

BILL ANALYSIS

Senate Research Center
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S.B. 1013
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Racing Commission (TRC) has experienced problems in enforcing the Racing Act during recent years as certain license holders hold licenses without making efforts to operate. Also, with the continued decline in the horseracing industry, TRC experiences issues with funding. As a self-leveling agency, TRC depends on the fees collected from license holders and track operators—as well as other licensed professionals operating in the horseracing industry—to pay for its operations. This year, TRC is preparing to experience significant cash flow problems rendering it incapable of meeting payroll. This bill implements some of the recommendations made by the Sunset Advisory Commission based on its review of TRC.

As proposed, S.B. 1013 amends current law relating to the continuation and functions of the Texas Racing Commission, the abolishment of the Equine Research Account Advisory Committee, and the authority of Texas AgriLife Research.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Racing Commission in SECTION 8 (Section 6.0601, V.T.C.S), SECTION 9 (Section 6.0602, V.T.C.S), SECTION 12 (Section, 7.01, V.T.C.S.), and SECTION 15 (Section 11.04, V.T.C.S) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2.071, Texas Racing Act (Article 179e, V.T.C.S.), as follows:

Sec. 2.071. CONFLICT OF INTEREST. (a) Prohibits a person from being a member of the Texas Racing Commission (TRC) and from being a TRC employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

- (1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding; or
- (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding. Deletes existing text prohibiting an officer, employee, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding from being a member of TRC or an employee of TRC who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. Deletes text of existing Subsection (b) prohibiting a person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding from being a member of TRC or from being an employee of TRC who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) Prohibits a person from being a member of TRC or acting as the general counsel to TRC if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of TRC.

(c) Redefines "Texas trade association."

SECTION 2. Amends Article 2, Texas Racing Act (Article 179e, V.T.C.S.), by adding Section 2.25, as follows:

Sec. 2.25. USE OF TECHNOLOGY. Requires TRC to implement a policy requiring TRC to use appropriate technological solutions to improve TRC's ability to perform its functions. Requires that the policy ensure that the public is able to interact with TRC on the Internet.

SECTION 3. Amends Article 2, Texas Racing Act (Article 179e, V.T.C.S.), by adding Section 2.26, as follows:

Sec. 2.26. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires TRC to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of TRC rules, and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use By Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under TRC's jurisdiction.

(b) Requires TRC's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires TRC to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a) of this section, serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures, as implemented by TRC.

SECTION 4. Amends Section 3.07(e), Texas Racing Act (Article 179e, V.T.C.S.), to delete existing text requiring an association, if the amount held exceeds the amount needed to pay the charges, to pay the excess to TRC in accordance with Section 11.08 (Repealed) of this Act.

SECTION 5. Amends Section 5.03(a) and (c), Texas Racing Act (Article 179e, V.T.C.S.), as follows:

(a) Requires an applicant for any license or license renewal under this Act, except as allowed under Section 7.10 (Reciprocal licenses; out-of-state applicants) of this Act, to submit to TRC a complete set of fingerprints of the individual natural person applying for the license or license renewal or, if the applicant is not an individual, natural person, a complete set of fingerprints of each officer or director and of each person owning an interest of at least five percent in the applicant.

(c) Makes a conforming change.

SECTION 6. Amends Article 6, Texas Racing Act (Article 179e, V.T.C.S.), by adding Section 6.032, as follows:

Sec. 6.032. BOND. (a) Requires TRC to require a holder of a racetrack license or an applicant for a racetrack license to post security in an amount determined by TRC rule to adequately ensure the license holder's or applicant's compliance with this Act and TRC rules.

(b) Provides that cash, cashier's checks, surety bonds, irrevocable bank letters of credit, United State Treasury bonds that are readily convertible to cash, or irrevocable assignments of federally insured deposits in banks, savings and loan institutions, and credit unions are acceptable as security for purposes of this section. Requires that the security to be conditioned on compliance with this Act and TRC rules adopted under this Act, and returned after the conditions of the security are met.

SECTION 7. Amends the heading to Section 6.04, Texas Racing Act (Article 179e, V.T.C.S.), to read as follows:

Sec. 6.04. ISSUANCE OF LICENSE.

SECTION 8. Amends Article 6, Texas Racing Act (Article 179e, V.T.C.S.), by adding Section 6.0601, as follows:

Sec. 6.0601. LICENSE REVIEW AND RENEWAL; FEES. (a) Requires TRC by rule to establish a renewal and review process for racetrack licenses issued under this article.

(b) Requires TRC to review each racetrack license designated by TRC as active not less than once every five years, except as otherwise provided by this section.

(c) Requires TRC to annually review a racetrack license designated by TRC as inactive.

(d) Authorizes TRC by rule to adopt a system under which racetrack licenses expire on various dates in a year or in various years. Requires license fees, for the year in which the license expiration date is changed, to be prorated on a monthly basis so that each license holder pays only that portion of the license fee allocable to the number of months during which the license is valid. Provides that on renewal of the license on the new expiration date, the total license renewal fee is payable.

(e) Authorizes TRC to require a license holder who is renewing a racetrack license or who is subject to TRC review of the racetrack license to provide any information that would be required to be provided in connection with an original license application under this Act.

(f) Requires TRC, in reviewing a racetrack license or in determining whether to renew a racetrack license, to consider the license holder's financial stability and ability to conduct live racing events, and other factors considered in the issuance of the initial license.

(g) Authorize TRC to refuse to renew a racetrack license or revoke a license if, after notice and a hearing, TRC determines under Subsection (f) of this section that allowing the license holder to hold the racetrack license is not in the best interests of the racing industry or the public.

(h) Authorizes TRC to refuse to renew a racetrack license or revoke a license if, after notice and hearing, TRC finds that the applicant has violated this Act or a TRC rule.

(j) Requires TRC to consult with members of the racing industry and other key stakeholders in developing the racetrack license renewal and review process under this section.

SECTION 9. Amends Article 6, Texas Racing Act (Article 179e, V.T.C.S.), by adding Section 6.0602, as follows:

Sec. 6.0602. DISCIPLINARY ACTION. (a) Requires TRC by rule to establish procedures for disciplinary action against a racetrack license holder.

(b) Authorizes TRC if, after noticing and hearing, TRC finds that a racetrack license holder or a person employed by the racetrack has violated this Act or a TRC rule or if TRC finds during a review or renewal that the racetrack is ineligible for a license under this article, to revoke, suspend, or refuse to renew the racetrack license, impose an administrative penalty as provided under Section 15.03 (Administrative Penalty) of this Act, or take any other action as provided by TRC rule.

SECTION 10. Amends the heading to Section 6.18, Texas Racing Act (Article 179e, V.T.C.S.), to read as follows:

Sec. 6.18. ANNUAL FEE FOR RACETRACK LICENSE.

SECTION 11. Amends Section 6.18(b), Texas Racing Act (Article 179e, V.T.C.S.), to require the fee be in an amount sufficient to provide that the total amount of fees imposed under this section, together with the license fees prescribed under Section 5.01(b) (relating to TRC prescribing license fees for each category of license) of this Act and the renewal and review fees prescribed under Section 6.0601(i) of this Act, is sufficient to pay the costs of administering and enforcing this Act.

SECTION 12. Amends Section 7.01, Texas Racing Act (Article 179e, V.T.C.S.), as follows:

Sec. 7.01. LICENSE REQUIRED. (a) Prohibits a person, except as provided by this section, from participating in racing with pari-mutuel wagering other than as a spectator or as a person placing a wager without first obtaining a license from TRC. Prohibits a person from engaging in any occupation for which TRC rules require a license under this Act without first obtaining a license from TRC.

(b) Requires TRC by rule to categorize the occupations of racetrack employees and determine the occupations that afford the employee an opportunity to influence racing with pari-mutuel wagering. Requires the rules to require the following employees to be licensed under this Act:

(1) an employee who works in an occupation determined by TRC to afford the employee an opportunity to influence racing with pari-mutuel wagering; or

(2) an employee who will likely have significant access to the backside of a racetrack or to restricted areas of the frontside of a racetrack.

(c) Provides that a racetrack licensed under this Act is responsible for ensuring that its employees comply with this Act and TRC rules. Authorizes TRC to impose disciplinary action against a licensed racetrack for violations of this Act and TRC rules by its employees as provided by Section 6.0602 of this article.

SECTION 13. Section 7.07, Texas Racing Act (Article 179e, V.T.C.S.), by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides that a license issued under this article is renewable on application, satisfactory results of a criminal history information record check, and payment of the fee in accordance with the rules of TRC.

(a-1) Requires TRC to obtain criminal history record information on each applicant renewing an occupational license under this article.

SECTION 14. Amends Section 11.01, Texas Racing Act (Article 179e, V.T.C.S.), by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Prohibits a person from accepting, in person, by telephone, or over the Internet, a wager for a horse race or greyhound race conducted inside or outside this state from a person in this state unless the wager is authorized under this Act.

(a-1) Creates this subsection from existing text.

SECTION 15. Amends Sections 11.04(a) and (c), Texas Racing Act (Article 179e, V.T.C.S.), as follows:

(a) Prohibits a person, except as provided by this section, from placing, in person, by telephone, or over the Internet, a wager for a horse race or greyhound race conducted inside or outside this state.

(c) Requires TRC to limit the use of an automatic banking machine to allow a person to have access to only the person's checking account at a bank or other financial institution. Deletes existing text of Subdivision (2).

SECTION 16. Amends Section 11.05, Texas Racing Act (Article 179e, V.T.C.S.), as follows:

Sec. 11.05. UNLAWFUL WAGERING. Prohibits a person who is not an association under this Act from accepting from a Texas resident while the resident is in this state a wager on the result of a greyhound race or horse race conducted inside or outside this state.

SECTION 17. Amends Section 18.01(a), Texas Racing Act (Article 179e, V.T.C.S.), to provide that TRC is abolished and this Act expires September 1, 2015, rather than 2009, unless continued in existence as provided by that chapter, and except as provided by Subsections (b) (relating to outstanding long-term liabilities of an association created under this Act, if TRC would be abolished) and (c) (relating to the expiration of this Act and the abolishment of the commission upon certification to the secretary of state) of this section.

SECTION 18. Amends Section 88.521(2), Education Code, to redefine "director."

SECTION 19. Amends Sections 88.522(b), (f), and (g), Education Code, as follows:

(b) Requires the director of the Texas AgriLife Research (director) to administer the account through established procedures of Texas AgriLife Research, formerly known as the Texas Agricultural Experiment Station.

(f) Prohibits more than 10 percent of the account from being spent each year on the cost incurred in the operation or administration of the account, rather than the advisory committee or account.

(g) Provides that all money received by the account, rather than the advisory committee or account, is subject to Subchapter F (State Funds Reform Act), Chapter 404 (State Treasury Operations of Comptroller), Government Code.

SECTION 20. Amends Section 88.525, Education Code, by adding Subsections (a-1) and (b-1) and amending Subsection (b), as follows:

(a-1) Requires the director, in awarding grants under this section, to comply with the conflict of interest provisions of The Texas A&M University System.

(b) Requires the director, rather than the director with the advice of the advisory committee, to develop annually a request for proposals for equine research grants. Authorizes, rather than requires, each proposal received to be evaluated by a peer review committee appointed by the director and subject matter experts as necessary to evaluate the proposal. Requires the peer review committee to consider the applicant's research capacity and the relevance and scientific merit of the proposal and make recommendations to the director.

(b-1) Authorizes the director to award a grant to an applicant who proposes to commingle grant money awarded under this section with other sources of funding or proposes to conduct research that includes equine research.

SECTION 21. Amends Section 88.526(a), Education Code, to require the director to distribute the report to TRC and members of the Texas horse racing industry, rather than the advisory committee.

SECTION 22. Amends Section 88.527, Education Code, as follows:

Sec. 88.527. CONFERENCE. Requires Texas AgriLife Research to conduct an annual conference on equine research. Requires the director to make the report created under Section 88.526 (Reporting) available at the conference.

SECTION 23. Repealer: Section 2.072 (Lobbyist restriction), V.T.C.S.

Repealer: Section 6.04(b) (relating to an applicant posting security before issuance of a license), V.T.C.S.

Repealer: Section 6.06(k) (relating to TRC review of the ownership and management of a license every five years beginning on the fifth anniversary of the issuance of the license), V.T.C.S.

Repealer: Section 6.18(a) (relating to a racetrack license issued under this article and TRC authorization to suspend or revoke a license), V.T.C.S.

Repealer: Section 7.02(a) (relating to license requirements for a person involved in any capacity with pari-mutuel wagering, other than a spectator or a person placing a wager), V.T.C.S.

SECTION 24. Repealer: Section 88.521(1) (relating to the definition of "advisory committee"), Education Code.

Repealer: Section 88.523 (Advisory Committee), Education Code.

Repealer: Section 88.5231 (Standards of Conduct; Prohibited Conduct), Education Code.

Repealer: Section 88.5232 (Removal From Committee), Education Code.

Repealer: Section 88.524 (Open Meetings Law; Administrative Procedure Law; Sunset Act), Education Code.

Repealer: Section 88.5245 (Public Access), Education Code.

Repealer: Section 88.525(c) (relating to requiring the director to consult with the advisory committee, before awarding any grants), Education Code.

SECTION 25. (a) Requires TRC, not later than January 1, 2010, to determine the expiration date of each license issued under the Texas Racing Act (Article 179e, V.T.C.S.).

(b) Requires TRC, not later than September 1, 2010, to complete a review of each inactive racetrack license as required by Section 6.0601, Texas Racing Act (Article 179e, V.T.C.S.), as added by this Act.

(c) Requires TRC, notwithstanding Section 6.0601, Texas Racing Act (Article 179e, V.T.C.S.), as added by this Act, to conduct the initial review of a racetrack license issued on or after January 1, 2007, by the later of September 1, 2011, or the second anniversary of the date of issuance.

(d) Authorizes TRC to adjust license renewal and review fees pursuant to TRC's authority to adjust fees under Section 5.01, Texas Racing Act (Article 179e, V.T.C.S.),

and Section 6.0601, Texas Racing Act (Article 179e, V.T.C.S.), as added by this Act, to recover any money lost by the change in law made by this Act to Section 3.07(e), Texas Racing Act (Article 179e, V.T.C.S.).

(e) Requires the executive director of Texas AgriLife Research, as soon as practicable, to submit a report to TRC as required by Section 88.526, Education Code, as amended by this Act.

SECTION 26. Effective date: September 1, 2009.