

INTEROFFICE MEMO

Gary Grief, Executive Director

Tom Hanson, Charitable Bingo Operations Director

To: Robert G. Rivera, Chairman
Cindy Fields, Commissioner
Mark A. Franz, Commissioner
Erik C. Saenz, Commissioner
Jamey Steen, Commissioner

Approved

Denied

From: Kyle Wolfe, Assistant General Counsel *KW*

Date: December 3, 2020

Re: Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §§ 401.305 ("Lotto Texas" Draw Game Rule), 401.312 ("Texas Two Step" Draw Game Rule), and 401.317 ("Powerball" Draw Game Rule)

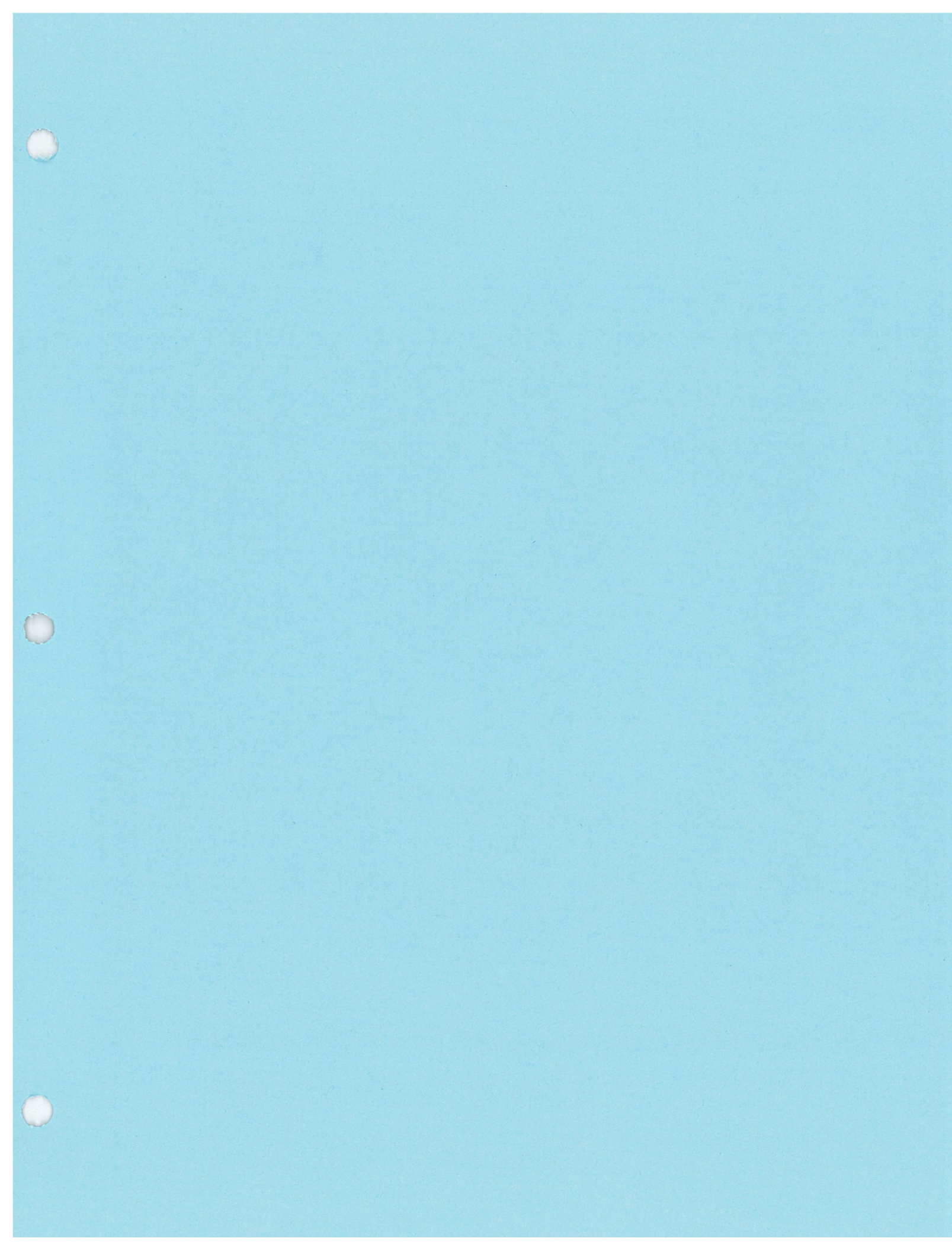
Attached is a draft rule proposal prepared for submission to the *Texas Register* for amendments to the above-referenced rules. The purpose of the proposed amendments is to provide the Texas Lottery Commission (Commission) greater flexibility to coordinate the draw dates and times for its jackpot draw games to maximize potential revenue to the state.

The proposed amendment to Rule 401.305 provides that Lotto Texas drawings will occur on the days and at times specified by the Commission's executive director, which may be days or times other than Wednesday and Saturday at 10:12 p.m., as the rule currently provides.

The proposed amendment to Rule 401.312 similarly provides that Texas Two Step drawings will occur on the days and at times specified by the executive director, which may be days or times other than Monday and Thursday at 10:12 p.m., as the rule currently provides.

The proposed amendment to Rule 401.317 provides that Powerball drawings will occur on the days specified by the Multi-State Lottery Association (MUSL) Powerball Group and announced by the executive director, which may be days other than Wednesday and Saturday, as the rule currently provides.

Recommendation: Staff recommends the Commission initiate the rulemaking process by publishing the attached proposed rule amendments in the *Texas Register* in order to receive public comments for a period of thirty (30) days.



1 The Texas Lottery Commission (Commission) proposes amendments to 16 TAC
2 §§ 401.305 (“Lotto Texas” Draw Game Rule), 401.312 (“Texas Two Step” Draw Game Rule),
3 and 401.317 (“Powerball” Draw Game Rule).

4 The proposed amendment to Rule 401.305 provides that Lotto Texas drawings will occur
5 on the days and at times specified by the Commission’s executive director, which may be days or
6 times other than Wednesday and Saturday at 10:12 p.m., as the rule currently provides.

7 The proposed amendment to Rule 401.312 similarly provides that Texas Two Step
8 drawings will occur on the days and at times specified by the executive director, which may be
9 days or times other than Monday and Thursday at 10:12 p.m., as the rule currently provides.

10 The proposed amendment to Rule 401.317 provides that Powerball drawings will occur on
11 the days specified by the Multi-State Lottery Association (MUSL) Powerball Group and
12 announced by the executive director, which may be days other than Wednesday and Saturday, as
13 the rule currently provides.

14 The purpose of the proposed amendments is to provide the Commission greater flexibility
15 to coordinate the draw dates and times for its jackpot draw games to maximize potential revenue
16 to the state.

17 Kathy Pyka, Controller, has determined that for each year of the first five years the
18 amendments will be in effect, there will be no significant fiscal impact for state or local
19 governments as a result of the proposed amendments. There will be no adverse effect on small
20 businesses or rural communities, micro businesses, or local or state employment. There will be no
21 additional economic cost to persons required to comply with the amendments, as proposed.
22 Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required

1 because the proposed amendments will not have an adverse economic effect on small businesses
2 or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

3 Ryan Mindell, Lottery Operations Director, has determined that for each year of the first
4 five years the proposed amendments will be in effect, the public benefit expected is quicker and
5 more direct communication to the public of potential draw date changes as well as greater
6 flexibility to coordinate the Lotto Texas, Texas Two Step, and Powerball game schedules as
7 needed.

8 Pursuant to Texas Government Code §2001.0221, the Commission provides the following
9 Government Growth Impact Statement for the proposed amendments. For each year of the first
10 five years the proposed amendments will be in effect, Kathy Pyka, Controller, has determined the
11 following:

12 (1) The proposed amendments do not create or eliminate a government program.

13 (2) Implementation of the proposed amendments does not require the creation of new
14 employee positions or the elimination of existing employee positions.

15 (3) Implementation of the proposed amendments does not require an increase or decrease
16 in future legislative appropriations to the Commission.

17 (4) The proposed amendments do not require an increase or decrease in fees paid to the
18 Commission.

19 (5) The proposed amendments do not create a new regulation.

20 (6) The proposed amendments do not expand or limit an existing regulation.

21 (7) The proposed amendments do not increase or decrease the number of individuals
22 subject to the rule's applicability.

23 (8) The proposed amendments do not positively or adversely affect this state's economy.

1 The Commission requests comments on the proposed amendments from any interested
2 person. Comments on the proposed amendments may be submitted to Kyle Wolfe, Assistant
3 General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-
4 6630; by facsimile at (512) 344-5189; or by email at *legal.input@lottery.state.tx.us*. Comments
5 must be received within 30 days after publication of this proposal in the Texas Register to be
6 considered.

7 These amendments are proposed under Texas Government Code §466.015(c)(4), which
8 authorizes the Commission to adopt rules governing the operation of the lottery, including the
9 frequency of drawings or selection of a winning ticket, and §467.102, which authorizes the
10 Commission to adopt rules for the enforcement and administration of the laws under the
11 Commission's jurisdiction.

12 This proposal is intended to implement Texas Government Code Chapter 466.
13 §401.305. "Lotto Texas" Draw Game Rule.

14 (a) – (c) (No change.)

15 (d) Drawings.

16 (1) Lotto Texas base game drawings shall be held each week on the days and at times
17 specified by the executive director. [~~Wednesday and Saturday at 10:12 p.m. Central Time. The~~
18 ~~executive director may change the drawing schedule, if it is deemed necessary.~~]

19 (2) – (5) (No change.)

20 (e) – (h) (No change.)

21 §401.312. "Texas Two Step" Draw Game Rule.

22 (a) – (c) (No change.)

23 (d) Drawings.

1 (1) Texas Two Step drawings shall be held each week on the days and at times specified
2 by the executive director. [~~Monday and Thursday at 10:12 p.m. Central Time. The executive~~
3 ~~director may change the drawing schedule, if necessary.~~]

4 (2) – (5) (No change.)

5 (e) – (f) (No change.)

6 §401.317. “Powerball” Draw Game Rule.

7 (a) – (b) (No change.)

8 (c) Game Description.

9 (1) Powerball Game. Powerball is a five (5) out of sixty-nine (69) plus one (1) out of
10 twenty-six (26) numbers lottery game drawn on the days specified by the MUSL Powerball Group
11 and announced by the executive director [~~every Wednesday and Saturday~~], as part of the Powerball
12 Drawing, which pays the Grand Prize, at the election of the player made in accordance with this
13 section, or by a default election made in accordance with this section, either on an annuitized pari-
14 mutuel basis or as a single lump sum payment of the total funding held in the Grand Prize Pool for
15 the winning Drawing on a pari-mutuel basis. Except as provided in this section, all other prizes are
16 paid on a single payment basis.

17 (A) – (C) (No change.)

18 (2) – (6) (No change.)

19 (d) – (k) (No change.)