

By: Hinojosa, Hegar

S.B. No. 659

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Racing Commission, the abolishment of the Equine Research Account Advisory Committee, and the authority of Texas AgriLife Research; providing an administrative penalty.

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

SECTION 1. Section 1.03, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (80) and (81) to read as follows:

(80) "Active license" means a racetrack license designated by the commission as active.

(81) "Inactive license" means a racetrack license designated by the commission as inactive.

SECTION 2. Section 2.071, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

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

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

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

6           ~~[(b) A person who is the] spouse is [of] an officer,~~  
7 ~~manager, or paid consultant of a Texas trade association in the~~  
8 ~~field of horse or greyhound racing or breeding [may not be a member~~  
9 ~~of the commission and may not be an employee of the commission who~~  
10 ~~is exempt from the state's position classification plan or is~~  
11 ~~compensated at or above the amount prescribed by the General~~  
12 ~~Appropriations Act for step 1, salary group 17, of the position~~  
13 ~~classification salary schedule].~~

14           **(b) A person may not be a member of the commission or act as**  
15 **the general counsel to the commission if the person is required to**  
16 **register as a lobbyist under Chapter 305, Government Code, because**  
17 **of the person's activities for compensation on behalf of a**  
18 **profession related to the operation of the commission.**

19           **(c) In [For the purposes of] this section, "Texas trade**  
20 **association" means [a Texas trade association is] a cooperative and**  
21 **voluntarily joined statewide [nonprofit] association of business**  
22 **or professional competitors in this state designed to assist its**  
23 **members and its industry or profession in dealing with mutual**  
24 **business or professional problems and in promoting their common**  
25 **interest.**

26           SECTION 3. Article 2, Texas Racing Act (Article 179e,  
27 Vernon's Texas Civil Statutes), is amended by adding Section 2.25

to read as follows:

Sec. 2.25. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE  
RESOLUTION PROCEDURES. (a) The commission shall develop and  
implement a policy to encourage the use of:

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

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

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

(c) The commission shall:

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

(2) provide training as needed to implement the  
procedures for negotiated rulemaking or alternative dispute  
resolution; and

(3) collect data concerning the effectiveness of those  
procedures.

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

(e) To pay the charges associated with the medication or  
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 at any time may  
2 require a holder of a racetrack license or an applicant for a  
3 racetrack license to post security in an amount determined by  
4 commission rule to adequately ensure the license holder's or  
5 applicant's compliance 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. Section 6.06(k), Texas Racing Act (Article 179e,  
21 Vernon's Texas Civil Statutes), is amended to read as follows:

22       (k) The commission shall review the ownership and  
23 management of an active [~~a~~] license issued under this article every  
24 five years beginning on the fifth anniversary of the issuance of the  
25 license. In performing the review, the commission may require the  
26 license holder to provide any information that would be required to  
27 be provided in connection with an original license application

under Article 5 of this Act or this article. The commission shall charge fees for the review in amounts sufficient to implement this subsection.

SECTION 9. Article 6, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Sections 6.0601, 6.0602, and 6.0603 to read as follows:

Sec. 6.0601. DESIGNATION OF ACTIVE AND INACTIVE RACETRACK LICENSES. (a) The commission shall designate each racetrack license as an active license or an inactive license. The commission may change the designation of a racetrack license as appropriate.

(b) The commission shall designate a racetrack license as an active license if the license holder:

(1) holds live racing events at the racetrack; or

(2) makes good faith efforts to conduct live racing.

(c) Before the first anniversary of the date a new racetrack license is issued, the commission shall conduct an evaluation of the license to determine whether the license is an active or inactive license.

Sec. 6.0602. RENEWAL OF INACTIVE RACETRACK LICENSE; FEES.

(a) The commission by rule shall establish an annual renewal process for inactive licenses and may require the license holder to provide any information required for an original license application under this Act. An inactive license holder must complete the annual renewal process established under this section until the commission:

(1) designates the license as an active license; or

(2) refuses to renew the license.

1        (b) In determining whether to renew an inactive license, the  
2 commission shall consider:

3            (1) the inactive license holder's:

4                    (A) financial stability;

5                    (B) ability to conduct live racing;

6                    (C) ability to construct and maintain a racetrack  
7 facility; and

8                    (D) other good faith efforts to conduct live  
9 racing; and

10           (2) other necessary factors considered in the issuance  
11 of the original license.

12        (c) The commission may refuse to renew an inactive license  
13 if, after notice and a hearing, the commission determines that:

14            (1) renewal of the license is not in the best interests  
15 of the racing industry or the public; or

16            (2) the license holder has failed to make a good faith  
17 effort to conduct live racing.

18        (d) The commission shall consult with members of the racing  
19 industry and other key stakeholders in developing the license  
20 renewal process under this section.

21        (e) The commission shall set and collect renewal fees in  
22 amounts reasonable and necessary to cover the costs of  
23 administering and enforcing this section.

24        Sec. 6.0603. DISCIPLINARY ACTION. (a) The commission by  
25 rule shall establish procedures for disciplinary action against a  
26 racetrack license holder.

27        (b) If, after notice and hearing, the commission finds that

1 a racetrack license holder or a person employed by the racetrack has  
2 violated this Act or a commission rule or if the commission finds  
3 during a review or renewal that the racetrack is ineligible for a  
4 license under this article, the commission may:

5           (1) revoke, suspend, or refuse to renew the racetrack  
6 license;

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

9           (3) take any other action as provided by commission  
10 rule.

11           SECTION 10. Section 6.08(h), Texas Racing Act (Article  
12 179e, Vernon's Texas Civil Statutes), is amended to read as  
13 follows:

14           (h) Two percent of the breakage shall be allocated to the  
15 equine research account under Subchapter F, Chapter 88 [~~51~~],  
16 Education Code. The remaining 98 percent of the breakage shall  
17 constitute "total breakage" and shall be allocated pursuant to  
18 Subsections (i) and (j) of this section.

19           SECTION 11. The heading to Section 6.18, Texas Racing Act  
20 (Article 179e, Vernon's Texas Civil Statutes), is amended to read  
21 as follows:

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

24           SECTION 12. Section 6.18(b), Texas Racing Act (Article  
25 179e, Vernon's Texas Civil Statutes), is amended to read as  
26 follows:

27           (b) The commission may prescribe a reasonable annual fee to



be paid by each racetrack licensee. The fee must be in an amount sufficient to provide that the total amount of fees imposed under this section, together with the license fees prescribed under Section 5.01(b) of this Act and the renewal fees prescribed under Section 6.0602(e) of this Act, is sufficient to pay the costs of administering and enforcing this Act.

SECTION 13. Section 7.01, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

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

(b) The commission by rule shall categorize the occupations of racetrack employees and determine the occupations that afford the employee an opportunity to influence racing with pari-mutuel wagering. The rules must require the following employees to be licensed under this Act:

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

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

(c) A racetrack licensed under this Act is responsible for

ensuring that its employees comply with this Act and commission rules. The commission may impose disciplinary action against a licensed racetrack for violations of this Act and commission rules by its employees as provided by Section 6.0603 of this Act.

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

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

(a-1) The commission shall obtain criminal history record information on each applicant renewing an occupational license under this article. The commission shall ensure that criminal history record information is obtained on each license holder at least once every 36 months.

SECTION 15. Section 11.01, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

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

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

6        SECTION 16. Section 11.04(a), Texas Racing Act (Article  
7 179e, Vernon's Texas Civil Statutes), is amended to read as  
8 follows:

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

18        SECTION 17. Section 11.05, Texas Racing Act (Article 179e,  
19 Vernon's Texas Civil Statutes), is amended to read as follows:

20        Sec. 11.05. UNLAWFUL WAGERING. A person shall not wager on  
21 the result of a greyhound race or horse race in this state except as  
22 permitted by this Act. A person who is not an association under  
23 this Act may not accept from a Texas resident while the resident is  
24 in this state a wager on the result of a greyhound race or horse race  
25 conducted inside or outside this state.

26        SECTION 18. Section 18.01(a), Texas Racing Act (Article  
27 179e, Vernon's Texas Civil Statutes), is amended to read as

1 follows:

2 (a) The Texas Racing Commission is subject to Chapter 325,  
3 Government Code (Texas Sunset Act). Unless continued in existence  
4 as provided by that chapter, and except as provided by Subsections  
5 (b) and (c) of this section, the commission is abolished and this  
6 Act expires September 1, 2017 [~~2011~~].

7 SECTION 19. Section 88.521(2), Education Code, is amended  
8 to read as follows:

9 (2) "Director" means the executive director of Texas  
10 AgriLife Research, formerly known as the Texas Agricultural  
11 Experiment Station.

12 SECTION 20. Sections 88.522(b), (c), (f), and (g),  
13 Education Code, are amended to read as follows:

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

17 (c) The comptroller shall periodically transfer the amounts  
18 specified by Sections [~~Section~~] 6.08(f) and (h), Texas Racing Act  
19 (Article 179e, Vernon's Texas Civil Statutes), to the account.

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

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

26 SECTION 21. Section 88.525, Education Code, is amended by  
27 adding Subsections (a-1) and (b-1) and amending Subsection (b) to

1 read as follows:

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

5 (b) The [~~With the advice of the advisory committee, the~~]  
6 director shall develop annually a request for proposals for equine  
7 research grants. Each proposal received may [~~must~~] be evaluated by  
8 a peer review committee appointed by the director and subject  
9 matter experts as necessary to evaluate the proposal. The peer  
10 review committee shall consider the applicant's research capacity  
11 and the relevance and scientific merit of the proposal and make  
12 recommendations to the director.

13 (b-1) The director may award a grant to an applicant who  
14 proposes to commingle grant money awarded under this section with  
15 other sources of funding or proposes to conduct research that  
16 includes equine research.

17 SECTION 22. Section 88.526(a), Education Code, is amended  
18 to read as follows:

19 (a) The director shall prepare an annual report on equine  
20 research funded under this subchapter. The director shall  
21 distribute the report to the Texas Racing Commission and [~~the~~]  
22 members of the Texas horse racing industry [~~advisory committee~~].  
23 The director shall make copies of the report available to  
24 interested parties.

25 SECTION 23. Section 88.527, Education Code, is amended to  
26 read as follows:

27 Sec. 88.527. CONFERENCE. Texas AgriLife Research [~~The~~]

1 ~~Texas Agricultural Extension Service~~] shall conduct an annual  
2 conference on equine research. Money from the equine research  
3 account shall be used to defray the costs of the conference. The  
4 conference must be designed to bring to the attention of the Texas  
5 horse racing industry the latest research results and technological  
6 developments in equine research. The director shall make the  
7 report created under Section 88.526 available at the conference.

8 SECTION 24. The following sections of the Texas Racing Act  
9 (Article 179e, Vernon's Texas Civil Statutes) are repealed:

- 10 (1) Section 2.072;  
11 (2) Section 6.04(b);  
12 (3) Section 6.18(a); and  
13 (4) Section 7.02(a).

14 SECTION 25. The following sections of the Education Code  
15 are repealed:

- 16 (1) Section 88.521(1);  
17 (2) Section 88.523;  
18 (3) Section 88.5231;  
19 (4) Section 88.5232;  
20 (5) Section 88.524;  
21 (6) Section 88.5245; and  
22 (7) Section 88.525(c).

23 SECTION 26. (a) Not later than September 1, 2012, the Texas  
24 Racing Commission shall designate each racetrack license as active  
25 or inactive as required by Section 6.0601, Texas Racing Act  
26 (Article 179e, Vernon's Texas Civil Statutes), as added by this  
27 Act.

1           (b) The Texas Racing Commission may adjust license renewal  
2 and review fees pursuant to the commission's authority to adjust  
3 fees under Section 5.01, Texas Racing Act (Article 179e, Vernon's  
4 Texas Civil Statutes), and Section 6.0602, Texas Racing Act  
5 (Article 179e, Vernon's Texas Civil Statutes), as added by this  
6 Act, to recover any money lost by the change in law made by this Act  
7 to Section 3.07(e), Texas Racing Act (Article 179e, Vernon's Texas  
8 Civil Statutes).

9           (c) As soon as practicable, the executive director of Texas  
10 AgriLife Research shall submit a report to the Texas Racing  
11 Commission as required by Section 88.526, Education Code, as  
12 amended by this Act.

13           SECTION 27. This Act takes effect September 1, 2011.