





# INTEROFFICE MEMO

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

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

Approved

Denied

**From:** Deanne Rienstra, Special Counsel *DR*

**Date:** October 21, 2021

**Re:** Consideration of and possible discussion and/or action, including proposal, on new 16 TAC §403.701 (Family Leave Pool)

Attached is a draft new rule proposal prepared for submission to the *Texas Register*. The purpose of the proposed new rule is to implement House Bill (H.B.) 2063 enacted by the 87th Texas Legislature, which amended Texas Government Code Chapter 661 by adding new Subchapter A-1 to require each state agency to create and administer an employee family leave pool. According to this new statute, the governing body of each state agency is required to adopt rules and implement procedures relating to the operation of the agency's family leave pool.

The proposed new rule would set forth the purpose of the family leave pool, designate a pool administrator and require the development and implementation of operating procedures consistent with H.B. 2063.

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



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

7           The proposed new rule would set forth the purpose of the family leave pool, designate a  
8 pool administrator and require the development and implementation of operating procedures  
9 consistent with the H.B. 2063.

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

18           Jan Thomas, Human Resources Director, has determined that for each year of the first five  
19 years the proposed new rule will be in effect, the public benefit anticipated as a result of enforcing  
20 or administering the proposed rule will be aligning the Commission’s rules with the directive of  
21 the Texas Legislature to provide eligible employees greater flexibility in caring for children during  
22 a child’s first year following birth, adoption, or foster placement, and for a seriously ill family

1 member or the employee, including pandemic-related illnesses or complications caused by a  
2 pandemic.

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

7 (1) The proposed new rule does not create or eliminate a government program.

8 (2) Implementation of the proposed new rule does not require the creation of new employee  
9 positions or the elimination of existing employee positions.

10 (3) Implementation of the proposed new rule does not require an increase or decrease in  
11 future legislative appropriations to the Commission.

12 (4) The proposed new rule does not require an increase or decrease in fees paid to the  
13 Commission.

14 (5) The proposed new rule does not create a new regulation.

15 (6) The proposed new rule does not expand or limit an existing regulation.

16 (7) The proposed new rule does not increase or decrease the number of individuals subject  
17 to the rule's applicability.

18 (8) The proposed new rule does not positively or adversely affect this state's economy.

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

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

3           This proposal is intended to implement Texas Government Code Chapter 661.

4 §403.701. Family Leave Pool.

5 A family leave pool is established to provide eligible employees more flexibility in bonding and  
6 caring for children during a child's first year following birth, adoption, or foster placement, and  
7 caring for a seriously ill family member or the employee, including pandemic-related illnesses or  
8 complications caused by a pandemic.

9           (1) The Executive Director of the Commission is designated as the pool administrator and  
10 may delegate duties to the Human Resources Director as needed.

11           (2) The Human Resources Director, with the advice and consent of the Executive Director,  
12 will establish operating procedures consistent with the requirements of this section and relevant  
13 law governing operation of the pool.

14           (3) Donations to the pool are strictly voluntary.