

OCCUPATIONS CODE

TITLE 13. SPORTS, AMUSEMENTS, AND ENTERTAINMENT

SUBTITLE A-1. TEXAS RACING ACT

CHAPTER 2035. LOCAL OPTION ELECTION TO LEGALIZE PARI-MUTUEL  
WAGERING

SUBCHAPTER A. LEGALIZATION ELECTION

Sec. 2035.001. VOTER APPROVAL OF RACETRACK REQUIRED. (a) The commission may not issue a racetrack license or accept a license application for a racetrack to be located in a county until the commissioners court has certified to the secretary of state that the qualified voters of the county have approved the legalization of pari-mutuel wagering on horse races or greyhound races in the county at an election held under this chapter.

(b) A racetrack may not be located within a home-rule municipality unless a majority of the votes cast in the municipality in the election held under this chapter that legalized pari-mutuel wagering on horse races in the county favored legalization.

(c) Subsection (b) does not apply to a racetrack that:

(1) was located outside the boundaries of the municipality when the racetrack was first licensed; and

(2) has continuously held a license since the issuance of the original license.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.002. INITIATION OF LEGALIZATION ELECTION. The commissioners court:

(1) may, on its own motion by a majority vote of its members, order an election to approve the legalization of pari-mutuel wagering on horse races or greyhound races; and

(2) shall order an election on presentation of a petition meeting the requirements of this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.003. ELECTION TO APPROVE WAGERING ON SIMULCAST RACES. The commissioners court of a county in which a racetrack is conducting live racing may, on its own motion by a majority vote of its members, order an election to approve pari-mutuel wagering on simulcast horse races or greyhound races.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.004. APPLICATION FOR PETITION; ISSUANCE. If 10 or more registered voters of the county file a written application, the county clerk shall issue to the applicants a petition to be circulated among registered voters for their signatures.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.005. CONTENTS OF PETITION APPLICATION. To be valid, the petition application must contain:

(1) a heading, as follows: "Application for a Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races" or "Application for a Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Greyhound Races," as appropriate;

(2) a statement of the issue to be voted on, as follows: "Legalizing pari-mutuel wagering on horse races in \_\_\_\_\_ County" or "Legalizing pari-mutuel wagering on greyhound races in \_\_\_\_\_ County," as appropriate;

(3) a statement immediately above the signatures of the applicants, as follows: "It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on horse races be legalized in \_\_\_\_\_ County" or "It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on greyhound races be legalized in \_\_\_\_\_ County," as appropriate; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01,

eff. April 1, 2019.

Sec. 2035.006. CONTENTS OF PETITION. To be valid, the petition must contain:

(1) a heading, as follows: "Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races" or "Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Greyhound Races," as appropriate;

(2) a statement of the issue to be voted on, in the same words used in the application;

(3) a statement immediately above the signatures of the petitioners, as follows: "It is the hope, purpose, and intent of the petitioners whose signatures appear below that pari-mutuel wagering on horse races be legalized in \_\_\_\_\_ County" or "It is the hope, purpose, and intent of the petitioners whose signatures appear below that pari-mutuel wagering on greyhound races be legalized in \_\_\_\_\_ County," as appropriate;

(4) lines and spaces for the names, signatures, addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the county clerk on each page.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.007. COPIES. The county clerk shall keep the application and a copy of the petition in the clerk's office files. The clerk shall issue to the applicants the number of copies requested by the applicants.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.008. REQUIREMENTS TO ORDER ELECTION. The commissioners court shall order an election if the petition:

(1) is filed with the county clerk not later than the 30th day after the date of the petition's issuance; and

(2) contains a number of signatures of registered county voters equal to at least five percent of the number of votes cast in the county for all candidates for governor in the most recent gubernatorial general election.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.009. VERIFICATION OF PETITION. (a) Except as otherwise provided by Section 277.003, Election Code, the county clerk shall, on request of any person, check each name on the petition to determine whether the signer is a registered county voter.

(b) The person requesting this verification by the county clerk shall pay the county clerk a sum equal to 20 cents per name before commencement of the verification.

(c) The county clerk may not count a signature if there is reason to believe that:

(1) the signature is not the actual signature of the purported signer;

(2) the voter registration certificate number is incorrect;

(3) the signature duplicates a name or handwriting used in any other signature on the petition;

(4) the residence address of the signer is incorrect;  
or

(5) the name of the voter is not signed exactly as the name appears on the official copy of the current list of registered voters for the voting year in which the petition is issued.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.010. CERTIFICATION OF PETITION SIGNATURES. Not later than the 40th day after the date the petition is filed, excluding Saturdays, Sundays, and legal holidays, the county clerk shall certify to the commissioners court the number of registered voters signing the petition.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01,

eff. April 1, 2019.

Sec. 2035.011. RECORD IN MINUTES. The commissioners court shall record in the court's minutes:

- (1) the date the petition is filed; and
- (2) the date the petition is certified by the county clerk.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.012. ORDER FOR ELECTION; ELECTION DATE. (a) If the petition contains the required number of signatures and is in proper order, the commissioners court shall, at the court's next regular session after the certification by the county clerk, order an election to be held at the regular polling place in each county election precinct in the county on the next uniform election date authorized by Section 41.001, Election Code, that occurs at least 20 days after the date of the order.

(b) The commissioners court shall state in the order the issue to be voted on in the election.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.013. EVIDENCE OF VALIDITY. An order under Section 2035.012 is prima facie evidence of compliance with all provisions necessary to give the order validity.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.014. ELECTION PROCEDURES GOVERNED BY ELECTION CODE. An election under this chapter shall be held and the returns shall be prepared and canvassed in conformity with the Election Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.015. BALLOT PROPOSITION. The ballots for an

election under this subchapter shall be printed to permit voting for or against the proposition: "Legalizing pari-mutuel wagering on horse races in \_\_\_\_\_ County," "Legalizing pari-mutuel wagering on greyhound races in \_\_\_\_\_ County," or "Authorizing pari-mutuel wagering on simulcast races in \_\_\_\_\_ County," as appropriate.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.016. CERTIFICATION OF ELECTION RESULTS. If a majority of the votes cast in the election favor the legalization of pari-mutuel wagering on horse races or greyhound races in the county, or the authorization of pari-mutuel wagering on simulcast races in the county, as appropriate, the commissioners court shall certify that fact to the secretary of state not later than the 10th day after the date of the canvass of the returns.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.017. FREQUENCY OF ELECTIONS. Another election may not be held in the county under this chapter before the fifth anniversary of the preceding election date.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

#### SUBCHAPTER B. ELECTION CONTEST

Sec. 2035.051. INITIATION OF ELECTION CONTEST. Not later than the 30th day after the date the result of the election is declared, any qualified voter of the county may contest the election by filing a petition in the district court of the county.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.052. PARTIES. Any person who is licensed or who has submitted to the commission an application to be licensed in any capacity under this subtitle may become a named party to the contest

proceedings by pleading to the petition on or before the time set for hearing and trial as provided by Section 2035.053(b) or after that time by intervention on leave of court.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.053. CONDUCT OF CONTEST SUIT. (a) The proceedings in the contest suit shall be conducted in the manner prescribed by Title 14, Election Code, for contesting an election held for a purpose other than the election of an officer.

(b) At or after the time for hearing and trial, the judge shall hear and determine all questions of law and fact in the proceedings and may enter orders for the proceedings that will enable the judge to:

(1) try and determine the questions; and

(2) render a final judgment with the least possible delay.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.054. BOND. (a) Before entry of a final judgment in the contest proceedings, any party may move that the court dismiss the contestant's action unless the contestant posts a bond with sufficient surety, approved by the court, payable to the movant for the payment of all damages and costs that may accrue as a result of the delay caused by the contestant's continued participation in the proceedings if the contestant fails to finally prevail and obtain substantially the judgment prayed for in the petition.

(b) If a motion is made under this section, the court shall issue an order directed to the contestant that:

(1) is served personally or by registered mail on all parties, or on their attorneys of record, together with a copy of the motion; and

(2) requires the contestant to:

(A) appear at the time and place, not sooner than five days and not later than 10 days after the receipt of the order

and motion, as the court may direct; and

(B) show cause why the motion should not be granted.

(c) Motions involving more than one contestant may be heard together at the court's direction.

(d) Unless at the hearing on the motion the contestant establishes facts that in the court's judgment would entitle the contestant to a temporary injunction against issuance of the license based on the election in question, the court shall:

(1) grant the movant's motion; and

(2) in the court's order, subject to Subsection (e), set the bond to be posted by the contestant in an amount the court finds to be sufficient to cover all damages and costs that may accrue as described by Subsection (a).

(e) The maximum bond that the court may set is:

(1) \$100,000 for an election contest for a racetrack to be located in a county that has a population of 1.3 million or more and in which a municipality with a population of more than one million is primarily located; or

(2) \$10,000 for an election contest for a racetrack to be located in any other county.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.055. APPEAL. (a) A party to the contest suit may appeal to the appropriate court of appeals an order or judgment entered by the trial court under Section 2035.053.

(b) An order or judgment from which an appeal is not taken is final. If a party does not file an appeal before the 31st day after the date the result of the election is declared, the election is presumed valid.

(c) An order or judgment of a court of appeals may be appealed to the supreme court.

(d) An appeal under this section has priority over any other matter, except habeas corpus. The appellate court shall render its final order or judgment with the least possible delay.

(e) The contestee or the county may not be required to give



bond on appeal.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.056. CONTESTEE. The county attorney is the contestee of a suit brought under Section 2035.051. If there is not a county attorney of the county, the criminal district attorney or district attorney is the contestee.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.057. COSTS OF CONTEST. Costs of the election contest may not be adjudged against the contestee or county.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

#### SUBCHAPTER C. RESCISSION ELECTION

Sec. 2035.101. INITIATION OF RESCISSION ELECTION. (a) The commissioners court of a county that has approved the legalization of racing with pari-mutuel wagering in that county may hold an election on the question of rescinding that approval.

(b) The commissioners court shall order the rescission election on the presentation of a petition requesting the election.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.102. EARLIEST DATE FOR HOLDING ELECTION. A rescission election may not be held before the second anniversary of the date of the election conducted under Section 2035.012 at which the legalization of pari-mutuel wagering was approved.

Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01, eff. April 1, 2019.

Sec. 2035.103. PETITION REQUIREMENTS. A rescission election petition must meet the requirements imposed by this chapter for a petition to request a local option election on the

question of the legalization of racing with pari-mutuel wagering.  
Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01,  
eff. April 1, 2019.

Sec. 2035.104. MANNER OF CONDUCTING ELECTION. An election under this subchapter to rescind legalization of racing shall be conducted in the manner provided for the original local option election under this chapter.  
Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01,  
eff. April 1, 2019.

Sec. 2035.105. BALLOT PROPOSITION. The ballots for an election under this subchapter shall be printed to permit voting for or against the proposition: "Rescinding the legalization of pari-mutuel wagering on horse races in \_\_\_\_\_ County" or "Rescinding the legalization of pari-mutuel wagering on greyhound races in \_\_\_\_\_ County," as appropriate.  
Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01,  
eff. April 1, 2019.

Sec. 2035.106. EFFECT OF RESCISSION. (a) If the majority of the votes cast in an election under this subchapter favor the rescission, racing with pari-mutuel wagering may not be conducted in that county except as provided by Subsection (b).

(b) A racetrack association located in a county that elects to rescind the legalization of racing and that has outstanding long-term liabilities may continue to operate on a temporary basis as provided by Section 2021.008.  
Added by Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 1.01,  
eff. April 1, 2019.