

BILL ANALYSIS

Senate Research Center

S.B. 643
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The regulation of bingo is important not only to ensure the fairness of the games, but also to improve charity fundraising and maintain control over revenues and expenses. In 2019 the legislature passed H.B. 914 to streamline bingo regulation. By 2021, however, it became clear that the laws established by H.B. 914 needed to be updated to reflect current industry practices. The limitation on temporary bingo charity licenses set by H.B. 914, for instance, was deemed too low for charitable bingo locations in larger markets, which could have otherwise held more events for fundraising purposes. In response, H.B. 2204 (2021) was filed and almost was passed by the legislature to address these issues. This bill is a refile of H.B. 2204.

S.B. 643 would update existing regulations to ensure statutory language is consistent with legislative intent and administrative practice. It would authorize more occasions for charities to conduct bingo, revise the bingo price structure, and provide more clarity to regulators. This would allow charities more opportunities to raise vital funds via bingo events, ultimately benefiting the communities and interests the charities serve.

S.B. 643 amends current law relating to the conduct of charitable bingo.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Lottery Commission in SECTION 18 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 2001.002(19) and (25-a), Occupations Code, to redefine "nonprofit organization" and "regular license."

SECTION 2. Amends Section 2001.103, Occupations Code, by amending Subsections (e) and (g) and adding Subsection (i), as follows:

(e) Requires the Texas Lottery Commission (TLC), notwithstanding any other provision of Subchapter C (License to Conduct Bingo), to issue to an authorized organization that holds a regular license to conduct bingo 48 temporary licenses for each 12-month period that ends on an anniversary of the date the regular license was issued or renewed. Provides that each unused temporary license issued to the license holder expires on the anniversary of the date the temporary license was issued.

Deletes existing text prohibiting an authorized organization that holds an annual license, notwithstanding Subsection (c) (relating to prohibiting an organization from receiving more than six temporary licenses in a calendar year) to conduct bingo from receiving more than 24 temporary licenses during the 12-month period following the issuance or renewal of the license. Deletes existing text prohibiting the holder of a license that is effective for two years from receiving more than 24 temporary licenses for each 12-month period that ends on an anniversary of the date the license was issued or renewed.

(g) Requires the license holder, before using a temporary license issued under Subsection (e), to notify TLC in the manner TLC prescribes of the specific date, time, and location of

the bingo occasion for which the temporary license will be used. Requires TLC to provide to the license holder verification of TLC's receipt of the notification. Requires the license holder to maintain the verification in the records of the authorized organization.

Deletes existing text requiring an organization that has been issued a temporary license under Subsection (f) (relating to authorizing an authorized organization that holds a regular license to conduct bingo to apply for all or any portion of the total number of temporary licenses to which the organization is entitled under a certain subsection in one application without stating the days or times for which the organization will use the temporary licenses) to notify TLC of the specific date and time of the bingo occasion for which the temporary license will be used before using the license. Deletes existing text requiring TLC, if TLC receives the notification by noon of the day before the day the temporary license will be used, to verify receipt of the notice before the end of the business day on which the notice is received. Deletes existing text requiring TLC, if TLC does not receive the notification by noon of the day before the day the temporary license will be used, to verify receipt of the notice before noon of the business day that follows the day TLC received the notice.

(i) Provides that the notice requirements of Sections 2001.305(b) and (c) do not apply to a temporary license issued to the holder of a regular license.

SECTION 3. Amends Sections 2001.105(a) and (c), Occupations Code, as follows:

(a) Requires TLC to issue a temporary or regular license or renew a regular license to conduct bingo if TLC determines that:

(1)-(3) makes no changes to these subdivisions;

(4) the applicant has made and can demonstrate significant progress toward the accomplishment of the purposes of the organization during the 24 months, rather than 12 months, preceding the date of application for a license or regular license renewal; and

(5)-(6) makes no changes to these subdivisions.

(c) Provides that a regular license to conduct bingo issued under this subchapter expires on the second anniversary of the date of issuance unless TLC revokes or suspends the license before that date. Deletes existing text providing that a license issued under this subchapter, except as provided by Section 2001.104(d) (relating to requiring an applicant for a bingo license to pay the fees established under a certain subsection annually), is effective for one year.

SECTION 4. Amends Sections 2001.305(b) and (c), Occupations Code, as follows:

(b) Requires TLC to send a copy of the license to the appropriate governing body, except as provided by Section 2001.103(i), immediately after issuing a license.

(c) Requires TLC, except as provided by Section 2001.103(i), not later than the 10th day after the date a license is issued, to give written notice of the issuance of the license to certain entities.

SECTION 5. Amends Section 2001.315(a), Occupations Code, as follows:

(a) Authorizes a person who fails to renew the person's license under Chapter 2001 (Bingo) before the date the license expires to renew the license after the expiration date by:

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

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

Makes conforming changes.

SECTION 6. Amends Section 2001.401, Occupations Code, as follows:

Sec. 2001.401. RESTRICTIONS ON PREMISES PROVIDERS. Prohibits a person from, for direct or indirect consideration, leasing or otherwise making a premises available for conducting bingo unless the person is:

(1) a licensed commercial lessor; or

(2) a person who leases or otherwise makes available premises to an organization that has been issued a temporary license and does not hold a regular license.

SECTION 7. Amends Section 2001.413, Occupations Code, as follows:

Sec. 2001.413. New heading: PAYMENT REQUIRED. Prohibits a licensed authorized organization from offering or providing to a person the opportunity to play bingo without payment, rather than without charge, except as provided by Section 2001.4155 (Gift Certificates).

SECTION 8. Amends Section 2001.419(a), Occupations Code, to prohibit a licensed authorized organization from conducting more than three bingo occasions during a calendar week under a regular license, rather than an annual license.

SECTION 9. Amends Section 2001.420(b), Occupations Code, to prohibit a person from offering or awarding on a single bingo occasion prizes with an aggregate value of more than \$5,000, rather than \$2,500, for certain bingo games.

SECTION 10. Amends Section 2001.435(b), Occupations Code, as follows:

(b) Requires each member of a unit to deposit into the unit's bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes. Requires the deposit to be made not later than the third, rather than second, business day after the day of the bingo occasion on which the receipts were obtained. Deletes existing text requiring each member of a unit to deposit into the unit's bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes under Sections 2001.420(a) (relating to the limits of a single bingo game prize) and (b).

SECTION 11. Amends Section 2001.438, Occupations Code, by amending Subsection (f) and adding Subsection (f-1), as follows:

(f) Creates an exception under Subsection (f-1).

(f-1) Provides that if a unit demonstrates that a violation of Subchapter I-1 (Unit Accounting) or TLC rules is wholly attributable to a specific licensed authorized organization member or members of the unit:

(1) a penalty for the violation is prohibited from being imposed on a unit member to which the violation is not attributable; and

(2) the penalty imposed on a unit member to which the violation is attributable is prohibited from being in an amount greater than the amount initially assessed against each unit member.

SECTION 12. Amends Sections 2001.451(b), (g), and (i), Occupations Code, as follows:

(b) Requires a licensed authorized organization to deposit in the bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes, except as provided by Section 2001.502(a) (relating to prize fees to be paid by winners). Deletes existing text requiring a licensed authorized organization to deposit in the bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes under Sections 2001.420(a) and (b).

(g) Requires that the bingo operations of a licensed authorized organization result in net proceeds over each 24-month period that ends on the second anniversary of the date the license was issued. Deletes existing text requiring that the bingo operations of a licensed authorized organization result in net proceeds over the organization's license period or, if the organization has a two-year license, result in net proceeds over each 12-month period that ends on an anniversary of the date the two-year license was issued.

(i) Provides that prize fees are not included in the calculation of operating capital under Subsection (h) (relating to authorizing a licensed authorized organization or a unit of licensed authorized organizations to retain operating capital in the organization's or unit's bingo account in a certain amount) if the prize fees are:

(1) held in escrow for remittance to TLC or to a county or municipality; or

(2) retained by a licensed authorized organization.

Deletes existing text providing that prize fees held in escrow for remittance to TLC are not included in the calculation of operating capital under Subsection (h).

SECTION 13. Amends Sections 2001.502(b) and (c), Occupations Code, as follows:

(b) Requires a licensed authorized organization or unit that collects a prize fee under Subsection (a) for a bingo game conducted in a county or municipality that was entitled to receive a portion of a bingo prize fee as of January 1, 2019, notwithstanding Subsection (a)(2) (relating to a licensed authorized organization or unit remitting to TLC the amount of the fee collected under certain circumstances), to remit each quarter 50 percent of the amount collected as the prize fee to TLC and to remit or deposit the remainder of the amount collected as the prize fee as follows:

(1) if the county in which the bingo game is conducted voted before November 1, 2019, to impose the prize fee and the location at which the bingo game is conducted:

(A) is not within the boundaries of a municipality, remit 50 percent of the amount collected as the prize fee to the county; or

(B) is within the boundaries of a municipality that:

(i) voted before November 1, 2019, to impose the prize fee, remit 50 percent of the amount collected as the prize fee in equal shares to the county and municipality; or

(ii) did not vote before November 1, 2019, to impose the prize fee, remit 25 percent of the amount collected as the prize fee to the county and deposit the remaining amount in the manner described by Subdivision (3);

(2) if the county in which the bingo game is conducted did not vote before November 1, 2019, to impose the prize fee and the location at which the bingo

game is conducted is within the boundaries of a municipality that voted before November 1, 2019, to impose the prize fee:

(A) remit 25 percent of the amount collected as the prize fee to the municipality; and

(B) deposit the remaining amount in the manner described by Subdivision (3); and

(3) redesignates existing text of Subdivision (2) as Subdivision (3).

Deletes existing text requiring a licensed authorized organization or unit that collects a prize fee under Subsection (a) for a bingo game conducted in a county or municipality that was entitled to receive a portion of a bingo prize fee as of January 1, 2019, notwithstanding Subsection (a)(2), to remit each quarter 50 percent of the amount collected as the prize fee to TLC and if the county or municipality in which the bingo game is conducted voted before November 1, 2019, to impose the prize fee, remit 50 percent of the amount collected as the prize fee to: the county that voted to impose the fee by that date, provided the location at which the bingo game is conducted is not within the boundaries of a municipality that voted to impose the prize fee by that date; the municipality that voted to impose the fee by that date, provided the county in which the bingo game is conducted did not vote to impose the fee by that date; or in equal shares, the county and the municipality, provided each voted to impose the fee before that date.

(c) Makes conforming changes to this subsection.

SECTION 14. Amends Section 2001.513(a), Occupations Code, to authorize TLC to collect the amount under Section 2001.513 (Delinquency: Seizure and Sale) at any time within three years after a person is delinquent in the payment of an amount of the fee on prizes due to TLC.

SECTION 15. Amends Section 2001.514(a), Occupations Code, to require each license holder, to secure payment due to TLC of the fee on prizes imposed under Subchapter K (Prize Fees), to furnish to TLC certain funds.

SECTION 16. Amends Section 2001.515, Occupations Code, as follows:

Sec. 2001.515. COMMISSION'S DUTIES. Requires TLC to perform all functions incident to the administration, collection, enforcement, and operation of the fee on prizes imposed under this subchapter for amounts due to TLC, including any necessary reconciliation of a prize fee held by TLC that is due to a county or municipality.

SECTION 17. Repealers: Sections 2001.103(f) (relating to authorizing an authorized organization that holds a regular license to conduct bingo to apply for all or any portion of the total number of temporary licenses to which the organization is entitled under a certain subsection in one application without stating the days or times for which the organization will use the temporary licenses) and 2001.420(a) (relating to the limits of a bingo prize), Occupations Code.

Repealer: Section 2001.459(b) (relating to authorizing a payment for a service to be paid from an organization's gross receipts), Occupations Code.

SECTION 18. Requires TLC to adopt the rules necessary to implement the changes in law made by this Act to Chapter 2001, Occupations Code, not later than January 1, 2024.

SECTION 19. Makes application of Sections 2001.103(g) and 2001.438, Occupations Code, as amended by this Act, prospective.

SECTION 20. Effective date: September 1, 2023.