



# Texas Lottery Commission

## August 6, 2020

### 10:00 a.m.

Due to Governor Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas because of the COVID-19 pandemic (renewed monthly thereafter) and pursuant to the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, the August 6, 2020 meeting of the Texas Lottery Commission will be conducted via Zoom webinar.

Members of the public will not be able to attend the open meeting in person. Instead, the public will have access and a means to participate in this meeting, by two-way audio, via the following link:

<https://txlottery.zoom.us/j/95358492897?pwd=OXk4aGFmSGd4ZUlxQ1ViWmFHV1VhZz09>

(Password: 284643; Webinar ID: 953 5849 2897), or by calling +1 346-248-7799.

If you wish to provide public comment at the meeting, notify Bob Biard, General Counsel, by email at [bob.biard@lottery.state.tx.us](mailto:bob.biard@lottery.state.tx.us) or by phone at 512-344-5127 no later than 5:00 p.m. on Wednesday, August 5, 2020, indicating your name, address and phone number; who you are representing, if applicable; the item on which you wish to provide public comment and whether your comments are for, against, or neutral regarding the item.

Members of the public may also register to provide public comment by following the instructions at the link directly below. When the Commission reaches the item noted for public comment, Chairman Rivera will recognize you by name and give you an opportunity to speak. All public comments are limited to three minutes.

An electronic copy of the agenda is available at the following link, and an electronic copy of the meeting materials and instructions for access to the meeting will be available at this link prior to the meeting:

[https://www.txlottery.org/export/sites/lottery/About\\_Us/Meetings/Commission\\_Meeting\\_Agenda/](https://www.txlottery.org/export/sites/lottery/About_Us/Meetings/Commission_Meeting_Agenda/)

An archived recording of the meeting will be available by the close of business on August 7 on the Commission's YouTube channel at <https://www.youtube.com/user/TheTexasLottery>.

- I. The Texas Lottery Commission will call the meeting to order.  
Roll Call for Commissioners.
- II. Report, possible discussion and/or action on Commissioner training, including ethics, administrative procedure, and open government laws pertaining to the Texas Lottery Commission.
- III. Report by the Bingo Advisory Committee (BAC) Chairman; possible discussion and/or action on the BAC's activities, including removal and appointment of committee members, continuation of the BAC, and the BAC's annual work plan for FY 2021.
- IV. Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §402.200 (General Restrictions on the Conduct of Bingo), §402.300 (Pull-Tab Bingo), §402.301 (Bingo Card/Paper), §402.400 (General Licensing Provisions), §402.401 (Temporary License), §402.404 (License Classes and Fees), §402.408 (Designation of Members), §402.420 (Qualifications and Requirements for Conductor's License), §402.450 (Request for Waiver), §402.451 (Operating Capital), §402.502 (Charitable Use of Net Proceeds Recordkeeping), §402.503 (Bingo Gift Certificates), §402.511 (Required Inventory Records), §402.601 (Interest on Delinquent Tax), §402.602 (Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest), §402.700 (Denials; Suspensions; Revocations; Hearings), §402.702 (Disqualifying Convictions), and §402.703 (Audit Policy).
- V. Report, possible discussion and/or action on the agency's comprehensive business plan pursuant to State Lottery Act §466.028.
- VI. Consideration of and possible discussion and/or action, including adoption, on amendments to 16 TAC §401.158 (Suspension or Revocation of License), §401.160 (Standard Penalty Chart), §401.301 (General Definitions), §401.302 (Scratch Ticket Game Rules), §401.304 (Draw Game Rules (General)), §401.305 ("Lotto Texas®" Draw Game Rule), §401.307 ("Pick 3" Draw Game Rule), §401.308 ("Cash Five" Draw Game Rule), §401.312 ("Texas Two Step" Draw Game Rule), §401.315 ("Mega Millions" Draw Game Rule), §401.316 ("Daily 4" Draw

Robert G. Rivera, Chairman

Robert F. Biard, General Counsel

William Smith, III, President, Bingo Advisory Committee

Tyler Vance, Assistant General Counsel

Ryan Mindell, Lottery Operations Director

Kyle Wolfe, Assistant General Counsel

<p>Game Rule), §401.317 (“Powerball®” Draw Game Rule), §401.320 (“All or Nothing” Draw Game Rule), §401.321 (Instant Game Tickets Containing Non-English Words), §401.322 (“Texas Triple Chance” Draw Game Rule), §401.351 (Proceeds from Ticket Sales), §401.353 (Retailer Settlements, Financial Obligations, and Commissions), §401.355 (Restricted Sales), §401.363 (Retailer Record) §401.366 (Compliance with All Applicable Laws), and §401.368 (Lottery Ticket Vending Machines).</p>	
<p>VII. Report, possible discussion and/or action on lottery sales and revenue, game performance, new game opportunities, advertising, promotional activities, market research, trends, and game contracts, agreements, and procedures.</p>	<p>Katheryn J. Pyka, Controller</p>
<p>VIII. Report, possible discussion and/or action on transfers to the State and the agency’s budget status.</p>	<p>Katheryn J. Pyka, Controller</p>
<p>IX. Report, possible discussion and/or action on the FY 2022-23 Legislative Appropriations Request.</p>	<p>Katheryn J. Pyka, Controller</p>
<p>X. Report, possible discussion and/or action on external and internal audits and/or reviews relating to the Texas Lottery Commission, and/or on Internal Audit activities, including approval of the FY 2021 Annual Internal Audit Plan.</p>	<p>Darlene Brown, McConnell &amp; Jones LLP</p>
<p>XI. Report by the Charitable Bingo Operations Director and possible discussion and/or action on the Charitable Bingo Operations Division’s activities, including licensing, accounting and audit activities, reports, and special projects.</p>	<p>Tom Hanson, Charitable Bingo Operations Division Director</p>
<p>XII. Report by the Executive Director and possible discussion and/or action on the agency’s operational status, major contracts, agency procedures, awards, and FTE status.</p>	<p>Gary N. Grief, Executive Director</p>
<p>XIII. Consideration of the status and possible approval of orders in enforcement cases:</p>	<p>Robert F. Biard, General Counsel</p>
<p><u>Lottery NSF License Revocation Cases (Default)</u></p>	
<p>A. Docket No. 362-20-2483 – Skytop Food Mart</p>	
<p>B. Docket No. 362-20-2486 – Belt Line Beer &amp; Wine</p>	
<p>C. Docket No. 362-20-2488 – Family Stop</p>	
<p>D. Docket No. 362-20-2490 – Grab &amp; Go Liquor</p>	
<p>E. Docket No. 362-20-3185 – Jackpot</p>	
<p>F. Docket No. 362-20-3186 – Stop N Drive 3</p>	
<p>G. Docket No. 362-20-3264 – Jensen Food Mart</p>	
<p>H. Docket No. 362-20-3266 – Super Food Mart 23</p>	
<p>I. Docket No. 362-20-3267 – Berry St. Chevron</p>	
<p><u>Lottery Agreed Orders</u></p>	
<p>J. Case No. 2019-1014 – Hernandez Grocery</p>	

- K. Case No. 2020-131 – Wrangler
- L. Case No. 2020-446 – Kiest Market

Other Lottery Cases

- M. Docket No. 362-20-0062 – Times Market #102  
(Motion for Rehearing)
- N. Docket No. 362-20-1631 – AAC #101
- O. Docket No. 362-20-2319 – Friendly Express Way  
(Default)
- P. Docket No. 362-20-2398 – Mercado Express  
(Default)

Bingo Cases

- Q. Docket No. 362-20-1972.B – Jamel Hendricks  
(Bingo Worker) (Default)

XIV. Public comment.

XV. Commission may meet in Executive Session:

- A. To deliberate personnel matters, including the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director and/or Charitable Bingo Operations Director pursuant to §551.074 of the Texas Government Code.
- B. To deliberate the duties of the General Counsel and/or the Human Resources Director pursuant to §551.074 of the Texas Government Code.
- C. To receive legal advice regarding pending or contemplated litigation or settlement offers, or other legal advice, pursuant to §551.071(1) and (2) of the Texas Government Code, including but not limited to legal advice regarding the following items:  
Pending litigation regarding Fun 5’s Scratch Ticket Game #1592, including Tex. Supreme Court Docket No. 18-0159 (Steele, et al. v. GTECH Corp.) and Tex. Supreme Court Docket No. 17-1010 (Nettles v. GTECH Corp. and Texas Lottery Commission); and  
State of Texas v. C.D. (On Petition for Review to Texas Supreme Court - Docket No. 18-0808);  
Legal advice regarding the Governor’s March 13, 2020 COVID-19 state of disaster declaration (as renewed thereafter) and related Texas Lottery Commission matters, Texas Government Code Chapters 466 (State Lottery Act) and 467 (Texas Lottery Commission), the Bingo Enabling Act, the Open Meetings Act, the Public Information Act, the Administrative Procedure Act, employment and

Robert G. Rivera, Chairman  
Robert G. Rivera, Chairman

personnel law, procurement and contract law, evidentiary and procedural law, ethics laws, and general government law.

Legal advice regarding any item on this open meeting agenda.

XVI. Return to open session for further deliberation and possible action on any matter posted for discussion in Executive Session. Any matter posted for Executive Session also may be the subject of discussion and/or action in open session.

XVII. Adjournment.

Notice of Assistance at Public Meetings. Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, should contact Debbie Jamieson at (512) 344-5038 at least four (4) work days prior to the meeting so that appropriate arrangements can be made.

Robert G. Rivera, Chairman

Robert G. Rivera, Chairman

## Copy Center

---

**From:** Jamieson, Debbie  
**Sent:** Wednesday, July 29, 2020 12:16 PM  
**To:** Sanchez, Sheila; Simpson, MaryBeth  
**Cc:** Biard, Bob  
**Subject:** FW: S.O.S. Acknowledgment of Receipt

-----Original Message-----

From: [TexReg@sos.texas.gov](mailto:TexReg@sos.texas.gov) <[TexReg@sos.texas.gov](mailto:TexReg@sos.texas.gov)>  
Sent: Wednesday, July 29, 2020 12:13 PM  
To: Jamieson, Debbie <[Debbie.Jamieson@lottery.state.tx.us](mailto:Debbie.Jamieson@lottery.state.tx.us)>  
Subject: S.O.S. Acknowledgment of Receipt

CAUTION: This email originated outside the Texas Lottery's email system.  
DO NOT click links or open attachments unless you expect them from the sender and know the content is safe.

Acknowledgment of Receipt

Agency: Texas Lottery Commission

Liaison: Debbie L. Jamieson

The Office of the Secretary of State has posted

notice of the following meeting:

Board: Texas Lottery Commission

Committee: Texas Lottery Commission

Date: 08/06/2020 10:00 AM "TRD# 2020004176"

Notice posted: 07/29/20 12:12 PM

Proofread your current open meeting notice at:

[http://texreg.sos.state.tx.us/public/pub\\_om\\_lookup\\$.startup?Z TRD=2020004176](http://texreg.sos.state.tx.us/public/pub_om_lookup$.startup?Z TRD=2020004176)

Due to Governor Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas because of the COVID-19 pandemic (renewed monthly thereafter) and pursuant to the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, the August 6, 2020 meeting of the Texas Lottery Commission will be conducted via Zoom webinar.

Members of the public will not be able to attend the open meeting in person. Instead, the public will have access and a means to participate in this meeting, by two-way audio, via the following link:

<https://txlottery.zoom.us/j/95358492897?pwd=OXk4aGFmSGd4ZUlxQ1ViWmFHV1VhZz09>  
(Password: 284643; Webinar ID: 953 5849 2897), or by calling +1 346-248-7799.

If you wish to provide public comment at the meeting, notify Bob Biard, General Counsel, by email at [bob.biard@lottery.state.tx.us](mailto:bob.biard@lottery.state.tx.us) or by phone at 512-344-5127 no later than 5:00 p.m. on Wednesday, August 5, 2020, indicating your name, address and phone number; who you are representing, if applicable; the item on which you wish to provide public comment and whether your comments are for, against, or neutral regarding the item. Members of the public may also register to provide public comment by following the instructions at the link directly below. When the Commission reaches the item noted for public comment, Chairman Rivera will recognize you by name and give you an opportunity to speak. All public comments are limited to three minutes.

An electronic copy of the agenda is available at the following link, and an electronic copy of the meeting materials and instructions for access to the meeting will be available at this link prior to the meeting:

[https://www.txlottery.org/export/sites/lottery/About\\_Us/Meetings/Commission\\_Meeting\\_Agenda/](https://www.txlottery.org/export/sites/lottery/About_Us/Meetings/Commission_Meeting_Agenda/)

An archived recording of the meeting will be available by the close of business on August 7 on the Commission's YouTube channel at <https://www.youtube.com/user/TheTexasLottery>.

- I. The Texas Lottery Commission will call the meeting to order.  
Roll Call for Commissioners.
- II. Report, possible discussion and/or action on Commissioner training, including ethics, administrative procedure, and open government laws pertaining to the Texas Lottery Commission.
- III. Report by the Bingo Advisory Committee (BAC) Chairman; possible discussion and/or action on the BAC's activities, including removal and appointment of committee members, continuation of the BAC, and the BAC's annual work plan for FY 2021.
- IV. Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §402.200 (General Restrictions on the Conduct of Bingo), §402.300 (Pull-Tab Bingo), §402.301 (Bingo Card/Paper), §402.400 (General Licensing Provisions), §402.401 (Temporary License), §402.404 (License Classes and Fees), §402.408 (Designation of Members), §402.420 (Qualifications and Requirements for Conductor's License), §402.450 (Request for Waiver), §402.451 (Operating Capital),



- §402.502 (Charitable Use of Net Proceeds Recordkeeping), §402.503 (Bingo Gift Certificates), §402.511 (Required Inventory Records), §402.601 (Interest on Delinquent Tax), §402.602 (Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest), §402.700 (Denials; Suspensions; Revocations; Hearings), §402.702 (Disqualifying Convictions), and §402.703 (Audit Policy).
- V. Report, possible discussion and/or action on the agency’s comprehensive business plan pursuant to State Lottery Act §466.028.
  - VI. Consideration of and possible discussion and/or action, including adoption, on amendments to 16 TAC §401.158 (Suspension or Revocation of License), §401.160 (Standard Penalty Chart), §401.301 (General Definitions), §401.302 (Scratch Ticket Game Rules), §401.304 (Draw Game Rules (General)), §401.305 (“Lotto Texas®” Draw Game Rule), §401.307 (“Pick 3” Draw Game Rule), §401.308 (“Cash Five” Draw Game Rule), §401.312 (“Texas Two Step” Draw Game Rule), §401.315 (“Mega Millions” Draw Game Rule), §401.316 (“Daily 4” Draw Game Rule), §401.317 (“Powerball®” Draw Game Rule), §401.320 (“All or Nothing” Draw Game Rule), §401.321 (Instant Game Tickets Containing Non-English Words), §401.322 (“Texas Triple Chance” Draw Game Rule), §401.351 (Proceeds from Ticket Sales), §401.353 (Retailer Settlements, Financial Obligations, and Commissions), §401.355 (Restricted Sales), §401.363 (Retailer Record) §401.366 (Compliance with All Applicable Laws), and §401.368 (Lottery Ticket Vending Machines).
  - VII. Report, possible discussion and/or action on lottery sales and revenue, game performance, new game opportunities, advertising, promotional activities, market research, trends, and game contracts, agreements, and procedures.
  - VIII. Report, possible discussion and/or action on transfers to the State and the agency’s budget status.
  - IX. Report, possible discussion and/or action on the FY 2022-23 Legislative Appropriations Request.
  - X. Report, possible discussion and/or action on external and internal audits and/or reviews relating to the Texas Lottery Commission, and/or on Internal Audit activities, including approval of the FY 2021 Annual Internal Audit Plan.
  - XI. Report by the Charitable Bingo Operations Director and possible discussion and/or action on the Charitable Bingo Operations Division’s activities, including licensing, accounting and audit activities, reports, and special projects.
  - XII. Report by the Executive Director and possible discussion and/or action on the agency’s operational status, major contracts, agency procedures, awards, and FTE status.
  - XIII. Consideration of the status and possible approval of orders in enforcement cases:
    - Lottery NSF License Revocation Cases (Default)
      - A. Docket No. 362-20-2483 – Skytop Food Mart
      - B. Docket No. 362-20-2486 – Belt Line Beer & Wine
      - C. Docket No. 362-20-2488 – Family Stop
      - D. Docket No. 362-20-2490 – Grab & Go Liquor
      - E. Docket No. 362-20-3185 – Jackpot
      - F. Docket No. 362-20-3186 – Stop N Drive 3
      - G. Docket No. 362-20-3264 – Jensen Food Mart
      - H. Docket No. 362-20-3266 – Super Food Mart 23
      - I. Docket No. 362-20-3267 – Berry St. Chevron

Lottery Agreed Orders

- J. Case No. 2019-1014 – Hernandez Grocery
- K. Case No. 2020-131 – Wrangler
- L. Case No. 2020-446 – Kiest Market

Other Lottery Cases

- M. Docket No. 362-20-0062 – Times Market #102 (Motion for Rehearing)
- N. Docket No. 362-20-1631 – AAC #101
- O. Docket No. 362-20-2319 – Friendly Express Way (Default)
- P. Docket No. 362-20-2398 – Mercado Express (Default)

Bingo Cases

- Q. Docket No. 362-20-1972.B – Jamel Hendricks (Bingo Worker) (Default)

XIV. Public comment.

XV. Commission may meet in Executive Session:

- A. To deliberate personnel matters, including the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director and/or Charitable Bingo Operations Director pursuant to §551.074 of the Texas Government Code.
- B. To deliberate the duties of the General Counsel and/or the Human Resources Director pursuant to §551.074 of the Texas Government Code.
- C. To receive legal advice regarding pending or contemplated litigation or settlement offers, or other legal advice, pursuant to §551.071(1) and (2) of the Texas Government Code, including but not limited to legal advice regarding the following items:

Pending litigation regarding Fun 5’s Scratch Ticket Game #1592, including Tex. Supreme Court Docket No. 18-0159 (Steele, et al. v. GTECH Corp.) and Tex. Supreme Court Docket No. 17-1010 (Nettles v. GTECH Corp. and Texas Lottery Commission); and

State of Texas v. C.D. (On Petition for Review to Texas Supreme Court - Docket No. 18-0808);

Legal advice regarding the Governor’s March 13, 2020 COVID-19 state of disaster declaration (as renewed thereafter) and related Texas Lottery Commission matters, Texas Government Code Chapters 466 (State Lottery Act) and 467 (Texas Lottery Commission), the Bingo Enabling Act, the Open Meetings Act, the Public Information Act, the Administrative Procedure Act, employment and personnel law, procurement and contract law, evidentiary and procedural law, ethics laws, and general government law.

Legal advice regarding any item on this open meeting agenda.

XVI. Return to open session for further deliberation and possible action on any matter posted for discussion in Executive Session. Any matter posted for Executive Session also may be the subject of discussion and/or action in open session.

XVII. Adjournment.

Notice of Assistance at Public Meetings. Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, should contact Debbie

Jamieson at (512) 344-5038 at least four (4) work days prior to the meeting so that appropriate arrangements can be made.