

BILL ANALYSIS

C.S.H.B. 2578
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the purpose of charitable bingo is to raise money to support the charitable purposes of the organization authorized to conduct bingo and that the remittance of certain bingo licensing fees to the government reduces the net bingo proceeds available for those charitable purposes. C.S.H.B. 2578 seeks to address this issue by eliminating certain bingo license fees and providing for administration costs relating to bingo to be collected by the Texas Lottery Commission from certain other license fees and money paid to the lottery commission by bingo players as bingo prize fees.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2578 repeals Occupations Code provisions relating to licensing fees under the Bingo Enabling Act applicable to a license to conduct bingo, an initial and renewal application submitted for inclusion in the registry of approved bingo workers, and a unit manager license. The bill requires the Texas Lottery Commission, not later than January 1, 2018, to return to each license holder who in the year preceding the bill's effective date paid a license fee for a license to conduct bingo or a unit manager license any portion of the fee attributable to the license holder's period of licensure occurring on or after the bill's effective date.

C.S.H.B. 2578 amends the Occupations Code to establish that it is the legislature's intent that the funding necessary for the administration of the Bingo Enabling Act by the lottery commission be collected by the lottery commission from commercial lessor, manufacturer, and distributor license fees and money paid to the lottery commission by bingo players as bingo prize fees. The bill creates the bingo administration account as a special fund in the treasury outside the general revenue fund and provides for the sources of account funds. The bill restricts the use of money required to be deposited in the state treasury to the credit of the account to supporting the lottery commission's administration of bingo and paying local shares of bingo prize fees. The bill makes Government Code provisions relating to the appropriation of unobligated fund balances to the general revenue fund and Government Code provisions relating to the use of dedicated revenue inapplicable to the account. The bill requires the lottery commission to deposit a commercial lessor license fee, a manufacturer's license fee and any other fee paid for such a license, and a distributor's license fee and any other fee paid for such a license to the credit of the bingo administration account.

C.S.H.B. 2578 replaces the requirement for the lottery commission to deposit the revenue collected from the fee on bingo prizes to the credit of a special account in the general revenue fund with a requirement for the lottery commission to deposit such revenue in the bingo administration account. The bill changes the interval at which the lottery commission is required to send to a county or municipality entitled to a share of the fee on bingo prizes the county's or municipality's share of such fees from quarterly to annually at the end of each state fiscal year and repeals a provision requiring the lottery commission to transfer any amounts remaining after such disbursement to a nondedicated account in the general revenue fund. The bill replaces the requirement that interest earned on all such fees before distribution to a local jurisdiction be credited to the general revenue fund with a requirement that the interest be credited to the bingo administration account. The bill requires the lottery commission to reduce the amount of each local share of a bingo prize fee to each county or municipality entitled to a local share of the fee on a pro rata basis as necessary to retain the amount necessary for the administration of bingo for the state fiscal year less the amount estimated by the lottery commission as license fees expected to be deposited in the bingo administration account for that year. The bill's provisions relating to commercial lessor license fees, manufacturer's license fees, distributor's license fees, the local share of bingo prize fees, the collection and disbursement of bingo prize fees, and the bingo administration account apply beginning with the state fiscal year beginning September 1, 2019.

C.S.H.B. 2578 amends the Government Code to establish that interest that has been and that will be accrued or earned from deposits made under the bill's provisions creating the bingo administration account is state funds not subject to allocation or distribution to taxing units, cities, or transportation authorities under those bill provisions.

C.S.H.B. 2578 repeals the following provisions of the Occupations Code:

- Section 2001.104
- Section 2001.313(b-2)
- Section 2001.437(e)
- Section 2001.507(d)

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2578 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter A, Chapter 2001, Occupations Code, is amended by adding Section 2001.003 to read as follows:

Sec. 2001.003. STATE FUNDING FROM BINGO PRIZES. It is the intent of the legislature that the funding necessary for the administration of this chapter by the commission be appropriated to the commission out of money paid to the commission by bingo players as bingo prize fees and transferred to the general revenue

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 2001, Occupations Code, is amended by adding Section 2001.003 to read as follows:

Sec. 2001.003. REGULATORY FUNDING FROM BINGO PRIZE FEES. It is the intent of the legislature that the funding necessary for the administration of this chapter by the commission be collected by the commission from commercial lessor, manufacturer, and distributor license fees and money paid to the commission by bingo

fund under Section 2001.507(d).

SECTION 2. Section 2001.103(a), Occupations Code, is amended.

SECTION 3. Section 2001.105(a), Occupations Code, is amended.

SECTION 4. Section 2001.154, Occupations Code, is amended.

SECTION 5. Sections 2001.159(a) and (c), Occupations Code, are amended to read as follows:

(a) The commission shall issue or renew a commercial lessor license if the commission determines that:

(1) ~~[the applicant has paid the license fee as provided by Section 2001.158;~~

(2) ~~(2)~~ the applicant qualifies to be licensed under this chapter;

(2) ~~(3)~~ the rent to be charged is fair and reasonable;

(3) ~~(4)~~ there is no diversion of the funds of the proposed lessee from the lawful purposes under this chapter;

(4) ~~(5)~~ the person whose signature or name appears in the application is in all respects the real party in interest and is not an undisclosed agent or trustee for the real party in interest; and

(5) ~~(6)~~ the applicant will lease the premises for the conduct of bingo in accordance with this chapter.

(c) ~~The [Except as provided by Section 2001.158(d), the]~~ period may not exceed one year.

SECTION 6. Section 2001.304(a), Occupations Code, is amended to read as follows:

(a) The commission shall issue a temporary authorization for the activity requested if a license for the activity is not issued or denied before the 31st day after the earliest date on which each of the following has occurred:

(1) the filing of an application for the license;

(2) ~~[the payment of the proper license fee;~~

players as bingo prize fees.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

No equivalent provision.

No equivalent provision.

~~[(3)]~~ the filing of a copy of a tax exemption statement issued by the Internal Revenue Service under Section 501(c), Internal Revenue Code of 1986, if required; and
(3) ~~[(4)]~~ the completion of a criminal background investigation.

SECTION 7. Section 2001.306(a), Occupations Code, is amended to read as follows:

(a) A license issued under this chapter may be amended on application to the commission ~~[and on payment of a fee in the amount required by the commission]~~ if the subject matter of the proposed amendment could properly have been included in the original license.

No equivalent provision.

SECTION 8. Section 2001.315(a), Occupations Code, is amended to read as follows:

(a) A person who fails to renew the person's license under this chapter before the date the license expires may renew the license after the expiration date by[:

~~[(1) filing a license renewal application with the commission not later than the 14th day after the date the license expires, paying the applicable annual license fee, and paying a late license renewal fee equal to 10 percent of the annual license fee; or~~

~~[(2) filing a license renewal application with the commission not later than the 60th day after the date the license expires[, paying the applicable annual license fee, and paying a late license renewal fee equal to 10 percent of the annual license fee for each 14 day period occurring after the date the license expires and before the date the renewal application is filed with the commission].~~

No equivalent provision.

No equivalent provision.

SECTION 5. Section 2001.158, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) The commission shall deposit a license fee paid under this section to the credit of the bingo administration account established under Section 2001.521.

No equivalent provision.

SECTION 6. Section 2001.205,

Occupations Code, is amended by adding Subsection (c) to read as follows:
(c) The commission shall deposit a license fee and any other fee paid under this section to the credit of the bingo administration account established under Section 2001.521.

No equivalent provision.

SECTION 7. Section 2001.209, Occupations Code, is amended by adding Subsection (c) to read as follows:
(c) The commission shall deposit a license fee and any other fee paid under this section to the credit of the bingo administration account established under Section 2001.521.

SECTION 9. Section 2001.438(f), Occupations Code, is amended.

SECTION 8. Same as introduced version.

SECTION 10. Section 2001.458(a), Occupations Code, is amended.

SECTION 9. Same as introduced version.

SECTION 11. Section 2001.459(a), Occupations Code, is amended.

SECTION 10. Same as introduced version.

No equivalent provision.

SECTION 11. Section 2001.503, Occupations Code, is amended to read as follows:
Sec. 2001.503. LOCAL SHARE OF PRIZE FEE. (a) Except as provided by Subsection (c), a county that imposed a gross receipts tax on the conduct of bingo as of January 1, 1993, is entitled to, subject to Section 2001.507(i), 50 percent of the fee collected under Section 2001.502 on a prize awarded at a game conducted in the county.
(b) Except as provided by Subsection (c), a municipality that imposed a gross receipts tax on the conduct of bingo as of January 1, 1993, is entitled to, subject to Section 2001.507(i), 50 percent of the fee collected under Section 2001.502 on a prize awarded at a game conducted in the municipality.
(c) If a county and municipality are both entitled to a share of the fee imposed by Section 2001.502:
(1) the county is entitled to, subject to Section 2001.507(i), 25 percent of the fee on a prize awarded at a game conducted in the county; and
(2) the municipality is entitled to, subject to

Section 2001.507(i), 25 percent of the fee on a prize awarded at a game conducted in the municipality.

No equivalent provision.

SECTION 12. Section 2001.507, Occupations Code, is amended by amending Subsections (a), (c), and (h) and adding Subsection (i) to read as follows:

(a) The commission shall deposit the revenue collected from the fee on prizes imposed by Section 2001.502 to the credit of the bingo administration account established under Section 2001.521 [~~a special account in the general revenue fund~~].

(c) At the end of each state fiscal year, the [~~The~~] commission shall send [~~quarterly~~] to a county or municipality entitled to a share of the fee on prizes the county's or municipality's share, as provided by Section 2001.503 and Subsection (i).

(h) Interest earned on all fees on prizes collected by the commission under this chapter before distribution to a local jurisdiction, including interest earned from the suspense accounts retained under this section, shall be credited to the bingo administration account established under Section 2001.521 [~~general revenue fund~~].

(i) The commission shall reduce the amount of each local share of a fee to each county or municipality entitled to a share of the fee under Section 2001.503 on a pro rata basis as necessary to retain the amount necessary for the administration of bingo under this chapter for the state fiscal year less the amount estimated by the commission as license fees expected to be deposited in the bingo administration account established under Section 2001.521 for that year.

No equivalent provision.

SECTION 13. Chapter 2001, Occupations Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. BINGO ADMINISTRATION ACCOUNT

Sec. 2001.521. BINGO ADMINISTRATION ACCOUNT. (a) The bingo administration account is a special fund in the treasury outside the general revenue fund.

(b) The account consists of:

(1) money paid to the commission as a commercial lessor license fee and deposited

in the account under Section 2001.158;

(2) money paid to the commission as a manufacturer's license fee or other fee and deposited in the account under Section 2001.205;

(3) money paid to the commission as a distributor's license fee or other fee and deposited in the account under Section 2001.209;

(4) any other money paid to the commission under this chapter and any money appropriated by the legislature to the commission for the administration of bingo under this chapter and transferred to the account;

(5) gifts, grants, and donations received by the commission for the purpose of the administration of bingo under this chapter; and

(6) interest earned on money in the account.
Sec. 2001.522. USE OF MONEY IN ACCOUNT. Money required to be deposited in the state treasury to the credit of the bingo administration account may be used by the commission only to support the commission's administration of bingo under this chapter and to pay local shares of prize fees under Section 2001.507.

Sec. 2001.523. APPLICABILITY OF OTHER LAW. Subchapter D, Chapter 316, Government Code, and Section 403.095, Government Code, do not apply to the account created under Section 2001.521.

No equivalent provision.

SECTION 14. Section 404.073(c), Government Code, is amended to read as follows:

(c) Interest that has been and that will be accrued or earned from deposits made under a law to which this subsection applies is state funds not subject to allocation or distribution to taxing units, cities, or transportation authorities under that law. This subsection applies to:

(1) Section 205.02, Alcoholic Beverage Code;

(2) Section 2001.507, Occupations Code;

(2-a) Section 2001.521, Occupations Code;

(3) Section 403.105(d) of this code;

(4) Sections 321.501 and 321.504, Tax Code;

(5) Sections 322.301 and 322.304, Tax Code; and

(6) Sections 323.501 and 323.504, Tax

Code.

SECTION 12. Sections 2001.104, 2001.158, 2001.205, 2001.209, 2001.214(b), 2001.306(a-1) and (e), 2001.313(b-2), and 2001.437(e), Occupations Code, are repealed.

SECTION 13.

The changes in law made by this Act apply only to the issuance of a license under Chapter 2001, Occupations Code, that occurs on a date on or after the effective date of this Act. The issuance of a license that occurs on a date before the effective date of this Act is governed by the law in effect on the date the license is issued, and the former law is continued in effect for that purpose.

SECTION 14. Not later than January 1, 2018, the Texas Lottery Commission shall return to each license holder who paid a license fee under Chapter 2001, Occupations Code, before the effective date of this Act, any portion of the fee attributable to the license holder's period of licensure occurring on or after the effective date of this Act.

SECTION 15. This Act takes effect September 1, 2017.

SECTION 15. Sections 2001.104, 2001.313(b-2), 2001.437(e), and 2001.507(d), Occupations Code, are repealed.

SECTION 16. (a) The changes in law made by this Act in amending Sections 2001.158, 2001.205, 2001.209, 2001.503, and 2001.507, Occupations Code, and in adding Subchapter K-1, Chapter 2001, Occupations Code, apply beginning with the state fiscal year beginning September 1, 2019.

(b) The changes in law made by this Act to Sections 2001.103, 2001.105, and 2001.154, Occupations Code, apply to the issuance of a license under Chapter 2001, Occupations Code, that occurs on or after the effective date of this Act. The issuance of a license that occurs before the effective date of this Act is governed by the law in effect on the date the license is issued, and the former law is continued in effect for that purpose.

SECTION 17. Not later than January 1, 2018, the Texas Lottery Commission shall return to each license holder who in the year preceding the effective date of this Act paid a license fee under Section 2001.104 or 2001.437, Occupations Code, as those sections existed before the effective date of this Act, any portion of the fee attributable to the license holder's period of licensure occurring on or after the effective date of this Act.

SECTION 18. Same as introduced version.