

BILL ANALYSIS

C.S.H.B. 2081

By: Isett

Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1986, the Legislature passed the Texas Racing Act, allowing pari-mutuel wagering on horse and greyhound races and creating the Texas Racing Commission to oversee the racing industry. The Commission's mission is to protect the health, safety, and welfare of race animals and race participants, as well as to safeguard the interests of the betting public. To regulate the industry, the Commission's authority spans from licensing racetrack employees, to overseeing live racing events, and monitoring and certifying wagering transactions.

The Racing Commission is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The Sunset review found that the Racing Commission needs additional regulatory tools to help oversee today's declining racing industry and adapt to any future changes.

Created by the Legislature in 1991, the Equine Research Account Advisory Committee recommends funding for equine research projects using a portion of the wagers placed on Texas horse races and collected through the Equine Research Account. The Committee consists of 11 members, including representatives from various agricultural colleges in Texas and members of the horse breeding and racing industries. The Director of Texas AgriLife Research, however, has the ultimate authority to grant research funds from the Account. For the past two sessions, the Legislature has not appropriated research funds from the Account. However, Texas AgriLife chose to fund grants recommended by the Committee.

The Committee is subject to the Sunset Act and the Sunset Commission found that the Committee struggles with funding issues and administrative overhead challenges, has a limited ability to fund long-term projects, and cannot provide clear outcomes for grants it has awarded.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Racing Commission in SECTION 6, SECTION 8, SECTION 9, and SECTION 12 of this bill.

ANALYSIS

SECTION 1. Amends Section 2.071, Texas Racing Act to update standard language developed by the Sunset Commission prohibiting a person from serving as a Commission member or high-level agency employee if the person, or their spouse, is an officer, employee, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding.

SECTION 2. Amends Article 2, Texas Racing Act to add Section 2.25 to add standard language developed by the Sunset Commission requiring the Racing Commission to make effective use of technology in its delivery of services and provision of information to the public.

SECTION 3. Amends Article 2, Texas Racing Act to add Section 2.26 to add standard language developed by the Sunset Commission requiring the Racing Commission to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.

SECTION 4. Amends Section 3.07 (e), Texas Racing Act to eliminate uncashed winning tickets as a source of agency revenue. The amounts available from this source has decreased significantly in recent years and is difficult to accurately project.

SECTION 5. Amends Sections 5.03 (a) and (c), Texas Racing Act to add language relating to the Commission's license renewal program for racetracks.

SECTION 6. Amends Article 6, Texas Racing Act to add Section 6.032 to authorize the Commission to require a racetrack license holder to post security at any time. The bill authorizes the Commission to determine the amount of security required in rule. The bill also provides methods for posting security,

including cash, cashier's check, and surety bonds, and provides for return of security after conditions are met.

SECTION 7. Amends Section 6.04, Texas Racing Act to remove the word 'bond' from the title of this Section.

SECTION 8. Amends Article 6, Texas Racing Act to add Section 6.0601 to require the Commission to establish a review and renewal process, by rule, for all licensed racetracks. The bill requires the Commission to review active racetrack licenses no less than every five years and to annually review all inactive racetrack licenses. The bill requires the Commission to consider the license holder's financial stability and other factors considered in the issuance of an original license. The bill authorizes the Commission to refuse to renew or revoke a racetrack license if, after notice and hearing, the Commission finds that the license holder has violated the Act or Commission rule. The Commission is authorized to set a fee to cover the cost of administering the renewal program.

SECTION 9. Amends Article 6, Texas Racing Act to add Section 6.0602 to require the Commission to develop procedures, by rule, for disciplinary action against a racetrack license holder. The bill authorizes the Commission to revoke, suspend, or refuse to renew a racetrack license if the Commission finds that the racetrack is ineligible for a license during the renewal or review process. The Commission may also impose an administrative penalty or take another action provided in rule.

SECTION 10. Amends Section 6.18, Texas Racing Act to rename the title of this Section.

SECTION 11. Amends Section 6.18 (b), Texas Racing Act to authorize the Commission to charge a fee for the racetrack license renewal and review program.

SECTION 12. Amends Section 7.01, Texas Racing Act to require the Commission to license only those occupations directly involved with pari-mutuel racing. The bill requires the Commission, by rule, to categorize racetrack occupations that afford the employee an opportunity to influence racing with pari-mutuel wagering. The bill also requires racetracks to be responsible for ensuring that employees no longer licensed as a result of this provision continue to comply with the Texas Racing Act and Commission rules. The bill authorizes the Commission to take enforcement action against a racetrack for violations of the Act or rule by its employees.

SECTION 13. Amends Section 7.07 (a), Texas Racing Act and adds Subsection (a-1) to require the Commission to obtain criminal history checks on each licensure applicant during the renewal process. An occupational license may only be renewed if the criminal history check results in satisfactory information. Clarifies that the Commission must obtain criminal history record information on each license holder at least once every 36 months.

SECTION 14. Amends Section 11.01 (a), Texas Racing Act and adds Subsection (a-1) to clarify that all unlicensed entities are prohibited from accepting wagers placed by Texas residents.

SECTION 15. Amends Section 11.04 (a), Texas Racing Act to clarify that all unlicensed entities are prohibited from accepting wagers placed by Texas residents. The bill also amends Section 11.04 (c), Texas Racing Act to eliminate the current statutory limitation, which prevents track patrons from withdrawing more than \$200 from a checking account.

SECTION 16. Amends Section 11.05, Texas Racing Act to clarify that all unlicensed entities are prohibited from accepting wagers placed by Texas residents.

SECTION 17. Amends Section 18.01 (a), Texas Racing Act to continue the Commission for six years.

SECTION 18. Amends Section 88.521 (2), Education Code to make a conforming change to reflect the renaming of the Texas Agricultural Experiment Station as Texas AgriLife Research.

SECTION 19. Amends Section 88.522 (b), Education Code to make a conforming change to rename the Texas Agricultural Experiment Station as Texas AgriLife Research. The bill also amends Sections 88.522 (f) and (g) to remove references to the Equine Research Account Advisory Committee.

SECTION 20. Amends Section 88.525, Education Code to add Subsection (a-1) and (b-1) to require the Director of Texas AgriLife Research to comply with Texas A&M University System's conflict-of-interest provisions when awarding equine research grants. The bill also removes the requirement that all equine research grant proposals be reviewed by a peer review committee and instead authorizes the Executive Director to use subject matter experts as necessary to evaluate proposals. The bill also authorizes the Executive Director to award grant proposals using money from other sources of funding for equine research.

SECTION 21. Amends Section 88.526 (a), Education Code to require the Executive Director of Texas AgriLife Research to distribute an annual report on equine research to members of the Texas horse racing industry and removes a reference to the Committee.

SECTION 22. Amends Section 88.527, Education Code to make a conforming change to rename the Texas Agricultural Experiment Station as Texas AgriLife Research. The bill also requires the Executive Director of Texas AgriLife Research to provide a copy of the annual report on equine research available at the annual conference on equine research.

SECTION 23. Repeals Section 2.072 from the Texas Racing Act to remove repetitive language that provides lobbyist restrictions. Repeals Section 6.04 (b) from the Texas Racing Act to remove repetitive language that refers to the Commission's former bond requirements. Repeals Section 6.06 (k) from the Texas Racing Act to remove obsolete language referring to the Commission's former license review process. Repeals Section 6.18 (a) from the Texas Racing Act to remove language defining a racetrack license as issued in perpetuity. Repeals Section 7.02 (a) from the Texas Racing Act to remove repetitive language referring to occupational licensing requirements.

SECTION 24 Repeals Section 88.521 (1) from the Education Code to remove the definition for the Equine Research Account Advisory Committee. Repeals Section 88.523 from the Education Code to remove statutory language defining the Committee's responsibilities. Repeals Section 88.5231 from the Education Code to remove obsolete language defining standards of conduct for Committee members. Repeals Section 88.5232 from the Education Code to remove obsolete language providing for the removal of a Committee member. Repeals Section 88.524 from the Education Code to remove obsolete language requiring the Committee to operate under Open Meetings Act requirements. Repeals Section 88.5245 from the Education Code to remove obsolete language requiring the Committee to provide an opportunity for members of the public to appear before the Committee. Repeals Section 88.525 (c) from the Education Code to remove obsolete language requiring the Director of Texas AgriLife to consult with the Committee before awarding grant funds.

SECTION 25. Requires the Racing Commission, by January 1, 2010, to determine the expiration date of each license under the renewal program and requires the Commission to complete a review of each inactive racetrack by September 1, 2010. The bill also requires the Commission to conduct a review of each racetrack license issued on or after January 1, 2007, by the later of September 1, 2011 or the second anniversary of the date of issuance. C.S.H.B. 2801 authorizes the Commission to adjust license renewal and review fees to recover money lost from the elimination of uncashed winning tickets as a source of revenue. The bill provides that the Executive Director of Texas AgriLife Research submit a report on equine research to the Texas Racing Commission as soon as practicable.

The bill repeals the following statutory provisions

- Texas Racing Act, '2.072
- Texas Racing Act, '6.04 (b)
- Texas Racing Act, '6.06 (k)
- Texas Racing Act, '6.18 (a)
- Texas Racing Act, '7.02 (a)
- Education Code, '88.521 (1)
- Education Code, '88.523
- Education Code, '88.5231
- Education Code, '88.5232
- Education Code, '88.524
- Education Code, '88.5245
- Education Code, '88.525 (c)

EFFECTIVE DATE

September 1, 2009

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 8. C.S.H.B. 2081 modifies the original bill to clarify that, in reviewing a racetrack or in determining whether to renew a racetrack license, the Commission shall consider other factors considered in the issuance of the original license, instead of the term "initial license" provided in the original bill. The substitute also modifies the original bill to clarify that the Commission may refuse to renew or revoke a racetrack license if, after notice and hearing, the Commission finds that the license holder has violated

the Act or Commission rule. The original bill provided the term “applicant” instead of “license holder” in this subsection.

SECTION 13. C.S.H.B. 2081 modifies the original bill to clarify that the Commission shall ensure that criminal history record information is obtained on each license holder at least once every 36 months.