

BILL ANALYSIS

C.S.S.B. 643

By: Zaffirini

Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to the State Law Library, bingo is one of the few forms of legal gambling in Texas and state law only allows for certain organizations to conduct bingo games, the proceeds of which must be used only for charitable purposes. 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, H.B. 2204 was filed to update the provisions of H.B. 914 by, among other things, addressing temporary licenses to conduct bingo, revising the bingo prize structure, and providing statutory clarity for regulators. H.B. 2204 passed the House in 2021 and was reported out of the Senate Committee.

C.S.S.B. 643 incorporates language developed in consultation with the Texas Lottery Commission to help the agency with administration of the Bingo Enabling Act to provide for an increase in authorized temporary licenses to conduct bingo and to eliminate annual regular bingo licenses. Among other provisions, the bill also raises the cap on the total amount of regular bingo prizes that can be awarded from \$2,500 to \$5,000 and clarifies how penalties are to be imposed when an organization operates as a member of a unit to conduct bingo.

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

ANALYSIS

C.S.S.B. 643 amends the Occupations Code to update and revise provisions regarding the operation of charitable bingo under the Bingo Enabling Act. The bill requires the Texas Lottery Commission to issue 48 temporary bingo licenses to a regular bingo license holder for each 12-month period that ends on an anniversary of the date of the regular license issuance or renewal. Each issued, unused temporary license expires on the anniversary of the date the temporary license was issued. The bill requires a license holder, before using such a temporary license and in a manner prescribed by the lottery commission, to notify the commission of specified information on the bingo occasion for which the temporary license will be used. The bill requires the lottery commission to provide verification of receipt of the notification, which must be maintained by the license holder, and exempts a temporary license issued to a regular license holder from the requirement that the lottery commission notify the applicable local authorities of the issuance. The bill's provisions relating to a notification of the lottery commission by a license holder apply to such a notification on or after the bill's effective date. A notification before the bill's effective date is governed by the law in effect on the date of the notification, and the former law is continued in effect for that purpose. The bill repeals a

provision 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 in one application without stating the days or times for which the organization will use the licenses.

C.S.S.B. 643 requires the lottery commission to issue a temporary or regular license or renew a regular license to conduct bingo if the commission determines that, among other determinations specified under current law, the applicant has made and can demonstrate significant progress toward the accomplishment of the organization's purposes during the 24 months preceding the date of application for the license or renewal. The bill extends the current one-year expiration date of a bingo license by establishing that a regular bingo license expires on the second anniversary of the date of issuance unless the lottery commission revokes or suspends the license before that date.

C.S.S.B. 643 increases from \$2,500 to \$5,000 the maximum aggregate prize value a person may offer or award on a single bingo occasion for all bingo games other than pull-tab bingo or bingo games that award individual prizes of \$50 or less. In addition, the bill provides the following:

- the lottery commission's duties relating to collecting fees and securing payment apply to prize fees due to the commission, including any necessary reconciliation of a prize fee held by the commission that is due to a county or municipality; and
- the period over which the bingo operations of a licensed authorized organization must result in net proceeds is set at each 24-month period ending on the second anniversary of the date the license was issued.

C.S.S.B. 643 changes the deadline by which each member of a unit, which is composed of two or more licensed authorized organizations that conduct bingo at the same location, must deposit all applicable funds into the unit's bingo account. The deposit must occur not later than the third business day after the day of the bingo occasion on which the receipts were obtained, rather than the second business day after the bingo occasion. The bill, for the purposes of limited liability for a licensed authorized organization that is a member of a unit, if a unit penalized for a violation of applicable lottery commission rules or statutory provisions relating to unit accounting demonstrates that the violation is wholly attributable to a specific member or members, establishes the following:

- a penalty imposed on a unit member to which the violation is attributable may not be in an amount greater than the amount initially assessed against each unit member; and
- a penalty for the violation may not be imposed on a unit member to which the violation is not attributable.

The bill's provisions apply only to such a penalty imposed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

C.S.S.B. 643 exempts from the calculation of operating capital the prize fees held in escrow for remittance to a county or municipality and the prize fees retained by a licensed authorized organization. In addition, the bill, with respect to a county or municipality that was entitled to receive a portion of a prize fee as of January 1, 2019, updates the provisions relating to the quarterly allocation of the amount collected as prize fees for a bingo game by a licensed authorized organization or an applicable unit to clarify the applicable remittance percentages. The bill retains the deposit requirement for the remainder of the amount collected as the prize fee when neither the county nor municipality in which the bingo game is conducted voted before November 1, 2019, to impose the prize fee.

C.S.S.B. 643 authorizes a person to lease or otherwise make available a premises for conducting bingo to an organization that has been issued a temporary license and does not hold a regular license. The bill replaces the prohibition against a licensed authorized organization offering or providing a person the opportunity to play bingo without charge, except as provided by current law for gift certificates, with a prohibition against such an organization offering or providing a

person the opportunity to play bingo without payment, except as provided by that current law for gift certificates.

C.S.S.B. 643 requires the lottery commission, not later than January 1, 2024, to adopt rules as necessary to implement the bill's provisions.

C.S.S.B. 643 repeals the following provisions of the Occupations Code:

- Section 2001.103(f);
- Section 2001.420(a); and
- Section 2001.459(b).

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 643 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions not present in the engrossed that provide for the following:

- requirements relating to notifications from a license holder before using a temporary license;
- the repeal of the authorization for an applicable organization to apply for all or any portion of the total number of temporary licenses to which the organization is entitled in one application without stating the days or times for which the organization will use the temporary licenses;
- the expiration of a regular bingo license on the second anniversary of the date of issuance;
- an authorization for leasing or making available a premises for conducting games of bingo for specified organizations;
- the liability of a specific licensed authorized organization for a penalty imposed on a unit; and
- the applicability of the bill's provisions to a notification by a license holder on or after the bill's effective date and to a penalty imposed on or after the bill's effective date.

Whereas both the substitute and the engrossed increase from 24 to 48 the maximum number of temporary bingo licenses that a regular license holder receives, they differ as follows:

- the substitute expressly requires the lottery commission to issue exactly 48 temporary bingo licenses to a regular license holder and provides that each such unused temporary license issued to the license holder expires on the anniversary of the date the temporary license was issued; but
- the engrossed provided that the regular license holder may receive not more than 48 temporary licenses and conditioned the duration of the temporary license on the date of issuance or renewal of the regular license.

The substitute does not include the engrossed's requirement for the lottery commission to provide for the on-demand electronic issuance of a temporary license.

The substitute does not include provisions in the engrossed establishing that rent charges incurred and paid to a licensed commercial lessor during the period a gubernatorial executive order effectively prohibits the conduct of bingo by a licensed authorized organization are not subject to the following:

- the limits on rent charged for each bingo occasion or for each day; or
- the requirement that an item of expense for the conduct of bingo be reasonable or necessary.