

By: Sanford

H.B. No. 854

A BILL TO BE ENTITLED

AN ACT

relating to the abolishment of the state lottery.

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

ARTICLE 1. ABOLISHMENT OF STATE LOTTERY

SECTION 1.01. Section 467.002, Government Code, is amended to read as follows:

Sec. 467.002. APPLICATION OF SUNSET ACT. The commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter~~[, Chapter 466 of this code,]~~ and Chapter 2001, Occupations Code, expire September 1, 2025.

SECTION 1.02. Sections 467.024(a) and (c), Government Code, are amended to read as follows:

(a) An individual is not eligible to be an appointed member of the commission if the individual:

(1) is registered, certified, or licensed by a regulatory agency in the field of bingo ~~[or lottery]~~;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission;

(3) is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from the commission;

1 (4) uses or receives a substantial amount of tangible
2 goods, services, or funds from the commission, other than
3 compensation or reimbursement authorized by law for commission
4 membership, attendance, or expenses;

5 (5) is an officer, employee, or paid consultant of a
6 Texas trade association in the field of bingo [~~or lottery~~];

7 (6) is required to register as a lobbyist under
8 Chapter 305 because of the person's activities for compensation on
9 behalf of a profession related to the operation of the commission;

10 (7) is married to an individual described by
11 Subdivisions (2)-(6);

12 (8) has been convicted of a felony or of any crime
13 involving moral turpitude; or

14 (9) is not a citizen of the United States.

15 (c) A person may not be a commission employee employed in a
16 "bona fide executive, administrative, or professional capacity,"
17 as that phrase is used for purposes of establishing an exemption to
18 the overtime provisions of the federal Fair Labor Standards Act of
19 1938 (29 U.S.C. Section 201 et seq.), if:

20 (1) the person is an officer, employee, or paid
21 consultant of a Texas trade association in the field of bingo [~~or~~
22 ~~lottery~~]; or

23 (2) the person's spouse is an officer, manager, or paid
24 consultant of a Texas trade association in the field of bingo [~~or~~
25 ~~lottery~~].

26 SECTION 1.03. Section 467.025(a), Government Code, is
27 amended to read as follows:

(a) A commission member may not:

(1) accept any employment or remuneration from [÷

~~[(A) a person that has a significant financial interest in the lottery, or~~

~~[(B)]~~ a bingo commercial lessor, bingo distributor, or bingo manufacturer;

(2) play any ~~[lottery or]~~ bingo game conducted in this state;

(3) accept or be entitled to accept any part of the winnings to be paid from a ~~[lottery or]~~ bingo game conducted in this state;

(4) use the member's official authority to affect the result of an election or nomination for public office; or

(5) 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 purposes.

SECTION 1.04. Section 467.031, Government Code, is amended to read as follows:

Sec. 467.031. BINGO DIVISION ~~[DIVISIONS]~~. The commission shall establish a separate division ~~[divisions]~~ to oversee bingo ~~[and the state lottery]~~.

SECTION 1.05. Section 467.035(a), Government Code, is amended to read as follows:

(a) The commission may not employ or continue to employ a person who owns a financial interest in [÷

~~[(1)]~~ a bingo commercial lessor, bingo distributor, or bingo manufacturer ~~[, or~~

1 ~~[(2) a lottery sales agency or a lottery operator]~~.

2 SECTION 1.06. Sections 467.101(a) and (c), Government Code,
3 are amended to read as follows:

4 (a) The commission has broad authority and shall exercise
5 strict control and close supervision over all activities authorized
6 and conducted in this state under[+]

7 ~~[(1)] Chapter 2001, Occupations Code[, and~~

8 ~~[(2) Chapter 466 of this code]~~.

9 (c) The commission also has the powers and duties granted
10 under[+]

11 ~~[(1)] Chapter 2001, Occupations Code[, and~~

12 ~~[(2) Chapter 466 of this code]~~.

13 SECTION 1.07. Section 467.108(a), Government Code, is
14 amended to read as follows:

15 (a) A former commission member, former executive director,
16 or former director may not[+]

17 ~~[(1) for compensation, represent a person that has~~
18 ~~made or intends to make a bid to operate the lottery before the~~
19 ~~commission before the second anniversary of the date that the~~
20 ~~person's service in office or employment with the commission~~
21 ~~ceases,~~

22 ~~[(2)]~~ represent any person or receive compensation for
23 services rendered on behalf of any person regarding a particular
24 matter in which the former officer or employee participated during
25 the period of service or employment with the commission, either
26 through personal involvement or because the matter was within the
27 scope of the officer's or employee's official responsibility[~~+~~or

1 ~~[(3) for compensation communicate directly with a~~
2 ~~member of the legislative branch to influence legislation on behalf~~
3 ~~of a person that has a significant financial interest in the~~
4 ~~lottery, before the second anniversary of the date that the~~
5 ~~person's service in office or employment with the commission~~
6 ~~ceases].~~

7 SECTION 1.08. Section 467.111(f), Government Code, is
8 amended to read as follows:

9 (f) The commission shall prepare a report on the trends and
10 issues identified under Subsection (e) and make the report
11 available to the public. The commission shall address the
12 identified trends and issues, including trends and issues related
13 to the regulation ~~[of lottery operations under Chapter 466 and]~~ of
14 bingo under Chapter 2001, Occupations Code.

15 SECTION 1.09. The following provisions of the Government
16 Code are repealed:

- 17 (1) Chapter 466;
18 (2) Section 467.001(9); and
19 (3) Sections 467.106 and 467.107.

20 SECTION 1.10. On January 1, 2016:

21 (1) the lottery division of the Texas Lottery
22 Commission is abolished and all powers and duties of the division
23 related to lottery prize payments, penalties, enforcement
24 provisions, and any necessary continued operations under Chapter
25 466, Government Code, as it existed immediately before the
26 effective date of this Act, and other law are transferred to the
27 Texas Lottery Commission;

1 (2) all obligations, rights, contracts, bonds,
2 appropriations, records, and property of the lottery division are
3 transferred to the commission;

4 (3) a rule, policy, procedure, or decision related to
5 lottery prize payments, penalties, enforcement provisions, and any
6 necessary continued operations of the lottery division continues in
7 effect until superseded by a later act of the commission; and

8 (4) a reference in law to the lottery division means
9 the commission.

10 SECTION 1.11. (a) Not later than October 1, 2015, the Texas
11 Lottery Commission shall adopt a comprehensive transition plan for
12 the transfer described by Section 1.10 of this article and identify
13 any essential lottery division personnel necessary for the
14 continued payment of lottery prizes and assessment and enforcement
15 of penalties.

16 (b) This section takes effect September 1, 2015.

17 SECTION 1.12. (a) Notwithstanding the repeal by this Act of
18 Chapter 466, Government Code, that chapter as it existed
19 immediately before the effective date of this Act continues in
20 effect for the payment of lottery prizes and the assessment and
21 enforcement of penalties until each lottery prize and installment
22 prize payment is made to the lottery prize winner entitled to the
23 payment and each penalty assessment is finally determined as
24 required by that chapter and rules adopted under that chapter as
25 they existed immediately before the effective date of this Act.

26 (b) On or after the effective date of this Act, a lottery
27 sales agent may not sell or offer to sell a lottery ticket for a

lottery game authorized under Chapter 466, Government Code, as repealed by this Act.

SECTION 1.13. The changes in law made by this article apply to an offense committed on or after the effective date of this Act. An offense committed before that date is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

(1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

1 (6) law enforcement agents of the Texas Alcoholic
2 Beverage Commission;

3 (7) each member of an arson investigating unit
4 commissioned by a city, a county, or the state;

5 (8) officers commissioned under Section [37.081](#),
6 Education Code, or Subchapter E, Chapter 51, Education Code;

7 (9) officers commissioned by the General Services
8 Commission;

9 (10) law enforcement officers commissioned by the
10 Parks and Wildlife Commission;

11 (11) airport police officers commissioned by a city
12 with a population of more than 1.18 million located primarily in a
13 county with a population of 2 million or more that operates an
14 airport that serves commercial air carriers;

15 (12) airport security personnel commissioned as peace
16 officers by the governing body of any political subdivision of this
17 state, other than a city described by Subdivision (11), that
18 operates an airport that serves commercial air carriers;

19 (13) municipal park and recreational patrolmen and
20 security officers;

21 (14) security officers and investigators commissioned
22 as peace officers by the comptroller;

23 (15) officers commissioned by a water control and
24 improvement district under Section [49.216](#), Water Code;

25 (16) officers commissioned by a board of trustees
26 under Chapter 54, Transportation Code;

27 (17) investigators commissioned by the Texas Medical

1 Board;

2 (18) officers commissioned by:

3 (A) the board of managers of the Dallas County
4 Hospital District, the Tarrant County Hospital District, the Bexar
5 County Hospital District, or the El Paso County Hospital District
6 under Section 281.057, Health and Safety Code;

7 (B) the board of directors of the Ector County
8 Hospital District under Section 1024.117, Special District Local
9 Laws Code; and

10 (C) the board of directors of the Midland County
11 Hospital District of Midland County, Texas, under Section 1061.121,
12 Special District Local Laws Code;

13 (19) county park rangers commissioned under
14 Subchapter E, Chapter 351, Local Government Code;

15 (20) investigators employed by the Texas Racing
16 Commission;

17 (21) officers commissioned under Chapter 554,
18 Occupations Code;

19 (22) officers commissioned by the governing body of a
20 metropolitan rapid transit authority under Section 451.108,
21 Transportation Code, or by a regional transportation authority
22 under Section 452.110, Transportation Code;

23 (23) investigators commissioned by the attorney
24 general under Section 402.009, Government Code;

25 (24) ~~[security officers and investigators~~
26 ~~commissioned as peace officers under Chapter 466, Government Code,~~

27 ~~[(25)]~~ an officer employed by the Department of State

1 Health Services under Section [431.2471](#), Health and Safety Code;

2 (25) [~~(26)~~] officers appointed by an appellate court
3 under Subchapter F, Chapter 53, Government Code;

4 (26) [~~(27)~~] officers commissioned by the state fire
5 marshal under Chapter 417, Government Code;

6 (27) [~~(28)~~] an investigator commissioned by the
7 commissioner of insurance under Section [701.104](#), Insurance Code;

8 (28) [~~(29)~~] apprehension specialists and inspectors
9 general commissioned by the Texas Juvenile Justice Department as
10 officers under Sections [242.102](#) and [243.052](#), Human Resources Code;

11 (29) [~~(30)~~] officers appointed by the inspector
12 general of the Texas Department of Criminal Justice under Section
13 [493.019](#), Government Code;

14 (30) [~~(31)~~] investigators commissioned by the Texas
15 Commission on Law Enforcement under Section [1701.160](#), Occupations
16 Code;

17 (31) [~~(32)~~] commission investigators commissioned by
18 the Texas Private Security Board under Section [1702.061](#)(f),
19 Occupations Code;

20 (32) [~~(33)~~] the fire marshal and any officers,
21 inspectors, or investigators commissioned by an emergency services
22 district under Chapter 775, Health and Safety Code;

23 (33) [~~(34)~~] officers commissioned by the State Board
24 of Dental Examiners under Section [254.013](#), Occupations Code,
25 subject to the limitations imposed by that section;

26 (34) [~~(35)~~] investigators commissioned by the Texas
27 Juvenile Justice Department as officers under Section [221.011](#),

Human Resources Code; and

(35) ~~[(36)]~~ the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code.

SECTION 2.02. Sections 411.108(a), (a-1), and (b), Government Code, are amended to read as follows:

(a) ~~[The Texas Lottery Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who, under Chapter 466, is:~~

~~[(1) a sales agent or an applicant for a sales agent license;~~

~~[(2) a person required to be named in a license application;~~

~~[(3) a lottery operator or prospective lottery operator;~~

~~[(4) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;~~

~~[(5) a person who manufactures or distributes lottery equipment or supplies or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;~~

~~[(6) a person who has submitted a written bid or proposal to the commission in connection with the procurement of goods or services by the commission, if the amount of the bid or proposal exceeds \$500;~~

~~[(7) an employee or other person who works for or will~~

~~work for a sales agent or an applicant for a sales agent license,~~

~~[(8) a person who proposes to enter into or who has a contract with the commission to supply goods or services to the commission,~~

~~[(9) if a person described in Subdivisions (1) through (8) of this section is not an individual, an individual who:~~

~~[(A) is an officer or director of the person,~~

~~[(B) holds more than 10 percent of the stock in the person,~~

~~[(C) holds an equitable interest greater than 10 percent in the person,~~

~~[(D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt,~~

~~[(E) is the owner or lessee of a business that the person conducts or through which the person will conduct lottery-related activities,~~

~~[(F) shares or will share in the profits, other than stock dividends, of the person,~~

~~[(G) participates in managing the affairs of the person, or~~

~~[(H) is an employee of the person who is or will be involved in:~~

~~[(i) selling tickets, or~~

~~[(ii) handling money from the sale of tickets,~~

~~[(10) the executive director or a prospective executive director of the commission,~~

1 ~~[(11) an employee or prospective employee of the~~
2 ~~commission; or~~

3 ~~[(12) a sales agent whose license is renewed under~~
4 ~~Section 466.158.~~

5 ~~[(a-1)]~~ The Texas Lottery Commission is entitled to obtain
6 from the department criminal history record information maintained
7 by the department that relates to a person licensed under Chapter
8 2001, Occupations Code, or described by Section 2001.3025,
9 Occupations Code.

10 (b) Criminal history record information obtained by the
11 commission under Subsection (a) ~~[or (a-1)]~~ may not be released or
12 disclosed to any person except on court order or as provided by
13 Subsection (c).

14 SECTION 2.03. Section 434.017(a), Government Code, is
15 amended to read as follows:

16 (a) The fund for veterans' assistance is a special fund in
17 the state treasury outside the general revenue fund. The fund is
18 composed of:

19 (1) money transferred to the fund at the direction of
20 the legislature;

21 (2) gifts and grants contributed to the fund;

22 (3) the earnings of the fund;

23 (4) ~~[money transferred to the fund from proceeds of~~
24 ~~the lottery game operated under Section 466.027 or transferred to~~
25 ~~the fund under Section 466.408(b)],~~

26 ~~[(5)]~~ money deposited to the credit of the fund under
27 Section 502.1746, Transportation Code; and

1 (5) [~~(6)~~] money deposited to the credit of the fund
2 under Section 521.008, Transportation Code.

3 SECTION 2.04. Section 572.003(b), Government Code, is
4 amended to read as follows:

5 (b) The term means:

6 (1) the Banking Commissioner of The Banking Department
7 of Texas;

8 (2) the administrative director of the Office of Court
9 Administration of the Texas Judicial System;

10 (3) the chief executive of the Office of Public
11 Utility Counsel;

12 (4) the executive director of the State Bar of Texas;

13 (5) ~~[the director of the lottery division of the Texas~~
14 ~~Lottery Commission;~~

15 ~~[(6) the deputy in charge of the department of~~
16 ~~security in the lottery division of the Texas Lottery Commission;~~

17 ~~[(7)]~~ the director of the bingo division of the Texas
18 Lottery Commission; or

19 (6) [~~(8)~~] the secretary of state.

20 SECTION 2.05. Section 2113.102(a), Government Code, is
21 amended to read as follows:

22 (a) A state agency may not use appropriated money to
23 contract with a person to audit the financial records or accounts of
24 the agency except as provided by:

25 (1) Subsections (b), (c), and (d); and

26 (2) ~~[Chapter 466, pertaining to the state lottery;~~

27 ~~[(3)]~~ Chapter 2306, pertaining to the Texas Department

of Housing and Community Affairs[, and

~~[(4) Chapter 361, Transportation Code, pertaining to the Texas Turnpike Authority division of the Texas Department of Transportation].~~

SECTION 2.06. Section 47.02(c), Penal Code, is amended to read as follows:

(c) It is a defense to prosecution under this section that the actor reasonably believed that the conduct:

(1) was permitted under Chapter 2001, Occupations Code;

(2) was permitted under Chapter 2002, Occupations Code;

~~(3) [consisted entirely of participation in the state lottery authorized by the State Lottery Act (Chapter 466, Government Code)],~~

~~[(4)]~~ was permitted under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); or

(4) ~~[(5)]~~ consisted entirely of participation in a drawing for the opportunity to participate in a hunting, fishing, or other recreational event conducted by the Parks and Wildlife Department.

SECTION 2.07. Section 47.09(a), Penal Code, is amended to read as follows:

(a) It is a defense to prosecution under this chapter that the conduct[+]

~~[(1)]~~ was authorized under:

(1) ~~[(A)]~~ Chapter 2001, Occupations Code;

1 (2) [~~(B)~~] Chapter 2002, Occupations Code; or
2 (3) [~~(C)~~] the Texas Racing Act (Article 179e, Vernon's
3 Texas Civil Statutes) [~~+~~
4 ~~[(2) consisted entirely of participation in the state~~
5 ~~lottery authorized by Chapter 466, Government Code; or~~
6 ~~[(3) was a necessary incident to the operation of the~~
7 ~~state lottery and was directly or indirectly authorized by:~~
8 ~~[(A) Chapter 466, Government Code;~~
9 ~~[(B) the lottery division of the Texas Lottery~~
10 ~~Commission;~~
11 ~~[(C) the Texas Lottery Commission; or~~
12 ~~[(D) the director of the lottery division of the~~
13 ~~Texas Lottery Commission]~~.

14 SECTION 2.08. The following provisions are repealed:

- 15 (1) Section 9.406(k), Business & Commerce Code;
16 (2) Section 232.0021, Family Code;
17 (3) Section 467.030(b), Government Code;
18 (4) Section 2054.007, Government Code; and
19 (5) Section 2002.056(c), Occupations Code.

20 SECTION 2.09. The changes in law made by this article apply
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before that date is governed by the law as it
23 existed on the date the offense was committed, and the former law is
24 continued in effect for that purpose.

25 ARTICLE 3. CONFLICT OF LAW; EFFECTIVE DATE

26 SECTION 3.01. To the extent of any conflict, this Act
27 prevails over another Act of the 84th Legislature, Regular Session,

1 2015, relating to nonsubstantive additions to and corrections in
2 enacted codes.

3 SECTION 3.02. Except as otherwise provided by this Act,
4 this Act takes effect January 1, 2016, but only if the
5 constitutional amendment proposed by the 84th Legislature, Regular
6 Session, 2015, abolishing the state lottery is approved by the
7 voters. If that amendment is not approved by the voters, this Act
8 has no effect.