

BILL ANALYSIS

Senate Research Center
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S.B. 704
By: Buckingham et al.
State Affairs
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this bill is to enact the statutory recommendations of the Sunset Advisory Commission on the Texas Racing Commission (TRC).

In 1986, facing a budget shortfall, the Legislature passed the Texas Racing Act, which authorized pari-mutuel wagering on horse and greyhound races and created the Texas Racing Commission to regulate the industry. However, the Texas racing industry has never been the economic driver originally envisioned. As racetrack attendance, race days, and wagers have declined, so too has the agency's revenue, which comes in part from racetrack and license fees. The reduced revenue in turn affects the agency's ability to most effectively regulate racing in Texas, with the level of regulation contingent on how much licensees are willing and able to pay. This push and pull has jeopardized the continued operation and regulation of the Texas racing industry.

As a result, the Sunset Commission determined the Texas Racing Commission can no longer efficiently carry out its mission of ensuring the safety, integrity, and fairness of Texas pari-mutuel racing and wagering and recommends transferring it to the Comptroller of Public Accounts as a semi-independent board. The agency also does not effectively administer its horse event grant program and the commission recommends transferring it and the Horse Industry Escrow Account to the comptroller as well.

As proposed, S.B. 704 amends current law relating to the continuation and functions of the Texas Racing Commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Racing Commission in SECTION 12 (Section 2025.251, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 14 (Section 2028.201, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Racing Commission is modified in SECTION 14 (Section 2028.201, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.096(a), Government Code, to include an applicant for a license under Subtitle A-1 (Texas Racing Act), Title 13 (Sports, Amusements, and Entertainment), Occupations Code, including an occupational license described by Section 2025.251 (Occupational License Required), Occupations Code, among the persons about whom the Texas Racing Commission (TRC) is entitled to obtain information from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS.

SECTION 2. Amends Section 2021.008(a), Occupations Code, to provide that unless continued in existence as provided by Chapter 325 (Sunset Law), Government Code, and except as provided by Subsections (b) (relating to the continued operation of certain TRC entities if TRC

has outstanding long-term liabilities at the time of its abolition) and (c) (relating to the date of the abolition of TRC and Subtitle A-1), TRC is abolished and Subtitle A-1 expires September 1, 2033, rather than 2021.

SECTION 3. Amends Subchapter A, Chapter 2022, Occupations Code, by adding Section 2022.0001, as follows:

Sec. 2022.0001. AFFILIATION WITH OFFICE OF COMPTROLLER. (a) Provides that TRC is administratively attached to the office of the Comptroller of Public Accounts of the State of Texas (comptroller), but TRC is required to be independent of the office of the comptroller's direction.

(b) Requires the comptroller to provide administrative support services as necessary to assist TRC in performing TRC's duties.

SECTION 4. Amends Section 2022.004(e), Occupations Code, to make nonsubstantive changes.

SECTION 5. Amends Subchapter A, Chapter 2022, Occupations Code, by adding Section 2022.0045, as follows:

Sec. 2022.0045. ELIGIBILITY OF PUBLIC MEMBERS. Prohibits a person from being a public member of TRC if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of horse racing, greyhound racing, or pari-mutuel wagering in connection with that racing;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from TRC;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from TRC; or

(4) uses or receives a substantial amount of tangible goods, services, or money from TRC other than compensation or reimbursement authorized by law for TRC membership, attendance, or expenses.

SECTION 6. Amends Section 2022.006, Occupations Code, as follows:

Sec. 2022.006. MEMBER TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of TRC from voting, deliberating, or being counted as a member in attendance at a meeting of TRC until the person completes, rather than completes at least one course of, a training program that complies with this section. Makes a nonsubstantive change.

(b) Requires that the training program provide the person with information regarding:

(1) the law governing TRC operations, rather than the enabling legislation that created TRC;

(2) the programs, functions, rules, and budget of TRC;

(3) the scope and limitations on the rulemaking authority of TRC;

(4) creates this subdivision from existing text;

(5) the requirements of laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest, and of other

laws applicable to members of a state policy-making body in performing their duties; and

(6) creates this subdivision from existing text to make a nonsubstantive change.

Deletes existing text requiring that the training program provide information regarding legislation, programs, and roles related to TRC. Makes nonsubstantive changes.

(c) Provides that a person appointed to TRC is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office, rather than if the person were a TRC member. Makes a nonsubstantive change.

(d) Requires the executive director of TRC (executive director) to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each member of TRC. Requires each member of TRC to sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 7. Amends Subchapter C, Chapter 2022, Occupations Code, by adding Section 2022.1015, as follows:

Sec. 2022.1015. COMPLAINTS. (a) Requires TRC to maintain a system to promptly and efficiently act on complaints filed with TRC. Requires TRC to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires TRC to make information available describing its procedures for complaint investigation and resolution.

(c) Requires TRC to periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

SECTION 8. Amends Section 2023.053(f), Occupations Code, to include an administrative penalty remitted to the comptroller for deposit in the general revenue fund under Section 2033.058 among the revenue to which Section 2023.053 (Texas Racing Commission Fund; Additional Appropriations) does not apply. Makes nonsubstantive changes.

SECTION 9. Amends Section 2023.057, Occupations Code, to make a conforming change.

SECTION 10. Amends Section 2025.101(e), Occupations Code, to make a conforming change.

SECTION 11. Amends Section 2025.201(a), Occupations Code, to include among the findings based on which TRC is authorized to refuse to issue a racetrack license or to revoke or suspend a license, after notice and hearing, the finding that the applicant or license holder has developed an incapacity that prevents or could prevent the applicant or license holder from conducting the applicant's or license holder's business with reasonable skill and competence and in a manner that does not endanger public safety. Deletes existing text including as a basis for such a finding that the applicant or license holder is not of good moral character or the person's reputation as a peaceable, law-abiding citizen in the community where the person resides is bad or that the applicant or license holder is in the habit of using alcoholic beverages to an excess or uses a controlled substance as defined by Chapter 481 (Texas Controlled Substances Act), Health and Safety Code, or a dangerous drug as defined in Chapter 483 (Dangerous Drugs), Health and Safety Code, or is mentally incapacitated.

SECTION 12. Amends Section 2025.251, Occupations Code, by adding Subsection (c) to authorize TRC by rule to require certain categories of persons to hold an occupational license under Subtitle A-1.

SECTION 13. Amends Section 2025.262, Occupations Code, to include among the findings based on which TRC is authorized to refuse to issue any original or renewal license under Subchapter F (Occupational Licenses) or to revoke or suspend the license, after notice and hearing, the finding that the applicant or license holder has developed an incapacity that prevents or could prevent the applicant or license holder from conducting the applicant's or license holder's business with reasonable skill and competence and in a manner that does not endanger public safety. Deletes existing text including as a basis for such a finding that the applicant or license holder is not of good moral character or the person's reputation as a peaceable, law-abiding citizen in the community where the person resides is bad or that the applicant or license holder is in the habit of using alcoholic beverages to an excess or uses a controlled substance as defined by Chapter 481, Health and Safety Code, or a dangerous drug as defined in Chapter 483, Health and Safety Code, or is mentally incapacitated.

SECTION 14. Amends Section 2028.201, Occupations Code, as follows:

Sec. 2028.201. RULES. (a) Creates this subsection from existing text. Requires TRC to adopt certain rules, including rules relating to the oversight of the amounts allocated under Sections 2028.202(b)(1), (2), and (3) (relating to the certain required amount for a horse racetrack association to distribute from each simulcast pool) and (c) (relating to the amounts certain horse racetrack associations are required to distribute from each pool wagered on the signal at the racetrack), rather than 2028.202(b) and (c).

(b) Requires the comptroller to adopt rules relating to the oversight of the amounts allocated under Section 2028.202(b)(4).

SECTION 15. Amends Section 2028.202(b), Occupations Code, as follows:

(b) Requires a greyhound racetrack association that receives an interstate cross-species simulcast signal, from the total amount deducted under Subsection (a), to distribute the following amounts from each pari-mutuel pool wagered on the signal at the racetrack:

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

(4) a purse of 4.5 percent to be deposited in the horse industry escrow account as provided by Section 2028.204, rather than a purse of 4.5 percent to be escrowed with TRC in the manner provided by Section 2028.204.

SECTION 16. Amends Section 2028.203, Occupations Code, as follows:

Sec. 2028.203. REIMBURSEMENT FOR SIMULCAST SIGNAL COST. Requires the comptroller, rather than TRC, if a racetrack association purchases an interstate simulcast signal and the signal cost exceeds five percent of the pari-mutuel pool, from the horse industry escrow account, established under Section 2028.204, rather than from the escrowed account under Section 2028.202(b)(4), to reimburse the racetrack association an amount equal to one-half of the signal cost that exceeds five percent of the pari-mutuel pool.

SECTION 17. Amends Section 2028.204, Occupations Code, as follows:

Sec. 2028.204. New heading: HORSE INDUSTRY ESCROW ACCOUNT; DEPOSIT AND ALLOCATION OF MONEY. (a) Provides that the horse industry escrow account is a trust account administered by the comptroller and composed of money deposited to the account in accordance with this subtitle.

(b) Creates this subsection from existing text. Requires a greyhound racetrack association to deposit into the horse industry escrow account, rather than into an

escrow account in TRC's registry, the purse set aside under Section 2028.202(b)(4).

(c) Creates this subsection from existing text and makes conforming and nonsubstantive changes.

SECTION 18. Amends Section 2028.2041, Occupations Code, as follows:

Sec. 2028.2041. New heading: ALLOCATION OF CERTAIN FUNDS IN HORSE INDUSTRY ESCROW ACCOUNT TO GENERAL REVENUE FUND; MAXIMUM ACCOUNT BALANCE. (a) - (c) Makes conforming changes to these subsections.

SECTION 19. Amends Section 2028.205, Occupations Code, as follows:

Sec. 2028.205. New heading: ADDITIONAL ALLOCATIONS FROM HORSE INDUSTRY ESCROW ACCOUNT FOR CERTAIN RACETRACKS. (a) - (c) Makes conforming changes to these subsections.

SECTION 20. Amends Section 2031.004(e), Occupations Code, to make conforming changes.

SECTION 21. Amends Subchapter B, Chapter 2033, Occupations Code, by adding Section 2033.058, as follows:

Sec. 2033.058. DISPOSITION OF ADMINISTRATIVE PENALTY. Requires TRC to remit an administrative penalty collected under this subtitle to the comptroller for deposit in the general revenue fund.

SECTION 22. Amends Section 151.801(c-3), Tax Code, to make conforming changes.

SECTION 23. Repealer: Section 2022.102(b) (relating to the requirement that TRC keep certain information about complaints), Occupations Code.

Repealer: Section 2022.102(c) (relating the requirement that TRC keep files about complaints it has the authority to resolve and persons related to the complaint), Occupations Code.

Repealer: Section 2022.102(d) (relating to the requirement that TRC regularly notify persons related to the complaint of the complaint's status, unless doing so would jeopardize an investigation), Occupations Code.

Repealer: Section 2025.258(b) (relating to the requirement that TRC ensure a license holder's criminal history record is obtained every 36 months), Occupations Code.

SECTION 24. Provides that Section 2022.0045, Occupations Code, as added by this Act, does not affect the entitlement of a member serving on TRC immediately before the effective date of this Act to continue to serve for the remainder of the member's term. Requires the governor, as the terms of board members expire, to appoint or reappoint members who have the qualifications required for members under Subchapter A (Composition and Operation), Chapter 2022 (Texas Racing Commission), Occupations Code, as amended by this Act.

SECTION 25. (a) Provides that, except as provided by Subsection (b) of this section, Section 2022.006, Occupations Code, as amended by this Act, applies to a member of the board of TRC who is appointed before, on, or after the effective date of this Act.

(b) Provides that a member of TRC who, before the effective date of this Act, completed the training program required by Section 2022.006, Occupations Code, as that law existed before the effective date of this Act, is required to complete additional training only on subjects added to the training program under Section 2022.006, Occupations Code, as amended by this Act. Prohibits a TRC member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of

TRC held on or after December 1, 2021, until the member completes the additional training.

SECTION 26. Provides that the changes in law made by this Act apply to revenue received from the imposition of an administrative penalty on or after the effective date of this Act, regardless of whether the penalty was imposed before, on, or after the effective date of this Act.

SECTION 27. Requires the comptroller, not later than March 1, 2022, to adopt rules necessary to implement Section 2028.202(b)(4), Occupations Code, as amended by this Act.

SECTION 28. Effective date: September 1, 2021.