



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

Approved

Denied

From: Deanne Rienstra, Special Counsel 

Date: June 9, 2022

Re: Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §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 rule. The proposed amendments align the rule with recently amended Multi-State Lottery Association (MUSL) Powerball game rules. MUSL Powerball game rules were amended on January 6, 2022 to address changes related to the funding of Powerball Guaranteed Grand Prizes.

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 30 days.

1 The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.317
2 (“Powerball” Draw Game Rule).

3 The proposed amendments to §401.317 align the rule with recently amended Multi-State
4 Lottery Association (MUSL) Powerball game rules. MUSL Powerball game rules were amended
5 on January 6, 2022 to address changes related to the funding of Powerball Guaranteed Grand
6 Prizes.

7 Kelly Stuckey, Controller, has determined that for each year of the first five years the
8 proposed amendments will be in effect, the public benefit expected is aligning this rule with
9 recently amended MUSL Powerball game rules.

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

18 Pursuant to Texas Government Code §2001.0221, the Commission provides the following
19 Government Growth Impact Statement for the proposed amendments. For each year of the first
20 five years the proposed amendments will be in effect, Kelly Stuckey, Controller, has determined
21 the following:

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

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

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

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

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

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

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

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

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

17 These amendments are proposed under Texas Government Code §466.015(c), which
18 authorizes the Commission to adopt rules governing the operation of the lottery, and §467.102,
19 which authorizes the Commission to adopt rules for the enforcement and administration of the
20 laws under the Commission's jurisdiction.

21 This proposal is intended to implement Texas Government Code Chapter 466.
22 §401.317. "Powerball" Draw Game Rule.

23 (a) – (c) (No change.)

1 (d) Powerball Prize Pool.

2 (1) Powerball Prize Pool.

3 (A) (No change.)

4 (B) Powerball Prize Pool Accounts and Prize Reserve Accounts. The Product Group
5 shall set the contribution rates to the prize pool and to one or more prize reserve or pool accounts
6 established by the MUSL Powerball Group Rules.

7 (i) Prize Reserve Accounts. The Product Group has established the following prize
8 reserve accounts for the Powerball game: the Powerball Prize Reserve Account (PRA), which is
9 used to guarantee the payment of valid, but unanticipated, Grand Prize claims that may result from
10 a system error or other reason, or to fund Guaranteed Grand Prizes per subparagraph (f)(6)(E) of
11 this section; and the Powerball Set Prize Reserve Account (SPRA), which is used to fund
12 deficiencies in low-tier Powerball prize payments, subject to the limitations of the MUSL rules.

13 (ii) – (iii) (No change.)

14 (iv) The maximum contribution rate to the Grand Prize Pool shall be 68.0131% of
15 the prize pool (34.0066% of sales) except as provided in subparagraph (f)(6)(E) of this section. An
16 amount up to five percent (5%) of a Party Lottery's sales shall be deducted from a Party Lottery's
17 Grand Prize Pool contribution and placed in trust in one or more prize pool accounts and prize
18 reserve accounts held by the Product Group (hereinafter the "prize pool and reserve deduction") at
19 any time that the prize pool accounts and Party Lottery's share of the prize reserve accounts is
20 below the amounts designated by the Product Group. An additional amount up to twenty percent
21 (20%) of a Party Lottery's sales shall be deducted from a Party Lottery's Grand Prize Pool
22 contribution and placed in trust in the GPCFP to be held by the Product Group at a time as
23 determined by the Product Group.

1 (v) – (viii) (No change.)

2 (2) (No change.)

3 (e) (No change.)

4 (f) Powerball Prize Payment.

5 (1) – (5) (No change.)

6 (6) ~~[Funding of]~~ Guaranteed Powerball Prizes. The Powerball Group may offer guaranteed
7 minimum Grand Prize amounts or minimum increases in the Grand Prize amount between
8 Drawings or make other changes in the allocation of prize money where the Powerball Group finds
9 that it would be in the best interest of the game. If a minimum Grand Prize amount or a minimum
10 increase in the Grand Prize amount between Drawings is offered by the Powerball Group, then the
11 Grand Prize shares shall be determined as follows:

12 (A) – (D) (No change.)

13 (E) Funding of Guaranteed Grand Prizes. If the amount in the GPP, GPCFP and SAP
14 and contributions from Licensee Lotteries who are not participating in the PRA are insufficient to
15 fund the amount required by awarded Guaranteed Grand Prize(s), then the PRA, and thereafter
16 contributions from individual Member Lotteries and Licensee Lotteries participating in the PRA,
17 may be required to fund Guaranteed Grand Prize award deficiencies. Contributions from the PRA
18 shall first be utilized, and then contributions from individual Member Lotteries and Licensee
19 Lotteries participating in the PRA, if necessary. Contributions required from the PRA or from
20 Member Lotteries and Licensee Lotteries participating in the PRA shall be determined on a pro
21 rata basis based on sales since the most recent Grand Prize win.

22 (7) – (8) (No change.)

23 (g) – (k) (No change.)