sections 2004.612-2004.650 for expansion.]

SUBCHAPTER N. LOCAL OPTION ELECTIONS

Sec. 2004.651. ORDERING LOCAL OPTION ELECTION. Authorizes the commissioners court of a county to order an election at any time to authorize casino gaming under this chapter in that county. Prohibits an election from being held before the date of the election at which the constitutional amendment authorizing limited casino gaming is submitted to the voters. Authorizes the election to be held on the same day as the election for the constitutional amendment. Requires the commissioners court to order and hold an election to legalize gaming under this chapter in the county upon presentation of a petition that meets the requirements of Section 2004.652, Occupations Code, and is certified as valid under Section 2004.653, Occupations Code.

Sec. 2004.652. PETITION REQUIREMENTS. (a) Requires a petition for a legalization election (legalization petition) to include a statement relating to the petition's purpose. Sets forth the substantial language of that statement.

(b) Provides that a legalization petition is only valid if it is signed by at least three percent of the total number of votes cast by qualified, registered voters of the county in the most recent gubernatorial election.

(c) Requires each voter to enter the date along with the voter's signature on the petition. Prohibits a signature from being counted if it is made more than 90 days before the date the legalization petition is submitted to the commissioners court. Authorizes the affixation of a signature to a legalization petition before November 6, 2007. Prohibits a legalization petition from being presented to a county's governing body before November 6, 2007.

(d) Requires each voter to provide certain information relating to the voter on the legalization petition.

Sec. 2004.653. VERIFICATION. (a) Requires the commissioners court to submit the legalization petition within five days of receipt to the county clerk for verification.

(b) Requires the county clerk to determine whether the legalization petition is signed by the required number of registered voters of the county. Requires the clerk to certify in writing to the commissioners court whether the petition is valid or invalid within 30 days after the date the petition is submitted. Requires the clerk to state the reasons behind a determination of invalidity for a legalization petition.

Sec. 2004.654. ORDERING ELECTION. Requires the commissioners court, within 30 days after the date the county clerk certifies a legalization petition, to order an election be held in the county on the next uniform election date under Section 41.001 (Uniform

Election Dates), Election Code, that allows sufficient time to comply with applicable provisions of law, including Section 3.005 (Time for Ordering Election), Election Code. Requires the commissioners court to state in the order the issue to be voted on. Requires the county clerk to notify the commission through certified mail, return receipt requested, that an election has been ordered.

Sec. 2004.655. **BALLOT PROPOSITION.** Requires the printing of a ballot in a legalization election to provide for voting for or against legalization of casino gaming within the given county.

Sec. 2004.656. **ELECTION RESULTS.** (a) Authorizes casino gaming authorized under this chapter in the county in which a majority of the votes cast favor the legalization of casino gambling effective on the 10th day after the date of the election.

(b) Requires the commissioners court of a county in which a legalization election has been held to give written notice of the election's results to the commission not later than the third day after the date the election is canvassed.

(c) Provides that casino gambling is not permitted in a county in which less than the majority of the votes cast favor the legislation of casino gambling. Prohibits a subsequent election on the issue in the county before the corresponding uniform election date one year after the date of the election.

(d) Provides that casino gambling is not permitted in a county in which less than the majority of the votes cast favor the legislation of casino gambling in two consecutive legalization elections. Prohibits a subsequent election on the issue in the county before the corresponding uniform election date five years after the date of the election.

SECTION 2. Amends Section 47.02(c), Penal Code, to include the situation in which an actor reasonably believed that the actor's conduct consisted entirely of participation in authorized games in a casino licensed under Chapter 2004, Occupations Code, under the list of potential defenses to prosecution under Section 47.02 (Gambling), Penal Code.

SECTION 3. Amends Section 47.06(f), Penal Code, to provide that it is a defense to prosecution under Sections 47.06(a) and (c), in relation to the unlawful possession of gambling devices, equipment, or paraphernalia, if said items were possessed for the sole purpose of shipping those items to a casino licensed for casino gaming under Chapter 2004, Occupations Code.

SECTION 4. Amends Section 47.09(a), Penal Code, to include conduct that is authorized under Chapter 2004, Occupations Code, as a defense to prosecution under Chapter 47 (Gambling), Penal Code.

SECTION 5. Amends Subchapter H, Chapter 151, Tax Code, by adding Section 151.356, as follows:

Sec. 151.356. **ELECTRONIC AND ELECTROMECHANICAL GAMING DEVICES.** Provides that an electronic or electromechanical gaming device permitted under Chapter 2004, Occupations Code, is exempt from the tax imposed by and from other provisions of Chapter 151 (Limited Sales, Use, and Excise Tax), Tax Code.

SECTION 6. Amends Article 6, Texas Racing Act (Article 179e, V.T.C.S), by adding Section 6.095, as follows:

Sec. 6.095. **SPECIAL ALLOCATION TO PURSES.** (a) Requires the Texas Racing Commission to administer a purse fund consisting of money transferred to the fund from the gaming tax under Section 2004.451(d)(2), Occupations Code.

(b) Requires the Texas Racing Commission to determine the average purse in each state that permits pari-mutuel wagering on horse races for each type of horse race conducted at a licensed racetrack in this state.

(c) Requires the Texas Racing Commission to distribute money from the purse fund to licensed horse racetracks in this state as necessary to supplement the purse for each race so that the resulting purse is greater than the average purse for similar races in any other state.

SECTION 7. Provides that all funds in the Texas casino gaming fund are appropriated to the commission for the operation and commission and the administration of Chapter 2004, Occupations Code, as added by this Act, for the biennium ending August 31, 2009.

SECTION 8. Requires the initial members of the commission to be appointed as provided by Section 47a, Article III, Texas Constitution, not later than January 1, 2008. Sets forth the structure by which the terms of the initial members are to be staggered.

SECTION 9. (a) Effective date of Subchapter N, Chapter 2004, Occupations Code: September 1, 2007.

(b) Effective date of the rest of this Act: upon passage, contingent upon approval by the voters of the constitutional amendment relating to the authorization of the legislature to authorize the operation of limited casino gaming, creating the Texas Gaming Commission, and authorizing the operation of video lottery games.