





# INTEROFFICE MEMO

*Ryan Mindell, Executive Director*

*LaDonna Castañuela, Charitable Bingo Operations Director*

**To:** Robert G. Rivera, Chairman  
Cindy Fields, Commissioner  
Mark A. Franz, Commissioner  
Clark E. Smith, Commissioner  
Jamey Steen, Commissioner

**From:** Nelda Treviño, Governmental Affairs Director *NT*

**Date:** May 28, 2024

**Re:** Report, possible discussion and/or action on the Sunset review process involving the agency

Included for Agenda Item IX are the following documents:

- Sunset Advisory Commission Staff Report
- Agency Response to Sunset Advisory Commission Staff Report
- Other Public Responses to the Sunset Advisory Commission Staff Report

# SUNSET ADVISORY COMMISSION

---

## STAFF REPORT

### Texas Lottery Commission

2024-25

89TH LEGISLATURE



# SUNSET ADVISORY COMMISSION



---

**Representative Justin Holland**  
*Chair*

**To be appointed**  
*Vice Chair*

**Representative Keith Bell**

**Senator Angela Paxton**

**Representative Terry Canales**

**Senator Charles Schwertner, M.D.**

**Representative Travis Clardy**

**Senator Drew Springer, Jr.**

**Representative Matt Shaheen**

**To be appointed**

**Jeff Austin III, Public Member**

**To be appointed, Public Member**

**Eric Beverly**  
*Executive Director*

---

*Cover photo: The Texas State Capitol was completed in 1888. With the Goddess of Liberty atop the dome, the Texas State Capitol Building is 19 feet taller than the U.S. Capitol Building in Washington, D.C. The photo shows the south facade of the Capitol. Photo Credit: Janet Wood*

# TEXAS LOTTERY COMMISSION

SUNSET STAFF REPORT

2024-25

89TH LEGISLATURE

---

## HOW TO READ SUNSET REPORTS

For each agency that undergoes a Sunset review, the Sunset Advisory Commission publishes three versions of its staff report on the agency. These three versions of the staff report result from the three stages of the Sunset process, explained in more detail at [sunset.texas.gov/how-sunset-works](https://sunset.texas.gov/how-sunset-works). The current version of the Sunset staff report on this agency is noted below and can be found on the Sunset website at [sunset.texas.gov](https://sunset.texas.gov).

### **CURRENT VERSION: Sunset Staff Report**

The first version of the report, the Sunset Staff Report, contains Sunset staff's recommendations to the Sunset Commission on the need for, performance of, and improvements to the agency under review.

### **Sunset Staff Report with Commission Decisions**

The second version of the report, the Sunset Staff Report with Commission Decisions, contains the original staff report as well as the commission's decisions on which statutory recommendations to propose to the Legislature and which management recommendations the agency should implement.

### **Sunset Staff Report with Final Results**

The third and final version of the report, the Sunset Staff Report with Final Results, contains the original staff report, the Sunset Commission's decisions, and the Legislature's final actions on the proposed statutory recommendations.

---

TABLE OF CONTENTS

| Page

Summary of Sunset Staff Report

..... 1

Agency at a Glance

..... 7

Issues/Recommendations

1 The Agency’s Governing Body Is Not Adequately Engaged and  
Lacks Mechanisms to Ensure the Long-Term Success of the State  
Lottery and Charitable Bingo..... 13

2 The Charitable Bingo Operations Division Needs Significant  
Improvement to Ensure Effective, Fair, and Efficient Bingo Regulation ..... 23

3 Charitable Bingo Licensing Needs Changes to Eliminate  
Unnecessary Regulatory Burdens and Unfair Advantages  
to Certain Regulated Businesses ..... 35

4 The State Has a Continuing Need for the Texas Lottery Commission..... 41

Appendices

Appendix A — Historically Underutilized Businesses Statistics ..... 45

Appendix B — Equal Employment Opportunity Statistics..... 47

Appendix C — Lottery Courier Companies in Texas..... 51

Appendix D — Texas Lottery Commission Reporting Requirements..... 55

Appendix E — Staff Review Activities ..... 57





# SUMMARY OF SUNSET STAFF REPORT

The Texas Lottery Commission (TLC) is stuck between a rock and a hard place. Two of the state's forms of legalized gaming — the lottery and charitable bingo — exist to raise revenue primarily for education and charities, respectively. However, the law requires TLC to exercise strict control and close supervision over both games, which can negatively impact revenue generation. Furthermore, the agency must accomplish these tasks through an outdated statute and in an environment where many oppose gaming altogether. In response to this dilemma, TLC is becoming stagnant. Having found a way to be successful at its most visible function, raising revenue, the agency has been unwilling or unable to adapt to a changing environment or fully embrace some of its regulatory responsibilities. TLC's history with the Sunset process has never been smooth sailing, due in part to gaming-related issues that lie completely outside Sunset staff's scope. In 2003 and 2005, the Legislature did not pass the agency's Sunset bill and instead continued it through separate legislation. In 2013, the bill nearly suffered the same fate but was eventually passed. More than a decade later, this Sunset review occurs amid criticism by some for TLC's stance on lottery courier companies — an unregulated and controversial business model that now accounts for an estimated 9 percent of TLC's draw ticket sales. The issue epitomizes the challenge the agency faces trying to balance the state's interest in raising revenue and regulating the lottery and bingo.

The commission often plays a passive role in critical functions, leaving the agency struggling to adapt.

Population growth, changes in consumer preferences, and rapid technological advancements all affect both the lottery and bingo. As with previous reviews of TLC, Sunset staff did not consider policy issues directly linked to these changes, such as gaming expansion or whether the state should regulate or prohibit lottery couriers. Instead, this review focused on how the agency navigates and addresses these challenges. To do that effectively, TLC needs an active, involved commission that provides staff guidance and direction while ensuring the agency fully meets its regulatory responsibilities. However, the commission has not risen to the challenge. The commission often plays a passive role in critical functions like planning and rulemaking, leaving the agency with no clear vision for its future and struggling to adapt to current circumstances. To this end, Sunset staff recommendations focus on increasing the commission's participation in key agency policymaking functions and providing it mechanisms to proactively bring forward concerns to the Legislature.

Regarding its oversight of the lottery, agency staff does a good job managing its long-time lottery operations contractor. However, the commission is overly reliant on its contractor and staff to understand the industry and is missing opportunities for gathering and considering broader input on overlooked or contentious topics.

On the bingo side of the house, TLC's sole responsibility is to ensure the game is fair and proceeds are accurately disbursed. While bingo does make money for all involved — charities, bingo operators, the state, and local governments — the state continues to regulate bingo because it is a cash-based enterprise with very real opportunities for fraud. Unlike the lottery, TLC has no authority or obligation to promote bingo; its only purpose is to regulate the industry. However, Sunset staff has consistently identified problems with the agency's bingo regulation, and this review was no exception. Operational inefficiencies such as disjointed information technology (IT) systems, inadequate inspection criteria, limited training, and poor data management leave TLC struggling and raise questions as to whether the agency can effectively regulate bingo. In an attempt to make lasting improvements, the recommendations seek to not only address these specific concerns but also make more significant changes to bingo's unusual statutory leadership structure and regulatory scheme. For example, specifying that the executive director rather than the commission employs the Charitable Bingo Operations Division (CBOD) director would correct a failed experiment in bifurcated leadership and create a single chain of command within the agency to effectively regulate bingo. Recommendations to eliminate two licenses and options to consolidate two others would eliminate unnecessary burdens on certain regulated businesses.

About halfway through the Sunset review, TLC's long-time executive director retired. Just before publication of this report, the commission named its former deputy executive director as the agency's new administrative head. This leadership change provides the perfect opportunity for TLC to revitalize its efforts to address the shortcomings in bingo regulation and prepare the agency to deal with future challenges.

The following material summarizes Sunset staff's recommendations on the Texas Lottery Commission.

## **Sunset Staff Issues and Recommendations**

### **ISSUE 1**

#### **The Agency's Governing Body Is Not Adequately Engaged and Lacks Mechanisms to Ensure the Long-Term Success of the State Lottery and Charitable Bingo.**

The commission does not provide adequate guidance or direction for key agency functions and is not actively involved in developing the agency's overarching mission, goals, and major initiatives. Despite previous Sunset Commission recommendations to increase commission involvement through subcommittees, members have adopted a ministerial approach to their oversight responsibilities by approving rules and key planning documents with limited involvement, discussions, or questions. The commission also needs better mechanisms to stay informed about the rapidly changing lottery and bingo industries and would benefit from a more effective Bingo Advisory Committee as well as a formal Lottery Advisory Committee. Additionally, a more cohesive reporting requirement would provide the commission and Legislature with a comprehensive overview of the agency's two primary functions and potential industry challenges.

#### **Key Recommendations**

- Require the commission to establish subcommittees to improve opportunities for engagement and update its policies describing the separation of duties between commission and staff.

- Modify statute to require the Bingo Advisory Committee and improve its effectiveness.
- Require the commission to establish a Lottery Advisory Committee.
- Consolidate four of TLC's reporting requirements into a new *Texas Lottery Commission Annual Report*.
- Direct TLC to evaluate and address gaps in its rules.

## ISSUE 2

### The Charitable Bingo Operations Division Needs Significant Improvements to Ensure Effective, Fair, and Efficient Bingo Regulation.

Structural barriers and operational inefficiencies within TLC impede the effective regulation of charitable bingo. TLC's funding structure, where lottery funds subsidize bingo regulation, potentially violates statutory requirements. Additionally, TLC's unusual leadership structure, with the TLC executive director and the CBOD director both reporting directly to the commission, contributes to administrative complexities and inefficiencies. Establishing an indirect administration goal in the agency's budget and restructuring its organizational hierarchy would ensure full compliance with the State Lottery Act and help streamline agency functions under a single chain of command. Furthermore, CBOD remains entangled in paper-based processes, straining its limited financial resources and staff time. Additionally, the lack of clear bingo inspection criteria coupled with insufficient training results in potentially incomplete inspections and inconsistent treatment of licensees. Prioritizing IT updates and improving data practices and staff training would enhance efficiency while improving the fairness and effectiveness of bingo regulation.

#### Key Recommendations

- The House Appropriations and Senate Finance committees should consider modifying TLC's budget pattern to include an indirect administration goal.
- Modify statute to clarify TLC's organizational hierarchy.
- Direct the agency to establish a plan prioritizing IT updates and eliminating paper-based processes in CBOD.
- Direct the agency to improve data practices, including data validation and other quality controls.

## ISSUE 3

### Charitable Bingo Licensing Needs Changes to Eliminate Unnecessary Regulatory Burdens and Unfair Advantages to Certain Regulated Businesses.

Sunset staff identified two license types that do not meet the need for continued regulation and two others for which Sunset staff provides options for consolidation. Bingo manufacturers licenses are no longer necessary as TLC has adopted standards for bingo materials that effectively regulate manufacturers without licensure. Licensing distributors of bingo materials does not provide any additional benefit in ensuring the integrity of bingo games. TLC's current regulatory scheme creates and preserves an unfair preferred class of lessor, as grandfathered lessors may earn up to three times as much rent as a regular

lessor. A recommendation to preserve or eliminate these special rights cannot be made without wading into policy issues; therefore, this report provides options for the Sunset Commission's consideration.

### Key Recommendation

- Eliminate the licenses for manufacturers and distributors of bingo materials.

### Proposed Options

**Option 1.** Treat all lessors as grandfathered lessors.

**Option 2.** Convert all grandfathered lessors to regular lessors.

## ISSUE 4

### The State Has a Continuing Need for the Texas Lottery Commission.

TLC has operated the lottery since 1993 and regulated charitable bingo since 1994. Lottery is popular in Texas, generating record sales in each of the last 13 years, resulting in over \$19 billion for the Foundation School Fund and about \$215 million for the Texas Veterans Commission over that time. Without this funding, the state would need other sources of revenue to make up for the over \$2 billion the lottery brought in for education and veterans' programs last year. Although bingo attendance has been on the decline, the game is still an important source of revenue for Texas charities, which received about \$32 million in bingo proceeds in fiscal year 2023. Bingo is also a source of funding for the state and for local governments. In fiscal year 2023, the state received nearly \$16 million, and local governments received almost \$13 million in bingo proceeds. No substantial benefit would result from transferring TLC's functions or merging them with another agency. Even though the review identified significant concerns with TLC's regulation of bingo, the agency provides the best available location for bingo regulation.

### Key Recommendation

- Continue the Texas Lottery Commission for 12 years and remove the Sunset date of the agency's statutes.

## Fiscal Implication Summary

Overall, the recommendations in this report would result in a loss to general revenue of about \$68,000 per year.

**Issue 2** — Modifying TLC's budget pattern to create a new goal for indirect administration would result in a gain to the Foundation School Fund. TLC would adjust fees to recover the amount currently subsidized by lottery funds, which would result in a gain to general revenue to pay for bingo's central administrative costs and deposits of an equal amount in the Foundation School Fund. Developing a plan to better prioritize updating CBOD's BOSS database and the Bingo Service Portal would have no fiscal impact. While implementing the plan would result in short-term IT costs, in the long term, relying on more modern systems and eliminating paper-based processes would reduce administrative burdens and result in cost savings for the agency and licensees. Other recommendations would not result in any fiscal impact to the state.

**Issue 3** — Eliminating manufacturer and distributor licenses would result in a loss of approximately \$68,000 per year. While addressing grandfathered lessor licenses may have a fiscal impact on the industry, it cannot be estimated at this time.

**Issue 4** — Continuing the Texas Lottery Commission for twelve years would require an annual appropriation from the Legislature, which was approximately \$330 million per year for the 2024-25 biennium.

#### **Texas Lottery Commission**

<b>Fiscal Year</b>	<b>Loss to the General Revenue Fund</b>
2026	\$68,000
2027	\$68,000
2028	\$68,000
2029	\$68,000
2030	\$68,000



# AGENCY AT A GLANCE

The Texas Lottery Commission (TLC) administers the state lottery and regulates charitable bingo activities. TLC's mission is to generate revenue for the state, mainly for the Foundation School Fund and the Fund for Veterans' Assistance, through the responsible management and sale of lottery products and to provide nonprofit organizations the opportunity to raise funds for their charitable purposes by conducting bingo. To achieve its mission, TLC:

- Licenses lottery retailers; develops, approves, and markets lottery games; conducts lottery drawings; and processes winning ticket claims.
- Administers several major contracts for lottery operations and services, scratch ticket production, and drawing studio and production services, among others.
- Licenses and regulates bingo industry participants, collects bingo prize fees for the state, and ensures licensees remit prize fees to local governments.

## Key Facts

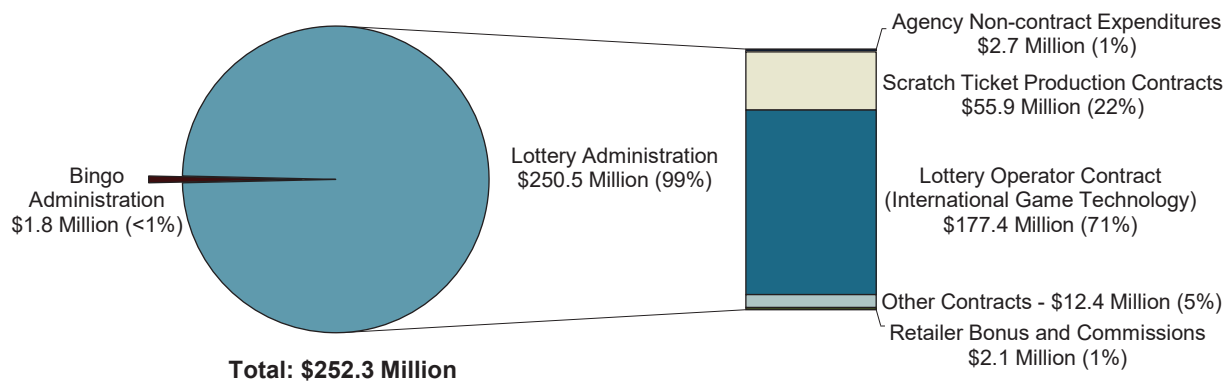
- **Governance.** The governor appoints TLC's five-member commission with the advice and consent of the Senate.<sup>1</sup> Commission members serve staggered six-year terms, and the governor designates the presiding officer.<sup>2</sup> One member must have experience in the bingo industry.<sup>3</sup> Statute authorizes the commission to appoint a nine-member Bingo Advisory Committee to advise it on bingo industry needs and problems.<sup>4</sup>
- **Funding.** TLC is funded from two sources — its operation of the lottery is funded from the General Revenue Dedicated-Lottery Account while general revenue funds the regulation of charitable bingo. In fiscal year 2023, TLC spent about \$252 million total: \$250.5 million on lottery administration and \$1.8 million on bingo regulation.

The chart on the following page, *TLC Expenditures*, shows that more than 99 percent of the agency's administrative expenditures supported lottery operations in fiscal year 2023, with about 93 percent of those expenditures for contracts for lottery operations and scratch ticket production. The rest went toward agency administration, retailer bonuses and commissions, and the drawing and broadcast services contract for lottery drawings. TLC's bingo expenditures went toward typical regulatory activities, including licensing, compliance, and field inspections. Appendix A describes TLC's use of historically underutilized businesses in purchasing goods and services for fiscal years 2021-23.

- **Staffing.** In fiscal year 2023, TLC employed 285 staff. Charitable bingo operations had a staff of 24, with 14 in Austin and 10 at four bingo regional offices. The remaining 261 staff focused on lottery operations and support services. Of those 261, 220 worked in Austin and the remaining 41 at 15 lottery claim centers across the state. Appendix B compares the percentages of minorities and women in TLC's workforce to the statewide civilian labor force for fiscal years 2021-23.
- **Lottery operations.** TLC directly manages lottery functions, including retailer licensing and enforcement, prize payment at claim centers, game drawings, product approvals, and advertising. In fiscal year 2023, total lottery sales reached \$8.6 billion, with more than \$2 billion transferred to the Foundation School Fund, \$29.3 million transferred to the Texas Veterans Commission's Fund



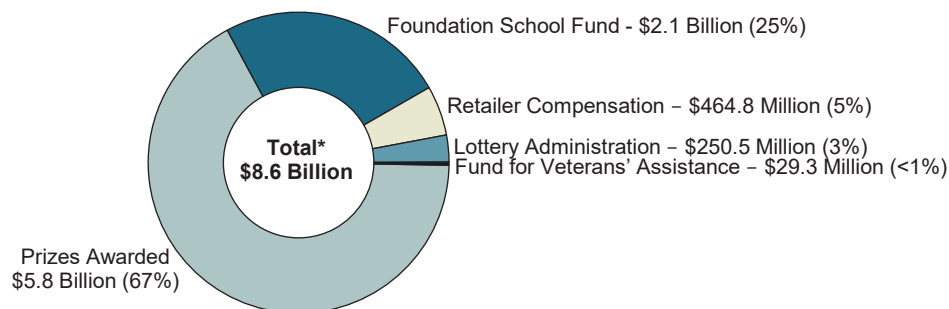
### TLC Expenditures - FY 2023



for Veterans' Assistance, and about \$439,000 transferred to the Texas Health and Human Services Commission. TLC offers two types of lottery products — draw and instant games — sold by a network of over 20,000 lottery retailers such as convenience stores. Draw games are traditional lottery games in which players select a set of numbers for a specified drawing date. In fiscal year 2023, draw games made up about 25 percent of all lottery sales. TLC currently offers eight types of draw games, including two multi-state lottery games: Powerball and Mega Millions.

Instant games, also called scratch-offs, consist of preprinted tickets with hidden symbols to be revealed by the player. TLC offers up to 80 different instant games each year, ranging in price from \$1 to \$100 per ticket. In fiscal year 2023, instant games made up the remaining 75 percent of all lottery sales. Lottery retailers receive a 5 percent commission on lottery sales plus other bonuses and incentives for selling lottery products. The chart, *Where the State Lottery Money Goes*, provides more detail on the distribution of lottery sales revenue in fiscal year 2023.

### Where the State Lottery Money Goes - FY 2023

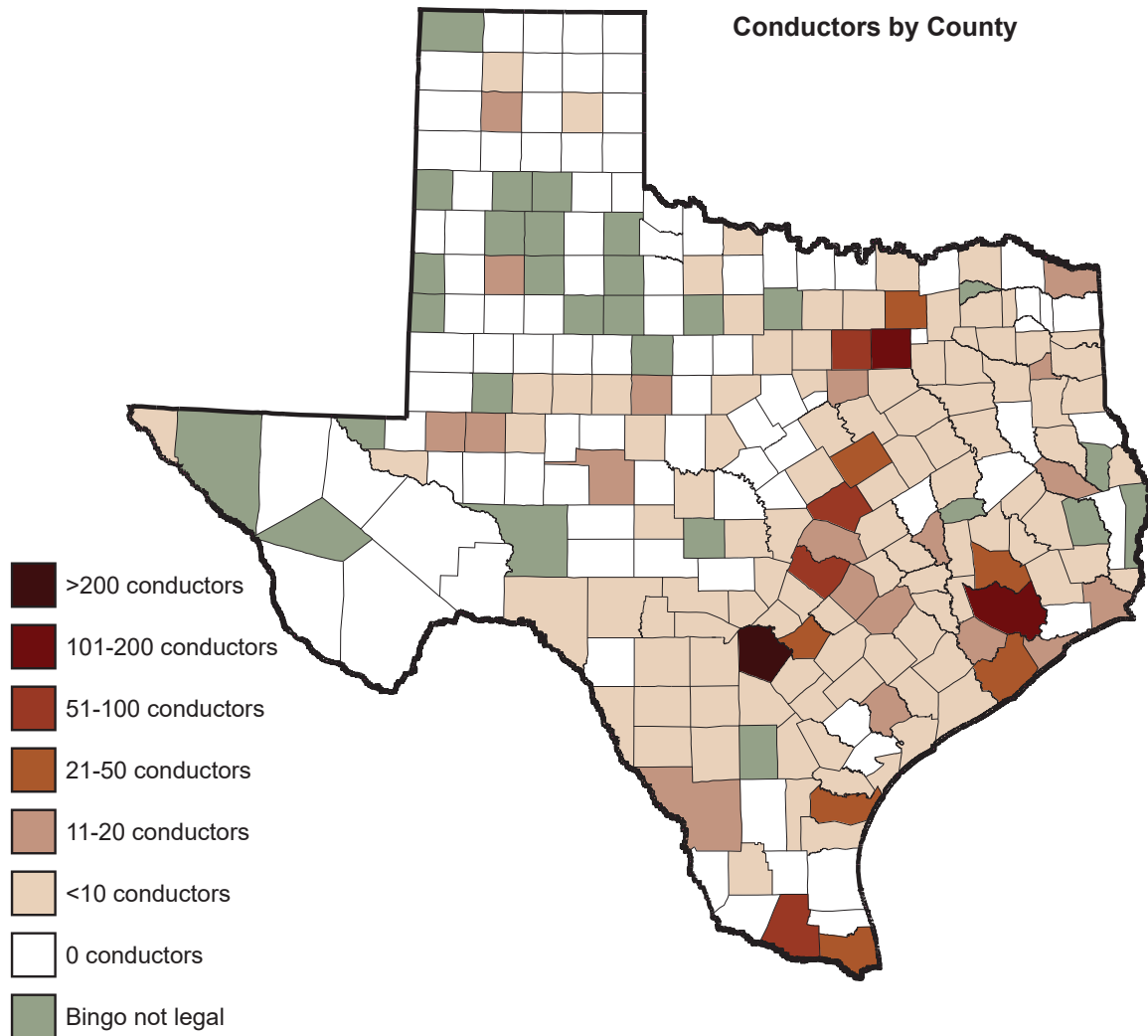


\* Total includes \$439,443 in unpaid prizes not shown in the chart that went to the Texas Health and Human Services Commission.

The Texas Lottery operates under what is known nationally as the Texas Model, where TLC outsources most day-to-day operations of the lottery but directly manages certain key functions. IGT Corporation (formerly GTECH Corporation) has been the state's lottery operator since the lottery's inception in 1992 and is contracted through August 31, 2026. TLC also manages major contracts for scratch ticket production and drawing broadcasts. As part of its licensing and enforcement functions, TLC resolved 654 complaints about lottery retailers in fiscal year 2023, resulting in 13 reprimands, 19 suspensions, and no revocations.



- Charitable bingo.** In 1980, Texas voters approved charitable bingo on a local option basis to be conducted by certain nonprofit organizations. The most common types of charities conducting bingo include fraternal, veterans, and religious organizations, such as the Knights of Columbus, American Legion, or churches. Currently, 226 of 254 counties in Texas allow bingo. The map, *Conductors by County*, shows the distribution of bingo licensees across Texas.



TLC licenses and monitors bingo-related activities and participants. TLC also maintains a registry of bingo hall workers. In fiscal year 2023, TLC licensed 10,928 individuals and businesses in the bingo industry. The textbox on the following page describes each license type and provides the number of licensees in fiscal year 2023.<sup>5</sup> TLC audits regular conductors through records reviews and verifies account balances for all licensees through quarterly reports. TLC also conducts game inspections in bingo halls.

### Bingo Licensees - FY 2023

**Conductor (Regular):** Charitable organizations licensed to conduct more than 12 bingo occasions per year — 1,014

**Conductor (Non-Regular):** Charitable organizations licensed to conduct up to 12 bingo occasions per year — 647

**Regular commercial lessor:** A person who leases premises on which bingo is conducted directly to a licensed conductor and may collect up to \$600 in rent per day — 128

**Grandfathered commercial lessor:** A person who leases premises on which bingo is conducted directly to a licensed conductor and may collect up to \$1,800 in rent per day — 179

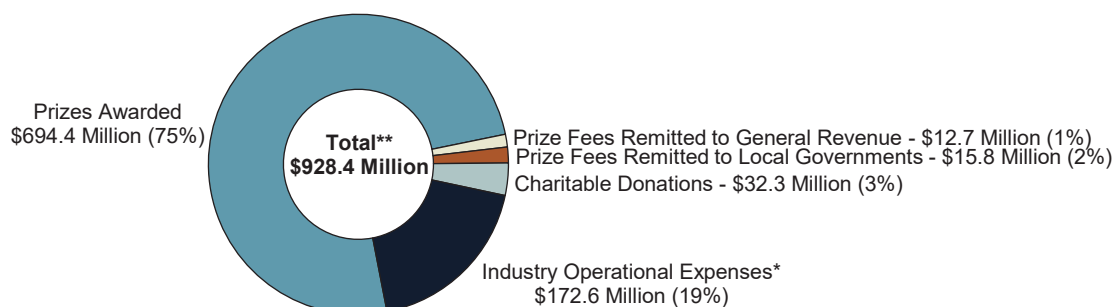
**Manufacturer:** A person who manufactures bingo equipment and sells these items to distributors — 21

**Distributor:** A person who obtains bingo equipment and furnishes the items to bingo halls — 13

**Registered bingo worker:** An individual who is approved to work in a bingo hall — 8,926

In fiscal year 2023, bingo gross receipts totaled \$928.4 million, from which conductors distributed \$694.4 million in prize money and \$32.3 million in charitable distributions. To remain in compliance with the Bingo Enabling Act, charities must receive at least \$1 every two years and only spend distributions in Texas for charitable purposes.<sup>6</sup> Bingo operators may deduct certain expenses, such as rent and worker salaries, from bingo revenue prior to distributing funds to charities.<sup>7</sup> In addition, charitable bingo produces revenue for the state and for local jurisdictions through a 5 percent fee on bingo prizes, which comes out of the total amount of prizes awarded.<sup>8</sup> This fee generated \$15.8 million for the state and \$12.7 million for cities and counties in fiscal year 2023. Prize fees remitted to the state are deposited in the General Revenue Fund. The chart, *Where Bingo Industry Money Goes*, provides more detail on the distribution of bingo revenue in fiscal year 2023.

### Where Bingo Industry Money Goes - FY 2023



\* Industry Operational Expenses includes rent, cost of goods sold, bingo hall workers' salaries, and other expenses.

\*\* Total includes \$551,259 in license fees paid by manufacturers, distributors, and commercial lessors.

- 
- <sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 467.021, Texas Government Code.
- <sup>2</sup> Sections 467.022 and 467.029, Texas Government Code.
- <sup>3</sup> Section 467.021(c), Texas Government Code.
- <sup>4</sup> Section 2001.057, Texas Occupations Code.
- <sup>5</sup> Section 2001.002(20), Texas Occupations Code, defines a “person” as an individual, partnership, corporation, or other group.
- <sup>6</sup> Section 2001.451(g), Texas Occupations Code.
- <sup>7</sup> Section 2001.459, Texas Occupations Code.
- <sup>8</sup> Section 2001.502, Texas Occupations Code.



# ISSUE 1

## The Agency's Governing Body Is Not Adequately Engaged and Lacks Mechanisms to Ensure the Long-Term Success of the State Lottery and Charitable Bingo.

### Background

Three statutes govern the Texas Lottery Commission (TLC) and its functions: its enabling legislation, the State Lottery Act, and the Bingo Enabling Act.<sup>1</sup> Statute tasks TLC with exercising strict control and close supervision over all lottery and charitable bingo games conducted in Texas, requiring the commission to ensure the integrity, security, honesty, and fairness of the state lottery and that charitable bingo is conducted fairly and proceeds are distributed as intended.<sup>2</sup> The commission is composed of five gubernatorially appointed public members, including one member with experience in the bingo industry.<sup>3</sup> Commissioners serve six-year terms, and statute requires the commission to meet at least six times a year. Statute prohibits commission members from playing the lottery or bingo or having a significant financial connection to the lottery and bingo industries, as described in the accompanying textbox.<sup>4</sup>

#### Key Prohibitions with Industry

Among other prohibitions, commission members cannot:

- Play any lottery or bingo game conducted in the state.
- Own or control, directly or indirectly, more than 10 percent interest in a business entity or organization regulated by the commission or receiving funds from the commission.
- Be employed by or participate in the management of a business entity or other organization regulated by or receiving funds from the commission.
- Accept any employment or remuneration from a person with a significant financial interest in the lottery or a bingo commercial lessor, bingo distributor, or bingo manufacturer.

The commission relies on one statutorily authorized advisory committee, the Bingo Advisory Committee (BAC).<sup>5</sup> Statute authorizes the BAC to advise the commission on the needs and problems of the state's bingo industry, report its activities to the commission, and perform other duties as directed by the commission.<sup>6</sup> The BAC is composed of nine members appointed by the commission representing charities that operate bingo games, lessors, manufacturers, distributors, and the public.<sup>7</sup>

### Findings

As the governing body of a regulatory agency, the commission should be engaged, oversee key policy decisions, and identify and attempt to address issues within its regulatory purview that present potential harm to the public or significantly impact the regulated community. After multiple attempts through the Sunset process, in 2013 the Legislature expanded the commission's size from three to five members with the goal of promoting more oversight of its contracts, reducing reliance on staff, and generally being more engaged to guide the agency into the future. However, beyond increased contract oversight, this Sunset review found a commission that has not fully embraced the goal the Legislature envisioned.

### By not adequately engaging in key agency functions, the commission fails to fulfill its oversight role.

- **Failure to adopt needed rules.** One of the key responsibilities of a governing body is adopting rules. Agencies typically clarify and implement the Legislature’s directives through the rulemaking process. The commission has broad rulemaking authority over both the lottery and bingo but has not adopted rules in some areas that would provide transparent, consistent guidance to industry members and ensure it does not leave potentially important policy decisions to the discretion of staff. The accompanying textbox provides specific examples — some of which are discussed further in other issues in this report — where the commission has not adopted rules that would guide its functions and flesh out how it will implement certain provisions.

#### Rulemaking Gaps

- No clarification as to whether internet sales of lottery products are prohibited.
- No explanation of what it means for a person to “engage in a business exclusively as a (lottery) sales agent” for purposes of licensure.
- No clarification of what classifies as a bingo hall’s “premises” for purposes of ensuring it is only the “area subject to the direct control of and actual use” by a licensee as statute requires.
- No clarification that bingo products may not be purchased using a credit card despite a 2017 bingo advisory opinion stating as much.
- No clarification of how certain grandfathered bingo licenses may be transferred.
- No definition of what constitutes a repeat violation for bingo enforcement.

Sunset staff did not identify an instance of commission-directed rulemaking in the past five years.

More generally, throughout the review, Sunset staff observed what seems to be a longstanding culture of the commission not fully understanding its role in rulemaking. For example, in reviewing transcripts of five years worth of public meetings, Sunset staff did not identify a single instance of the commission directing staff to consider proposing rules on a topic. Over the same period, the commission did not ask staff any substantive questions related to proposed rules during commission meetings, and Sunset staff observed no indication that commission members relied on other mechanisms to discuss rules with TLC staff. Discussions with current commission members suggested a largely passive group that views its rulemaking role as a ministerial function rather than substantive policy oversight. Understandably, as a part-time body, the commission must rely on staff to bring forward suggested rule changes and trust their expertise. At the same time, setting and clarifying policy for the agency through rulemaking is a key function of the commission, especially considering the important role TLC plays in generating revenue for the state and the controversial nature of gaming in Texas.

- **Limited role in key planning efforts.** Being actively involved in developing the agency’s overarching mission, goals, and major initiatives for the future is another key duty of a governing body. However, in practice the

commission is not involved in many planning efforts on the front end to provide meaningful input and direction to staff. In accordance with its policy separating the commission and staff's general responsibilities, the commission approves some key planning documents such as the agency's budget and *Annual Report and Comprehensive Business Plan*.<sup>8</sup> While approving these items is important, giving guidance during the planning process is crucial for an attentive policymaking body to ensure plans reflect its views and priorities. The commission has no formal role in developing the agency's *Strategic Plan*, *Annual Report and Comprehensive Business Plan*, *BAC Annual Workplan*, or legislative appropriations request. As described in the accompanying textbox, these documents are invaluable tools for establishing strategic direction for the agency in the short and long term. Absent strong direction from the commission, the agency has acted on inertia, which is reflected in their planning documents that often resemble carbon copies of preceding versions that maintain similar content with only updated financial and other data. Although most policymaking bodies rely on staff to prepare key agency plans, high-functioning boards and commissions typically engage in meaningful discussion and priority setting early in the planning processes, often through board subcommittees or workgroups.

### Key Planning Efforts

- **Strategic Plan.** Establishes high-level, long-term direction for agency operations, strategies, and objectives.
- **Legislative Appropriations Request.** Details the agency's funding requests to help implement the strategic plan.
- **Annual Report and Comprehensive Business Plan.** Guides the agency's initiatives in the short term, including specific goals.
- **BAC Annual Workplan.** Guides the BAC's activities and annual goals.

- **Failure to oversee bingo advisory opinions.** Statute authorizes the commission to issue bingo advisory opinions, which provide guidance to the bingo industry regarding compliance with the Bingo Enabling Act and commission rules.<sup>9</sup> Since 2003, the agency has issued 136 advisory opinions. As authorized by statute, the commission has delegated approving advisory opinions to the Charitable Bingo Operations Division (CBOD) director, missing an opportunity to exercise active oversight of the industry. Furthermore, after delegating the authority, the commission failed to establish any reporting mechanism, resulting in the CBOD director approving and issuing all advisory opinions without any requirement for commission visibility. By comparison, other state agencies with advisory opinion authority, including the Texas Ethics Commission and Texas Board of Professional Engineers and Land Surveyors, require a vote of the governing board to authorize an advisory opinion.<sup>10</sup>

The CBOD director approves all advisory opinions without any requirement for commission visibility.

Despite Sunset highlighting, as far back as 2002, how a larger commission would allow members to develop specific areas of expertise and suggesting the commission create subcommittees to better guide agency policy, once the Legislature expanded the commission in 2013, the commission did not form any subcommittees. In response to questions and concerns from Sunset staff, two weeks before publication of this report the commission established subcommittees for audit, legal, and planning functions. Many governing bodies use subcommittees to take a more active role in certain aspects of the



agency. For example, the Texas Transportation Commission and Texas Board of Criminal Justice have audit subcommittees, the Texas Parks and Wildlife Department has a rulemaking subcommittee, and the Texas Higher Education Coordinating Board and Texas Commission on Law Enforcement use strategic planning committees.<sup>11</sup>

**The commission lacks effective mechanisms for gathering input and reporting on the lottery and bingo, inhibiting its ability to better understand and address industry trends and advancements.**

Because of statute's strict protections over the integrity of the lottery and bingo that prohibit commission members from playing either game, they need robust mechanisms to educate them on and stay informed about the industries the commission regulates to help make sound decisions. However, even as the national lottery industry and bingo gaming evolve and mature, the commission lacks the tools to keep up with, properly evaluate, and weigh in on these changes and advancements, preventing it from effectively advising the Legislature and informing decision making.

- **Ineffective Bingo Advisory Committee.** Given the complex nature of bingo and its regulations, the commission benefits from having industry experts and public participants that can educate commissioners on the practical implications of potential regulatory changes. However, statute only authorizes the commission to appoint a BAC and, from 2011 to 2018, the commission had gone without a committee and without the expertise it provides. While the BAC serves as an important source of information for the commission, for it to be effective TLC must ensure a thorough member selection process. Despite comprehensive rules governing the process, the commission selected the latest BAC member in a rushed process that did not fully comply with the rules, as explained in the accompanying textbox.<sup>12</sup> This incomplete selection process, which essentially results in the BAC acting as a self-selection committee, limits the commission's oversight of the BAC and risks allowing the regulated community to exercise undue influence over commission decisions.

**Inadequate BAC Member Appointment Process**

During its December 12, 2023 meeting, the BAC received two qualified applications for an open seat and selected one applicant to forward to the commission based on the fact that only one of the two applicants showed up to speak to the BAC. While rule allows the BAC to act as a resource to the commission by reviewing nominations, interviewing prospective members, and making recommendations to the commission, it prohibits the BAC from acting to exclude any nominees as it did in this case. During the commission meeting two days later, the BAC chair presented the applicant to the commission, but neither the BAC nor agency staff provided commission members with any background materials or a background check on the applicant. The commission members did not ask to interview the individual, as they could have by rule. Ultimately, the commission voted to approve the applicant with little discussion or questions and with little information as to the applicant's suitability for the role.



The BAC is currently without, and often has a difficult time attracting, a public member. While rules allow the commission to substitute one type of member for another if the representation cannot be satisfied, the current BAC makeup leaves the committee heavily weighted toward bingo industry interests. Although TLC typically accepts member applications for approximately three weeks once a vacancy opens and publishes notice of the vacancy on its website and social media accounts, it could do more to try to get the word out about openings such as having bingo hall operators post information in a visible location.

Additionally, through the *BAC Annual Work Plan*, the commission unnecessarily restricts the committee to discussing only what is expressly allowed in the Bingo Enabling Act despite statute authorizing the committee to advise the commission on the needs and problems of the industry. For example, the BAC cannot discuss industry advancements such as electronic pull tabs and video bingo. This throttling of information leaves the commission largely unaware and ill-prepared to address potential threats to the integrity of bingo.

- **No formal input on the lottery.** TLC has few formal methods for getting stakeholder input on lottery issues, leaving the commission overly dependent on staff and its lottery operator vendor, IGT Corporation, to understand the industry. The commission's only mechanisms for gathering input on the lottery are through public comments at open meetings and narrowly focused retailer survey results in the *Annual Report and Comprehensive Business Plan*, providing limited perspective. While public comments on the lottery during open meetings are rare, TLC receives around 500 complaints about the lottery every year from the public, and Sunset staff received more than 100 comments during the review, suggesting continued interest in the lottery.<sup>13</sup> Using an advisory committee to solicit open input would ensure transparency and inclusiveness, especially for overlooked or contentious topics such as advancements like iLottery, which allows the direct sale of virtual or paperless lottery tickets, and lottery couriers discussed more below. The state is beginning to see the first signs of decreased year-to-year sales in 10 years, and some stakeholders expressed concern that the state lottery will be left behind in a decade if it continues to ignore new industry challenges.
- **Failure to address industry challenges.** Unlike some agencies, statute does not require TLC to provide recommendations to the Legislature as part of its *Annual Report and Comprehensive Business Plan*. The agency relies on identifying impediments in its Strategic Plan, but the recommendations are generally technical changes to the statute or budget. Without any other formal mechanism, the agency has not proactively taken advantage of opportunities to bring forward more significant policy considerations. The most notable example of this relates to the proliferation of lottery courier companies in Texas. As discussed in more detail in Appendix C, TLC staff first learned about the new business model, which delivers lottery tickets to customers through a third-party service, in 2015. However,

The agency has not proactively brought forward significant policy considerations, like the regulation of courier companies.

TLC's reporting requirements do not provide a comprehensive view of the agency's regulatory efforts.

agency staff determined TLC lacked the authority to regulate courier services or TLC licensees' interaction with couriers and did not formally raise the issue to the commission or seek its guidance in public meetings. As a result, the commission did not adequately elevate the issue to the Legislature's attention before a 2022 House Licensing and Administrative Procedures Committee hearing on gaming or take other action such as requesting an attorney general opinion regarding the limits of its legal authority. Before submitting its *Self-Evaluation Report* to Sunset staff, the commission offered no proactive recommendations and little information about the controversial business model. The fact that couriers accounted for an estimated \$173 million according to the Legislative Budget Board, or 9 percent of TLC's draw ticket sales in fiscal year 2023, underscores the commission's responsibility to inform the Legislature about developments that impact lottery sales and the general public that plays the lottery.<sup>14</sup>

- **Disjointed reporting requirements.** As detailed in Appendix D, TLC publishes numerous reports on various aspects of the lottery and bingo industries. However, the separate reports do not provide the commission or the Legislature a comprehensive view of the agency's regulatory efforts or clearly highlight future needs and challenges necessary to drive decision making. While the lottery brings in substantial revenue to the state, TLC is also responsible for regulating both the lottery and bingo to ensure operators conduct the games in a fair and legal manner. TLC's reporting requirements create a disjointed view of the agency's responsibilities, prioritizing revenue targets while downplaying regulatory objectives.

When, in 2013, the Legislature required TLC to develop a business plan, the Legislature codified what the agency had been doing since the Sunset Commission first recommended it in 2002. Following this, in lieu of producing two separate reports — the newly codified business plan and existing statutorily required annual report on lottery revenues — TLC combined them into a single *Annual Report and Comprehensive Business Plan*. However, in doing so, the agency stopped including information on bingo, preventing a holistic view of TLC's operations. Furthermore, as previously mentioned, statute does not require TLC to provide recommendations to the Legislature as part of the *Annual Report and Comprehensive Business Plan*. Absent this forward-looking focus, the document tends to concentrate on routine agency operations. TLC's biennial *Bingo Report* could make up the gap in bingo information; however, the report only covers the bingo industry's financials, not the agency's performance or goals related to bingo.<sup>15</sup>

The biennial *Report on Compliance Activity Monitoring* provides a partial view of TLC's regulatory efforts but is incomplete and disconnected in time and audience from the other reports. While the commission approves the finance-focused *Annual Report and Comprehensive Business Plan* and *Bingo Report* and statute requires these reports go to the Legislature and governor, the enforcement-based *Report on Compliance Activity Monitoring* is published solely on the agency's website, and the report has no specified audience. Furthermore, as statute requires, the report provides information

only on complaints, not the agency's other compliance activities, including audits and inspections of bingo licensees. This disconnect demonstrates the relatively limited focus on TLC's regulatory functions compared to the agency's revenue functions.

### **TLC's statute does not reflect standard language typically applied across the board during Sunset reviews.**

TLC's statute contains standard language requiring commission members to receive training and information necessary for them to discharge their duties properly. However, statute does not contain newer requirements for all topics the training must cover, such as a discussion of the scope of, and limitations on, the commission's rulemaking authority, which would be beneficial based on concerns previously noted. Statute also does not require the agency to create a training manual for all commission members or specify that commission members must attest to receiving and reviewing the training manual annually.

## **Sunset Staff Recommendations**

### ***Change in Statute***

#### **1.1 Require the commission to establish subcommittees to improve opportunities for engagement.**

This recommendation would require the commission to establish — at a minimum — audit, legal, and planning subcommittees. While the commission has recently taken steps to establish these subcommittees, this recommendation would ensure they continue to exist in the future. Subcommittees would allow commission members to specialize in particular areas of the agency, divide their workload, and take a more active role in overseeing the agency's policy development functions.

#### **1.2 Modify statute to remove the commission's authority to delegate approval authority for bingo advisory opinions.**

This recommendation would increase commission oversight by requiring the commission's approval of advisory opinions. This recommendation would require the commission to approve or disapprove bingo advisory opinions not later than the second commission meeting or 60 days after the request for an opinion, whichever is later. This recommendation would ensure commission members are involved in a critical area of agency policymaking and can identify any opinion requests that could be more suitably handled by rule.

#### **1.3 Modify statute to require the Bingo Advisory Committee and improve its effectiveness.**

This recommendation would require, instead of authorize, the BAC in statute and improve the member appointment process and work plan. Specifically, this recommendation would prohibit the BAC from being involved in the member selection process to eliminate any undue influence existing industry members have on the committee's makeup. This recommendation would also ensure the BAC can fully advise the commission on all aspects of bingo by prohibiting the commission from restricting bingo-related topics the committee can discuss. This recommendation would not require the commission to take action on

items the BAC brings forward or otherwise alter the commission's decision-making authority in any way but would promote more open, complete dialogue between the commission and those it relies on for expertise.

This recommendation would also expand the BAC's existing annual reporting requirement to include a briefing to the commission on industry advancements and challenges so the commission can stay informed of changes in the bingo industry.

As a management action, TLC should encourage bingo halls to post notices and information regarding any BAC vacancies to increase public awareness and the potential pool of public member applicants.

#### **1.4 Require the commission to establish a Lottery Advisory Committee.**

This recommendation would require the commission to establish a standing advisory committee to provide external expertise on the state lottery. The committee would advise the commission on the needs and problems of the state's lottery industry but, similar to the BAC, this recommendation would prohibit the commission from restricting lottery-related topics the committee can discuss. The recommendation would require the commission to appoint members representing licensed retailers, interest groups with divergent viewpoints, the public, and representatives associated with or benefiting from the lottery's contributions to the state. The commission would adopt rules regarding the structure and use of the advisory committee, including but not limited to:

- Appointment procedures, composition, terms, and quorum requirements.
- Additional representation provisions of the committee.
- Qualifications of the members such as experience or geographic location.
- Training requirements, if needed.
- The method the agency will use to receive public input on issues considered by the advisory committee.

Having a Lottery Advisory Committee would create more opportunities for stakeholder input and a more inclusive and transparent process for vetting issues and developing rules. Similar to the BAC, this recommendation would also require the Lottery Advisory Committee to provide an annual briefing to the commission on respective industry advancements and challenges so the commission can stay informed of changes in the lottery industry.

#### **1.5 Consolidate four of TLC's reporting requirements.**

Consolidating the *Annual Report*, *Comprehensive Business Plan*, biennial *Bingo Report*, and *Compliance Activity Monitoring Report* into a new *Texas Lottery Commission Annual Report* under its enabling statute would provide the Legislature with a more complete picture of the lottery and bingo industries and all of the agency's enforcement practices, including inspections and audits. To provide the Legislature with needed insight on the lottery and bingo industries in advance of the legislative session, this report would also include biennial recommendations to the Legislature on emerging trends, technological advancements, regulatory developments, and market dynamics affecting the lottery and bingo industries.

#### **1.6 Update the standard across-the-board requirement related to commissioner training.**

This recommendation would require the agency to develop a training manual that each commissioner attests to receiving annually and require existing commissioner training to include information about

the scope of and limitations on the commission's rulemaking authority. The training should clarify that the Legislature sets policy, and agency boards and commissions have the rulemaking authority necessary to implement legislative policy.

## ***Management Action***

### **1.7 Direct TLC to evaluate and address gaps in its rules.**

In addition to adopting rules to implement specific recommendations in this report, this recommendation would require TLC to comprehensively review its rules and identify regulatory requirements and processes needing additional clarification or explanation. The commission could form a subcommittee to review existing rules and identify areas where clarification or other changes are needed. Furthermore, the commission should review bingo advisory opinions to identify any opinions that may be more appropriate as rules. A more robust set of rules would provide clarity to the lottery and bingo industries about allowable activities and promote more consistent enforcement.

### **1.8 Direct TLC to update its policies describing the separation of duties between the commission and staff.**

TLC would need to update its existing policy to specify the commission's role in key planning efforts, including strategic and budget planning, business planning, and directing the work of its advisory committees. Involving commission members earlier in these planning processes specifically, instead of just approving things once finalized, would allow them more opportunities to provide input and fulfill their responsibility for establishing agency policies and providing direction.

## **Fiscal Implication**

These recommendations would not have a significant fiscal impact on TLC or the state. The recommendations relate to management responsibilities and agency planning that TLC could implement with existing resources.

---

<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Chapters 466 and 467, Texas Government Code; Chapter 2001, Texas Occupations Code.

<sup>2</sup> Section 466.014, Texas Government Code; Section 2001.051, Texas Occupations Code.

<sup>3</sup> Section 467.021, Texas Government Code.

<sup>4</sup> Section 467.025, Texas Government Code.

<sup>5</sup> Section 2001.057, Texas Occupations Code.

<sup>6</sup> Ibid.

<sup>7</sup> 16 Texas Administrative Code (TAC), Part 9, Chapter 402, Subchapter A, Section 402.102 (TLC, *Bingo Advisory Committee*).

<sup>8</sup> Section 467.101, Texas Government Code.

<sup>9</sup> Section 2001.059, Texas Occupations Code.

<sup>10</sup> 1 TAC, Part 2, Chapter 8, Section 8.13 (Texas Ethics Commission, *Time Period*); 22 TAC, Part 6, Chapter 131, Subchapter H, Section 131.107 (Texas Board of Professional Engineers and Land Surveyors, *Receipt, Review, and Processing of a Request*); 22 TAC, Part 39, Chapter 850, Subchapter D, Section 850.102 (Texas Board of Professional Geoscientists, *Receipt, Review, and Processing of a Request*).

<sup>11</sup> Texas Transportation Commission, Minute Order 115323, August 30, 2018; 19 TAC, Part 1, Chapter 1, Subchapter S, Section 1.213 (Texas Higher Education Coordinating Board, *Authority and Specific Purposes of the Higher Education Strategic Planning Committee*); Section 493.0052, Texas Government Code.

<sup>12</sup> TLC, December 2023 Bingo Advisory Committee meeting, December 12, 2023, meeting transcript, accessed online March 28, 2024, [https://www.texaslottery.com/export/sites/lottery/Documents/legal/meetings/2023/BAC\\_121223.pdf](https://www.texaslottery.com/export/sites/lottery/Documents/legal/meetings/2023/BAC_121223.pdf); TLC, December 2023 commission meeting, December 14, 2023, meeting transcript, accessed online March 28, 2024, [https://www.texaslottery.com/export/sites/lottery/Documents/legal/meetings/2023/12142023\\_TLCCommMtg.pdf](https://www.texaslottery.com/export/sites/lottery/Documents/legal/meetings/2023/12142023_TLCCommMtg.pdf); TLC, February 2024 commission meeting, February 6, 2024, meeting transcript, accessed online March 28, 2024, [https://www.texaslottery.com/export/sites/lottery/Documents/legal/meetings/2024/02062024\\_TLCCommMtg.pdf](https://www.texaslottery.com/export/sites/lottery/Documents/legal/meetings/2024/02062024_TLCCommMtg.pdf).

<sup>13</sup> TLC, *2023 Report on Compliance Activity Monitoring*, accessed online March 28, 2024, <https://www.texaslottery.com/export/sites/lottery/Documents/Compliance-Activity-Monitoring-2023-Report.pdf>.

<sup>14</sup> TLC, *2022 Annual Report and 2023–2024 Comprehensive Business Plan*, accessed online March 20, 2024, [https://www.texaslottery.com/export/sites/lottery/Documents/TxLottery\\_AnnualReportBusinessPlan2024.pdf](https://www.texaslottery.com/export/sites/lottery/Documents/TxLottery_AnnualReportBusinessPlan2024.pdf).

<sup>15</sup> Section 2001.060, Texas Occupations Code.



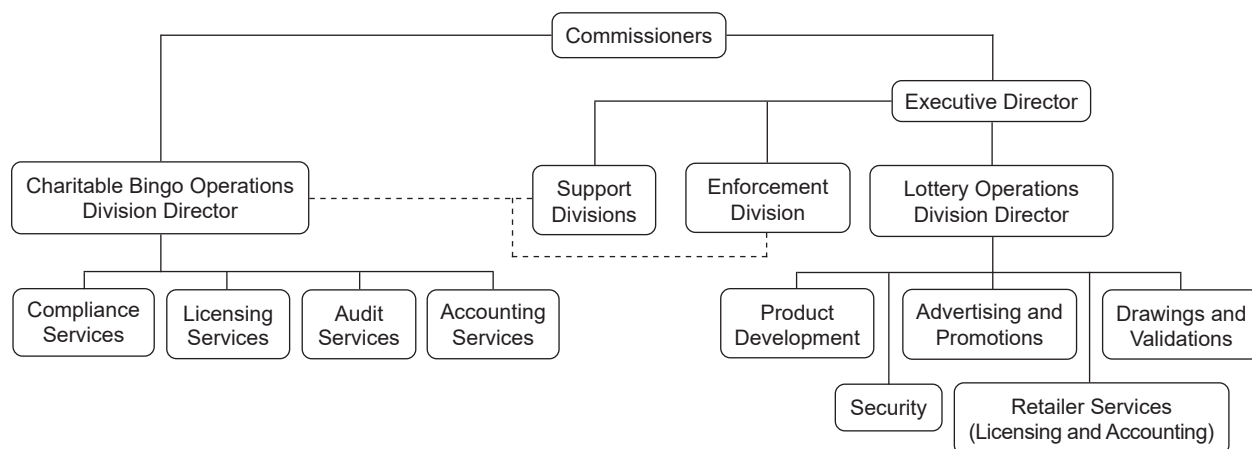
## ISSUE 2

# The Charitable Bingo Operations Division Needs Significant Improvement to Ensure Effective, Fair, and Efficient Bingo Regulation.

### Background

The Texas Lottery Commission (TLC) monitors bingo licensees' compliance with bingo statute and rules through its Charitable Bingo Operations Division (CBOD), as depicted in the organizational chart below. In fiscal year 2023, CBOD spent just under \$2 million and had 24 staff. While the agency's lottery administration is funded from the General Revenue Dedicated-Lottery Account, bingo regulation is funded through general revenue, and the agency is required to cover its appropriation through fees.<sup>1</sup>

**Texas Lottery Commission  
Organizational Chart**



To oversee the proper distribution of bingo proceeds, CBOD collects bingo prize fees on behalf of the state, processes licensees' quarterly financial reports, and monitors distributions to charities. CBOD uses auditors to conduct two types of enforcement activities — audits and inspections. Audits consist of reviewing records, verifying bingo account balances, and validating account transfers against quarterly reports. Auditors also conduct inspections during bingo games (commonly called “bingo occasions”) to determine whether a licensee conducts the occasion fairly and complies with statute and rules. CBOD uses an audit plan and risk assessments to identify licensees it will audit and inspect in the coming year. TLC's Enforcement Division handles bingo and lottery complaints. The *Bingo Activity* chart shows TLC's bingo activities for fiscal year 2023.

**Bingo Activity - FY 2023**

Complaints Received from the Public	139
Internal and External Complaints Resolved	177
Audits Completed	137
Inspections Completed	124
Quarterly Reports Processed	5,174

## Findings

### Structural barriers between bingo and lottery create inefficiencies and potentially violate statute.

- Questionable funding mechanism.** TLC's current funding structure does not align with statutory requirements that authorize the agency to expend lottery funds only on lottery prizes and lottery operational and administrative costs and to establish reserve prize funds.<sup>2</sup> Although statute does not authorize lottery funds to be spent on bingo regulation, in practice the Legislature has appropriated lottery-dedicated funds to pay for all TLC support services such as legal, information technology (IT), and human resources, even when those services are supporting CBOD. In response to Sunset staff's 2012 report on the agency, which highlighted the fact that lottery operations subsidize bingo regulation, TLC included a request in its *2014-15 Legislative Appropriations Request* for a new budget rider that would transfer bingo funds to the lottery-dedicated account to cover bingo-related indirect costs.<sup>3</sup> However, the Legislature did not adopt the suggested change, and TLC stopped calculating the cost of support services for bingo regulation. Although the agency estimated lottery's subsidy of bingo regulation amounted to approximately \$1.5 million annually in the 2014-15 appropriations request, that estimate seems unreasonable today considering CBOD's total annual budget is \$1.8 million.<sup>4</sup> Regardless of the amount, those are funds that could go to the Foundation School Fund.<sup>5</sup>
- Bifurcated leadership structure.** TLC's unusual leadership structure does not benefit the public or improve regulation of charitable bingo, and it contributes to administrative inefficiencies. By statute, both the TLC executive director and the CBOD director are hired by, and report directly to, the commission.<sup>6</sup> According to bingo industry participants, direct commission oversight of the CBOD director was established roughly 30 years ago based on the argument that the program's needs would be overlooked by the commission given the size and scope of lottery operations. However, the commission has a dedicated member who must have experience in the bingo industry.<sup>7</sup> Furthermore, the Bingo Advisory Committee is a statutorily authorized mechanism to ensure the commission hears and addresses the bingo industry's concerns.<sup>8</sup> While some improvements to the advisory committee are needed, as discussed in Issue 1, these structures for bingo input negate the need for continuing a unique reporting structure that does not benefit the public or the agency. In addition, Sunset has consistently identified problems with bingo regulation, noting in 2002 that, "Since the agency does not centrally track all bingo complaints and audits resulting in violations, or their resolutions, Sunset staff could not determine whether the agency is properly enforcing bingo regulations."<sup>9</sup> Findings in this issue highlight continued problems with CBOD's regulation and emphasize the need for more active day-to-day supervision that the commission structurally cannot provide. Issue 1 also discusses concerns related to the commission's engagement and oversight in more detail.

Problems with CBOD's regulation emphasize the need for more active day-to-day supervision.



In most agencies, the executive director is responsible for all agency functions and allocates resources across divisions as needed to ensure effective and efficient operations. However, TLC's statutory structure does not fully empower either TLC's executive director or the CBOD director with the necessary responsibility, authority, and resources to effectively regulate bingo. Instead, the CBOD director depends on the TLC executive director, who has no responsibility for bingo regulation, for most support services necessary to enforce regulation. TLC's policy separating the duties of the commission and staff candidly addresses CBOD's structural oddity and its real world limitations, stating "the fact the executive director is in the chain of command above all agency employees providing support services, including legal, human resources, financial, information technology, and other administrative services, means the executive director has authority over resources needed by the Charitable Bingo Operations Division."

Within the split leadership structure, TLC maintains duplicative and overlapping functions. Although the agency must avoid spending lottery revenue on bingo regulation, that requirement does not prohibit the agency from organizing itself across key functions — licensing, accounting, and enforcement — and cross-training staff to maximize administrative efficiencies. The agency relies on a single division — the Enforcement Division — to investigate both bingo and lottery complaints but does not similarly align other functions. Both CBOD and the Lottery Operations Division employ separate licensing and accounting staff who perform similar tasks but do not share processes or resources.

TLC maintains duplicative and overlapping functions.

### **CBOD's disjointed systems, poor data practices, and lack of clear policies inhibit its efficiency and ability to promote compliance and ensure fair treatment of licensees.**

Statute requires the agency to "exercise strict control and close supervision over all bingo conducted in this state."<sup>10</sup> However, CBOD's internal processes limit its ability to effectively regulate the bingo industry. CBOD does not fully assess the risk that a licensee poses to the public because its policies and procedures fail to incorporate and evaluate all risk information stored in separate licensing and enforcement systems. In 2015, CBOD launched its current database, the Bingo Operations Services System (BOSS), which includes a public interface, the Bingo Service Portal. CBOD uses BOSS to calculate a licensee's risk assessment score, but BOSS does not factor in data on bingo complaints, audit violations, and inspection violations that CBOD tracks and stores separately in the agency's Complaint Activity Monitoring Program (CAMP). The textbox on the following page describes in greater detail the functionality of each system.

CBOD's internal processes limit its ability to effectively regulate the bingo industry.

### CBOD Systems

#### Bingo Operations Services System (BOSS)

- Stores licensing, audit, inspection, and accounting information and documents. Staff may have to manually enter or verify information depending on how licensees submit the information.
- Includes staff's audit and inspection notes but does not track enforcement data.
- Generates licensees' risk assessment score without factoring in enforcement data stored in CAMP.

#### Bingo Service Portal

- Allows licensees to submit non-regular conductor license applications, bingo worker registry applications, and quarterly reports using web-based fillable forms or scanning in documents.
- Interfaces directly with BOSS.
- Information licensees submit using the portal's web-based fillable forms gets automatically uploaded to BOSS. Information from scanned documents uploaded by licensees does not.
- The portal's use is strictly voluntary.

#### Complaint Activity Monitoring Program (CAMP)

- Tracks all enforcement information and stores licensee compliance history. If CBOD staff identify a violation during an audit or inspection, they must manually document it in CAMP.
- Does not interface with BOSS beyond automatically assigning a CAMP case number to each audit and inspection.

- **Inefficient paper processes.** Despite the fairly recent implementation in 2015 of its BOSS database and Bingo Service Portal, CBOD remains mired in paper-based processes, some of which are atypical and self-inflicted, that consume its limited financial resources and staff time. CBOD's public-facing system, the Bingo Service Portal, does not allow all licensees to submit applications and renewals online. As a result of poor implementation, staff must manually process many applications, and licensees must engage in a more time-consuming application process. In a Sunset staff survey of licensees, several respondents indicated they prefer to use the portal for applications, renewals, and compliance communications, but many left comments indicating the system is difficult to navigate and outdated. The textbox below highlights open responses to the survey.

### Bingo Licensee Survey Responses

- "The Bingo Service Portal (BSP) needs to be overhauled so that we can submit all types of license requests instead of just a few...Why can't all the forms we are required to submit be accessible for use on the BSP? It also makes individuals feel easier because it is a secure portal to submit sensitive social security information."
- "Improve the BSP to enable the use of all submissions and communications on it."
- "The portal is not user friendly. I have tried many times. Prefer to submit online but I am forced to [submit] by mail."
- "The Portal is not user friendly at all. Old. Crashes."

CBOD's internal system, BOSS, has limited capabilities, causing staff to dedicate resources to manually processing significant amounts of paperwork. For example, BOSS cannot pull information from a scanned document

into a usable format, meaning staff must manually enter into BOSS any information it receives through electronic or hard copy documents. Over 80 percent of CBOD staff indicated in a Sunset staff survey they prefer requiring online license applications, and nearly 70 percent supported requiring online quarterly reporting. The agency began updating its IT systems agencywide three years ago, but CBOD does not have a firm plan in place to prioritize the completion of the Bingo Service Portal or BOSS. CBOD estimates completing the system updates will take several years, and the platforms will be outdated by the time they are completed.

Over 80% of CBOD staff indicated they prefer requiring online license applications.

CBOD also wastes its limited resources by mailing renewal and other forms to all licensees, including those who can apply online. Providing paper application materials for licensees who can apply online generates unnecessary paperwork that CBOD staff have to process. This practice is not required by statute and is out of step with other licensing agencies, which typically just email notices or use other more cost-effective forms of notification and correspondence. In fiscal year 2023, CBOD sent 22,536 pieces of mail, costing \$16,510.

- **Audits and inspections not prioritized.** Agencies should have structured, clear processes for prioritizing regulatory activities to ensure limited resources are allocated in order of importance and risk to the public. As a result of the 2013 Sunset review, statute requires both audits and inspections to be risk based.<sup>11</sup> However, three distinct problems result in neither activity truly focusing on the highest risk licensees. First, statute only requires inspections, not audits, to consider a licensee's compliance history, meaning a licensee with an extensive history of violations does not necessarily get audited more frequently than those without.<sup>12</sup> Second, CAMP and BOSS are not integrated, meaning no direct link exists between a licensee's risk score (stored in BOSS) and compliance history (stored in CAMP). So, even though statute requires inspections to account for compliance history, doing so is difficult in practice. Lastly, CBOD only requires staff to check a licensee's compliance history before they conduct the inspection or audit. Despite the technical limitations, CBOD has not formalized a process to ensure staff manually check licensees' compliance history in CAMP in advance of developing its audit and inspection schedules in BOSS.
- **Limited inspection criteria and training.** Insufficient bingo inspection criteria coupled with poor training leads to potentially incomplete inspections and unfair and inconsistent treatment of licensees. When performing an inspection, bingo auditors fill out a standardized checklist; the accompanying textbox provides examples of game-play operations subject to inspection. However, the

#### Game-Play Inspection Criteria

- An operator is present during a bingo occasion.
- Bingo play and awarding of prizes only occur during the organization's licensed play time.
- The bingo hall posts the winning cards for players to view.
- The bingo game schedule is available to all players.
- House rules are posted for viewing.
- The bingo caller asks for any additional winners after someone yells "bingo."
- Winning numbers are verified and made known to players.
- Written procedures that address disputes are made available to players.

criteria only represent a portion of the game-play factors rule and statute require. The checklist does not account for more high-risk requirements licensees must follow such as paying bingo players their prizes in full and preventing illegal gaming from occurring during the bingo occasion.<sup>13</sup>

CBOD is poorly prepared to ensure inspections are thorough and fair.

Furthermore, CBOD lacks adequate training for new staff on conducting inspections, leaving the division poorly prepared to ensure inspections are thorough and fair. The only formal training new staff receive is conducting ride-alongs with more experienced staff and observing an inspection. On occasion, CBOD staff have concluded inspections before the end of the licensed play time, preventing the auditor from verifying that play occurred only during the authorized time. As discussed below, CBOD also provides unclear guidance to staff regarding how serious an inspection violation must be to warrant officially reporting it as a finding, leaving the decision up to individual staff. More robust training could also mitigate the impact of staff turnover. In the past five years, CBOD has faced an average auditor turnover rate of about 16 percent, which is higher than the statewide average for auditing positions.<sup>14</sup>

- **Inadequate consideration of repeat offenders.** As discussed later in this issue, due to poor data practices Sunset staff could not evaluate whether CBOD's penalties actually deter repeat violations, but its inspection procedures and schedule of sanctions lack features that demonstrate a commitment to deterring bad behavior.

CBOD cannot track recidivists because it does not clearly define repeat violations.

Indefinite corrections. CBOD encourages staff to allow licensees to correct issues during inspections if they are out of compliance but provides no guidance on how frequently this is allowed or when the violation warrants escalation for enforcement. For example, if a licensee has no procedures to address disputes, staff will let the licensee write procedures at the time of inspection. However, the auditor is not required to document every violation as a finding that gets referred to the Enforcement Division, which prevents the next auditor from easily observing a pattern of behavior during an inspection and allows licensees to potentially commit certain violations indefinitely without facing any enforcement action. For violations that pose little impact on bingo players or the accounting of funds, systematic documentation of the types of violations that can be resolved through on-the-spot corrections may help CBOD refine its inspection criteria to uniformly scale back the kinds of violations that are forwarded to enforcement and reduce the regulatory burden on licensees for corrections that have no public benefit.

Problematic schedule of sanctions. Although CBOD has a schedule of sanctions as required by statute, the schedule has some deficiencies that open the door to subjective and ineffective enforcement. First, CBOD cannot track recidivists because it does not clearly define repeat violations. Although lottery rule specifies that a violation need not be the same or similar in nature to previous violations to be considered a repeat violation, bingo rule does not specify whether a repeat offense refers to a licensee who

has repeatedly committed the same violation or previous violations of any kind.<sup>15</sup> Without this distinction, CBOD cannot designate a repeat offender when carrying out penalties. Second, CBOD does not adequately scale sanctions to the nature of the violation in a way that promotes compliance. CBOD's schedule of sanctions allows for \$0 penalties (also considered a warning) for every type of violation, regardless of the seriousness or frequency of the violation. For example, a 2023 enforcement report for a bingo hall showed seven total violations, five for the same offense, yet the hall received no administrative penalties. Some of these \$0 violations were serious, including failing to properly report and maintain records for quarterly reports, making deposits outside of the authorized timeframe after a bingo occasion, and failing to remit prize fees to the state.

CBOD's schedule of sanctions allows warnings for every type of violation, regardless of seriousness or frequency.

- **Poor data management.** CBOD's lack of reliable enforcement data precludes meaningful oversight and prevents the division from making better decisions and targeting resources efficiently. Sunset staff regularly requests enforcement data when evaluating a regulatory program to assess the regulation's effectiveness and how efficiently the agency performs its regulatory responsibilities. Across multiple requests, CBOD could not provide Sunset staff with complete and consistent enforcement data. Just before publication of this report, CBOD informed Sunset staff that written clarification the agency had provided early in the review regarding the content of the data was inaccurate. In its analysis of CBOD's enforcement data across the last six fiscal years, Sunset staff found incomplete and error-riddled data, as highlighted in the *Data Quality Issues* textbox. While part of the problem lies within CAMP, which requires staff to manually enter information instead of relying on mechanisms that limit data entry errors, CBOD has also not developed clear definitions and consistent procedures for collecting and recording key information. The poor data quality not only makes evaluating the division's performance nearly impossible but also demonstrates that data collection and reporting have become perfunctory, administrative tasks rather than helpful tools to guide CBOD's decisions.
- **Comprehensive compliance data not online.** Disciplinary orders are not available online. Licensing agencies should make the full text of final disciplinary actions subject

#### Data Quality Issues

- Several complaint cases lacked a violation code, which identifies what section of rule or statute the licensee violated, and only included a description of the violation in the case name, making trend analysis difficult.
- Nearly half of bingo enforcement cases lacked information identifying the licensee's city or county, preventing CBOD from ensuring enforcement is consistent across regions.
- A significant number of enforcement cases did not identify the license number or organization name in the corresponding field, making any analysis of these cases impossible and indistinguishable from cases against unlicensed actors. When Sunset staff brought this to the agency's attention, staff acknowledged the identifying information is not always entered into the proper fields.
- Half of bingo enforcement cases use the terms "appropriate action taken" and "corrective measures taken" interchangeably to designate the outcome of a violation and include no explanation of the action, preventing CBOD from assessing whether the licensees are repeat offenders.
- Enforcement data from the last six years included closed cases with violations dating back to the early 1990s. When Sunset staff inquired about this, the agency clarified these were most likely data entry errors on the part of the complainant or agency staff and confirmed staff do not validate manually-entered information.



to public disclosure available to the public online. This practice should be encouraged to provide players with information to make informed choices when deciding where to play bingo. Currently, the public must submit an open records request to access enforcement actions against bingo licensees. Being able to access enforcement histories and having notice of significant activities ensures the public can make informed decisions regarding bingo.

## Sunset Staff Recommendations

### *Change in Appropriations*

#### **2.1 The House Appropriations and Senate Finance committees should consider modifying TLC's budget pattern to include an indirect administration goal.**

This recommendation would express the will of the Sunset Commission that the Legislature modify TLC's budget pattern to remove Central Administration from Goal A (Lottery) and create a new goal for Indirect Administration for the entire agency funded proportionally for bingo and lottery through the lottery-dedicated account and general revenue. This change would allow the agency to fully comply with the fiscal requirements of the State Lottery Act.

### *Change in Statute*

#### **2.2 Modify statute to clarify TLC's organizational hierarchy.**

This recommendation would modify the Bingo Enabling Act and the agency's enabling statute to state that the TLC executive director, not the commission, employs and directs the CBOD director. This recommendation would also clarify that the executive director is employed to administer the entire agency. This change would create a single chain of command within the agency.

As a management action, this recommendation would direct TLC to functionally align its divisions to maximize administrative efficiencies. TLC should holistically evaluate staff responsibilities across its bingo and lottery divisions and consolidate staff performing similar functions such as licensing, accounting, and inspections.

#### **2.3 Require CBOD to include compliance history in its audit risk assessment.**

This recommendation would modify statute to require CBOD to include a licensee's compliance history as a consideration in developing its audit risk assessment. The recommendation would not alter the existing requirement that CBOD set a reasonable goal for auditing licensees within a specific timeframe. Under this recommendation, the agency would update its bingo audit and inspection policies to include a strategy for checking compliance history to inform the audit risk assessment. The recommendation would help the agency more effectively monitor the highest-risk licensees and better allocate scarce resources.

#### **2.4 Require CBOD to work with the Bingo Advisory Committee to establish appropriate inspection criteria.**

Under this recommendation, CBOD would consult with the Bingo Advisory Committee to collaboratively define and implement specific criteria for inspections related to fiscal accountability. As bingo is a cash based industry, such criteria will ensure more thorough evaluations of licensee compliance with financial regulations and promote transparency within the bingo industry.

## ***Management Action***

### **2.5 Direct the agency to establish a plan prioritizing IT updates and eliminating paper-based processes in CBOD.**

This recommendation would direct the agency to develop a plan to prioritize its Bingo Service Portal and BOSS updates, including establishing timelines and discrete tasks to achieve improvements. In developing this plan, the agency should:

- Consult the Bingo Advisory Committee to seek input related to licensees' experience and suggestions for the Bingo Service Portal.
- Identify policies, training manuals, external guidance, and other documents that need to be updated to reflect any system changes.
- Identify any statutory barriers to improvements and whether the agency will need additional resources. The agency could include any recommendations and identify additional resource needs in its next legislative appropriations request.
- Evaluate the implications and potential cost savings of eliminating the mailing of forms and instead requiring electronic filing for licenses, renewals, and other information.
- Evaluate options for ensuring BOSS and CAMP are integrated so the agency can check compliance history in risk assessments.

Staff should submit the plan to the agency's governing body for approval by March 15, 2025, and also provide a copy to the Sunset Commission and applicable legislative oversight committees.

### **2.6 Direct the agency to improve data practices, including data validation and other quality controls.**

This recommendation would direct the agency to consult the Department of Information Resources to improve its data practices and management. Specifically, the agency should:

- Complete the agency's data catalogue, which is a comprehensive list of databases, other data assets associated with BOSS, Bingo Service Portal, CAMP, and information and processes tracked and maintained in spreadsheets.
- Complete the data dictionaries, which define, classify, and describe the data in each asset.
- Develop clear policies and procedures for entering data and information into the systems and validating that information.
- Develop dashboards or other tools to help analyze BOSS, Bingo Service Portal, and CAMP data.

This recommendation would improve TLC's data quality and consistency and help the agency make more informed decisions related to bingo inspections, audits, and enforcement. For example, CBOD would be able to more easily track noteworthy trends across regions and licensee types, identify repeat bad actors, and adjust audit- and enforcement-related tasks as needed.

## **2.7 Direct CBOD to revise its schedule of sanctions to better align penalties with the severity of the violation.**

Under this recommendation, CBOD should review and update its schedule of sanctions to match violations with the level of sanction based on the nature and seriousness of the violation, compliance history, and other aggravating and mitigating factors. Specifically, CBOD should clearly define what qualifies as a repeat violation and consider eliminating \$0 penalties for the most serious violations. The recommendation would ensure the agency applies sanctions and penalties fairly to effectively deter violations.

## **2.8 Direct CBOD to develop a training program for new auditors.**

This recommendation would direct CBOD to establish a formal training program tailored to the needs of newly hired auditors. The program should encompass essential knowledge and skills required for conducting audits and inspections effectively such as training on the Bingo Enabling Act and associated rules, applying statute and rules consistently, and best practices for entering and verifying data. By providing structured training, CBOD can better equip new auditors to carry out their responsibilities while allowing flexibility for adaptation based on evolving needs and best practices within CBOD.

## **2.9 Direct CBOD to post all disciplinary orders on the bingo website.**

Under this recommendation, CBOD would post detailed information regarding disciplinary actions on the bingo website or the Texas Open Data Portal, including full versions of any bingo-related commission orders. The agency should also consider posting similar information related to disciplinary actions against lottery licensees, which would increase transparency and provide the public and licensees a more complete picture of the agency's overall enforcement efforts and performance.

## **Fiscal Implication**

Modifying TLC's budget pattern to create a new goal for Indirect Administration would result in a gain to the Foundation School Fund. TLC would adjust fees to recover the amount currently subsidized by lottery funds, which would result in a gain to general revenue to pay for bingo's central administrative costs and deposits of an equal amount in the Foundation School Fund. CBOD is currently working to update BOSS and the Bingo Service Portal, and developing a plan to better prioritize that effort would have no fiscal impact. While implementing the plan would result in short-term IT costs, in the long term, relying on more modern systems and eliminating paper-based processes would reduce administrative burdens and result in cost savings for the agency and licensees. Other recommendations would not result in any fiscal impact to the state.



- 
- <sup>1</sup> TLC, Rider 6, p. VII-10, Article VII, (HB 1), Acts of the 88th Legislature, Regular Session, 2023 (General Appropriations Act).
  - <sup>2</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 466.355, Texas Government Code.
  - <sup>3</sup> TLC, *Legislative Appropriations Request for FYs 2014 and 2015*, p. 3, accessed online March 20, 2024, [https://www.texaslottery.com/export/sites/lottery/Documents/financial/LAR\\_FY2014-15.pdf](https://www.texaslottery.com/export/sites/lottery/Documents/financial/LAR_FY2014-15.pdf).
  - <sup>4</sup> TLC, *Legislative Appropriations Request for FYs 2014 and 2015*, p. 3.B.8, accessed online March 20, 2024, [https://www.texaslottery.com/export/sites/lottery/Documents/financial/LAR\\_FY2014-15.pdf](https://www.texaslottery.com/export/sites/lottery/Documents/financial/LAR_FY2014-15.pdf).
  - <sup>5</sup> Section 466.355(A)-(B), Texas Government Code.
  - <sup>6</sup> Section 467.032, Texas Government Code; Section 2001.052, Texas Occupations Code.
  - <sup>7</sup> Section 467.021(c), Texas Government Code.
  - <sup>8</sup> Section 2001.057, Texas Occupations Code.
  - <sup>9</sup> Texas Sunset Advisory Commission, *Texas Lottery Commission Staff Report*, August 2002, p. 50, accessed online March 26, 2024, <https://www.sunset.texas.gov/public/uploads/files/reports/Lottery%20Commission%20Staff%20Report%202002%2078th%20Leg.pdf>.
  - <sup>10</sup> Section 2001.051(b), Texas Occupations Code.
  - <sup>11</sup> Sections 2001.557(b) and 2001.560(c-1), Texas Occupations Code.
  - <sup>12</sup> Ibid.
  - <sup>13</sup> 16 Texas Administrative Code (TAC), Part 9, Chapter 402, Subchapter B, Sections 402.200(i)(4) and 402.211 (TLC, *Conduct of Bingo*).
  - <sup>14</sup> Texas State Auditor's Office, *Annual Report on Classified Employee Turnover*, 2023, pp. 37-38.
  - <sup>15</sup> 16 TAC, Part 9, Chapter 402, Subchapter G, Sections 402.706(i) (TLC, *Schedule of Sanctions*).



## ISSUE 3

# Charitable Bingo Licensing Needs Changes to Eliminate Unnecessary Regulatory Burdens and Unfair Advantages to Certain Regulated Businesses.

## Background

The Texas Lottery Commission (TLC) administers a licensing and regulatory program for bingo through its Charitable Bingo Operations Division. Statute requires TLC to approve bingo cards sold in Texas, and the agency has adopted rules defining and regulating all bingo materials, including cards, pull tabs, dispensers, and card minders.<sup>1</sup> Bingo materials must have serial numbers and the TLC symbol and must conform to extensive stylistic and gameplay requirements TLC has promulgated in rule.<sup>2</sup> In addition, TLC monitors bingo industry participants, collects bingo prize fees, and in fiscal year 2023, the agency licensed or registered 10,928 individuals, charitable organizations, and businesses in the bingo industry.

The Sunset Advisory Commission has a long history of evaluating licensing and regulatory agencies, guided by standards set in the Sunset Act.<sup>3</sup> In 2013, the Legislature re-emphasized the need for Sunset staff to conduct a rigorous assessment of state regulation by adding criteria for Sunset reviews of licensing and regulatory programs, as summarized in the textbox.<sup>4</sup> Sunset reviews evaluate the need for agencies and programs. When Sunset evaluates licensing and regulatory programs, it must prove the need for the regulation. Assessment of need occurs through a detailed analysis of the potential harm, either in terms of physical harm or financial loss. With these criteria in mind, Sunset staff reviewed TLC's licenses and found that two failed to meet the need for continued regulation and two others would require consolidation to eliminate a preferred class of lessor.

### Sunset Licensing and Regulatory Questions

- Does the occupational licensing program serve a meaningful public interest and provide the least restrictive form of regulation needed to protect the public interest?
- Could the program's regulatory objective be achieved through market forces, private certification and accreditation programs, or enforcement of other law?
- Are the skill and training requirements for a license consistent with a public interest, or do they impede applicants, particularly those with moderate or low incomes, from entering the occupation?
- What is the impact of the regulation on competition, consumer choice, and the cost of services?

- **Manufacturers.** Texas licenses and regulates individuals and companies that manufacture bingo equipment. Statute requires manufacturers to sell their products only to licensed distributors, who then sell products to conductors, which are the charitable organizations TLC licenses to conduct bingo. Statute also prevents a conductor from being a distributor or manufacturer and vice versa.<sup>5</sup> In fiscal year 2023, TLC licensed 21 manufacturers.

Manufacturers may only sell bingo materials approved by TLC. In practice, manufacturers not only sell consumable bingo materials like paper and pull tabs but also lease electronic card minders, charging equipment, cables, ball blowers, and other necessities to licensed distributors.

- **Distributors.** Statute requires TLC to license and regulate individuals and companies that purchase TLC-approved materials from licensed manufacturers.<sup>6</sup> These licensed distributors then sublease

the items to conductors that often lack the operating capital to purchase expensive electronic items outright. Distributors also provide technical support to bingo halls, service machines, and work with halls and manufacturers to develop new bingo games. In fiscal year 2023, TLC had 13 licensed distributors.

- **Regular commercial lessors.** TLC licenses commercial lessors, which are individuals and companies that lease premises on which bingo is conducted directly to licensed conductors. However, regular commercial lessors are statutorily limited to issuing one direct lease to a licensed conductor and to collecting only \$600 per day in rent.<sup>7</sup> In fiscal year 2023, 128 businesses were licensed as regular commercial lessors.
- **Grandfathered commercial lessors.** Like regular commercial lessors, grandfathered commercial lessors lease premises on which bingo is conducted directly to licensed conductors. While regular lessors are limited to issuing one direct lease to a licensed conductor, grandfathered lessors were licensed before June 10, 1989, enabling them to lease directly to up to seven conductors.<sup>8</sup> Conductors are permitted to conduct up to three bingo events, termed “occasions,” per week.<sup>9</sup> By directly leasing to seven conductors, grandfathered lessors may host up to 21 occasions per week, and by collecting up to \$600 per occasion, these lessors are able to generate up to \$1,800 per day in rent. In fiscal year 2023, 179 businesses were licensed as grandfathered commercial lessors.

## Findings

### Licensing bingo manufacturers is not necessary to protect the public and creates an unnecessary regulatory burden.

TLC has inspected two to five manufacturers annually over the past five years, finding no violations.

- **Minimal qualifications.** Licensed manufacturers face a low level of scrutiny in both obtaining and maintaining their license. In evaluating whether to license a manufacturer, TLC requires only that the applicant has not been convicted of fraud or gambling-related offenses, does not hold another bingo license, provides a description of the items the applicant intends to furnish or sell, and provides the required \$3,000 fee or \$10,000 bond.<sup>10</sup> In the past 10 years, TLC has not denied any license applications for manufacturers.
- **No meaningful inspection or enforcement activity.** TLC reports an extremely limited number of enforcement actions and no inspection findings for manufacturers, indicating they pose a low risk to the state and public. TLC has inspected two to five manufacturers annually over the past five years, finding no violations. In the last 10 years, TLC has issued four warnings to manufacturers and assessed two fines against the same manufacturer for failing to maintain a bond and failing to comply with the subsequent consent order.
- **Bingo material regulations remove the need for licensing manufacturers.** TLC promulgates standards controlling bingo materials without reference to licensure. Manufacturers must submit samples of paper-based materials to TLC and wait to receive an approval letter before they can sell these materials to distributors.<sup>11</sup> For electronic materials, manufacturers must submit samples to Gaming Lab International (GLI), a third-party vendor that tests the games against TLC’s standards. Manufacturers then receive a

letter from GLI attesting to the validity of the games, forward it to TLC, and wait to receive written approval from the commission.<sup>12</sup> By establishing and enforcing standards to ensure bingo products meet state requirements, TLC eliminates the primary need for the manufacturer license: to maintain the quality and integrity of bingo materials within Texas. Conductors are already required to use those preapproved materials, and TLC already inspects and audits inventories of bingo material held by conductors. Furthermore, TLC promulgates similar rules-based standards for lottery materials without licensing the manufacturers of those materials.<sup>13</sup>

### **Licensing bingo distributors is not necessary to protect the public and creates an unnecessary regulatory burden.**

- **Minimal qualifications.** Licensed distributors face a similarly low burden to obtain and maintain a license. In evaluating whether to license a distributor, TLC again requires only that the applicant has not been convicted of fraud or gambling-related offenses, does not hold another bingo license, provides a description of the items the applicant intends to furnish or sell, and provides the required \$1,000 fee.<sup>14</sup> In the past 10 years, TLC has not denied any license applications for distributors.
- **No meaningful inspection or enforcement activity.** Distributors have not posed a risk to the public. TLC has inspected two distributors over the past five years, finding no violations. In the last 10 years, TLC has taken no enforcement actions against licensed distributors.
- **Licensing distributors in addition to conductors is duplicative and unnecessary.** TLC requires distributors to report sales data on a quarterly basis.<sup>15</sup> During audits of conductors, the agency uses this data to validate inventory records maintained by charitable conductors. TLC could instead require conductors to supply purchase orders, receipts, or other financial documentation to validate inventory records, proving that the conductor purchased approved bingo materials. Focusing regulation on conductors would streamline TLC's audit process.
- **Market forces would just as effectively ensure quality distributor services as licensure.** While licensing is unnecessary, market forces sustain a demand for distributors of bingo products. Conductors often lack the operating capital necessary to purchase electronic materials outright, lack the logistical knowledge to fully supply or maintain a hall's electronic needs, and cannot stock the range of games that players expect to see throughout a given year or quarter. As a result, conductors rely on distributors to assume risk, create new games, and service and maintain bingo equipment. These needs would continue even without licensure, and distributors that meet these needs effectively would continue to succeed.

In the last 10 years, TLC has taken no enforcement actions against licensed distributors.

## Grandfathered licenses have become a permanent unfair advantage to certain lessors.

### Transfer of a Grandfathered Lessor License

Lessor licenses may be held by corporate entities as well as individuals. By rule, when individuals die or surrender their license, the grandfathered rights end and may not be transferred.

However, a corporate entity may be sold to new ownership while retaining its identity, therefore preserving the grandfathered status of the license.

Additionally, lessor licenses may be placed under a voluntary administrative hold, during which time lessors can maintain their license without paying annual fees.

TLC's current regulatory scheme unfairly created a preferred class of lessor. Grandfathered lessors may earn up to three times as much rent as a regular lessor. In addition, grandfathered licenses have become permanent. Typically, grandfather provisions in occupational licensing are part of a temporary effort to treat existing licensees fairly while a regulatory scheme is altered. Regulators expect grandfathered licenses to die out as grandfathered licensees leave the market and new licensees fill the void or eventually come into compliance with the new requirements for maintaining licensure. Because of the transfer rules explained in the accompanying textbox, grandfathered lessor licenses have persisted for three decades and will persist forever, severely undermining their regulatory

justification.<sup>16</sup> In fiscal year 2023, licensing data showed out of 307 licensed lessors, 179 (58 percent) were grandfathered. As a result of the difference in earnings potential, grandfathered licenses are more valuable than newly issued licenses. Sunset staff learned that grandfathered licenses are bought and sold — through corporate ownership — so that new owners can avoid the current statutory rent restrictions.

## Sunset Staff Proposed Options

Given the considerable uncertainty that surrounds decades-old legislative intent and the widespread utilization of grandfathered licenses, a recommendation to preserve or eliminate these special rights cannot be made without wading into policy issues. Therefore, this report does not include definitive recommendations regarding lessor licenses from Sunset staff and instead provides the following options for the Sunset Commission's consideration.

### *Change in Statute*

#### Option 1 — Treat all lessors as grandfathered lessors.

Allowing all lessors to collect up to \$600 in rent per occasion, rather than per day, would lower the barrier to entry and enable more fair market competition among licensees, potentially allowing for more halls to open for charities to conduct bingo. Conductors must compete for consumer attention against a growing range of entertainment options. Increasing the number of halls these organizations may choose among would better enable them to operate from maximally competitive physical locations. Additionally, lessors would earn increased revenue if they choose to collect this additional rent.

However, charities with modest earnings may not be able to continue to operate if lessors seek maximum rent. Even for charities able to continue operating profitably, allowing lessors to collect this additional rent could triple costs for charities and diminish the earnings generated by conducting bingo events. This increase in cost could in turn decrease the amount of prize money available to players and correspondingly reduce the state's prize fee collection.

**Option 2 — Convert all grandfathered lessors to regular lessors.**

Converting all lessors to regular lessors would restrict currently grandfathered licensees to collecting only \$600 per day in rent rather than per occasion. This change would establish tighter restrictions on the potential earnings of lessors and would reduce costs for charities who currently partner with grandfathered licensees.

However, this change would diminish the value of the lessor license. With a diminished earnings potential, fewer lessors may choose to enter the market, leading to a reduction in the number of bingo occasions hosted across the state. This reduction could curtail charitable earnings and diminish the state’s prize fee collection.

**Sunset Staff Recommendations**

**3.1 Eliminate licenses for manufacturers.**

This recommendation would eliminate the requirement that manufacturers of bingo materials be licensed. Manufacturers would still be required to have bingo materials approved by TLC, but the burden would be on conductors to provide proof of purchasing approved materials. Eliminating manufacturer licenses would not impact the ability of these businesses to operate. Conductors rely on manufacturers to produce bingo equipment and create bingo games, needs that would continue without licensure. Any licensing fees manufacturers pay before the effective date of the resulting legislation would not be refunded. Additionally, any enforcement cases open before the effective date would be continued in effect under the terms that existed before the effective date until completion.

**3.2 Eliminate licenses for distributors.**

This recommendation would eliminate the requirement that distributors of bingo products be licensed. Eliminating distributor licenses would not impact the ability of these businesses to operate. Conductors rely on distributors to assume risk, create new games, and service and maintain bingo equipment, needs that would continue even without licensure. Any licensing fees distributors pay before the effective date of the resulting legislation would not be refunded. While TLC has taken no enforcement actions against a licensed distributor in a decade, any enforcement cases open before the effective date would be continued in effect under the terms that existed before the effective date until completion.

**Fiscal Implication**

The elimination of manufacturer and distributor licenses would result in the state no longer collecting licensing fees, reducing general revenue to the state by approximately \$68,000 per year. TLC could not estimate the cost of administering the manufacturer and distributor licenses, but as these licenses comprise only 2.5 percent of TLC’s licensees, any savings to offset the revenue loss would be minimal. The options to apply grandfathered license standards to all lessors or convert all lessors to regular licenses could result in either a gain or a loss to state revenue, depending on how the industry adjusts to the regulatory change. However, the fiscal impact of either change cannot be estimated at this time.

**Texas Lottery Commission**

Fiscal Year	Loss to the General Revenue Fund
2026	\$68,000
2027	\$68,000
2028	\$68,000
2029	\$68,000
2030	\$68,000



- 
- <sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 2001.054, Texas Occupations Code.
- <sup>2</sup> 16 Texas Administrative Code (TAC), Part 9, Chapter 402, Subchapter C (Texas Lottery Commission (TLC), *Bingo Games and Equipment*).
- <sup>3</sup> Section 325.0115, Texas Government Code.
- <sup>4</sup> Ibid.
- <sup>5</sup> Chapter 2001, Subchapter E, Texas Occupations Code.
- <sup>6</sup> Ibid.
- <sup>7</sup> Chapter 2001, Subchapter D, Texas Occupations Code.
- <sup>8</sup> Section 2001.152, Texas Occupations Code; Section 2001.402(c), Texas Occupations Code.
- <sup>9</sup> Section 2001.419, Texas Occupations Code.
- <sup>10</sup> Chapter 2001, Subchapter E, Texas Occupations Code.
- <sup>11</sup> 16 TAC, Part 9, Chapter 402, Subchapter C (TLC, *Bingo Games and Equipment*).
- <sup>12</sup> Ibid.
- <sup>13</sup> 16 TAC, Part 9, Chapter 401, Subchapter D (TLC, *Lottery Game Rules*).
- <sup>14</sup> Chapter 2001, Subchapter E, Texas Occupations Code.
- <sup>15</sup> 16 TAC, Part 9, Chapter 402, Subchapter F, Section 402.600 (2005) (TLC, *Bingo Reports and Payments*).
- <sup>16</sup> 16 TAC, Part 9, Chapter 402, Subchapter D, Section 402.443 (2018) (TLC, *Transfer of a Grandfathered Lessor's Commercial Lessor License*).

## ISSUE 4

# The State Has a Continuing Need for the Texas Lottery Commission.

### Background

The Texas Lottery Commission (TLC) has operated the lottery since 1993 and overseen regulation of charitable bingo since 1994. In separate constitutional elections, Texas voters approved the two games as exceptions to the state's gambling prohibition.<sup>1</sup> The agency generates revenue, primarily for the Foundation School Fund, through the sale of lottery products. Statute also gives TLC broad authority and responsibility to exercise strict control and close supervision over the lottery to promote and ensure integrity, security, honesty, and fairness of the games.<sup>2</sup> TLC has a much more traditional regulatory role in charitable bingo. Through its Charitable Bingo Operations Division (CBOD), the agency regulates all activities relating to the conduct of charitable bingo in Texas, including licensing, monitoring bingo industry participants, and collecting bingo prize fees.

### Findings

#### Texas has a continuing need to effectively operate the lottery and regulate bingo.

Lottery is popular in Texas, bringing in record sales in each of the last 13 years, resulting in over \$19 billion for the Foundation School Fund and about \$215 million for the Texas Veterans Commission over that time. Without this funding, the state would need other sources of revenue to make up for the over \$2.1 billion the lottery brought in for education and veterans' programs last year.

- **Consumer confidence is key.** Consumers must be sure the games are conducted honestly and fairly and that prizes will be paid. While TLC outsources much of the lottery operations to its contractor, IGT Corporation, the agency maintains close oversight to ensure the lottery operates in accordance with state law. TLC controls the cash flow, electronically withdrawing lottery earnings from retailer bank accounts each week and remitting them to the State Treasury. The agency also licenses over 20,000 lottery retailers and takes enforcement action against any that violate state laws or agency rules.

Although bingo attendance has been on the decline, dropping over 25 percent from 2015 to 2022, the game is still an important source of revenue for Texas charities. In fiscal year 2023, charities received about \$32 million in bingo proceeds. Bingo is also a source of funding for the state and for local governments. In fiscal year 2023, the state received nearly \$16 million, and local governments received almost \$13 million in bingo proceeds. Because bingo halls operate on a cash basis, oversight is critical to ensure games are fairly played, money is accounted for, funds go toward charitable purposes, and state and local government revenue is collected and distributed.

Without the lottery, the state would need to make up for over \$2.1 billion per year.

### **TLC is the most appropriate agency to administer the lottery and regulate charitable bingo.**

No substantial benefit would result from transferring functions or merging TLC with another agency.

Sunset staff considered organizational alternatives for administering TLC's programs but concluded no substantial benefit would result from transferring functions or merging them with another agency. While other organizational options exist and the state has used them in the past, TLC has the expertise and organizational structure to regulate lottery and bingo. While both lottery and bingo started in the Office of the Comptroller of Public Accounts, the growth in size and complexity of lottery and bingo operations would make that a poor fit today with the comptroller's tax responsibilities and increased role in broadband development. Merging TLC with the Texas Racing Commission could be an option as both agencies deal with gaming-related issues. However, the Racing Commission's 2020 Sunset review revealed an agency struggling to meet its own responsibilities.<sup>3</sup> The two agencies' very different activities and responsibilities require specific expertise that would need to be maintained, resulting in little opportunity for cost savings.

Privatizing the state lottery does not appear to offer significant fiscal savings and would come at the cost of abandoning key regulatory capabilities, such as licensing, that allow the state to take action against any bad actors. While not privatized, TLC has contracted out many day-to-day lottery operations. This structure allows the agency to take advantage of the contractor's capabilities, capacity, and experience while maintaining oversight of outsourced functions by monitoring and enforcing performance standards defined by the contract.

Even though the review identified significant concerns with TLC's regulation of bingo, as described in Issue 2, the agency provides the best available location for bingo regulation. Operating the lottery and regulating bingo are two different and arguably competing tasks. However, CBOD is too small to be a standalone agency, lacking dedicated staff for administrative services such as human resources and information technology. While the lottery may compete with bingo for players' entertainment dollars, the reality is that lottery and bingo are small fish in a very big entertainment pond. The Texas Department of Licensing and Regulation could regulate bingo but is currently temporarily supporting the Texas Board of Veterinary Medical Examiners, undertaking a major information resources project, and undergoing a leadership change, making it poorly suited to take on additional responsibilities.<sup>4</sup>

45 states have authorized lotteries, and 47 states have legalized charitable bingo.

### **Most other states administer lotteries and regulate bingo, though their regulatory structures vary greatly.**

In the United States, 48 jurisdictions authorize lotteries — 45 states plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Of these 45 states, 31 regulate their lotteries through a standalone lottery or gaming agency, and one — North Dakota — regulates its lottery through the attorney general's office. Charitable bingo is legal in 47 states. Thirty-six states regulate

bingo through state agencies, although the organizational structures vary. In 11 states, bingo is regulated at the local government level. Eight other states regulate lottery and bingo through a single standalone agency similar to Texas.

### **The agency's statutory reporting requirements continue to be needed.**

The Sunset Act establishes a process for the Sunset Commission to consider if the reporting requirements of agencies under review need to be continued or abolished.<sup>5</sup> The Sunset Commission has interpreted these provisions as applying to reports specific to the agency and not general reporting requirements that extend well beyond the scope of the agency under review. Reporting requirements with deadlines or expiration dates are not included nor are routine notifications, notices, or posting requirements.

Statute requires TLC to produce eight reports specific to the agency, as listed in Appendix D. Four of these reporting requirements continue to be useful. However, as detailed in Issue 1, four should be consolidated into a new *Texas Lottery Commission Annual Report*.

Four of TLC's reports should be consolidated into a new *Texas Lottery Commission Annual Report*.

## **Sunset Staff Recommendation**

### ***Change in Statute***

#### **4.1 Continue the Texas Lottery Commission for 12 years and remove the Sunset date of the agency's statutes.**

This recommendation would continue the Texas Lottery Commission until September 1, 2037, and would also remove the Sunset date of the agency's enabling statute, the State Lottery Act, and the Bingo Enabling Act to ensure only the agency, not its statutes, expire.

### **Fiscal Implication**

Continuing the Texas Lottery Commission would require an annual appropriation from the Legislature, which was approximately \$330 million per year for the 2024-25 biennium.

<sup>1</sup> Section 1, Chapter 284, (HB 54), Acts of the 73rd Texas Legislature, Regular Session, 1993; Section 47(b), Article III, Texas Constitution (amended 1980).

<sup>2</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 466.014(a), Texas Government Code.

<sup>3</sup> Texas Sunset Advisory Commission (SAC), *Texas Racing Commission Staff Report with Final Results*, June 2021, pp. 10-13, accessed online March 10, 2024, [https://www.sunset.texas.gov/public/uploads/files/reports/Racing\\_Staff%20Report%20with%20Final%20Results.pdf](https://www.sunset.texas.gov/public/uploads/files/reports/Racing_Staff%20Report%20with%20Final%20Results.pdf).

<sup>4</sup> SAC, *Texas Board of Veterinary Medical Examiners Special Purpose Review Final Results*, June 2023, pp. A5-A6, accessed online March 19, 2024, [https://www.sunset.texas.gov/public/uploads/20238/State%20Board%20of%20Veterinary%20Medical%20Examiners%20Special-Purpose%20Review%20with%20Final%20Results\\_6-26-23.pdf](https://www.sunset.texas.gov/public/uploads/20238/State%20Board%20of%20Veterinary%20Medical%20Examiners%20Special-Purpose%20Review%20with%20Final%20Results_6-26-23.pdf).

<sup>5</sup> Sections 325.0075, 325.011(13), and 325.012(a)(4), Texas Government Code.



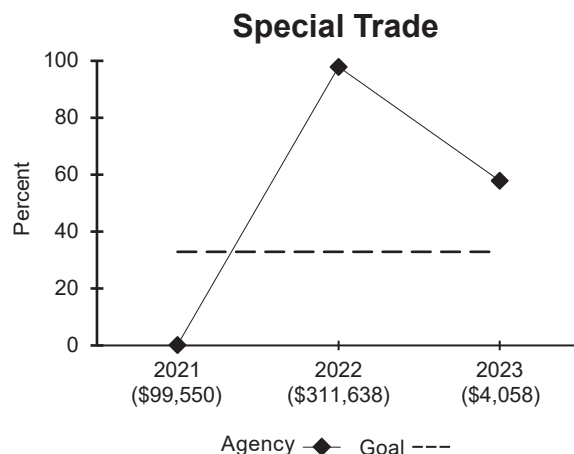
# APPENDIX A

## Historically Underutilized Businesses Statistics, FYs 2021-23

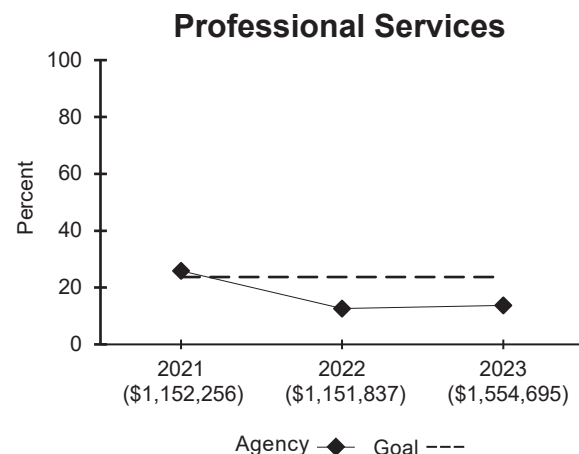
The Legislature has encouraged state agencies to increase their use of historically underutilized businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.<sup>1</sup>

The following material shows trend information for the Texas Lottery Commission's (TLC) use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in statute.<sup>2</sup> In the charts, the dashed lines represent the goal for HUB purchasing in each category, as established by the Office of the Comptroller of Public Accounts. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from fiscal years 2021-23. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category.

The agency did not spend any funds in the heavy construction or building construction categories. TLC exceeded statewide HUB spending goals in commodities in all three fiscal years. However, the agency did not consistently meet the statewide HUB spending goals in special trade, professional services, and other services.

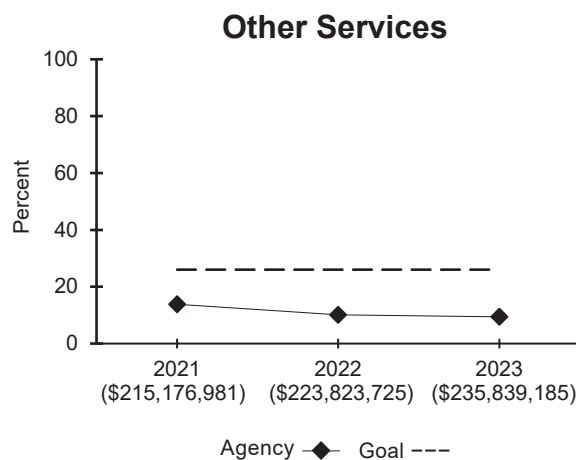


The agency failed to meet the statewide goal for HUB spending in the special trade category in fiscal year 2021 but exceeded the goal in fiscal years 2022 and 2023. The increase in special trade spending in fiscal year 2022 was caused by TLC moving to a new office space.

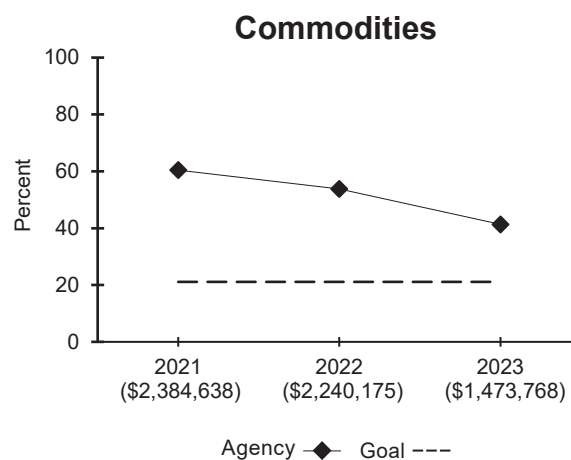


The agency met the statewide goal for HUB spending in professional services in fiscal year 2021 but failed to meet the goal in fiscal years 2022 and 2023.

## Appendix A



The agency failed to meet the state goal for HUB spending for other services in each of the last three fiscal years. Spending in this category largely represents one contract, the contract for lottery operations.



The agency exceeded the state goal for HUB spending in the commodities category in each of the last three fiscal years.

<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011(9)(B), Texas Government Code.

<sup>2</sup> Chapter 2161, Texas Government Code.



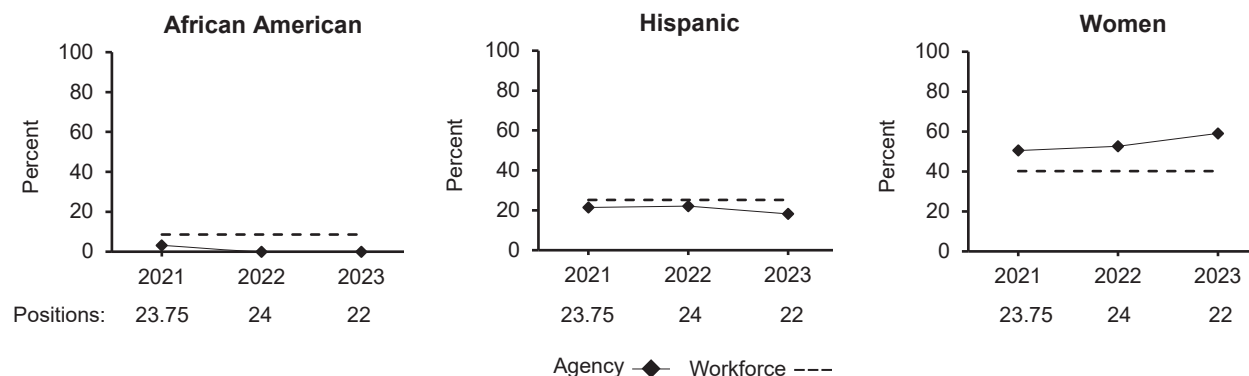
## APPENDIX B

### Equal Employment Opportunity Statistics, FYs 2021-23

In accordance with the requirements of the Sunset Act, the following material shows trend information for the employment of minorities and women in all applicable categories by the Texas Lottery Commission.<sup>1</sup> The agency maintains and reports this information under guidelines established by the Texas Workforce Commission.<sup>2</sup> In the charts, the dashed lines represent the percentages of the statewide civilian workforce for African Americans, Hispanics, and women in each job category.<sup>3</sup> These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent the agency's actual employment percentages in each job category from fiscal years 2021-23.

The agency nearly met or exceeded statewide percentages in the professional category for African Americans, Hispanics, and women in each of the last three fiscal years. The agency exceeded statewide civilian workforce percentages in the administration category for women but failed to meet percentages for African Americans and Hispanics in each of the last three fiscal years. In the technical category, the agency exceeded civilian workforce percentages for African Americans in the last three fiscal years. The agency had no employees in the service/maintenance, protective services, or skilled craft categories.

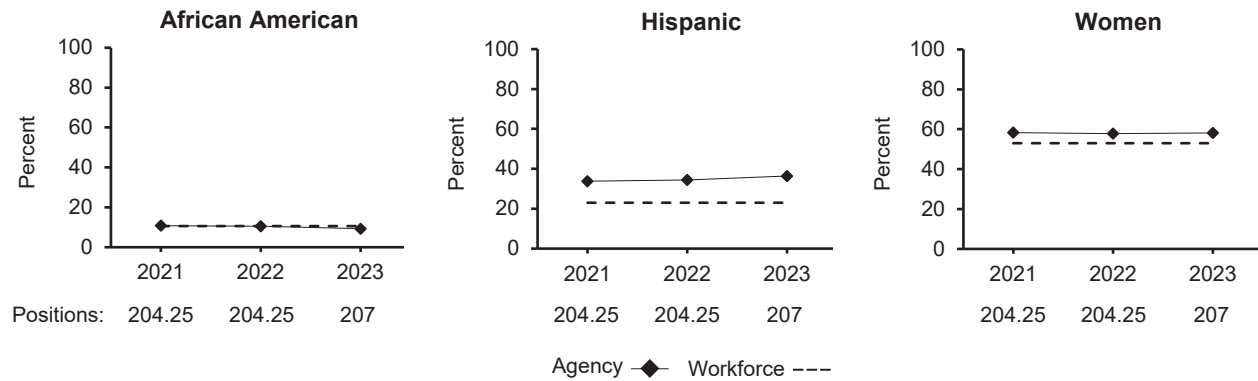
#### Administration



The agency exceeded statewide civilian workforce percentages for women but failed to meet percentages for African Americans and Hispanics in each of the last three fiscal years.

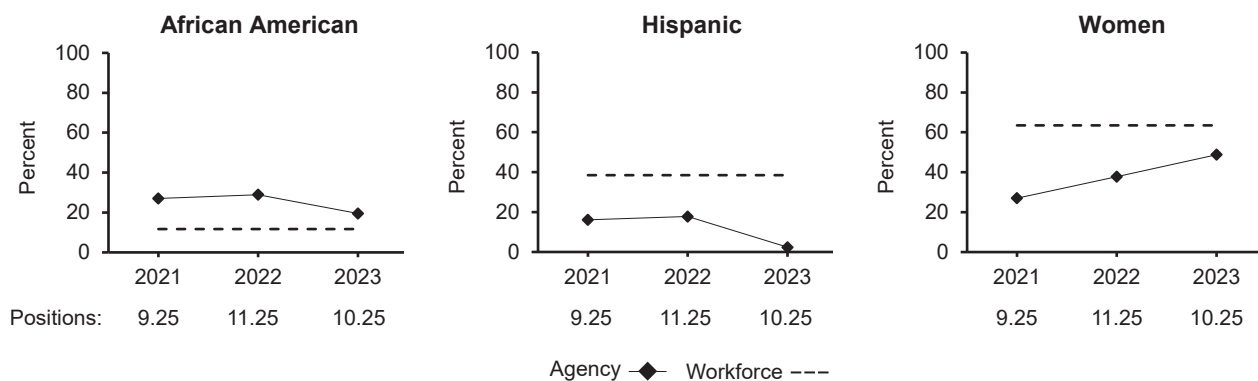
## Appendix B

### Professional



The agency exceeded the statewide civilian workforce percentages for Hispanics and women in each of the last three fiscal years. The agency met or nearly met the statewide civilian workforce percentages for African Americans in each of the last three fiscal years.

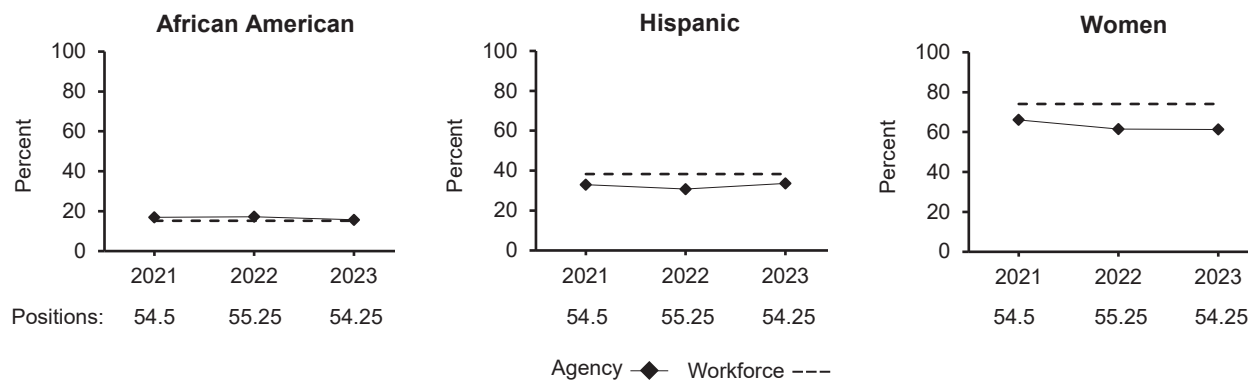
### Technical



The agency exceeded statewide civilian workforce percentages for African Americans in each of the last three fiscal years but failed to meet percentages for Hispanics and women in each of the last three fiscal years.

## Appendix B

### Administrative Support



The agency met statewide civilian workforce percentages for African Americans in each of the last three fiscal years but fell short for percentages of Hispanics and women in each of the last three fiscal years.

<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011(9)(A), Texas Government Code.

<sup>2</sup> Section 21.501, Texas Labor Code.

<sup>3</sup> Based on the most recent statewide civilian workforce percentages published by the Texas Workforce Commission.

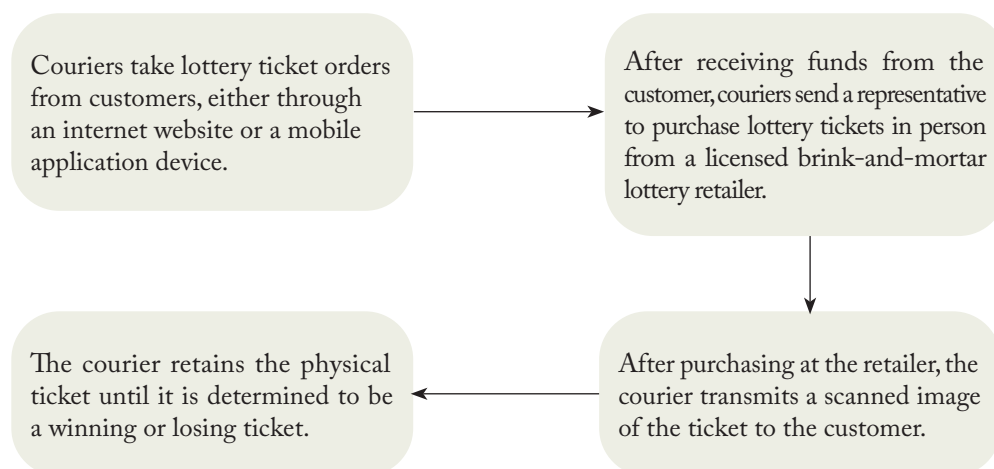


# APPENDIX C

## Lottery Courier Companies in Texas

Couriers are unlicensed service providers that take orders from customers through an internet website or mobile device application. Some couriers partner with licensed retailers to purchase tickets, while others have created an affiliated legal entity, basically a wholly owned subsidiary, to obtain a retailer license. All couriers charge a fee for purchasing and managing their customers' tickets. While couriers began by offering to purchase only draw game tickets, some couriers have added scratch ticket games. The chart below depicts the courier business model according to the courier companies.

### Courier Business Model



Couriers independently publicize the lottery via their websites and through other advertising avenues and have generated significant sales. Licensed retailers associated with couriers have emerged as some of the top-selling sales agents in Texas. The Legislative Budget Board estimated couriers accounted for about \$173 million in draw game sales in fiscal year 2023.<sup>1</sup> While not specifically tracking retailers associated with couriers, the Texas Lottery Commission did identify the relationships shown in the chart on the following page by analyzing retail locations with significant increases in sales and through couriers identifying themselves.<sup>2</sup>

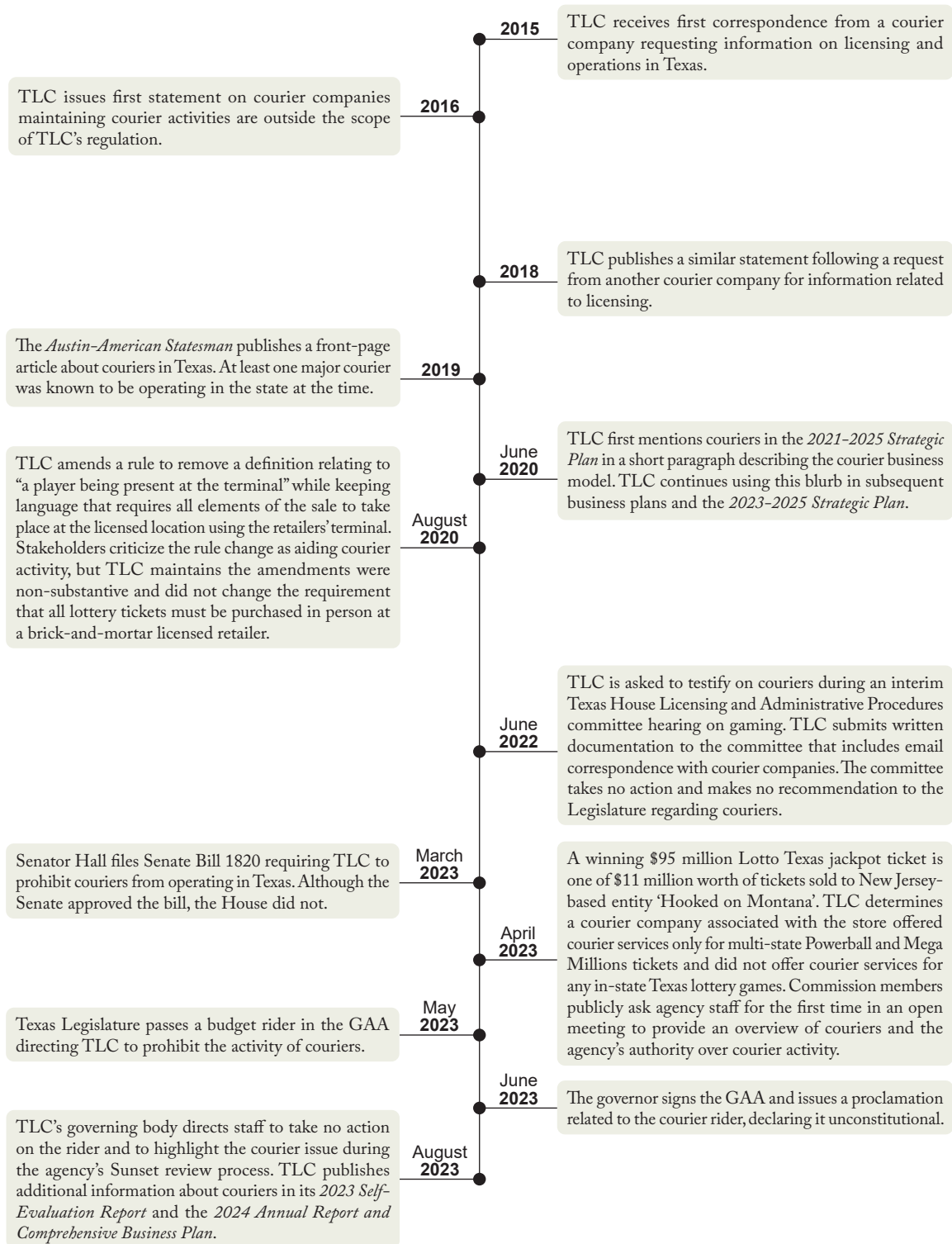
### TLC Identified Retailers Associated with Courier Companies

Retailer	City	FY 2022 Sales	Courier
Winners Corner TX LLC	Austin	\$89,181,873	Jackpocket
Jaja Accessories	Round Rock	\$6,265,393	theLotto
Luck Zone	Round Rock	\$5,668,781	theLotto
ALTX Management	Waco	\$4,116,910	Lotto.com
Players Café	Cedar Park	\$2,293,157	Lotto.com
Hooked on MT	Colleyville	N/A, sales began in FY23	Mido Lotto
Lucky Choice Limited Liability	San Antonio	N/A, sales began in FY23	Jackpot.com

**TLC Stance on Couriers**

TLC first learned of couriers' interest in operating in Texas in 2015, as shown in the timeline on the following page. However, as far as the agency is aware, couriers did not begin actively operating in Texas until several years later. TLC's official position is that courier services are not contemplated by statute and constitute private business activities outside the regulated ticket purchase process. The agency's jurisdiction covers the regulated sale of lottery tickets at a licensed brick-and-mortar retail location and the payment of prizes while courier activities occur before and after the point of sale. TLC maintains couriers have no regulatory relationship with the agency because courier transactions do not involve a regulated sale of lottery tickets since the courier is not selling tickets but is instead selling a delivery service. The commission also maintains that the relationships between courier companies and individual retailers in Texas are a private business arrangement outside the agency's jurisdiction.

## Courier Timeline



GAA: General Appropriations Act



---

<sup>1</sup> TLC, *2022 Annual Report and 2023-2024 Comprehensive Business Plan*, accessed online March 20, 2024, [https://www.texaslottery.com/export/sites/lottery/Documents/TxLottery\\_AnnualReportBusinessPlan2024.pdf](https://www.texaslottery.com/export/sites/lottery/Documents/TxLottery_AnnualReportBusinessPlan2024.pdf).

<sup>2</sup> Ibid.

# APPENDIX D

## Texas Lottery Commission Reporting Requirements

Report Title	Legal Authority	Description	Due Date and Frequency	Recipient	Sunset Evaluation
1. Annual Report	Section 466.016, Texas Education Code	Reports a summary of lottery revenue, prize disbursements, and other expenses for the fiscal year preceding the report.	Annual – due not later than December 31	Governor, Legislature	Consolidate into a new TLC Annual Report
2. Independent Financial Audit	Section 466.017(a), Texas Government Code	Reports on the results of an independent financial audit of all accounts and transactions of the lottery. Includes recommendations to enhance the earnings capability of the lottery and improve the efficiency of lottery operations.	Annual – due not later than 30 days after submitting the annual financial report required by the General Appropriations Act	Governor, Comptroller of Public Accounts, Legislature	Continue
3. Independent Lottery Security Study	Section 466.020(e)-(f), Texas Government Code	Summarizes a comprehensive study of all aspects of lottery security, such as lottery personnel security; lottery operator and vendor security; security against ticket counterfeiting and alteration and other means of fraudulent winning; security involving unclaimed prizes; security aspects of each lottery game; and other security aspects of lottery operations.	Biennial – due before the regular legislative session	Governor, Legislature	Continue
4. Independent Demographic Study of Texas Lottery Players	Section 466.021, Texas Government Code	Reports on the results of an independent demographic study of lottery players.	Biennial – due before the regular legislative session	Governor, Legislature	Continue
5. Comprehensive Business Plan	Section 466.028, Texas Government Code	Guides the commission's major initiatives, including specific goals for the agency and an evaluation of the agency's overall performance; the effectiveness of specific programs and initiatives; the ongoing efficiency of agency operations; the amount of lottery revenue that is generated for state purposes other than the payment of prizes; and the factors affecting the amount of lottery revenue received and disbursed, including ticket sales and administrative efficiency.	Annual – no due date specified	No recipients specified	Consolidate into a new TLC Annual Report

## ***Appendix D***

<b>Report Title</b>	<b>Legal Authority</b>	<b>Description</b>	<b>Due Date and Frequency</b>	<b>Recipient</b>	<b>Sunset Evaluation</b>
6. Minority Business Participation Report	Section 466.107(c), Texas Government Code	Reports on the level of minority business participation as it pertains to both the agency's contracts and the licensing of lottery sales agents.	Annual – no due date specified	Governor, Legislature	Continue
7. Compliance Activity Monitoring Report	Section 467.111(f), Texas Government Code	Analyzes complaints filed with the agency to identify and address trends and issues related to violations of state law under TLC's jurisdiction, including trends and issues related to the regulation of lottery operations and bingo.	Biennial – no due date specified	The report must be made available to the public	Consolidate into a new TLC Annual Report
8. Bingo Report	Section 2001.060, Texas Occupations Code	Reports for the preceding two calendar years on charitable bingo, stating for each year the total adjusted gross receipts reported, the total amount of net receipts, and a comparison of those amounts.	Biennial – due on or before June 1	Governor, Lieutenant Governor, Speaker of the House, chairs of the House and Senate committees of primary jurisdiction over charitable bingo	Consolidate into a new TLC Annual Report

# APPENDIX E

## Staff Review Activities

During the review of the Texas Lottery Commission (TLC), Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; attended commission meetings; interviewed commission members; met with staff from key legislative offices; conducted interviews and solicited written comments from interest groups and the public; reviewed agency documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies in other states; and performed background and comparative research.

In addition, Sunset staff performed the following activities unique to this agency.

- Toured lottery payment centers in Austin and Houston.
- Toured TLC's lottery storage and distribution center.
- Toured the Texas Lottery Draw Studio.
- Attended a lottery industry conference.
- Observed a lottery enforcement investigation.
- Observed two bingo inspections.
- Surveyed bingo licensees and agency staff.
- Interviewed staff from the Department of Information Resources, Legislative Budget Board, Texas Legislative Council, and Office of the Attorney General.



# Sunset Staff Review of the *Texas Lottery Commission*

---

REPORT PREPARED BY

---

Andrew McConnell, *Project Manager*

Kristin Morton

Megan Nair

Austin Oliver

Elizabeth Saenz

Emily Johnson, *Project Supervisor*

---

Eric Beverly  
*Executive Director*

## *Sunset Advisory Commission*

### **Location**

Robert E. Johnson Bldg., 6th Floor  
1501 North Congress Avenue  
Austin, TX 78701

### **Mail**

PO Box 13066  
Austin, TX 78711

### **Website**

[www.sunset.texas.gov](http://www.sunset.texas.gov)

### **Email**

[sunset@sunset.texas.gov](mailto:sunset@sunset.texas.gov)

### **Phone**

(512) 463-1300

*Commissioners:*

Robert G. Rivera,  
*Chairman*

Cindy Fields

Mark A. Franz

Clark E. Smith

Jamey Steen



# TEXAS LOTTERY COMMISSION

Ryan Mindell, *Executive Director*

LaDonna Castañuela, *Charitable Bingo Operations Director*

May 15, 2024

Mr. Eric Beverly  
Executive Director  
Sunset Advisory Commission  
Robert E. Johnson Building, 6<sup>th</sup> Floor  
1501 North Congress Avenue  
Austin, Texas 78701

SENT VIA ELECTRONIC MAIL

Dear Mr. Beverly:


We appreciate the opportunity to respond to the Sunset Staff Report on the Texas Lottery Commission (TLC). We also want to thank you and your staff for your thorough review of the agency's operations and for the professionalism displayed throughout the process.

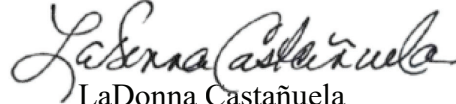
The TLC stands prepared to implement the management actions and any enacted statutory changes recommended in the Sunset Staff Report, as well as any policy direction provided by the Legislature. The agency welcomes and appreciates the recommendations in the Report and recognizes that the following items in particular are major legislative policy decisions for the Legislature: 1) the recommendation related to the TLC's organizational hierarchy; 2) the recommendation related to licensed bingo lessors; 3) the recommendations related to eliminating licenses for manufacturers and distributors of bingo materials; and 4) direction regarding lottery ticket courier services.

Thank you again for the review performed by your team. We look forward to continuing to work with you and your team as we move forward through the Sunset process.

Sincerely,

  
Robert G. Rivera  
Chairman

  
Ryan Mindell  
Executive Director

  
LaDonna Castañuela  
Charitable Bingo Director



# NATIONAL ASSOCIATION OF FUNDRAISING TICKET MANUFACTURES

180 5<sup>TH</sup> St. East  
Suite 940  
Saint Paul, Minnesota. 55101  
WWW. NAFTM.org

May 13, 2024

Sunset Advisory Commission  
PO Box 13066  
Austin, TX 78711  
Phone: (512) 463-1300  
Fax: (512) 463-0705  
email address: [sunset@sunset.texas.gov](mailto:sunset@sunset.texas.gov)

RE: TEXAS LOTTERY COMMISSION

Dear Commissioners:

The National Association of Fundraising Ticket Manufacturers (NAFTM) is a trade association of manufacturers of charitable gaming supplies, including bingo and pull-tab bingo products. The members of NAFTM are licensed in the State of Texas and have been selling gaming supplies there for more than 25 years. From time-to-time, our members have served on the Bingo Advisory Committee, have engaged in Bingo Division sponsored meetings relative to rulemaking, and have worked closely with the Bingo Division as business matters necessitate.

I am writing to you today to express our strong opposition to the recommendation in the Sunset Commission staff report to eliminate distributor and manufacturer licensing for charitable bingo. In our view, the licensing of distributors and manufacturers is critical to ensuring the integrity of bingo in Texas.

The purpose of licensing in any industry is accountability. Prior to the issuance of a license, the applicant manufacturer or distributor, and its officers, directors, and other key employees, are subject to a background investigation. Sections 2001.202 and .207 of the Bingo Enabling Act contain strict eligibility requirements for manufacturers and distributors, all of which would be rendered moot if licensing were eliminated. Without licensing, there would be no barriers to who may manufacture and distribute bingo supplies in Texas.

Licensing also ensures compliance. Manufacturers are subject to multiple regulatory requirements, both in the Bingo Enabling Act and the rules adopted by the Lottery Commission. Compliance with those requirements is essential to protect the integrity of bingo and ensure the security of the products used in the games. Section 2001.353 of the Bingo Enabling Act authorizes the Lottery Commission to suspend, revoke or refuse to renew a manufacturer or distributor license for a

violation of the Act or Lottery Commission rule. The absence of a license removes from the Lottery Commission the most effective means of ensuring accountability over industry participants; the threat of taking the license away. Disciplinary action against a license can pose grave consequences for a manufacturer or distributor as it not only renders a company unable to operate in Texas, but it can also result in similar action in other states. The loss of a license in Texas could affect every other license held by a manufacturer or distributor in the United States and Canada.

Finally, licensing of manufacturers and distributors is nearly universal in the bingo industry. There are only a handful of states where manufacturers are not licensed and even fewer with respect to distributors. None of the states without licensing requirements come even close to the \$800+ million wagered annually on bingo games in Texas. Credible participants in any industry understand the licensing function is key to promoting high standards of integrity, and NAFTM fully supports the continued licensing of manufacturers and distributors for charitable bingo in Texas.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mary B. Magnuson', with a long, sweeping horizontal line extending to the right.

Mary B. Magnuson  
President



May 15, 2024

Texas Sunset Commission  
P.O. Box 13066  
Austin, Texas 78711

Dear Sunset Commission Members:

Texas Charity Advocates (TCA) is a statewide association of licensed charity bingo conductors, lessors, distributors, and manufacturers.

Founded in 2005, TCA's mission is to promote and grow the game to the benefit of charity members, their clients, and their customers. We have approximately 300 members. Roughly 90 percent are non-profits. They conduct bingo to generate revenue that funds their work in cities and towns across Texas.

We appreciate the work of the Sunset Advisory Commission staff to prepare their report and recommendations to you related to the Texas Lottery Commission (TLC) in general and the Charitable Bingo Operations Division (CBOD) specifically. We also appreciate the work done by agency staff in this process.

We look forward to having our members testify before you at a public hearing later this year. In the meantime, we offer this summary of TCA's position on the recommendations made specific to charitable bingo and its oversight by the CBOD.

First, recommendations with which **we agree** with Sunset staff:

- Modify statute to require the Bingo Advisory Committee and improve its effectiveness. We anticipate suggesting ways to improve effectiveness in this process.
- Direct the agency to establish a plan prioritizing IT updates and eliminating paper-based processes in CBOD.
- Direct the agency to improve data practices, including data validation and other quality controls.

- Continue the Texas Lottery Commission for 12 years and remove the Sunset date of the agency's statutes. Led by Chairman Rivera, TLC members are accessible and open to conversations when necessary. Commissioner Fields, in particular, has been engaged and collaborative. Finally, LaDonna Castañuela, the Director of the Charitable Bingo Operations Division and her staff do their level best to be responsive and diligent in their day-to-day operations. All have our thanks for the important role they play.

Second, recommendations where **we disagree** with Sunset staff:

- Modify statute to clarify TLC's organizational hierarchy. The current hierarchy works well and provides a higher degree of engagement between the regulator, its staff, and the regulated.
- Eliminate the licenses for manufacturers and distributors of bingo materials. The unintended consequence of this step imposes a significantly higher regulatory, and financial, risk on volunteer-based charities that – at their core – simply want a source of revenue to do their work. TCA's fear is the higher regulatory risk – in the form of ensuring bingo product meets state standards (which licensed manufacturers and distributors are responsible for today) – will be too high a burden for many charitable conductors.
- Proposed options related to lessors: **Option 1.** Treat all lessors as grandfathered lessors; **Option 2.** Convert all grandfathered lessors to regular lessors. We oppose both options. The lessor licensing structure was established 35 years ago in 1989 and has worked well. Grandfathered lessors have invested significant capital and time in developing charitable bingo halls; either option will effectively, and suddenly, eliminate the value held by lessors who played by rules established by the state. Further, converting all grandfathered lessor licenses to regular lessor licenses could eliminate virtually all charitable bingo halls in most metro areas due to the \$600/day rent limitation.

Third, **TCA is neutral** as to the issue of the House Appropriations and Senate Finance committees should consider modifying TLC's budget pattern to include an indirect administration goal. It's our understanding this recommendation could add as much as \$1.2 million to the CBOD budget needs.

It is important to note that charitable bingo was never intended as a revenue source for the state or for local government. It was established to benefit charitable organizations.

In fact, charitable bingo typically produces about \$30 million annually in net proceeds (or net profits) for charitable purposes. State and local government split revenues generated from a 5 percent fee on prizes of more than \$5. The fee is funds collected by the charitable organizations at no cost to state or local governments.

Put another way, charitable bingo is taxed nearly 100 percent on its net profits. Therefore, we strongly believe any additional revenue needed to regulate charitable bingo should come from existing prize fees (either General Revenue or from the local governments' share). It should not come from licensed entities.

Finally, as Sunset staff noted, CBD's only mission is to be the regulatory cop on the beat. Unlike the Texas Lottery, there is no promotional element to its statutory mission.

Meanwhile, data shows a steady decline in charitable bingo attendance since the lottery was authorized in the early 1990's. Between 2018 to 2023, attendance has declined nearly 30 percent.

Market research conducted by TCA in recent years shows that bingo, as a form of entertainment, is nowhere near top of mind for most Texas consumers. Yet, when asked about bingo as a form of entertainment, virtually 100 percent have a positive opinion of the game.

That clearly suggests charitable bingo has an awareness problem. That is a problem that can be addressed through paid promotional initiatives. Twice, TCA has test marketed advertising. Once on a limited scale in the Austin market using both radio and digital advertising. The other was a statewide test using digital advertising. In both cases, there were measurable and anecdotal improvements in attendance.

The challenge is finding the resources to significantly scale promotions that turn the tide on attendance declines. That scale could be achieved, however, if promotion were made part of the CBOD's statutory mission combined with a public/private collaboration to generate a high six- or low-seven figure funding source. We believe licensees would be more likely to continue contribute funding if matching resources are found. We suggest, again, that a portion of the local (not state) prize fee money as a possible source. We welcome the chance to discuss this concept further.

Again, we look forward to expanding on TCA's views in the public hearing, and we expect to reach out to individual members, and your staff, in coming days.

Sincerely,

A handwritten signature in blue ink that reads "Tom Stewart". The signature is fluid and cursive, with the first name "Tom" and last name "Stewart" clearly visible.

J. Thomas Stewart  
Executive Director

cc: Texas Lottery Commission

**From:** [Andrew McConnell](#)  
**To:** [Elizabeth Saenz](#)  
**Subject:** FW: BINGO INTEREST GROUP RESPONSE TO STAFF REPORT ON THE TEXAS LOTTERY COMMISSION  
**Date:** Thursday, May 16, 2024 9:46:05 AM

---

**From:** Steve Bresnen <steve@bresnenassociates.com>  
**Sent:** Thursday, May 16, 2024 9:34 AM  
**To:** Andrew McConnell <andrew.mcconnell@sunset.texas.gov>  
**Cc:** amy.bresnen@gmail.com  
**Subject:** BINGO INTEREST GROUP RESPONSE TO STAFF REPORT ON THE TEXAS LOTTERY COMMISSION

***COMMENTS OF THE BINGO GROUP***

***RE: SUNSET STAFF REPORT ON THE TEXAS LOTTERY COMMISSION***

On behalf of the Bingo Interest Group (BIG), which I represent, we submit the following initial comments on the Sunset Advisory Commission Staff Report on its review of the Texas Lottery Commission.

BIG is an association of commercial lessors. Having been established in the early 1990s, BIG is the oldest continuously operating organization supporting charitable bingo. Our members have bingo locations in diverse markets all over Texas.

BIG appreciates the many opportunities we and others have had to participate in in your review. Charitable bingo is a deceptively complex enterprise, the regulation of which includes a variety of provisions based on its history as a gaming activity in state that purports to eschew gaming. Please consider these comments as subject to modification as our members consider some parts of the report that raise many unanswered questions, especially considering that regulatory context.

Our initial observations are a question about the chart on Page 10 of the report and the boxed material on Page 14. Charitable bingo prize fees produce almost as much money for state and local governments as for charitable bingo. The chart shows prize fees as a separate component from prizes in the "where the bingo money goes" explanation. However, prize fees are *withheld from* prizes, so it would appear the Page 10 chart may count those twice. If we are incorrect about this, the chart needs an explanatory note.

Several of the items in the boxed material on Page 14 appear to us to be just incorrect. We will seek additional information from Sunset Staff before commenting in detail on those.

Above all, we want Sunset to understand: There is plenty of money provided to the State by charitable bingo to cover regulation of bingo, including any expenses currently covered by the budget of the Lottery side of the Commission. We oppose any measure that would take additional costs from bingo licensees to cover regulation of bingo. Those funds can come from State GR or from the local government prize fees.

We are supportive of a number the Staff report's recommendations. The Charitable Bingo Operations Division (CBOD) needs better technology to improve regulation and improve licensees' compliance by making the agency's systems more user friendly and more efficient. In addition, the agency needs better staffing, both in numbers and in training, needs that have been a constant challenge over the years.

We also support making the Bingo Advisory Committee mandatory and broadening the types of issues the BAC can address. That said: We praise Commissioner Fields', the designated "bingo commissioner," and CBOD Director Ladonna Castañuela's active involvement with and support of the BAC. The BAC's work is being performed at an all-time best from our long experience. We have no concern with improving the BAC selection process but do not share the Staff's assessment that somehow the BAC itself selects its members. That just does not square with our experience. On the other hand, the Commission is now undergoing a new process, so we will see whether the Report's concerns remain following that.

BIG does not support the recommendation to have the director of the CBOD report to the Executive Director of the Commission rather than the Commission itself. The Legislature responded to our request for this structure after years of charitable bingo being treated as an afterthought by the ED and the Commission itself. There was a sincerely held belief that charitable bingo was being shortchanged because its competitor, the Lottery, controlled charitable bingo's business.

The arrangement has worked very well without creating additional work for anyone. There are no additional costs or complications presented by the structure. Frankly, other than being "unusual" we fail to see why the Report sees any problem. In fact, the structure tends to focus the Commission's attention on charitable bingo to the extent needed, which makes the Staff report's comment that "agency's governing body is not sufficiently engaged" inapplicable to charitable bingo. We do not support that comment and believe the agency structure supports and has provided healthy engagement. (As stated above, Commissioner Fields' and CBOD leadership have been exemplary; consequently, we do not agree with the Report's comments about "lack of engagement.")

With regard to licensing of manufacturers and distributors, the Report neglects to provide



sufficient information to discern how the regulation of the production and tracking of bingo paper and pull-tabs would be accomplished. In the absence of any such detail, we fear two possibilities (there may be others): (1) All tracking and accounting for bingo products will fall onto the charities that conduct bingo and (2) forged bingo products will find a way into the stream of commerce. These concerns both affect the regulatory costs that would confront charities and the integrity of the game presented by forged bingo paper and pull-tabs.

Regarding the structure of lessor licensing, the Staff provided options but no definite recommendation. On the ground in the bingo marketplace, we're unaware of anyone having expressed concerns with the current structure. The rent caps embedded in the structure were established in 1989. It goes without saying that extraordinary growth in property values over the last 35 years has changed the considerations facing lessors operating buildings in which charitable bingo is conducted. Any major change in this area will undoubtedly affect hundreds of locations. It is easy to say "treat everyone the same" without any assessment of what the impact would be. Depending on the option being assessed, many locations responsible for the greatest percentage of net proceeds for bingo would be eliminated by the economic impact of the regulation. These decisions depend as much on practicality as policy.

We will have additional comments and may modify the comments above depending on gathering additional information.

Steve Bresnen  
Attorney at Law  
311 West 5<sup>th</sup> Unit 1002  
Austin, Texas 78701  
512.917.0011

Amy Bresnen, M.P.A.  
Attorney at Law  
311 West 5<sup>th</sup> Unit 1002  
Austin, Texas 78701  
512.507.7602

**From:** [Sunset Advisory Commission](#)  
**To:** [Elizabeth Saenz](#)  
**Subject:** FW: Sunset Recommendations  
**Date:** Thursday, May 16, 2024 9:43:37 AM

---

[You don't often get email from jburger@lakestreetgames.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

Andrew,

My name's John Burger with Lake Street Games, LLC and we're a licensed manufacturer in TX. I left a message for you earlier today when I was informed that any written concerns regarding the Sunset Comm. recommendations had to be submitted before midnight.

I would say our most concerning recommendations are the elimination of licenses for manufacturers and distributors. While we applaud your efforts to lessen the burden of regulation, we also feel the unintended consequences of eliminating licenses would result in more harm than good.

The greatest benefit of licensing manufacturers and distributors is that it puts up enough barriers to entry to discourage entities from entering the market who may not be well intentioned. The extra level of accountability ensures those licensed entities will follow the rules and laws of the TLC and TX statutes. Eliminating licenses could attract unscrupulous players that would take advantage of the charities because they see less recourse adopting a "take the money and run" strategy. From a risk/reward strategy, their downside isn't as imposing if they're not required to be licensed.

The other benefit of having licenses is that most other entities are licensed in other markets, therefore providing a deterrent from veering through the guardrails. In the licensing process, all regulators require you to disclose if your license has been revoked in another jurisdiction. No one wants to face those consequences.

Throughout our years as a licensed manufacturer, we've always found the TLC courteous, responsive and professional even if we didn't always agree. Not to sound mundane, but as the old saying goes, you don't want to throw out the baby with the bathwater. We're concerned that by eliminating licenses that could be the unintended effect even though we believe the rationale behind it's well intended. At the end of the day, we all serve the charities and feel strongly that lessening accountability isn't in their best interest, the industry's or the TLC.

ALL SAINTS TEXAS, LLC  
5446 West HWY 290, Suite 205  
Austin, Texas 78735  
(512) 891-9991

May 16, 2024

Texas Sunset Commission  
P.O. Box 13066  
Austin, Texas 78711

Dear Sunset Commission Members:

All Saints Texas, LLC (“All Saints”) is a licensed distributor of bingo equipment and supplies. We have reviewed the May 2, 2024 Sunset Commission Staff Report on the Texas Lottery Commission and offer the following comments in connection with Sunset staff’s recommendation to eliminate licenses for distributors of bingo equipment and supplies.

We disagree with the Sunset staff’s recommendation. The recommendation is based on the conclusions that distributors face a low regulatory burden to obtain and maintain a license since the Bingo Enabling Act distributor license eligibility provisions require minimal qualifications, there is no meaningful inspection or enforcement activity, and licensing distributors in addition to conductors is duplicative and unnecessary.

The Bingo Enabling Act (“BEA”) sets out the license eligibility requirements for an applicant for a distributor’s license. These requirements make a person who has been convicted of fraud or gambling-related offenses ineligible for a distributor’s license. Additionally, the BEA license eligibility requirements make a person ineligible for a distributor’s license if the person holds another bingo license such as a manufacturer’s license or a lessor’s license. Under the Sunset staff’s recommendation, a person with the enumerated criminal history would be able to distribute bingo equipment such as card-minders, bingo paper, and bingo pull-tabs to conductors. And, under the Sunset staff’s recommendation, one person could be a manufacturer, distributor, and lessor and perform all activities associated with their respective roles.

The Staff conclusion that distributors pose a low risk to the public is based on the following: (1) in the past 10 years, TLC has not denied any license applications for distributors, (2) TLC inspected two distributors over the past five years, finding no violations, and (3) in the last 10 years, TLC has taken no enforcement actions against licensed distributors. We offer this observation for the Sunset Commission members to consider: the existing BEA license eligibility requirements are effective in dissuading potential bad actors from applying for a license in the face of such license eligibility requirements, which, in turn, negate the need to take administrative actions to deny license applications and to take enforcement actions for violations of the BEA and administrative rules.

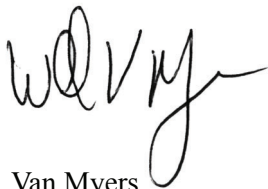
The Report’s conclusion that licensing distributors in addition to conductors is duplicative and unnecessary is based on the reasoning that, in connection with the Texas Lottery Commission’s audits of conductors to validate conductors’ inventory records, TLC could require only conductors instead of

distributors, to provide documentation such as purchase orders, receipts, or other financial documentation, to prove the conductors purchased approved bingo equipment and supplies. The Report's reasoning is that focusing regulation on conductors would streamline TLC's audit process. This approach shifts the regulatory recordkeeping burden entirely on conductors. These conductors are charitable organizations whose members are unpaid volunteers. Requiring distributors to maintain records and provide them to auditors works to ease the regulatory burden on these conductors and allows auditors to have a way to validate the conductors' inventory records independent of a review of the conductors' records.

The Report's recommendations indicate that even in the absence of licensing of distributors, market forces would ensure quality distributor services. We disagree. If distributors are unlicensed, in the event of a "bad actor" distributor, a conductor's only recourse is to pursue a civil remedy. These non-profit organizations are generally not in a position, financially or otherwise, to pursue such recourse. Additionally, under the BEA, a conductor must conduct bingo at premises that are leased to the conductor by a bingo lessor. Under the Report's recommendation to eliminate the need to license manufacturers and distributors, a bingo lessor could also provide manufacturer and distributor services to a bingo conductor. A bingo lessor that also acts a bingo manufacturer and distributor could have significant influence over a bingo conductor's ability to obtain bingo equipment and supplies at a fair and reasonable price because the bingo conductor (non-profit charitable organizations) may not have the bargaining power to obtain bingo equipment and supplies at a fair and reasonable price.

All Saints Texas, LLC appreciates the opportunity to provide our comments for your consideration. Please let me know if you have any questions or if we can provide any further information.

Respectfully,

A handwritten signature in black ink, appearing to read 'Van Myers', with a stylized flourish at the end.

Van Myers  
President  
All Saints Texas, LLC



8505 Mosley, Houston, Tx 77075  
Office: (713) 948-0551  
Fax: (713) 948-0644  
(800) 501-0551

2129 Great SW Pkwy., Ste 310  
Grand Prairie, Tx 75051  
Office: 972-606-9783  
Fax: 972-606-9653  
(866) 606-9783

May 16, 2024

Texas Sunset Commission  
P.O. Box 13066  
Austin, Texas 78711

Dear Sunset Commission Members,

Moore Supplies, Inc. is a licensed distributor of bingo supplies in the state of Texas since 1993. As owner of Moore Supplies, Inc. I wanted to comment on the findings of the Sunset Commission related to licensing for distributors.

**RE: Licensing bingo distributors is not necessary to protect the public and creates an unnecessary regulatory burden.**

The requirements to acquire a distributor license are in place to prevent illegal gaming products from entering the state and we welcome the state to be more stringent on licensing of distributors. Distributors are the gatekeepers for the charitable conductors. They are their trusted supplier who know the regulations and provide only TLC approved bingo product to flow into the state of Texas.

Without the current tiered licensing structure there will be a complete breakdown in stopping illegal unapproved bingo products entering the state of Texas. Distributors cannot be discounted for what they provide to keep charitable gaming legal in Texas. Given it is impossible for the bingo division to stop the flow of illegal product into the state, this burden falls on distributors as the second line of defense.

When conductors are audited, it's the distributors who are asked to provide all necessary documentation to auditors. Without distributor licensing, the ability to audit charity conductors will be nothing short of impossible for auditors. In a matter of hours we can provide 4 years of purchase history on any products purchased. In these regards, Distributors again are helpful to the regulatory agency.

What licensed distributors provide to charity conductors is essential to the profitability of the bingo operation. The hands-on service provided by distributors to charitable locations is instrumental in the success of each bingo hall. If the state were to take away distributor license, the deterioration in the services provided to conductors would decline significantly.

In conclusion, licensing distributors creates credible companies that want to provide the best product that meets all the standards set up by the regulatory agency, which in Texas is the Texas Lottery Commission.

There will be no accountability for distributors without licensing because there will be no fear of violations, since there's no license to lose.

Thank you for your time,

Daniel Moore

President – Moore Supplies, Inc.