

BILL ANALYSIS

C.S.H.B. 3611
By: Lucio III
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the incidence of illegal gambling in some areas, which negatively impacts charitable bingo operations. C.S.H.B. 3611 seeks to address this issue by providing for the suspension of the entitlement of a county and certain municipalities to a local share of a bingo prize fee in counties where certain illegal gambling occurs to the detriment of charitable 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 1 of this bill.

ANALYSIS

C.S.H.B. 3611 amends the Occupations Code to authorize the Texas Lottery Commission, at the request of any person or on its own motion, to determine that a place of business located anywhere in a county in which a licensed authorized organization conducts bingo offers patrons of the business the opportunity to engage in gambling in violation of applicable Penal Code provisions and that the conduct is detrimental to the conduct of charitable bingo by one or more licensed authorized organizations. The bill requires the lottery commission, if such a determination is made, to notify the comptroller of public accounts, the applicable county, each licensed authorized organization and unit that conducts bingo in the county, and each municipality located in the county that is entitled to a local share of a prize fee that the state's authority to collect a prize fee and the entitlement to a local share of a prize fee will be terminated for all charitable bingo conducted in that county on the 30th day after the date of the notice. The bill authorizes a political subdivision that receives such a notification to provide evidence to the lottery commission to establish that the lottery commission's determination was made in error on the basis that offering the opportunity to engage in an applicable act of gambling is not occurring in that county or is not occurring to the detriment of charitable bingo. The evidence from the political subdivision must be received by the lottery commission no later than the 30th day after the date the subdivision receives the notice from the lottery commission. The bill prohibits the lottery commission from terminating the prize fee, if the lottery commission agrees the determination was made in error based on that evidence, and requires the lottery commission to notify the comptroller, the county, each licensed authorized organization and unit that conducts bingo in the county, and each municipality located in the county that is entitled to a local share of a prize fee of the lottery commission's decision not to terminate the collection of the prize fees.

C.S.H.B. 3611 requires the lottery commission to determine whether to accept or reject the evidence submitted by a political subdivision not later than the 30th day after the date of receipt. The bill requires the lottery commission, if, after considering such evidence, the lottery commission decides to terminate the collection of the prize fee, to notify each political subdivision that submitted evidence and authorizes any political subdivision that receives such notice to request an administrative hearing on the matter before the State Office of Administrative Hearings (SOAH). A request for such a hearing must be received by the lottery commission no later than the 30th day after the date a political subdivision receives notification that the lottery commission decided to terminate the collection of the prize fee.

C.S.H.B. 3611 establishes that a determination by the lottery commission regarding illegal gambling in a county becomes final on the 30th day after the lottery commission's determination unless that determination is contested as provided by the bill. The bill requires the lottery commission, on a final decision by the administrative law judge upholding the lottery commission's decision to terminate the collection of the prize fee, to notify the comptroller, the applicable county, each licensed authorized organization and unit that conducts bingo in the county, and each municipality located in the county that is entitled to a local share of a prize fee that the state's authority to collect a prize fee and the entitlement to a local share will be terminated for all charitable bingo conducted in that county on the 30th day after the date of the notice or on another date set by the lottery commission. The bill requires the lottery commission to adopt rules as necessary to implement the bill's provisions relating to the determination of illegal gambling in a county and authorizes such a rule to delegate to the director of the charitable bingo operations division within the lottery commission the determination regarding illegal gambling activity.

C.S.H.B. 3611 requires a licensed authorized organization or unit that is notified by the lottery commission that the state's authority to collect a prize fee is terminated under the bill's provisions to continue to collect the prize fee and requires each prize fee so collected to be deposited into the general fund of the licensed authorized organization or unit to be used for the charitable purposes of the organization. The bill establishes that a county or municipality to which statutory provisions relating to a local share of a prize fee apply is not entitled to a local share of a prize fee after the entitlement to the local share has been terminated by the lottery commission under the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3611 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 B, Chapter 2001, Occupations Code, is amended by adding Section 2001.062 to read as follows:

Sec. 2001.062. COMMISSION DETERMINATION OF ILLEGAL GAMBLING IN COUNTY. (a) An authorized organization that holds a license to conduct bingo may provide evidence to the commission to establish that:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 2001, Occupations Code, is amended by adding Section 2001.062 to read as follows:

Sec. 2001.062. COMMISSION DETERMINATION OF ILLEGAL GAMBLING IN COUNTY. (a) At the request of any person or on its own motion, the commission may determine that:

(1) a place of business located in the county in which the authorized organization conducts bingo offers patrons of the business the opportunity to place bets through a gambling device, as defined by Section 47.01(4), Penal Code, in violation of Chapter 47 of that code; and

(2) the conduct described by Subdivision (1) causes a substantial detriment to charitable bingo conducted in the county.

(b) If the commission determines based on evidence submitted under Subsection (a) that illegal gambling is occurring in a county and is causing a substantial detriment to charitable bingo conducted in that county, the commission shall notify the comptroller, the county, each authorized organization that conducts bingo in the county, and each municipality located in the county that is entitled to a local share of a prize fee that the state's authority to collect a prize fee under Section 2001.502 and the entitlement to a local share under Section 2001.503 are suspended.

(c) A county whose entitlement to a local share of a prize fee is suspended under this section may provide evidence to the commission to establish that the commission's determination under Subsection (b) of detrimental illegal gambling in the county was made in error.

If, based on evidence provided by the county, the commission agrees the determination was made in error, the commission shall remove the suspension and notify the comptroller, the county, each authorized organization that conducts bingo in the county, and each municipality located in the county that is entitled to a local share of a prize fee of the suspension's removal.

(d) If the commission does not remove a suspension under Subsection (c),

(1) a place of business located anywhere in a county in which a licensed authorized organization conducts bingo offers patrons of the business the opportunity to engage in gambling in violation of a provision of Chapter 47, Penal Code; and

(2) the conduct described by Subdivision (1) is detrimental to the conduct of charitable bingo by one or more licensed authorized organizations.

(b) If the commission makes the determination authorized under Subsection (a), the commission shall notify the comptroller, the county, each licensed authorized organization and unit that conducts bingo in the county, and each municipality located in the county that is entitled to a local share of a prize fee that the state's authority to collect a prize fee under Section 2001.502, and the entitlement to a local share under Section 2001.503, will be terminated for all charitable bingo conducted in that county on the 30th day after the date of the notice.

(c) A political subdivision that receives notification by the commission under Subsection (b) may provide evidence that the commission's determination under Subsection (a) was made in error because the activity described by Subsection (a)(1) is not occurring in that county or is not occurring to the detriment of charitable bingo as provided by Subsection (a)(2). The commission must receive the evidence from the political subdivision no later than the 30th day after the date the political subdivision receives the notice from the commission under Subsection (b).

If, based on evidence provided by a political subdivision, the commission agrees that the determination was made in error, the commission shall not terminate the prize fee and shall notify the comptroller, the county, each licensed authorized organization and unit that conducts bingo in the county, and each municipality located in the county that is entitled to a local share of a prize fee of the commission's decision not to terminate the collection of the prize fee.

(d) The commission shall determine whether to accept or reject the evidence presented by a political subdivision under

the county may request an administrative hearing on the matter before the State Office of Administrative Hearings.

(e) A suspension of the state's authority to collect a prize fee and the entitlement to a local share of a prize fee continues until removed by the commission based on evidence provided by the county under Subsection (c), or until removed by order of an administrative law judge employed by the State Office of Administrative Hearings or of a court of competent jurisdiction.

(f) The commission shall adopt rules as necessary to implement this section.

SECTION 2. Section 2001.502, Occupations Code, is amended to read as follows:

Sec. 2001.502. PRIZE FEE. (a) Except as provided by Subsection (b), a [~~A~~] licensed authorized organization shall:

(1) collect from a person who wins a bingo prize of more than \$5 a fee in the amount of

Subsection (c) not later than the 30th day after the date of receipt by the commission of the evidence. If, after considering the evidence submitted by a political subdivision under Subsection (c), the commission determines to terminate the collection of the prize fee, the commission shall notify each political subdivision that submitted evidence, and any political subdivision that receives such notice may request an administrative hearing on the matter before the State Office of Administrative Hearings. A request for an administrative hearing under this subsection must be received by the commission no later than the 30th day after the date a political subdivision receives notification under this subsection.

(e) A determination by the commission under Subsection (a) becomes final on the 30th day after the commission's determination under that subsection unless the determination is contested as provided by Subsections (c) and (d). On a final decision under Subsection (d) by the administrative law judge upholding the commission's determination to terminate the collection of the prize fee under this section, the commission shall notify the comptroller, the county, each licensed authorized organization and unit that conducts bingo in the county, and each municipality located in the county that is entitled to a local share of a prize fee that the state's authority to collect a prize fee under Section 2001.502, and the entitlement to a local share under Section 2001.503, will be terminated for all charitable bingo conducted in that county on the 30th day after the date of the notice or on another date set by the commission.

(f) The commission shall adopt rules as necessary to implement this section. A rule adopted under this subsection may delegate to the director of the charitable bingo operations division the determination authorized by Subsection (a).

SECTION 2. Section 2001.502, Occupations Code, is amended to read as follows:

Sec. 2001.502. PRIZE FEE. (a) Except as provided by Subsection (b), a [~~A~~] licensed authorized organization shall:

(1) collect from a person who wins a bingo prize of more than \$5 a fee in the amount of

five percent of the amount or value of the prize; and

(2) remit to the commission a fee in the amount of five percent of the amount or value of all bingo prizes awarded.

(b) A licensed authorized organization that is notified by the commission under Section 2001.062 that the state's authority to collect a prize fee under this section is suspended shall include any prize fee collected under this section in its net proceeds for purposes of Section 2001.454 until the date the commission notifies the organization that the suspension is removed.

SECTION 3. Section 2001.503, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (c) or (d), a county that imposed a gross receipts tax on the conduct of bingo as of January 1, 1993, is entitled to 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) or (d), a municipality that imposed a gross receipts tax on the conduct of bingo as of January 1, 1993, is entitled to 50 percent of the fee collected under Section 2001.502 on a prize awarded at a game conducted in the municipality.

(d) A county or municipality to which this section applies is not entitled to a local share of a prize fee at any time when the entitlement to the local share is suspended by the commission under Section 2001.062.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

five percent of the amount or value of the prize; and

(2) remit to the commission a fee in the amount of five percent of the amount or value of all bingo prizes awarded.

(b) A licensed authorized organization or unit that is notified by the commission under Section 2001.062 that the state's authority to collect a prize fee under this section is terminated as provided by that section shall continue to collect the prize fee. Each prize fee collected under this subsection shall be deposited into the general fund of the licensed authorized organization or unit to be used for the charitable purposes of the organization.

SECTION 3. Section 2001.503, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (c) or (d), a county that imposed a gross receipts tax on the conduct of bingo as of January 1, 1993, is entitled to 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) or (d), a municipality that imposed a gross receipts tax on the conduct of bingo as of January 1, 1993, is entitled to 50 percent of the fee collected under Section 2001.502 on a prize awarded at a game conducted in the municipality.

(d) A county or municipality to which this section applies is not entitled to a local share of a prize fee after the entitlement to the local share has been terminated by the commission under Section 2001.062.

SECTION 4. Same as introduced version.