



INTEROFFICE MEMO

Gary Grief, Executive Director LaDonna Castañuela, Charitable Bingo Operations Director

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

From: Tyler Vance, Assistant General Counsel *TV*

Date: December 16, 2021

Re: Consideration of and possible discussion and/or action, including adoption, on amendments to 16 TAC §§ 402.413 (Military Service Members, Military Veterans, and Military Spouses), 402.452 (Net Proceeds), and 402.702 (Disqualifying Convictions)

Attached is a draft rule proposal prepared for submission to the *Texas Register* to adopt amendments to the above-referenced rules without changes to the proposed text as published in the November 5, 2021 issue of the *Texas Register* (46 TexReg 7490) (also attached). The purpose of the amendments is to conform the rules to various statutes.

The amendments to Rule 402.413(a)(2) add the space force to the definition of “Armed forces of the United States” in accordance with Texas Occupations Code §55.001(2), which was amended by House Bill 139 of the 87th Texas Legislature.

The amendments to Rule 402.452(b)(3) base the calculation of net proceeds for a two-year license on each 12-month period that ends on an anniversary of the date the license was issued, in accordance with Texas Occupations Code §2001.451(g)(2).

The amendments to Rule 402.702(i) allow license and registration applicants 30 days to provide documentation of mitigating factors upon notification of the Commission’s intent to deny the application, in accordance with Texas Occupations Code §53.0231(a)(2).

The Commission received no written comments on the proposed amendments during the public comment period.

Recommendation: Staff recommends that the Commission adopt amendments to the referenced rules.

1 The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §§ 402.413
2 (Military Service Members, Military Veterans, and Military Spouses), 402.452 (Net Proceeds),
3 and 402.702 (Disqualifying Convictions) without changes to the proposed text as published in the
4 November 5, 2021 issue of the *Texas Register* (46 TexReg 7490). The purpose of the amendments
5 is to conform the rules to various statutes.

6 The amendments to Rule 402.413(a)(2) add the space force to the definition of “Armed
7 forces of the United States” in accordance with Texas Occupations Code §55.001(2), which was
8 amended by House Bill 139 of the 87th Texas Legislature.

9 The amendments to Rule 402.452(b)(3) base the calculation of net proceeds for a two-year
10 license on each 12-month period that ends on an anniversary of the date the license was issued, in
11 accordance with Texas Occupations Code §2001.451(g)(2).

12 The amendments to Rule 402.702(i) allow license and registration applicants 30 days to
13 provide documentation of mitigating factors upon notification of the Commission’s intent to deny
14 the application, in accordance with Texas Occupations Code §53.0231(a)(2).

15 The Commission received no written comments on the proposed amendments during the
16 public comment period.

17 The rule amendments are adopted under Texas Occupations Code §2001.054, which
18 authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and
19 Texas Government Code §467.102, which authorizes the Commission to adopt rules for the laws
20 under the Commission’s jurisdiction.

21 §402.413. Military Service Members, Military Veterans, and Military Spouses.

22 (a) The following terms used in this section are defined in §55.001 of the Occupations Code as
23 follows:

1 (1) "Active duty" means current full-time military service in the armed forces of the United
2 States or active duty military service as a member of the Texas military forces, as defined by
3 §437.001, Government Code, or similar military service of another state.

4 (2) "Armed forces of the United States" means the army, navy, air force, space force, coast
5 guard, or marine corps of the United States or a reserve unit of one of those branches of the armed
6 forces.

7 (3) "Military service member" means a person who is on active duty.

8 (4) "Military spouse" means a person who is married to a military service member.

9 (5) "Military veteran" means a person who has served on active duty and who was
10 discharged or released from active duty.

11 (b) As soon as practicable after a military service member, military veteran, or military spouse
12 applies in his or her individual capacity for a commercial lessor license, distributor license,
13 manufacturer license, or listing on the bingo worker registry, the Commission will process the
14 application and, if warranted, issue the license or list the applicant on the bingo worker registry. A
15 military service member or military veteran must provide the Commission with definitive proof of
16 his or her current or prior military service. A military spouse must provide the Commission with:

17 (1) definitive proof of his or her spouse's current military service; and

18 (2) his or her official marriage certificate or other definitive proof of his or her marriage to
19 a military service member.

20 (c) The Commission will waive the license fee for a military service member or military veteran
21 that applies in his or her individual capacity for a commercial lessor license, distributor license, or
22 manufacturer license. The applicant must provide the Commission with definitive proof of the
23 applicant's current or prior military service.

(d) The Commission will waive the license fee for a military spouse that applies in his or her individual capacity for a commercial lessor license, distributor license, or manufacturer license, provided that the applicant holds a current license issued by another state or jurisdiction that is substantially equivalent to the license for which the applicant is applying. The applicant must provide the Commission with:

(1) definitive proof of his or her spouse's current military service;

(2) his or her official marriage certificate or other definitive proof of his or her marriage to a military service member; and

(3) a photocopy of his or her current out-of-state license that is substantially equivalent to the license for which the applicant is applying.

(e) An individual licensed in his or her individual capacity as a commercial lessor, distributor, or manufacturer is exempt from the late license renewal fee provided for in §402.411(e) of this chapter if the individual can demonstrate, to the satisfaction of the Commission, that the individual failed to renew his or her license in a timely manner because the individual was serving as a military service member.

(f) A military spouse may engage in any activity for which a license or bingo worker registration is required without obtaining the applicable license or registration if the spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for licensure in Texas. Before engaging in the activity, the military spouse must notify the Commission of their intent to conduct the activity in this state and must submit proof of their residency in this state along with a copy of their military identification card. Upon receipt, the Commission will verify that the military spouse is currently licensed in good standing in another state that has licensing requirements that are substantially

equivalent to the requirements in Texas. If so, the Commission shall authorize the military spouse to engage in the activity. The authorization is effective only for the period during which the military service member to whom the military spouse is married is stationed at a military installation in this state, not to exceed three years. The authorization may not be renewed. The military spouse shall comply with all other laws and regulations applicable to the business or occupation in this state.

§402.452. Net Proceeds.

(a) Net proceeds from the conduct of bingo must result in a positive amount over the organization's license period. If the organization has a two year license, the net proceeds from the conduct of bingo must result in a positive amount over each year of the organization's license period.

(b) Calculation of Net Proceeds for a License Period.

(1) The current quarterly report information of the organization or unit will be used to determine if the bingo operations of the organization resulted in net proceeds.

(2) The calculation of net proceeds for a one year license will be based on the quarterly reports for the four (4) calendar quarters immediately preceding the license end date.

(3) Net proceeds for a two-year license will be calculated for each year of the license. The calculation of net proceeds for the first year of the license will be based on the quarterly reports for the four (4) calendar quarters immediately preceding the one year anniversary of the license beginning date. The calculation of net proceeds for the second year of the license will be based on the quarterly reports for the four (4) calendar quarters immediately preceding the two-year anniversary of the license beginning date.

(4) The calculation of net proceeds for an organization submitting the first renewal of its license to conduct bingo will be based on the quarterly reports for the three (3) calendar quarters

1 immediately preceding the license end date. If the bingo operations of an organization fail to result
2 in positive net proceeds for the first renewal of a license, the Commission shall recalculate the net
3 proceeds using the quarterly reports for the three (3) calendar quarters immediately preceding the
4 license end date and the quarterly report for the one (1) calendar quarter in which the license end
5 date falls to determine compliance.

6 (c) Calculation of Net Proceeds for Units.

7 (1) Net proceeds for units will be calculated at the end of each quarter for the prior four (4)
8 quarter period.

9 (2) Members of units failing to meet the net proceed requirement may subject their license
10 to conduct bingo to administrative action, up to and including revocation.

11 (3) The calculation of net proceeds for a licensed authorized organization that withdraws
12 from a unit will be based on the following for the four (4) calendar quarters immediately preceding
13 the license end date:

14 (A) the amount of distributions received from the unit; and

15 (B) the licensed authorized organization's quarterly reports.

16 (4) The Commission may request additional information from a member of a unit to assist
17 in the determination of compliance with this section.

18 (d) Net proceeds may be recalculated for an organization or unit who has filed an original or
19 amended return for a filing period used in the calculation of net proceeds when deemed necessary
20 by the Commission or upon written request of the bingo chairperson of an organization.

21 (e) A licensed authorized organization may apply for a waiver from the net proceeds requirement
22 by showing good cause that compliance is detrimental to the organization's existing or planned

charitable purposes. Waiver applications must be submitted in accordance with §402.450 of this chapter (relating to Request for Waiver).

§402.702. Disqualifying Convictions.

(a) The Commission shall determine, consistent with the requirements of Chapters 53 and 2001, Occupations Code, whether criminal convictions affect the eligibility of an applicant for a new or renewal license or listing in the registry of approved bingo workers under the Bingo Enabling Act (BEA). The Director of the Charitable Bingo Operations Division (Director) shall have the authority to make such determinations pursuant to this section. The Commission will not apply Chapter 53, Occupations Code, to officers, directors, or shareholders of, or other individuals associated with, an applicant that is a non-individual business entity.

(b) If any of the following persons have been convicted of a gambling or gambling-related offense, or criminal fraud, the applicant for a license or a listing in the registry of approved bingo workers will not be eligible for a new or renewal license or registry listing, as applicable: the applicant; or for an applicant for a license, any person whose conviction of any such offense would render the applicant ineligible under the eligibility standards for the particular type of license (*i.e.*, BEA §2001.105(b) for authorized organizations, BEA §2001.154(a)(5) for commercial lessors, BEA §2001.202(9) for manufacturers, and BEA §2001.207(9) for distributors). Such a conviction (which shall not include deferred adjudications and/or nolo contendere pleas) shall be a permanent bar to the applicant obtaining a license or registry listing.

(1) The Commission deems any gambling or gambling-related offense to be any offense listed in Penal Code, Chapter 47, Gambling; the offense of Penal Code, §71.02(a)(2), Engaging in Organized Criminal Activity; or any offense committed, including in another state or Federal

jurisdiction, involving substantially similar conduct as an offense cited in Penal Code Chapter 47 or §71.02(a)(2).

(2) The Commission deems any offense involving criminal fraud to be any offense listed in the following Penal Code Chapters and as described below, with the exception of Class C misdemeanors:

(A) Penal Code, Chapter 32, Fraud;

(B) Penal Code, Chapter 35, Insurance Fraud;

(C) Penal Code, Chapter 35A, Medicaid Fraud; or

(D) Any offense committed, including in another state or Federal jurisdiction, involving substantially similar conduct as an applicable offense under these enumerated Penal Code, Chapters 32, 35, or 35A.

(c) For criminal convictions that do not fall under the categories addressed in subsection (b) of this section, the Commission may determine an applicant to be ineligible for a new or renewal license or a registry listing based on a criminal conviction for:

(1) An offense that directly relates to the duties and responsibilities of the licensed or registered activity;

(2) An offense under §3g, Article 42A.054 of the Code of Criminal Procedure; or

(3) A sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure.

(d) For offenses that do not fall under subsection (b) or (c) of this section, such as offenses for which a person pleaded nolo contendere and/or received deferred adjudication and court supervision, and except as provided in subsection (a) of this section, the Commission may apply the provisions of Chapter 53, Occupations Code, to determine whether or not the applicant is

1 eligible for a new or renewal license, or registry listing, under the BEA. For purposes of applying
2 Chapter 53, the Commission may consider an applicant's deferred adjudication for a gambling or
3 gambling-related offense, or a criminal fraud offense, to be a conviction in accordance with
4 §53.021(d), Occupations Code.

5 (e) Because the Commission has a duty to exercise strict control and close supervision over the
6 conduct of Charitable Bingo to ensure that bingo is fairly conducted and the proceeds derived from
7 bingo are used for an authorized purpose, and, because bingo games are largely cash-based
8 operations providing opportunities for individuals to have access to cash and/or products that may
9 be exchanged for cash, the Commission finds that prohibited acts under the BEA and convictions
10 for offenses that call into question an applicant's honesty, integrity, or trustworthiness in handling
11 funds or dealing with the public, directly relate to the duties and responsibilities of licensed and
12 registered activities under the BEA. The Commission deems convictions (including deferred
13 adjudications and/or nolo contendere pleas) for certain misdemeanor and felony offenses to
14 directly relate to the fitness of a new or renewal applicant for a license or registry listing under the
15 BEA. Such offenses include the following:

16 (1) Penal Code, Chapter 30, Burglary and Criminal Trespass, with the exception of:

17 (A) Penal Code, §30.05, Criminal Trespass; and

18 (B) Penal Code, §30.06, Trespass by Holder of License to Carry Concealed
19 Handgun;

20 (2) Penal Code, Chapter 31, Theft, with the exception of:

21 (A) Penal Code, §31.07, Unauthorized Use of a Vehicle;

22 (B) Penal Code, §31.12, Theft of or Tampering with Multichannel Video or
23 Information Services;

1 (C) Penal Code, §31.13, Manufacture, Distribution, or Advertisement of
2 Multichannel Video or Information Services Device; and

3 (D) Penal Code, §31.14, Sale or Lease of Multichannel Video or Information
4 Services Device;

5 (3) Penal Code, Chapter 33, Computer Crimes, with the exception of:

6 (A) Penal Code, §33.05, Tampering With Direct Recording Electronic Voting
7 Machine; and

8 (B) Penal Code, §33.07, Online Impersonation;

9 (4) Penal Code, Chapter 34, Money Laundering;

10 (5) Penal Code, Chapter 36, Bribery and Corrupt Influence, with the exception of Penal
11 Code, §36.07, Acceptance of Honorarium;

12 (6) Penal Code, Chapter 37, Perjury and Other Falsification;

13 (7) Penal Code, Chapter 71, Organized Crime;

14 (8) Tex. Health and Safety Code, Chapter 481, Manufacture, Delivery, or Possession with
15 Intent to Deliver Controlled Substances; and

16 (9) Any offense committed, including in another state or Federal jurisdiction involving
17 substantially similar conduct as an offense in the applicable sections of Penal Code, Chapters 30,
18 31, 33, 34, 36, 37, 71, Tex. Health and Safety Code, Chapter 481, or the BEA.

19 (f) In determining whether a criminal conviction directly relates to the duties and responsibilities
20 of the licensed or registered activity under the BEA, the following factors will be considered:

21 (1) The nature and seriousness of the crime;

22 (2) The relationship of the crime to the purposes for which the individual seeks to engage
23 in the regulated conduct;

1 (3) The extent to which the regulated conduct might offer an opportunity to engage in
2 further criminal activity of the same type as the previous conviction;

3 (4) The relationship of the conviction to the capacity required to perform the regulated
4 conduct; and

5 (5) Any other factors appropriate under Chapters 53 or the BEA, including whether a
6 history of multiple convictions or serious conviction(s) would cause an applicant to pose a threat
7 to the safety of bingo participants or workers.

8 (g) Except for convictions involving gambling or gambling-related offenses, a conviction, deferred
9 adjudication, or nolo contendere plea for a Class C misdemeanor, or traffic offenses, and similar
10 offenses in other state or Federal jurisdictions with a similar range of punishment as a Class C
11 misdemeanor, will not be considered to be a disqualifying offense for purposes of this section.

12 (h) If the Commission determines that an applicant has a criminal conviction directly related to the
13 duties and responsibilities of the licensed occupation, the Commission shall consider the following
14 in determining whether to take an action against the applicant:

15 (1) the extent and nature of the person's past criminal activity;

16 (2) the age of the person when the crime was committed;

17 (3) the amount of time that has elapsed since the person's last criminal activity;

18 (4) the conduct and work activity of the person before and after the criminal activity;

19 (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after
20 release;

21 (6) evidence of the person's compliance with any conditions of community supervision,
22 parole, or mandatory supervision; and

1 (7) other evidence of the person's fitness, including letters of recommendation and veteran's
2 status, including discharge status.

3 (i) Upon notification of the Commission's intent to deny a new or renewal application or registry
4 listing, an applicant may provide documentation of mitigating factors that the applicant would like
5 the Commission to consider regarding its application. Such documentation must be provided to
6 the Commission no later than 30 days after the Commission provides notice to an applicant of a
7 denial, unless the deadline is extended in writing or through e-mail by authorized Commission
8 staff.

9 (j) Upon the Commission's determination that an applicant is not eligible for a new or renewal
10 license or registry listing because of a disqualifying criminal conviction or other criminal offense,
11 the Commission shall take action authorized by statute or Commission rule.

12 (k) A denial or suspension of a new or renewal application under this section may be contested by
13 the applicant pursuant to §402.700 of this chapter.

14 (l) The Director shall issue guidelines relating to the practice of the Commission under Chapter
15 53, Occupations Code, and this section, and may issue amendments to the guidelines as the
16 Director deems appropriate, consistent with §53.025.

PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 402. CHARITABLE BINGO OPERATIONS DIVISION

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §402.413 (Military Service Members, Military Veterans, and Military Spouses), §402.452 (Net Proceeds), and §402.702 (Disqualifying Convictions). The purpose of the proposed amendments is to conform the rules to various statutes.

The proposed amendments to §402.413(a)(2) will add the space force to the definition of "Armed forces of the United States" in accordance with Texas Occupations Code §55.001(2), which was amended by House Bill 139 of the 87th Texas Legislature.

The proposed amendments to §402.452(b)(3) will base the calculation of net proceeds for a two-year license on each 12-month period that ends on an anniversary of the date the license was issued, in accordance with Texas Occupations Code §2001.451(g)(2).

The proposed amendments to §402.702(i) will allow license and registration applicants 30 days to provide documentation of mitigating factors upon notification of the Commission's intent to deny the application, in accordance with Texas Occupations Code §53.0231(a)(2).

Kathy Pyka, Controller, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed amendments. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments, as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

LaDonna Castañuela, Director of the Charitable Bingo Operations Division, has determined that for each year of the first five years the proposed amended rules will be in effect, the anticipated public benefit will be to eliminate inconsistencies between the Commission's rules and other state laws.

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

- (1) The proposed amendments do not create or eliminate a government program.
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the Commission.
- (4) The proposed amendments do not require an increase or decrease in fees paid to the Commission.
- (5) The proposed amendments do not create a new regulation.

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

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

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

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

SUBCHAPTER D. LICENSING REQUIREMENTS

16 TAC §402.413, §402.452

The amendments are proposed under Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Occupations Code Chapter 2001.

§402.413. Military Service Members, Military Veterans, and Military Spouses.

(a) The following terms used in this section are defined in §55.001 of the Occupations Code as follows:

(1) (No change.)

(2) "Armed forces of the United States" means the army, navy, air force, space force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) - (5) (No change.)

(b) - (f) (No change.)

§402.452. Net Proceeds.

(a) (No change.)

(b) Calculation of Net Proceeds for a License Period.

(1) - (2) (No change.)

(3) Net proceeds for a two-year license will be calculated for each year of the license. The calculation of net proceeds for the first year of the license will be based on the quarterly reports for the four (4) calendar quarters immediately preceding the one year anniversary of the license beginning date. The calculation of net proceeds for the second year of the license will be based on the quarterly reports for the four (4) calendar quarters immediately preceding the two-year anniversary of the license beginning date [license end date].

(4) (No change.)

(c) - (e) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 25, 2021.

TRD-202104286
Bob Biard
General Counsel
Texas Lottery Commission
Earliest possible date of adoption: December 5, 2021
For further information, please call: (512) 344-5392



SUBCHAPTER G. COMPLIANCE AND ENFORCEMENT

16 TAC §402.702

The amendments are proposed under Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Occupations Code Chapter 2001.

§402.702. Disqualifying Convictions.

(a) - (h) (No change.)

(i) Upon notification of the Commission's intent to deny a new or renewal application or registry listing, an applicant may provide documentation of mitigating factors that the applicant would like the Commission to consider regarding its application. Such documentation must be provided to the Commission no later than 30 [20] days after the Commission provides notice to an applicant of a denial, unless the deadline is extended in writing or through e-mail by authorized Commission staff.

(j) - (l) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 25, 2021.

TRD-202104287
Bob Biard
General Counsel
Texas Lottery Commission
Earliest possible date of adoption: December 5, 2021
For further information, please call: (512) 344-5392



CHAPTER 403. GENERAL ADMINISTRATION

16 TAC §403.701

The Texas Lottery Commission (Commission) proposes new 16 TAC §403.701 (Family Leave Pool). The 87th Texas Legislature enacted House Bill (H.B.) 2063, which amended Government Code Chapter 661 by adding new Subchapter A-1 to require each state agency to create and administer an employee family leave pool. According to this new statute, the governing body of each state agency is required to adopt rules and implement procedures relating to the operation of the Commission's family leave pool.

The proposed new rule would set forth the purpose of the family leave pool, designate a pool administrator and require the devel-

opment and implementation of operating procedures consistent with the H.B. 2063.

Kathy Pyka, Controller, has determined that for each year of the first five years the new rule will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed new rule. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the new rule as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed new rule will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Jan Thomas, Human Resources Director, has determined that for each year of the first five years the proposed new rule will be in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be aligning the Commission's rules with the directive of the Texas Legislature to provide eligible employees greater flexibility in caring for children during a child's first year following birth, adoption, or foster placement, and for a seriously ill family member or the employee, including pandemic-related illnesses or complications caused by a pandemic.

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

- (1) The proposed new rule does not create or eliminate a government program.
- (2) Implementation of the proposed new rule does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed new rule does not require an increase or decrease in future legislative appropriations to the Commission.
- (4) The proposed new rule does not require an increase or decrease in fees paid to the Commission.
- (5) The proposed new rule does not create a new regulation.
- (6) The proposed new rule does not expand or limit an existing regulation.
- (7) The proposed new rule does not increase or decrease the number of individuals subject to the rule's applicability.
- (8) The proposed new rule does not positively or adversely affect this state's economy.

The Commission requests comments on the proposed new rule from any interested person. Comments may be submitted to Deanne Rienstra, Special Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. Comments must be received within 30 days after publication of this proposal in the *Texas Register* in order to be considered.

The new rule is proposed under the authority of Texas Government Code §661.022, which requires the Commission to adopt rules to create and administer an employee family leave pool.