

By: Isett

H.B. No. 2081

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas Racing
3 Commission, the abolishment of the Equine Research Account Advisory
4 Committee, and the authority of Texas AgriLife Research.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 2.071, Texas Racing Act (Article 179e,
7 Vernon's Texas Civil Statutes), is amended to read as follows:

8 Sec. 2.071. CONFLICT OF INTEREST. (a) A person may not be
9 a member of the commission and may not be a commission employee
10 employed in a "bona fide executive, administrative, or professional
11 capacity," as that phrase is used for purposes of establishing an
12 exemption to the overtime provisions of the federal Fair Labor
13 Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

14 (1) the person is an [An] officer, employee, or paid
15 consultant of a Texas trade association in the field of horse or
16 greyhound racing or breeding; or

17 (2) the person's [may not be a member of the commission
18 or an employee of the commission who is exempt from the state's
19 position classification plan or is compensated at or above the
20 amount prescribed by the General Appropriations Act for step 1,
21 salary group 17, of the position classification salary schedule.

22 ~~[(b) A person who is the]~~ spouse is ~~[of]~~ an officer,
23 manager, or paid consultant of a Texas trade association in the
24 field of horse or greyhound racing or breeding ~~[may not be a member~~

1 ~~of the commission and may not be an employee of the commission who~~
2 ~~is exempt from the state's position classification plan or is~~
3 ~~compensated at or above the amount prescribed by the General~~
4 ~~Appropriations Act for step 1, salary group 17, of the position~~
5 ~~classification salary schedule].~~

6 (b) A person may not be a member of the commission or act as
7 the general counsel to the commission if the person is required to
8 register as a lobbyist under Chapter 305, Government Code, because
9 of the person's activities for compensation on behalf of a
10 profession related to the operation of the commission.

11 (c) In [~~For the purposes of~~] this section, "Texas trade
12 association" means [~~a Texas trade association is~~] a cooperative and
13 voluntarily joined statewide [~~nonprofit~~] association of business
14 or professional competitors in this state designed to assist its
15 members and its industry or profession in dealing with mutual
16 business or professional problems and in promoting their common
17 interest.

18 SECTION 2. Article 2, Texas Racing Act (Article 179e,
19 Vernon's Texas Civil Statutes), is amended by adding Section 2.25
20 to read as follows:

21 Sec. 2.25. USE OF TECHNOLOGY. The commission shall
22 implement a policy requiring the commission to use appropriate
23 technological solutions to improve the commission's ability to
24 perform its functions. The policy must ensure that the public is
25 able to interact with the commission on the Internet.

26 SECTION 3. Article 2, Texas Racing Act (Article 179e,
27 Vernon's Texas Civil Statutes), is amended by adding Section 2.26

1 to read as follows:

2 Sec. 2.26. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
3 RESOLUTION PROCEDURES. (a) The commission shall develop and
4 implement a policy to encourage the use of:

5 (1) negotiated rulemaking procedures under Chapter
6 2008, Government Code, for the adoption of commission rules; and

7 (2) appropriate alternative dispute resolution
8 procedures under Chapter 2009, Government Code, to assist in the
9 resolution of internal and external disputes under the commission's
10 jurisdiction.

11 (b) The commission's procedures relating to alternative
12 dispute resolution shall conform, to the extent possible, to any
13 model guidelines issued by the State Office of Administrative
14 Hearings for the use of alternative dispute resolution by state
15 agencies.

16 (c) The commission shall designate a trained person to:

17 (1) coordinate the implementation of the policy
18 adopted under Subsection (a) of this section;

19 (2) serve as a resource for any training needed to
20 implement the procedures for negotiated rulemaking or alternative
21 dispute resolution; and

22 (3) collect data concerning the effectiveness of those
23 procedures, as implemented by the commission.

24 SECTION 4. Section 3.07(e), Texas Racing Act (Article 179e,
25 Vernon's Texas Civil Statutes), is amended to read as follows:

26 (e) To pay the charges associated with the medication or
27 drug testing, an association may use the money held by the

1 association to pay outstanding tickets and pari-mutuel vouchers.
2 If additional amounts are needed to pay the charges, the
3 association shall pay those additional amounts. [~~If the amount
4 held exceeds the amount needed to pay the charges, the association
5 shall pay the excess to the commission in accordance with Section
6 11.08 of this Act.~~]

7 SECTION 5. Sections 5.03(a) and (c), Texas Racing Act
8 (Article 179e, Vernon's Texas Civil Statutes), are amended to read
9 as follows:

10 (a) An applicant for any license or license renewal under
11 this Act must, except as allowed under Section 7.10 of this Act,
12 submit to the commission a complete set of fingerprints of the
13 individual natural person applying for the license or license
14 renewal or, if the applicant is not an individual natural person, a
15 complete set of fingerprints of each officer or director and of each
16 person owning an interest of at least five percent in the applicant.
17 The Department of Public Safety may request any person owning any
18 interest in an applicant for a racetrack license to submit a
19 complete set of fingerprints.

20 (c) A peace officer of this or any other state, or any
21 district office of the commission, shall take the fingerprints of
22 an applicant for a license or license renewal on forms approved and
23 furnished by the Department of Public Safety and shall immediately
24 deliver them to the commission.

25 SECTION 6. Article 6, Texas Racing Act (Article 179e,
26 Vernon's Texas Civil Statutes), is amended by adding Section 6.032
27 to read as follows:

1 Sec. 6.032. BOND. (a) The commission may require a holder
2 of a racetrack license or an applicant for a racetrack license to
3 post security in an amount determined by commission rule to
4 adequately ensure the license holder's or applicant's compliance
5 with this Act and commission rules.

6 (b) Cash, cashier's checks, surety bonds, irrevocable bank
7 letters of credit, United States Treasury bonds that are readily
8 convertible to cash, or irrevocable assignments of federally
9 insured deposits in banks, savings and loan institutions, and
10 credit unions are acceptable as security for purposes of this
11 section. The security must be:

12 (1) conditioned on compliance with this Act and
13 commission rules adopted under this Act; and

14 (2) returned after the conditions of the security are
15 met.

16 SECTION 7. The heading to Section 6.04, Texas Racing Act
17 (Article 179e, Vernon's Texas Civil Statutes), is amended to read
18 as follows:

19 Sec. 6.04. ISSUANCE OF LICENSE [~~+~~ BOND].

20 SECTION 8. Article 6, Texas Racing Act (Article 179e,
21 Vernon's Texas Civil Statutes), is amended by adding Section 6.0601
22 to read as follows:

23 Sec. 6.0601. LICENSE REVIEW AND RENEWAL; FEES. (a) The
24 commission by rule shall establish a renewal and review process for
25 racetrack licenses issued under this article.

26 (b) The commission shall review each racetrack license
27 designated by the commission as active not less than once every five

1 years, except as otherwise provided by this section.

2 (c) The commission shall annually review a racetrack
3 license designated by the commission as inactive.

4 (d) The commission by rule may adopt a system under which
5 racetrack licenses expire on various dates in a year or in various
6 years. For the year in which the license expiration date is
7 changed, license fees shall be prorated on a monthly basis so that
8 each license holder pays only that portion of the license fee
9 allocable to the number of months during which the license is valid.
10 On renewal of the license on the new expiration date, the total
11 license renewal fee is payable.

12 (e) The commission may require a license holder who is
13 renewing a racetrack license or who is subject to commission review
14 of the racetrack license to provide any information that would be
15 required to be provided in connection with an original license
16 application under this Act.

17 (f) In reviewing a racetrack license or in determining
18 whether to renew a racetrack license, the commission shall
19 consider:

20 (1) the license holder's financial stability and
21 ability to conduct live racing events; and

22 (2) other factors considered in the issuance of the
23 initial license.

24 (g) The commission may refuse to renew a racetrack license
25 or may revoke a license if, after notice and a hearing, the
26 commission determines under Subsection (f) of this section that
27 allowing the license holder to hold the racetrack license is not in

1 the best interests of the racing industry or the public.

2 (h) The commission may refuse to renew a racetrack license
3 or may revoke a license if, after notice and hearing, the commission
4 finds that the applicant has violated this Act or a commission rule.

5 (i) The commission shall set and collect renewal and review
6 fees in amounts reasonable and necessary to cover the costs of
7 administering and enforcing this Act.

8 (j) The commission shall consult with members of the racing
9 industry and other key stakeholders in developing the racetrack
10 license renewal and review process under this section.

11 SECTION 9. Article 6, Texas Racing Act (Article 179e,
12 Vernon's Texas Civil Statutes), is amended by adding Section 6.0602
13 to read as follows:

14 Sec. 6.0602. DISCIPLINARY ACTION. (a) The commission by
15 rule shall establish procedures for disciplinary action against a
16 racetrack license holder.

17 (b) If, after notice and hearing, the commission finds that
18 a racetrack license holder or a person employed by the racetrack has
19 violated this Act or a commission rule or if the commission finds
20 during a review or renewal that the racetrack is ineligible for a
21 license under this article, the commission may:

22 (1) revoke, suspend, or refuse to renew the racetrack
23 license;

24 (2) impose an administrative penalty as provided under
25 Section 15.03 of this Act; or

26 (3) take any other action as provided by commission
27 rule.

1 SECTION 10. The heading to Section 6.18, Texas Racing Act
2 (Article 179e, Vernon's Texas Civil Statutes), is amended to read
3 as follows:

4 Sec. 6.18. ANNUAL FEE FOR RACETRACK [~~TERM OF~~] LICENSE [~~+~~
5 ~~RESTRICTIONS ON RACETRACKS~~].

6 SECTION 11. Section 6.18(b), Texas Racing Act (Article
7 179e, Vernon's Texas Civil Statutes), is amended to read as
8 follows:

9 (b) The commission may prescribe a reasonable annual fee to
10 be paid by each racetrack licensee. The fee must be in an amount
11 sufficient to provide that the total amount of fees imposed under
12 this section, together with the license fees prescribed under
13 Section 5.01(b) of this Act and the renewal and review fees
14 prescribed under Section 6.0601(i) of this Act, is sufficient to
15 pay the costs of administering and enforcing this Act.

16 SECTION 12. Section 7.01, Texas Racing Act (Article 179e,
17 Vernon's Texas Civil Statutes), is amended to read as follows:

18 Sec. 7.01. LICENSE REQUIRED. (a) Except as provided by
19 this section, a [A] person may not participate in racing with
20 pari-mutuel wagering other than as a spectator or as a person
21 placing a wager without first obtaining a license from the
22 commission. A person may not engage in any occupation for which
23 commission rules require a license under this Act without first
24 obtaining a license from the commission.

25 (b) The commission by rule shall categorize the occupations
26 of racetrack employees and determine the occupations that afford
27 the employee an opportunity to influence racing with pari-mutuel

1 wagering. The rules must require the following employees to be
2 licensed under this Act:

3 (1) an employee who works in an occupation determined
4 by the commission to afford the employee an opportunity to
5 influence racing with pari-mutuel wagering; or

6 (2) an employee who will likely have significant
7 access to the backside of a racetrack or to restricted areas of the
8 frontside of a racetrack.

9 (c) A racetrack licensed under this Act is responsible for
10 ensuring that its employees comply with this Act and commission
11 rules. The commission may impose disciplinary action against a
12 licensed racetrack for violations of this Act and commission rules
13 by its employees as provided by Section 6.0602 of this article.

14 SECTION 13. Section 7.07, Texas Racing Act (Article 179e,
15 Vernon's Texas Civil Statutes), is amended by amending Subsection
16 (a) and adding Subsection (a-1) to read as follows:

17 (a) A license issued under this article is valid for a
18 period set by the commission not to exceed 36 months following the
19 date of its issuance. It is renewable on application, satisfactory
20 results of a criminal history information record check, and payment
21 of the fee in accordance with the rules of the commission.

22 (a-1) The commission shall obtain criminal history record
23 information on each applicant renewing an occupational license
24 under this article.

25 SECTION 14. Section 11.01, Texas Racing Act (Article 179e,
26 Vernon's Texas Civil Statutes), is amended by amending Subsection
27 (a) and adding Subsection (a-1) to read as follows:

1 (a) The commission shall adopt rules to regulate wagering on
2 greyhound races and horse races under the system known as
3 pari-mutuel wagering. Wagering may be conducted only by an
4 association within its enclosure. A person may not accept, in
5 person, by telephone, or over the Internet, a wager for a horse race
6 or greyhound race conducted inside or outside this state from a
7 person in this state unless the wager is authorized under this Act.

8 (a-1) The commission may commission as many investigators
9 as the commission determines necessary to enforce this Act and the
10 rules of the commission. Each investigator shall take the
11 constitutional oath of office and file it with the commission. Each
12 commissioned investigator has the powers of a peace officer.

13 SECTION 15. Sections 11.04(a) and (c), Texas Racing Act
14 (Article 179e, Vernon's Texas Civil Statutes), are amended to read
15 as follows:

16 (a) Only a person inside the enclosure where both live and
17 simulcast race meetings are authorized may wager on the result of a
18 live or simulcast race presented by the association in accordance
19 with commission rules. Except as provided by this section, a person
20 may not place, in person, by telephone, or over the Internet, a
21 wager for a horse race or greyhound race conducted inside or outside
22 this state. The commission shall adopt rules to prohibit wagering
23 by employees of the commission and to regulate wagering by persons
24 licensed under this Act.

25 (c) The commission shall adopt rules prohibiting an
26 association from accepting a wager made on credit and shall adopt
27 rules providing for the use of automatic banking machines within

1 the enclosure. The commission shall limit the use of an automatic
2 banking machine to [+

3 [~~(1)~~] allow a person to have access to only the
4 person's checking account at a bank or other financial
5 institution[~~, and~~

6 [~~(2) deliver no more than \$200~~].

7 SECTION 16. Section 11.05, Texas Racing Act (Article 179e,
8 Vernon's Texas Civil Statutes), is amended to read as follows:

9 Sec. 11.05. UNLAWFUL WAGERING. A person shall not wager on
10 the result of a greyhound race or horse race in this state except as
11 permitted by this Act. A person who is not an association under
12 this Act may not accept from a Texas resident while the resident is
13 in this state a wager on the result of a greyhound race or horse race
14 conducted inside or outside this state.

15 SECTION 17. Section 18.01(a), Texas Racing Act (Article
16 179e, Vernon's Texas Civil Statutes), is amended to read as
17 follows:

18 (a) The Texas Racing Commission is subject to Chapter 325,
19 Government Code (Texas Sunset Act). Unless continued in existence
20 as provided by that chapter, and except as provided by Subsections
21 (b) and (c) of this section, the commission is abolished and this
22 Act expires September 1, 2015 [~~2009~~].

23 SECTION 18. Section 88.521(2), Education Code, is amended
24 to read as follows:

25 (2) "Director" means the executive director of Texas
26 AgriLife Research, formerly known as the Texas Agricultural
27 Experiment Station.

1 SECTION 19. Sections 88.522(b), (f), and (g), Education
2 Code, are amended to read as follows:

3 (b) The director shall administer the account through
4 established procedures of Texas AgriLife Research, formerly known
5 as the Texas Agricultural Experiment Station.

6 (f) Not more than 10 percent of the account may be spent each
7 year on the cost incurred in the operation or administration of the
8 ~~[advisory committee or]~~ account.

9 (g) All money received by ~~[the advisory committee or]~~ the
10 account under this chapter is subject to Subchapter F, Chapter 404,
11 Government Code.

12 SECTION 20. Section 88.525, Education Code, is amended by
13 adding Subsections (a-1) and (b-1) and amending Subsection (b) to
14 read as follows:

15 (a-1) In awarding grants under this section, the director
16 shall comply with the conflict of interest provisions of The Texas
17 A&M University System.

18 (b) The ~~[With the advice of the advisory committee, the]~~
19 director shall develop annually a request for proposals for equine
20 research grants. Each proposal received may ~~[must]~~ be evaluated by
21 a peer review committee appointed by the director and subject
22 matter experts as necessary to evaluate the proposal. The peer
23 review committee shall consider the applicant's research capacity
24 and the relevance and scientific merit of the proposal and make
25 recommendations to the director.

26 (b-1) The director may award a grant to an applicant who
27 proposes to commingle grant money awarded under this section with

1 other sources of funding or proposes to conduct research that
2 includes equine research.

3 SECTION 21. Section 88.526(a), Education Code, is amended
4 to read as follows:

5 (a) The director shall prepare an annual report on equine
6 research funded under this subchapter. The director shall
7 distribute the report to the Texas Racing Commission and ~~[the]~~
8 members of the Texas horse racing industry ~~[advisory committee]~~.
9 The director shall make copies of the report available to
10 interested parties.

11 SECTION 22. Section 88.527, Education Code, is amended to
12 read as follows:

13 Sec. 88.527. CONFERENCE. Texas AgriLife Research ~~[The~~
14 ~~Texas Agricultural Extension Service]~~ shall conduct an annual
15 conference on equine research. Money from the equine research
16 account shall be used to defray the costs of the conference. The
17 conference must be designed to bring to the attention of the Texas
18 horse racing industry the latest research results and technological
19 developments in equine research. The director shall make the
20 report created under Section 88.526 available at the conference.

21 SECTION 23. The following sections of the Texas Racing Act
22 (Article 179e, Vernon's Texas Civil Statutes) are repealed:

- 23 (1) Section 2.072;
- 24 (2) Section 6.04(b);
- 25 (3) Section 6.06(k);
- 26 (4) Section 6.18(a); and
- 27 (5) Section 7.02(a).

1 SECTION 24. The following sections of the Education Code
2 are repealed:

- 3 (1) Section 88.521(1);
- 4 (2) Section 88.523;
- 5 (3) Section 88.5231;
- 6 (4) Section 88.5232;
- 7 (5) Section 88.524;
- 8 (6) Section 88.5245; and
- 9 (7) Section 88.525(c).

10 SECTION 25. (a) Not later than January 1, 2010, the Texas
11 Racing Commission shall determine the expiration date of each
12 license issued under the Texas Racing Act (Article 179e, Vernon's
13 Texas Civil Statutes).

14 (b) Not later than September 1, 2010, the Texas Racing
15 Commission shall complete a review of each inactive racetrack
16 license as required by Section 6.0601, Texas Racing Act (Article
17 179e, Vernon's Texas Civil Statutes), as added by this Act.

18 (c) Notwithstanding Section 6.0601, Texas Racing Act
19 (Article 179e, Vernon's Texas Civil Statutes), as added by this
20 Act, the Texas Racing Commission shall conduct the initial review
21 of a racetrack license issued on or after January 1, 2007, by the
22 later of September 1, 2011, or the second anniversary of the date of
23 issuance.

24 (d) The Texas Racing Commission may adjust license renewal
25 and review fees pursuant to the commission's authority to adjust
26 fees under Section 5.01, Texas Racing Act (Article 179e, Vernon's
27 Texas Civil Statutes), and Section 6.0601, Texas Racing Act

1 (Article 179e, Vernon's Texas Civil Statutes), as added by this
2 Act, to recover any money lost by the change in law made by this Act
3 to Section 3.07(e), Texas Racing Act (Article 179e, Vernon's Texas
4 Civil Statutes).

5 (e) As soon as practicable, the executive director of Texas
6 AgriLife Research shall submit a report to the Texas Racing
7 Commission as required by Section 88.526, Education Code, as
8 amended by this Act.

9 SECTION 26. This Act takes effect September 1, 2009.