

SUNSET ADVISORY COMMISSION

FINAL REPORT

Texas Racing Commission

Equine Research Account
Advisory Committee

July 2009



Sunset Advisory Commission



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Charles McMahan, Public Member**

* Senator Kim Brimer served on the Commission from December 2005 through December 2008.

** Charles McMahan was appointed to fill the unexpired term of Michael Stevens.

Joey Longley

Director

In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 12-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

TEXAS RACING COMMISSION
EQUINE RESEARCH ACCOUNT ADVISORY COMMITTEE



SUNSET FINAL REPORT
JULY 2009



This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission and the Legislature for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and members of the public, as well as action taken by the Sunset Commission and the Legislature in each step of the Sunset process.

- ◆ *Sunset Staff Report* – Contains all Sunset staff recommendations on an agency, including both statutory and management changes, developed after extensive evaluation of the agency.
- ◆ *Hearing Material* – Summarizes all responses from agency staff and members of the public to Sunset staff recommendations, as well as new policy issues raised for consideration by the Sunset Commission.
- ◆ *Decision Material* – Includes additional responses, testimony, or new policy issues raised during the public hearing for consideration by the Sunset Commission in its decision meeting on an agency.
- ◆ *Commission Decisions* – Contains the decisions of the Sunset Commission on staff recommendations and new policy issues. Statutory changes adopted by the Commission are presented to the Legislature in the agency’s Sunset bill.
- ◆ *Final Report* – Summarizes action taken by the Legislature on Sunset Commission recommendations and new provisions added by the Legislature to the agency’s Sunset bill.



Staff Report – March 2008
Commission Decisions – July 2008
Final Report – July 2009

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SUMMARY



Summary

In 1987, Texas voters approved a statewide referendum allowing pari-mutuel wagering on horse and greyhound races at facilities regulated by the Texas Racing Commission (Commission). In supporting this change in law, voters expected tight industry regulation, accompanied by a significant impact to Texas' agricultural economy and increased State revenue. However, since legalization of pari-mutuel wagering, the racing industry has struggled to build and maintain profitability, interest, and attendance.

Sunset staff examined the Commission's ability to oversee Texas' pari-mutuel racing industry, and concluded that, while the Commission is well-managed and effectively meets its mission, the Commission's statute has not kept pace with changes in the racing industry – specifically the decline in wagering and overall racing industry profits. These changes have resulted in increasing limitations on the Commission's ability to oversee racetrack license holders, ensure adequate racing facilities, and respond to changes in wagering technology. Clearer statutory authority and added flexibility would help the Commission oversee today's racing industry, as well as adapt to any future changes. The Commission would thus stand better equipped to provide consistent, strict oversight of Texas' pari-mutuel racing industry.



Although the Commission effectively meets its mission, significant regulatory challenges exist because of the declining racing industry.

The recommendations in this report also address the long-standing process by which the Commission oversees racetrack facilities and racing industry occupations. While the Commission's enforcement processes generally identify and resolve major problems, improvements can be made to provide better results and ensure sound racetrack facilities and more qualified racing industry employees – resulting in safer working environments for race participants.

The review also evaluated organizational alternatives to industry regulation by a separate agency. Staff considered two particular alternatives: the Department of Public Safety and the Texas Lottery Commission. Neither agency has the infrastructure or expertise to regulate the pari-mutuel racing industry. If the Legislature authorizes additional forms of gaming, potential organizational alternatives would be evaluated at that time. However, because the racing industry continues to decline and the Commission's future ability to regulate this industry is unknown, a period shorter than the typical 12 years between Sunset reviews is necessary.

In conducting this review, Sunset staff also assessed the need for the Equine Research Account Advisory Committee (Committee). Created by the Legislature in 1991, the Committee recommends funding for equine research projects using a portion of wagers placed on Texas horse races and collected through the Equine Research Account. The Director of Texas AgriLife

Research, however, has the ultimate authority to grant Account funds in the current system. The review found that the Committee struggles with funding issues and administrative overhead challenges, and therefore, has a limited ability to fund long-term projects or provide clear outcome measures. Dissolving the Committee and allowing Texas AgriLife Research's Director to directly award grants to equine research projects would lead to a greater resource pool for funding equine research, with greater oversight of research results. The Committee is not required for industry groups to meet and discuss equine-related topics.

The following material provides a summary of the Sunset staff recommendations on the Texas Racing Commission and the Equine Research Account Advisory Committee.

Issues and Recommendations

Issue 1

The Commission Lacks Certain Regulatory Tools Needed to Oversee Today's Racing Industry.

Key Recommendations

- ◆ Require the Commission to review each racetrack license on a periodic basis and develop renewal criteria along with associated sanctions for failure to comply.
- ◆ Clarify the Commission's revocation authority and ability to refuse to renew a racetrack license.
- ◆ Eliminate uncashed winning tickets as a source of Commission revenue.
- ◆ Clarify that all unlicensed entities are prohibited from accepting wagers placed by Texas residents.
- ◆ Direct the agency to adopt a plan to further integrate field staff into the Commission's overall racetrack enforcement plan.

Issue 2

Weaknesses Exist in the Commission's Approach to Licensing Racing Industry Occupations.

Key Recommendations

- ◆ Require the Commission to license only those individuals who can affect pari-mutuel racing.
- ◆ Require the Commission to obtain criminal history reports every three years.
- ◆ The Commission should develop a faster method of obtaining criminal history reports.
- ◆ The Commission should develop processes for overseeing practical exams.
- ◆ The Commission should ensure that licensee oversight is consistent from racetrack to racetrack.

Issue 3

Texas Has A Continuing Need for the Texas Racing Commission.

Key Recommendation

- ◆ Continue the Texas Racing Commission for six years.

Issue 4

The State No Longer Needs the Equine Research Account Advisory Committee.

Key Recommendation

- ◆ Abolish the Equine Research Account Advisory Committee and continue Texas AgriLife Research's authority to expend appropriated Equine Research Account funds.

Fiscal Implication Summary

None of the recommendations in this report would have a significant fiscal impact to the State.

Summary of Legislative Action
S.B. 1013 Hinojosa (Isett)



Senate Bill 1013 contained the Sunset Commission's recommendations on the Texas Racing Commission and the Equine Research Account Advisory Committee, as well as additional statutory modifications made by the Legislature. However, the Legislature did not pass S.B. 1013. The Racing Commission and the Committee were continued in separate legislation in the 1st Called Session, 81st Legislature. Senate Bill 2 continues both entities until 2011, and requires the Sunset Commission to focus its next review of the Racing Commission and the Committee on the appropriateness of its previous recommendations to the 81st Legislature. Continuing both entities for two years will allow the Sunset Commission to re-examine the Racing Commission and the Committee and make recommendations to the 82nd Legislature.

ISSUES



Issue 1

The Commission Lacks Certain Regulatory Tools Needed to Oversee Today's Racing Industry.

Summary

Key Recommendations

- ◆ Require the Commission to review each racetrack license on a periodic basis and develop renewal criteria along with associated sanctions for failure to comply.
- ◆ Clarify the Commission's revocation authority and ability to refuse to renew a racetrack license.
- ◆ Eliminate uncashed winning tickets as a source of Commission revenue.
- ◆ Clarify that all unlicensed entities are prohibited from accepting wagers placed by Texas residents.
- ◆ Direct the agency to adopt a plan to further integrate field staff into the Commission's overall racetrack enforcement plan.

Key Findings

- ◆ As Texas' racing industry has evolved, the Texas Racing Act has not kept pace with industry changes.
- ◆ The Commission's statutory method of finance no longer provides a reliable source of revenue to ensure adequate regulation of the racing industry.
- ◆ The Texas Racing Act does not address new wagering alternatives that expand Texans' ability to gamble.
- ◆ The Commission's current racetrack oversight process does not ensure consistency across locations.

Conclusion

The Texas Racing Act does not reflect the environment in which the Texas Racing Commission (Commission) operates. Also, the Commission's enforcement efforts can be improved to ensure consistent, evenhanded oversight of the declining industry it oversees. Without statutory change and further direction, the Commission's ability to effectively manage the racing industry in the manner originally prescribed by the Legislature is compromised. The recommendations in this Issue would provide an updated framework for clear, ongoing regulation of racetrack licensees and wagering in Texas – giving the State better control of gambling throughout Texas. These recommendations would also help ensure that the Commission has a stable funding source to continue regulating the racing industry and would direct the agency to develop a better enforcement plan. These changes would help the agency stay focused on the goal of ensuring all Texas racetracks are safe for racing participants and their betting patrons.

Support

The Texas Racing Act requires the Commission to tightly regulate the racing industry.

The Act allows only three major horse racetracks and three greyhound tracks in Texas.

- ◆ The Texas Racing Commission (Commission) is charged with regulating and supervising all aspects of the pari-mutuel horse and greyhound racing industry, including defining the Rules of Racing, which protect the safety of all race participants and the betting public. To accomplish this mission, the Commission's duties include issuing racetrack licenses, overseeing the wagering process, licensing racetrack employees and other occupations involved in the racing industry, and enforcing the Texas Racing Act (the Act) and Rules of Racing. The Commission currently oversees seven active racetracks and six non-operational racetracks. The Commission operates on a budget of about \$4.2 million, all of which comes from industry-related fees and uncashed winning tickets.
- ◆ The original purpose of regulating pari-mutuel racing was not only to ensure the safety of live race participants and the integrity of pari-mutuel wagering, but also to make certain that pari-mutuel gambling did not spread uncontrolled throughout Texas. As a result, the Legislature placed specific restrictions on the number of Class 1 horse and all greyhound racetrack licenses. Because the Legislature anticipated the Commission overseeing a booming racing industry, the agency's enabling act directs the Commission to control entry and does not fully address ongoing regulation or changes within the industry.
- ◆ The Texas racing industry has experienced a steady decline in racetrack attendance and the total amount of money wagered, or handle. The table, *Racetrack Performance Data*, shows the amount of handle for live and simulcast wagers, the amount of state pari-mutuel tax paid, and the number of patrons during the past five years. Racetrack profits have

Racetrack Performance Data

Year	Handle	State Tax	Patrons
2003	\$557,527,617	\$4,615,249	2,862,501
2004 ¹	\$564,297,349	\$4,650,399	3,783,720
2005	\$515,074,486	\$4,441,690	2,432,071
2006	\$504,233,570	\$4,398,721	2,361,397
2007	\$492,199,990	\$4,351,865	2,276,474

certainly decreased during the past five years, and, according to interviews with longtime industry members, the racing industry never experienced the level of success originally anticipated when Texas voters legalized pari-mutuel wagering in 1987. Appendix A details racetrack wagering and other indicators of success since Texas' first racetrack opened in 1989.

As Texas' racing industry has evolved, the Texas Racing Act has not kept pace with industry changes.

- ◆ In crafting the Texas Racing Act, the Legislature did not anticipate regulating a declining industry that might not fulfill basic promises to conduct live racing. While the Commission is charged with controlling the growth of the racing industry, this mission does not reflect the challenges associated with regulating today's declining racing industry.

For example, statute limits the number of greyhound licenses and Class 1 horse track licenses available.² These limitations, original to the Act, were likely prescribed to limit competition between the horse and greyhound industries and help ensure planned growth of large gambling facilities. However, the Act never anticipated that the industry might suffer and racetracks, like Corpus Christi Greyhound Race Track, might close because of insufficient wagering revenue. Also, neither the Act nor the Commission anticipated that racetrack licensees would not fulfill basic intentions to choose a location and construct a racetrack. Two of the inactive racetrack licensees overseen by the Commission have yet to build racetrack facilities but have held the licenses since 1989.

Despite these challenges, the Act does not give the Commission clear authority to revoke a racetrack's license for failure to conduct live racing events – a basic tenet of the license and a requirement for initial licensure. In fact, the Act defines a racetrack license granted by the Commission as granted in perpetuity.³ Further, if one of the statutorily limited licensee types, such as Corpus Christi Greyhound Race Track, is on inactive status – no matter the length of time – the Commission does not have the clear authority to revoke the license or offer a license to an applicant willing to run live races. While the Act does define grounds for revocation, statute directs this authority towards a new applicant, not a long-standing license holder. The textbox, *Grounds for Revocation*, summarizes some of the Commission's limited revocation authority granted in the Texas Racing Act.

Grounds for Revocation

The Texas Racing Act outlines 17 grounds for license revocation or suspension, including:

- ◆ the applicant has been convicted of a violation of the Texas Racing Act, a felony, or any crime involving moral turpitude;
- ◆ the applicant is unqualified, by experience or otherwise, to perform the duties required of a licensee;
- ◆ the applicant falsely or incorrectly answered a question on the application; and
- ◆ the applicant is not of good moral character.

- ◆ The Act does not adequately address ongoing regulation of racetrack license holders. Before granting an initial racetrack license, the Commission reviews the financial soundness of each applicant. However, once licensed, the Commission has no oversight of this integral aspect of the ability to soundly operate a racetrack. The Act's limited revocation authority also addresses individual applicants and not business entities, as is common for today's racetrack license holders. In general, and especially given the difficult financial status of today's racing industry, parties to the license often change. However, once a racetrack license is granted, the Commission has little authority over the license holder's status.
- ◆ The Texas Racing Act does not provide tools that other state agencies with licensing programs have to ensure ongoing oversight of its racetrack license holders. For example, most licensing programs use a renewal process to help ensure continued competence and provide evidence of a licensee's compliance history. Before renewing a license, agencies review each license for compliance issues, and deficient compliance histories are typically viewed as a potential disqualifier for renewal. As a general


The State rarely issues permits or licenses in perpetuity.

principle for licensure and permitting programs, an agency’s range of penalties include: revocation of a license, suspension of a license, and refusal to renew a license.

Also, the State generally does not issue licenses in perpetuity and subjects licensees and permit holders to a periodic review process that assesses compliance history and the ability to continue operating. For example, the Texas Commission on Environmental Quality requires facilities with huge capital investments, such as power plants and oil refineries, to submit to regular review of air quality standards during the permit renewal process.⁴

The Commission’s statutory method of finance no longer provides a reliable source of revenue to ensure adequate regulation of the racing industry.

- ◆ A significant Commission funding stream does not allow the agency to project budgetary costs using reliable funding sources. The Commission relies on uncashed winning tickets (OUTs) to supplement other racing-associated fees as a source of revenue. The Texas Racing Act authorizes all Texas racetracks to be reimbursed for drug testing costs with revenue from uncashed winning tickets. After racetracks deduct these expenses, racetracks then submit the remaining portion of OUTs revenue to the Commission. The agency uses this amount to help fund the following fiscal year’s agency operations. However, the agency is unable to predict how much revenue each racetrack might produce. Also, as of September 1, 2007, all uncashed tickets have an expiration date of one year from the date of purchase, instead of the original 60-day timeframe. This change in law results in the Commission receiving uncashed ticket payments gradually throughout the year instead of in one lump-sum deposit.

In fiscal year 2007, OUTs constituted more than one-third of the Commission’s operating budget: however, as the overall amount of wagers placed decreases, so does the amount of uncashed winning tickets. The table, *OUTs Revenue*, shows uncashed ticket revenue beginning in fiscal year 2001. In years past, the agency compensated for a decreased amount

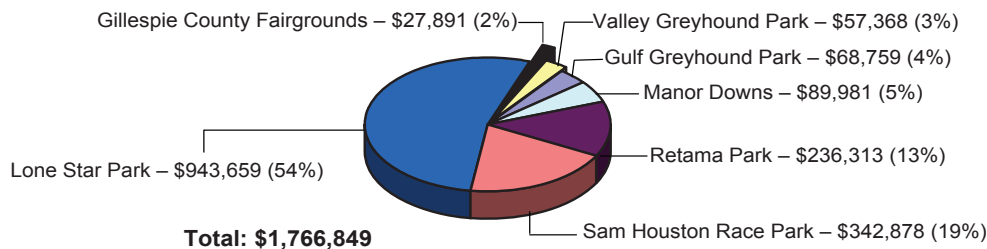
of uncashed tickets by lowering the amount racetracks are allowed to deduct from uncashed ticket revenue for drug testing expenses. While this method offsets some of the decline in revenue, as wagers decrease the agency may not be able to continue to compensate for the overall loss of revenue.

**OUTs Revenue
FYs 2001 – 2008**

Year	Outstanding Ticket Balance	Drug Expenses Allowed	Total Amount of OUTs Payments
2001	\$3,511,926	(\$1,297,573)	\$2,212,353
2002	\$3,342,730	(\$1,378,266)	\$1,964,464
2003	\$3,256,675	(\$1,349,565)	\$1,907,110
2004/2005 ⁵	\$4,836,598	(\$2,190,309)	\$2,646,289
2006	\$3,076,798	(\$1,010,207)	\$2,066,591
2007	\$2,795,266	(\$1,043,554)	\$1,751,712
2008	\$2,808,207	(\$1,041,358)	\$1,766,849

- ◆ Changes in wagering technology further threaten the Commission’s OUTs funding. Most tracks offer electronic teller machines that allow patrons to place bets and check winnings electronically. These machines are typically accessible throughout a racetrack’s wagering area, providing easy access for checking old tickets. By using this type of technology, interviews showed that racetracks would likely see an increase in the amount of payouts made, resulting in a decreased number of uncashed tickets.
- ◆ The manner in which uncashed ticket revenue is collected places an inequitable burden on the racing industry. For example, in 2007, one racetrack, Lone Star Park, paid nearly 53 percent of the OUTs payments collected by the Commission. The chart, *OUTs Payments by Racetrack*, shows the breakdown of payment made by each operating racetrack during fiscal year 2007.

**OUTs Payments by Racetrack
FY 2007**



Because Corpus Christi Greyhound Park deducted more drug testing costs than OUTs revenue, the racetrack did not make any OUTs payments in fiscal year 2007.

While Lone Star Park paid the majority of uncashed ticket payments, the racetrack did not offer the majority of live race days. Racetracks offering fewer live race dates do not have as many drug testing-related expenses as other racetracks. The table, *Live Race Performances*, details the number of live races each active racetrack hosted in 2007. Racetracks that hold more live race dates require more Commission oversight and thus more of the agency’s revenue to perform the enforcement function.

Live Race Performances – 2007

Racetrack	Live Performances	Percentage of Live Performances
Gulf Greyhound Park	455	36%
Corpus Christi Greyhound Race Track	360	29%
Valley Race Park	157	13%
Sam Houston Race Park	105	8%
Lone Star Park at Grand Prairie	99	8%
Retama Park	53	4%
Manor Downs	18	1%
Gillespie Fair and Festival	8	<1%

The Texas Racing Act does not address new wagering alternatives that expand Texans' ability to gamble.

- ◆ The Texas Racing Act does not expressly address wagering alternatives made possible by advances in technology, such as online and phone account wagering. The Act requires that all wagers placed on the outcome of Texas races be made inside a racetrack enclosure.⁶ The Act also prohibits racetrack associations from opening satellite locations, commonly known as off-track betting facilities, to offer simulcast signals, and from taking phone wagers on any races, live or simulcast, offered at a Texas racetrack. The Act also prohibits associations from taking wagers paid for using a credit card, often required for online or phone wagering.⁷

The Act does not specifically prohibit online or phone wagering.

Because the Act is silent on online or phone account wagering, out-of-state online wagering companies interpret the Act to allow Texas residents to place bets on pari-mutuel horse and greyhound races, as long as the race occurs outside the state. When crafting the specific prohibitions, the Legislature did not anticipate advances in technology, particularly the Internet, that would allow out-of-state companies to offer Texans immediate access to pari-mutuel wagering.

- ◆ The racing industry and the State lose money because of unregulated online and phone account wagering sites that take bets from Texas customers and offer Texas races to non-Texans. When bettors place a wager at a racetrack, the State generally receives between 1 percent and 1.5 percent of the wager placed. In addition to the State receiving a portion of wagering revenue, the horse and greyhound breeding industries and winning entries also receive a portion of wagering revenue. However, when an unauthorized third-party, out-of-state entity takes a bet from a Texas resident, the State or any other entity statutorily entitled to receive a portion of the bet does not receive that amount.
- ◆ The State's lost revenue from online and phone account wagering is unknown. The Association of Racing Commissioners International, a national organization composed of executives from most states' racing regulatory bodies, estimates that in 2004, bettors placed about \$1.5 billion in wagers using online wagering companies. While the State's and the racing industry's lost share of that total amount is unknown, during the past few years, online wagering companies continue to report significant increases in pari-mutuel handle, meaning that the State and the industry continue to lose money each year.
- ◆ Other states expressly prohibit online or account wagering on pari-mutuel racing events. For example, Illinois, Indiana, Nevada, South Dakota, and Utah expressly prohibit their residents from betting online or using phone account wagering. Other states, as well as Congress, are also currently reviewing the issue of online and phone account wagering.

Racetracks, breeders, and the State all lose revenue when Texans bet through the Internet.

The Commission’s current racetrack oversight process does not ensure consistency across locations.

- ◆ The decline in wagering revenues encourages an environment at Texas racetracks where shortcuts and other problems associated with decreased profits, such as inadequate facility and systems maintenance, can occur. A strong regulatory presence and racetrack facility inspection process is needed to ensure that racetrack facilities remain in compliance with the Act and the Commission’s Rules of Racing. However, staff observations show that the Commission’s racetrack oversight process does not ensure that field staff consistently address safety concerns and other violations.

The Commission recently introduced a new approach to racetrack enforcement that employs all field staff as regulators with a defined role in the overall regulatory process. This system replaces the agency’s traditional departmentalized approach, which only used enforcement staff to provide ongoing field oversight. In the Commission’s new plan, central office staff and department managers also have an increased role in verifying actions taken in the field – helping to ensure that staff address all facility problems in a fair and consistent way across the state. However, the agency’s new enforcement approach is a radical change, and as the Sunset review revealed, agency field staff have yet to fully embrace this new comprehensive enforcement plan.

- ◆ The agency’s oversight of greyhound racetracks may limit capture of all facility and wagering systems violations. For example, the table, *Departmental Oversight*, details the number of times that each department manager visited each racetrack in fiscal years 2006 and 2007. During that time, one of the active racetracks, Corpus Christi Greyhound Race Track, was in its final stages before closing, in poor physical condition and in need of additional oversight. However, agency management, who oversee field staff, visited the racetrack less than the other year-round greyhound racetrack, Gulf Greyhound. Although many racing industry professionals view greyhound racing as more routine than horse racing,

Field staff have yet to embrace the agency’s new enforcement approach.

Departmental Oversight	
FY 2006	FY 2007
Corpus Christi Greyhound Race Track..... 13	Corpus Christi Greyhound Race Track..... 10
Gulf Greyhound Park..... 22	Gulf Greyhound Park..... 10
Valley Race Park (Greyhound) 9	Valley Race Park (Greyhound) 5
Gillespie County Fair and Festival 12	Gillespie County Fair and Festival 12
Lone Star Park at Grand Prairie..... 32	Lone Star Park at Grand Prairie..... 33
Manor Downs 17	Manor Downs 21
*Retama Park..... 14	*Retama Park..... 17
Sam Houston Race Park..... 29	Sam Houston Race Park..... 26

*Two Commission managers maintain offices at Retama Park, and one manager maintains an office at Sam Houston Race Park, giving these racetracks an additional oversight presence from agency management.

thus needing less oversight, the Commission cannot ensure adequate and consistent enforcement between horse and greyhound racetracks without greater managerial involvement.

Recommendations

Change in Statute

1.1 **Require the Commission to review each racetrack license on a periodic basis and develop renewal criteria along with associated sanctions for failure to comply.**

Under this recommendation, the Commission would be required to devise, by rule, a renewal process for all racetrack licensees. In developing this process, the Commission should consider reviewing some similar areas as are reviewed during the initial licensure process, including financial soundness – such as total net worth, the ratio of debt to assets, and audited financial statements – and the ability to conduct live races. The process should involve members of the racing industry and other key stakeholders to ensure that the grounds for renewal are clear and understood by all affected by this change. This recommendation would not change the number of Class 1 horse racetrack licenses or greyhound racetrack licenses authorized in statute.

In devising the renewal process and associated fees, the Commission should also consider the length of time needed to conduct a thorough review of each license holder. The Commission should institute a staggered schedule that allows for an abbreviated, yet complete, review but does not overwhelm staff's ability to conduct these reviews while also completing other necessary agency tasks.

This recommendation would allow the Commission to maintain ongoing oversight of current racetrack license holders beyond the general inspection and enforcement processes. By instituting a renewal process, the Commission would be able to ensure that licensed racetracks are owned by individuals that meet criteria in the Act and Rules. In addition, license holders that do not fulfill racing obligations and impede entry into the industry would no longer hold those licenses in perpetuity.

Agency Response to 1.1

The agency agrees with this recommendation, presuming that sufficient resources are appropriated to implement the reviews. However, because each racetrack license will have different substantive issues for review and will require different emphasis and analysis, an abbreviated review would be difficult to implement. The issues will range from those tracks with no site or facility, to those that are built and operational but have significant financial challenges. The Commission estimates that each review will take eight weeks to 18 weeks, assuming that each license is renewed. Licenses that are not renewed by the Commission will require a hearing at the State Office of Administrative Hearings and may last one to two years depending upon how vigorously the licensee litigates.

To conduct a sufficient review of each racetrack license will require three additional, full-time staff: an attorney, a program specialist, and an administrative assistant. These three staff will cover the following activities related to processing an application: legal review and analysis of statutory criteria, research and evaluation of financial documents, develop a database to track information, coordinate meetings and develop correspondence, and records management. The Commission estimates total costs including salaries for the three FTEs, associated travel costs, equipment, supplies, and other relevant start-up costs, to range from \$350,000 to \$400,000. Although the

Agency Response to 1.1 (continued)

agency would incur costs, there would be no impact to the State's General Revenue Fund, since the Commission would be authorized to charge a renewal fee to collect additional revenue from racetracks to cover additional staff needed to process racetrack license renewals. (Charla Ann King, Executive Director – Texas Racing Commission)

Staff comment: The recommendation is intended to be an abbreviated review of a license holder's finances, compliance history, and general ability to conduct live racing events. While additional staff time will be required, the agency's renewal effort would be cyclical and would not require year-round dedicated staff time. Sunset staff estimate that one to 1.5 FTEs would be sufficient to implement the renewal program proposed in Recommendation 1.1.

For 1.1

None received.

Against 1.1

Nick James – Corpus Christi Greyhound Track, Austin

Paula C. Flowerday – Texans for Economic Development, Pilot Point

Drew Shubeck, President and General Manager – Lone Star Park, Grand Prairie

Bryan Brown, Chief Executive Officer – Retama Entertainment Group, Selma

Robert Bork, Vice Chairman – Sam Houston Race Park, Houston

Andrea Young, Chief Operating Officer – Sam Houston Race Park, Houston

Sally Briggs, General Manager – Gulf Greyhound Park, La Marque

Mike Burleson – Dallas City Limits, Dallas

Modifications

1. Allow current racetrack licenses to be exempted from a license renewal process and apply the renewal process only to those licenses issued after the effective date of the Sunset legislation. (Paula C. Flowerday, Pilot Point)

Staff Comment: This modification would eliminate the purpose of Recommendation 1.1, since existing license holders are in need of an additional review and additional racetrack licenses are not expected to be granted in the near future.

2. Require the Commission to:
 - ◆ review active racetrack license holders no less than every five years, and grant the Commission rulemaking authority to develop appropriate implementation procedures within that timeframe;
 - ◆ complete an initial review of all inactive racetrack license holders no later than September 1, 2010 and require the Commission to complete a review of any future inactive license holders within one year of entering inactive status and, if renewed, annually thereafter; and

Modifications (continued)

- ◆ allow each new racetrack license issued after January 1, 2007, to have until September 1, 2011 or two years after license issuance, whichever is later, before the Commission considers each license holder for the renewal program. (Sunset staff, based on a request of Sunset Commission members.)

1.2 Clarify the Commission's revocation authority and ability to refuse to renew a racetrack license.

This recommendation would clearly grant the Commission authority to employ an appropriate range of penalties for disciplinary actions against racetrack license holders. In developing the renewal process described in Recommendation 1.1, the Commission would incorporate refusal to renew a license into its disciplinary actions. For example, the Commission would consider financial soundness, as described above, and the ability to conduct live races in deciding whether to renew or refuse to renew a racetrack license. Doing so would allow the Commission to better apply the appropriate sanction for various offenses, such as failure to race or maintain a safe racetrack facility.

Agency Response to 1.2

The agency agrees with this recommendation.

Agency Modification

3. Modify the Texas Racing Act to allow the Commission to require racetrack licensees to post security at any time, instead of only when a new license is issued. Allowing the Commission to require a racetrack licensee to post security at any point in time ensures that licensees fulfill their statutory obligations to build their tracks and run live race dates. In addition, ensuring the Commission's ability to require security at any point in the lifetime of a license is an equity issue. The Commission has now required new licensees to post security to ensure economic benefit to the state and the industry, while the long-standing inactive licensees are contributing nothing but license fees. This statutory modification will ensure that all licensees are treated equally and are subject to the same requirements.

(Charla Ann King, Executive Director – Texas Racing Commission)

For 1.2

None received.

Against 1.2

Nick James – Corpus Christi Greyhound Track, Austin

Paula C. Flowerday – Texans for Economic Development, Pilot Point

1.3 Eliminate uncashed winning tickets as a source of Commission revenue.

This recommendation would remove uncashed winning tickets as a method of finance for the Commission. Racetracks would be allowed to keep all revenue from uncashed winning tickets and continue to use that revenue to offset the cost of drug testing race animals. The Commission would need to replace the loss of revenue by adjusting other racing-related regulatory fees paid by each licensed racetrack.

This recommendation would grant the agency a more consistent revenue stream, allowing the Commission to continue focusing on the mission of strong industry enforcement. Allowing each racetrack to keep uncashed winning tickets would also make the amount of fees paid by each racetrack proportionate to the amount of live races held and wagers placed. Depending on the amount of the fee increase, some racetracks would likely experience a net gain in revenue, however that amount cannot be estimated for this report.

Agency Response to 1.3

The agency agrees with this recommendation. (Charla Ann King, Executive Director – Texas Racing Commission)

For 1.3

None received.

Against 1.3

Andrea Young, Chief Operating Officer – Sam Houston Race Park, Houston

Drew Shubeck, President and General Manager – Lone Star Park, Grand Prairie

Robert Bork, Vice Chairman – Sam Houston Race Park, Houston

Sally Briggs, General Manager – Gulf Greyhound Park, La Marque

1.4 Clarify that all unlicensed entities are prohibited from accepting wagers placed by Texas residents.

Under this recommendation, the Texas Racing Act would be amended to clarify that no entity, including out-of-state businesses that offer online or phone accounts, can accept wagers on horse or greyhound races by Texas bettors. By making this clarification, the Texas Racing Act would be updated to reflect the Legislature’s position on allowable betting in today’s technologically advanced world. Also, other state or federal entities with authority to prosecute violations of the Texas Racing Act would have the basis to pursue known violators.

While some online betting sites would clearly ignore such a change in Texas law, many have legitimate licenses in other states and contracts with out-of-state racetracks that could be jeopardized if they do not follow Texas law. As a result, at least partial compliance is expected from this clarification of law.

Agency Response to 1.4

The agency agrees with this recommendation. (Charla Ann King, Executive Director – Texas Racing Commission)

For 1.4

None received.

Against 1.4

Andrea Young, Chief Operating Officer – Sam Houston Race Park, Houston

Modification

4. Amend the Texas Racing Act to authorize and regulate advance deposit or account wagering. (Gregg Scoggins, D.V.M., J.D., National Director of Regulatory Affairs – Magna Entertainment Corporation, Ashland, Virginia)

Management Action

1.5 Direct the agency to adopt a plan to further integrate field staff into the Commission's overall racetrack enforcement plan.

Under this recommendation, the Commission would develop and adopt a plan to fully align agency field staff with the Commission's new racetrack enforcement process. Management from the agency's central office would also need to more regularly update Commission members on the progress of implementing this new enforcement approach and facility problems or other issues that are discovered during various enforcement efforts.

This recommendation would help reinforce the Commission's approach to better integrate all field staff in its efforts to oversee racetrack facilities. The recommendation would also help ensure a better connection between field staff and central office staff, who oversee all departments and can use information from each racetrack to help plan future enforcement strategies.

Agency Response to 1.5

The agency agrees with this recommendation. (Charla Ann King, Executive Director – Texas Racing Commission)

For 1.5

None received.

Against 1.5

None received.

Fiscal Implication

These recommendations would not have a significant impact to the State. The Commission would be authorized to charge a renewal fee to collect additional revenue from racetracks to cover any additional staff needed to process racetrack license renewals. The agency would compensate for the elimination of uncashed tickets as a source of agency funding by adjusting other racing-associated fees, which the Commission is authorized to do.

By clarifying that entities not licensed by the Commission are prohibited from allowing Texas residents to place bets with their company, the State could experience an additional gain in pari-mutuel tax. However, the amount of additional revenue cannot be estimated for this report.

Commission Decision

Adopted Recommendations 1.1 through 1.5 and Modifications 2 and 3.

Legislative Action



The statutory recommendations were not adopted, as S.B. 1013 failed to pass.

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¹ In 2004, Lone Star Park racetrack in Grand Prairie, Texas hosted the Breeder's Cup races, which resulted in a unique increase in overall racetrack handle and attendance for that year.

² Texas Racing Act, sec. 6.02 (b) and sec. 6.04 (c).

³ Texas Racing Act, sec. 3.021.

⁴ Texas Administrative Code, Title 30, part 1, rule 116.31.

⁵ During fiscal years 2004 and 2005, the Commission moved the time period allotted for uncashed ticket collection, resulting in a 19-month collection period.

⁶ Texas Racing Act, sec. 11.04

⁷ Ibid.

Issue 2

Weaknesses Exist in the Commission's Approach to Licensing Racing Industry Occupations.

Summary

Key Recommendations

- ◆ Require the Commission to license only those individuals who can affect pari-mutuel racing.
- ◆ Require the Commission to obtain criminal history reports every three years.
- ◆ The Commission should develop a faster method of obtaining criminal history reports.
- ◆ The Commission should develop processes for overseeing practical exams.
- ◆ The Commission should ensure that licensee oversight is consistent from racetrack to racetrack.

Key Findings


- ◆ Licensing individuals who do not have influence over pari-mutuel racing serves no clear public interest.
- ◆ The Commission's process for obtaining criminal histories is inadequate to ensure full public protection.
- ◆ The agency's process for practical exams does not ensure fairness and consistency.
- ◆ Commission investigators lack tools needed to ensure consistent licensee oversight.

Conclusion

The Texas Racing Commission (Commission) licenses all occupations at a racetrack in an effort to protect racing participants and the wagering public. Sunset staff evaluated the Commission's licensing process and determined that while licensing all racetrack occupations gives the Commission direct authority over all individuals at a racetrack, this does not efficiently use agency resources or provide added public protection. Licensing occupations not directly involved in live racing or pari-mutuel wagering is costly and the agency must use its limited investigatory resources overseeing occupations that pose little threat to racing participants or the wagering public. Sunset staff also identified several other concerns with Commission licensing practices, including lengthy waits for criminal history background checks, oversight of practical exams for licensees, and a need to ensure consistency for licensee enforcement.

Support

The Texas Racing Commission licenses all individuals involved in pari-mutuel racing.


The Commission offers 53 types of occupational licenses.

- ◆ The Texas Racing Commission's (Commission) goal is to provide a safe and secure environment for race animals and racing participants, and to protect the integrity of pari-mutuel wagering. The Commission licenses all occupations at a racetrack to help ensure a safe racing and wagering environment. The Commission offers 53 types of occupational licenses, which provide varying levels of access to different parts of the racetrack. For example, a vendor license does not give access to the wagering room or the backside of the racetrack (stables, test barns, kennels), while a trainer license provides full access to the backside of the racetrack but does not provide access to the secure rooms on the frontside of the racetrack, such as mutuel areas. In fiscal year 2007, the Commission reports issuance of 4,735 new occupational licenses and 6,784 occupational licenses renewed at a cost of about \$42 per licensee.
- ◆ To obtain a license, each applicant must complete a basic application, submit fingerprints for a criminal history background check, and pay a licensing fee. The agency sends all fingerprint cards to the Texas Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) for processing. The Commission grants applicants a license immediately, but may deny or revoke the license if the background check reveals a conviction that may affect the safety of the public or the integrity of pari-mutuel wagering. The licensing fee for each licensee type is proportioned to the income earned by the occupation. Licensing fees range from \$20 for a vendor employee license to \$75 for a trainer's license.

Occupations With Exam Requirements – FY 2007

License Type	Number of Licensees	Written Exam	Practical Exam
Apprentice Jockey	9		✓
Assistant Horse Trainer	33	✓	✓
Exercise Rider	90		✓
Greyhound Trainer	17	✓	✓
Horse Trainer	126	✓	✓
Jockey	39		✓
Jockey Agent	6	✓	
Pony Person	48		✓

The Commission also requires some applicants to take a proficiency exam as a condition of licensure. A Commission employee administers written exams, while designated racetrack-employed officials and experienced licensees administer practical exams. The table, *Occupations With Exam Requirements*, details the license categories where applicants must pass a written or practical exam as a condition of licensure and the associated number of new licensees in fiscal year 2007.

- ◆ The Commission employs six commissioned peace officers, called investigators, to enforce licensee compliance with the Texas Racing Act (Act) and Commission's Rules of Racing. Investigators are on-site during live racing events and when racetracks conduct simulcast wagering. Investigators review criminal history reports on all licensees, investigate

complaints against licensees, and perform unscheduled racetrack inspections with the help of DPS officers. In fiscal year 2007, agency investigators opened 293 new enforcement cases against licensees.

- ◆ Supervision and enforcement of live racing is accomplished by a board of three Commission-employed racing officials, called stewards and judges. Besides officiating live races, these Commission officials issue notices of violation to occupational licensees and conduct hearings to determine if licensees violated the Act. Licensees can either waive their right to a hearing and accept a proposed punishment, or contest the notice of violation at a hearing held by the racing officials. Commission-employed racing officials can use various enforcement tools, such as imposing fines up to \$5,000 and license suspension. In 2007, the Commission reports that racing officials issued 579 rulings against licensees, resulting in 379 fines and 216 suspensions.

Licensing individuals who do not have influence over pari-mutuel wagering serves no clear public interest.

- ◆ The Texas Racing Act requires the Commission to license all people involved in racing without consideration of the individual's level of involvement in pari-mutuel racing. As a result, the Commission licenses occupations heavily involved in racing events such as trainers, jockeys, and grooms, while also licensing occupations that have nothing to do with pari-mutuel racing, such as concession-stand workers.

The Sunset Act provides that an agency's regulation should be limited to the minimum level necessary to protect the public. The Commission's licensing practices result in licensing many individuals who have little or no chance to affect pari-mutuel wagering and some that do not interact with the public in any way that differs from a concession worker at a local ballpark. For example, the agency licenses parking lot attendants, delivery people, and popcorn vendors. These licensees have nothing to do with pari-mutuel racing and have limited need to enter live racing and wagering areas. When these licensees need access to restricted areas, they enter for a limited time and for a very limited purpose.

- ◆ Licensing individuals who do not affect pari-mutuel racing results in the Commission overseeing a much larger number of individuals. In 2007, the Commission licensed more than 2,400 licensees whose occupations do not affect pari-mutuel racing. While some frontside licensees may need limited or occasional access to restricted areas, such as janitors, these occupations do not require interaction with race animals or pari-mutuel wagering. The table on the following page, *Frontside Licensees*, lists the licensee categories that had limited or no access to the backside or restricted areas in fiscal year 2007.

The agency licenses parking lot attendants, delivery people, and even popcorn vendors.

In 2007, the agency licensed more than 2,400 people who have little to do with pari-mutuel racing.


Frontside Licensees – FY 2007

Licensee Type	Number of Licensees	License Fee	Commission's Licensing Cost	Total Revenue	Total Commission Cost	Revenue Shortfall
Racetrack Association Staff*	2,010	\$25	\$42	\$50,250	\$84,420	\$34,170
Vendor Employee	407	\$25	\$42	\$10,175	\$17,094	\$6,919
Total	2,417	N/A	N/A	\$60,425	\$101,514	\$41,089

*This license type includes food service, housekeeping, ushers, parking, and admission staff.

- ◆ Licensing all individuals involved in racing adds additional costs to the agency. The Commission employs staff to process applications, collect fingerprints, review criminal history reports, and oversee licensees. The fees collected for these licensee types do not even cover the \$34.25 fee the agency pays for performing a criminal history check, let alone the Commission's processing costs.¹ The difference in cost is subsidized by licensing fees charged to other licensees. Based on fiscal year 2007 licensee totals, the Commission lost more than \$41,000 by licensing these occupations.

Commission investigators must spend time overseeing these licensees, even though they represent a minority of violators. Frontside licensees accounted for only 9 percent of violators in fiscal year 2007. Overseeing licensees that pose little risk to the public is an inefficient use of the investigators' limited resources.


The agency gives licensees racetrack access for two to three weeks while waiting for criminal background checks.

- ◆ Other state regulatory agencies do not license all individuals involved within the industry they oversee. For example, the Texas Alcoholic Beverage Commission does not license every individual who works in a bar, nor does the Texas Commission on Environmental Quality license everyone who works in a chemical plant. These agencies require the businesses they regulate to be responsible for the actions of their employees. As such, the Commission should leave oversight of employees who do not affect pari-mutuel racing to the racetracks that employ them.

The Commission's process for obtaining criminal histories is inadequate to ensure full public protection.

- ◆ Even though the Commission performs a criminal history check on all applicants, the Commission allows applicants to work as full licensees while waiting for the results, which typically are not returned for two to three weeks. The time lag between issuing a license and receiving criminal history background check information can allow criminals access to race animals or pari-mutuel wagering activities. Meanwhile, these licensees could have a criminal history that reveals theft, previous race fixing, or other serious felonies.
- ◆ In fiscal year 2007, the Commission determined that 57 applicants' histories were serious enough to be deemed ineligible to work at racetracks

in Texas. Of these applicants, 32 licensees surrendered their license and 25 were either suspended or denied. The Commission also allows applicants with positive criminal histories the option of withdrawing their applications, however the number of withdrawn applications is not available. All licensees whose license was eventually surrendered, suspended, denied, or withdrawn had access to the racetrack during the time lag of two to three weeks and could have influenced live racing or the wagering process.


- ◆ Although the Commission performs background checks on all license applicants, criminal background checks are not performed during all license renewals. Currently, Commission staff re-fingerprint each licensee and obtain a new background check at the five-year renewal mark. Investigators rely on updates from DPS, which alert the Commission if a licensee is arrested in Texas, instead of performing more frequent background checks. However, DPS updates do not show arrests or convictions outside Texas. Individuals who participate in racing tend to travel from racetrack to racetrack throughout the United States. As a result, so long as a licensee is not arrested in Texas, the Commission may not be aware of a licensee's complete criminal history.
- ◆ The consensus among the racing industry is that a three-year renewal period is necessary. The Association of Racing Commissioners International (RCI), of which Texas is a member, created a set of model racing rules that states can follow. These rules were formulated and approved by RCI, which consists of 37 member states. These model rules suggest that a license should not be renewed unless the Commission conducted a full criminal history check in the last three years.²

The agency's process for practical exams does not ensure fairness and consistency.

- ◆ The Commission requires certain applicants to pass a practical exam administered without adequate Commission oversight. For example, horse trainers must pass both a written and practical exam for initial licensure. Commission racing officials administer the written exam, and the Texas Horsemen's Partnership (THP) administers the practical exam. The Texas Horsemen's Partnership assigns on-site, experienced trainers to give trainer applicants the practical portion of the exam. However, the exam is subjective, and the THP-designated trainer administering the exam determines whether the answers that a potential licensee provides are correct.
- ◆ While no improprieties were observed or alleged, the exam process lacks common oversight elements. For example, the agency does not provide a guide of acceptable answers nor does the Commission receive a record of the answers given for review. The Commission also does not track practical exam failure rates. Since Commission racing officials administer the written exam only after an applicant passes the practical exam, staff

Racetrack licensees work for five years without a new background check.

Current licensees, not agency staff, give practical exams to new applicants.



Commission staff have no way of knowing whether practical exams are given fairly or consistently.

do not know who has taken and failed a practical exam. As a result, Commission staff have no way of knowing whether practical exams are given fairly or consistently.

- ◆ Other state agencies have processes in place to ensure practical exams are given in a fair and unbiased manner. The Texas Department of Licensing and Regulation and the Texas Department of State Health Services have both developed methods for standardizing practical exams and grading on objective criteria. Practical exams should have written guidelines laying out acceptable methods of examination, clear criteria for performance, and clear definitions of the tasks to be performed. The Commission's practical exams lack the processes to ensure that the exams are administered fairly and without possible bias.

Commission investigators lack tools needed to ensure consistent licensee oversight.

- ◆ Other state agencies with enforcement functions, including the Texas Department of Public Safety and the Texas Alcoholic Beverage Commission, employ enforcement manuals. The Commission lacks an enforcement manual or current, comprehensive guidelines containing the basic procedures and duties of investigators. The agency relies on the investigators' experience, instead of recording the procedures developed over the years. However, the Commission cannot ensure consistent enforcement by only relying on each investigator's experience. While the Commission provides new enforcement staff with initial training, these employees do not have standard procedures to rely on once they are on their own in the field. The Commission should record its institutional knowledge and document current practices.

Recommendations

Change in Statute

2.1 **Require the Commission to license only those individuals who can affect pari-mutuel racing.**

This recommendation would require the Commission to license only those directly involved with pari-mutuel racing. The recommendation would reduce the number of licensees the Commission oversees by more than 2,400. The Commission would continue to license occupations that need significant access to the backside of a racetrack or restricted areas of the frontside as part of their job duties. The Commission would retain authority over non-licensed frontside employees through their employers. Racetracks would be responsible for ensuring employees' compliance with the Racing Act and Rules of Racing.

By shifting the responsibility for overseeing these licensees to racetrack associations, Commission investigators would be able to focus their attention on the other licensees who account for more than 90 percent of all violations. The Commission would also save costs of running criminal history checks for these occupations, as the fee for these licenses does not cover the Commission's costs for performing basic criminal history checks.

Agency Response to 2.1

The agency agrees with this recommendation.

Agency Modification

1. The agency should retain the authority to require racetrack associations to conduct background checks and the authority to audit these background checks to ensure that individuals employed at the racetrack have clean criminal histories.

(Charla Ann King, Executive Director – Texas Racing Commission)

Staff Comment: The staff recommendation allows the Commission to retain authority over non-licensed racetrack employees through their employer's license and allows the Commission the ability to accomplish the suggested modification through the rulemaking process if they determine that such an approach is necessary.

For 2.1

Andrea Young, Chief Operating Officer – Sam Houston Race Park, Houston

Against 2.1

None received.

2.2 Require the Commission to obtain criminal history reports every three years.

This recommendation would require the Commission to perform criminal history checks every three years instead of the current five-year time period. Doing so would provide better public protection and bring Texas in line with national racing industry standards. Additionally, the Commission should continue to stagger the renewal period for current licensees to avoid a rush in processing criminal history checks.

Agency Response to 2.2

The agency agrees with this recommendation. (Charla Ann King, Executive Director – Texas Racing Commission)

For 2.2

None received.

Against 2.2

None received.

Management Action

2.3 The Commission should develop a faster method of obtaining criminal history reports.

This recommendation would direct the Commission to pursue fingerprinting services that can return a criminal history in less than the current two to three week time frame. Receiving criminal history reports more quickly would allow the Commission to deny the licenses of potentially dangerous

applicants in a much shorter time, possibly before the applicant even begins working. DPS indicates that electronic fingerprinting results in the return of a DPS and FBI criminal history within three days. The Commission would phase out use of fingerprint cards for obtaining criminal history reports. For those applicants who need to begin work immediately, the Commission could issue a temporary license that would be replaced by a permanent license if the criminal history reported ineligibility.

Electronic fingerprinting services are now widely available. One such service, which currently contracts with the State, operates 77 locations throughout Texas, including providing mobile processing centers. This state-contracted service can also digitize and process fingerprint cards sent in by out-of-state applicants, which would help accommodate the Commission's significant number of out-of-state licensees. Each racetrack in Texas is located either in the same city or near a city with a state-contracted electronic fingerprinting center. Costs to the State for using electronic fingerprinting services would remain the same. However, applicants using this system would pay an additional \$10 service fee to the private vendor.

Agency Response to 2.3

The agency agrees with this recommendation. (Charla Ann King, Executive Director – Texas Racing Commission)

For 2.3

None received.

Against 2.3

None received.

2.4 The Commission should develop processes for overseeing practical examinations.

Under this recommendation, the Commission would develop a system for administering practical exams that provides more oversight of the examination process. The Commission should create written guidelines that detail acceptable methods of administering practical exams and provide clear definitions of the tasks each applicant is expected to perform. The Commission should also administer written exams before practical exams and adopt a standardized practical exam with answer keys for individuals administering the exam. These changes would give the Commission greater oversight of an applicant's knowledge base and would help ensure that practical examinations are fair and consistent.

Agency Response to 2.4

The agency agrees with this recommendation. (Charla Ann King, Executive Director – Texas Racing Commission)

For 2.4

None received.

Against 2.4

None received.

2.5 The Commission should ensure that licensee oversight is consistent from racetrack to racetrack.

The Commission should create a manual that details investigation and inspection practices and procedures to better ensure consistent oversight by investigators at each racetrack, and provide set guidelines for new investigators. The Commission could gather the current practices of each investigator and use these as guidelines for developing the manual. The manual should create uniform procedures for performing investigations of both racetrack facilities and occupational licensee violations, and be regularly updated.

Agency Response to 2.5

The agency agrees with this recommendation. (Charla Ann King, Executive Director – Texas Racing Commission)

For 2.5

None received.

Against 2.5

None received.

Fiscal Implication

None of these recommendations would have a significant fiscal impact to the State. Although the Commission would license fewer individuals, the Commission would actually save money overall, as the cost of licensing occupations eliminated in this Issue exceeds the amount of fees collected. Based on current licensing numbers, the Commission would save more than \$41,000 in initial and renewal costs by not licensing these occupations. The Commission could readjust fees for other licensees or use this savings for other regulatory purposes. By requiring licensees to obtain criminal history checks using an electronic fingerprinting system, the Commission will not incur any new costs and would save about \$1,350 per year in supplies used for processing fingerprint cards.

Commission Decision

Adopted Recommendations 2.1 through 2.5.

Legislative Action

The statutory recommendations were not adopted, as S.B. 1013 failed to pass.

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¹ Texas Racing Commission, *Interagency Cooperation Contract Between Texas Racing Commission and Texas Department of Public Safety*, p. 1.

² Association of Racing Commissioners International Model Rules Ch. 8.010(b). Online. Available: [www.ua-rtip.org/industry/modelrules_pdfs/chapter 8.pdf](http://www.ua-rtip.org/industry/modelrules_pdfs/chapter%208.pdf). Accessed: February 20, 2008.

Issue 3

Texas Has A Continuing Need for the Texas Racing Commission.

Summary

Key Recommendation

- ◆ Continue the Texas Racing Commission for six years.

Key Findings

- ◆ The Texas Racing Commission regulates all aspects of the pari-mutuel racing industry.
- ◆ The Commission oversees a declining racing industry.
- ◆ Despite declining wagers and a shrinking industry, Texas has a clear and continuing interest in regulating pari-mutuel racing.
- ◆ All states that authorize pari-mutuel racing regulate the industry.

Conclusion

The Texas Racing Commission (Commission) manages the pari-mutuel racing industry, ensures the safety of racing participants, and certifies the integrity of the wagering process. The Legislature created the Commission to oversee this industry because it involves gambling, and the very nature of and risks involved with the gambling industry require strict State oversight. However, Texas' horse and greyhound racing never achieved anticipated business levels. In fact, since the first track opened in 1989, the industry experienced short-lived success, followed by a steady decline in wagers placed, and as a result, industry profits.

While Texas clearly has a continuing interest in regulating the pari-mutuel racing industry, the ongoing decline within the racing industry presents significant challenges to the Commission and its ability to regulate the industry. Sunset staff address some of these challenges in earlier issues of the staff report. However, if the industry continues to decline, the Legislature needs an opportunity before the typical 12-year period to reassess the Commission's ability to regulate the racing industry. If the Legislature chooses to expand wagering opportunities under the Commission's authority, an assessment of the agency's ability to oversee these new functions would also be needed at that time.

Support

The Texas Racing Commission regulates all aspects of the pari-mutuel racing industry.

- ◆ In 1986, the State passed the Texas Racing Act (Act), allowing pari-mutuel wagering on horse and greyhound races and creating the Commission to oversee the racing industry. Shortly after the Legislature's approval, Texas voters approved pari-mutuel racing in a statewide referendum. The Texas Racing Commission (Commission) held its first meeting in 1988 to devise the Rules of Racing, and Texas' first racetrack opened in the fall of 1989.
- ◆ The Commission's mission is to protect the health, safety, and welfare of race animals and race participants, as well as to safeguard the interests of the betting public. The Commission is also charged with managing the growth of the racing industry. To accomplish this mission, the Commission licenses racetrack facilities and all individuals involved in pari-mutuel racing, monitors wagering systems, enforces the Texas Racing Act and the Rules of Racing, and ensures the health and safety of race animals. The Commission also oversees dedicated funds that support the horse and greyhound breeding industries.
- ◆ To regulate the industry, the Commission's authority spans from licensing concession stand vendors, to overseeing the results of live racing events, and monitoring and certifying wagering transactions. A nine-member, part-time Board oversees the agency and its 78 employees. The Commission operates on an annual budget of about \$4.5 million, all of which is covered by licensing fees, other surcharges paid by the industry, and wagers placed on racing events. The agency also receives an additional \$5.2 million in pass-through funds generated by wagers placed on racing events that go directly to support the horse and greyhound breeding industries.

◆

During the past five years, total wagering on pari-mutuel races fell by \$65 million.

The Commission oversees a declining racing industry.

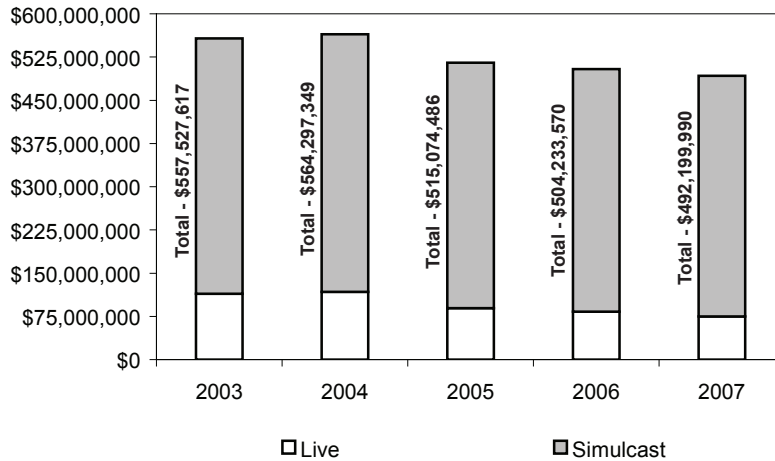
- ◆ Texas' racing industry continues to experience a steady decline in both spectators and total amount of wagers placed, called handle. For example, according to the Commission, in 2003, about 2.8 million people visited Texas' eight racetracks, betting a total of nearly \$558 million on live and simulcast races. However, in 2007, only about 2.3 million people visited a Texas racetrack and total handle fell by about \$65 million. The table, *Racetrack Patronage*, details total attendance and handle at Texas racetracks during the past five years. As a direct result of revenue loss, one of Texas' three greyhound racetracks, Corpus Christi Greyhound Race Track, closed in December 2007. Corpus Christi Greyhound's investors hope to re-open the racetrack in 2009. However, this racetrack is not the only track losing money.

Racetrack Patronage

Year	Attendance	Handle
2003	2,862,501	\$557,527,617
2004	2,783,720	\$564,297,349 ¹
2005	2,432,071	\$515,074,486
2006	2,361,397	\$504,233,570
2007	2,276,747	\$492,199,990

- ◆ In reviewing each racetrack’s annual financial reports, the Commission estimates that the majority, if not all, of Texas’ racetracks are losing money. Most of the loss in revenue comes from conducting races, which are expensive because of the number of people a racetrack must employ to hold the event. Also, live races do not generate as much handle as simulcast races. The graph, *Total Handle – Horse and Greyhound Racetracks*, shows the combined wagering for live and simulcast races for horse and greyhound racetracks during the past five years.

Total Handle – Horse and Greyhound Racetracks



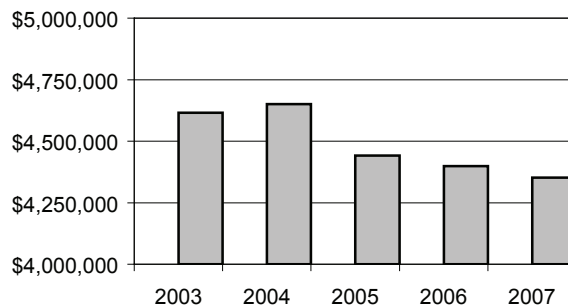
Because of this inequity in return, Texas racetracks have begun offering fewer live race dates, while offering more simulcast signals. The table, *All Wagering Opportunities*, lists the total number of live race dates offered and the total number of simulcast signals taken at Texas racetracks during the past five years. However, the Texas Racing Act requires all racetracks to run live races in order to offer simulcast wagering.

All Wagering Opportunities

Year	Live Race Dates	Simulcast Signals
2003	1,395	64,036
2004	1,352	66,542
2005	1,228	64,022
2006	1,298	67,118
2007	1,255	67,727

- ◆ While decreased revenue certainly affects each racetrack’s overall success, dwindling handle also affects the state pari-mutuel tax. A portion of all wagers placed on Texas races goes to the State’s General Revenue Fund, however the amount of state pari-mutuel tax is decreasing. For example, the State has not collected pari-mutuel tax from wagers placed on live racing events since 1999 because none of Texas’ racetracks met the State’s minimum revenue threshold of \$100 million during that time. Also, the state tax paid on simulcast wagers continues to decrease along with the decrease in simulcast handle. The graph, *Pari-Mutuel State Tax*, shows the amount of state tax collected on simulcast wagers for each of the past five years.

Pari-Mutuel State Tax



The racing industry continues to provide a source of revenue for Texas.

- ◆ Although not as significant a source of revenue as other forms of gambling, like the lottery, the pari-mutuel tax continues to be a source of State revenue. To date, the State has collected more than \$108 million in pari-mutuel tax. The racing industry also contributes revenue to local government entities through a maximum 15-cents-per-ticket admission fee. Currently, 10 local entities collect this fee, generating more than \$2.4 million for local entities during the past five years. The table, *Local Government Admissions Fee Revenue*, lists each local government entity and the amount that entity collected during the past five years.²

**Local Government Admissions
Fee Revenue 2003 – 2007**

Nueces County	\$38,753
City of Corpus Christi	\$38,753
City of La Marque	\$216,759
Galveston County	\$216,759
Dallas County	\$478,141
Tarrant County	\$478,141
City of Grand Prairie	\$478,141
City of Selma	\$78,851
Bexar County	\$78,851
Harris County	\$342,862
Total Revenue	\$2,446,011



*The Commission
currently oversees
seven operational
racetracks.*

- ◆ The racing industry also provides jobs to many Texans, and impacts the state and local economies beyond employment. While direct impact information is difficult to gather, a 2005 study commissioned by the horse racing industry estimated that the horse racing industry has a direct economic impact of \$506 million to the State’s economy and generates about 18,000 total jobs – both in racetrack employees and horse owners, trainers, and other racing participants. Because of the difference in scale and fewer number of people it takes to care for race animals and present a greyhound race, the Texas greyhound racing industry provides a significantly smaller impact. However, the American Greyhound Council recognizes Texas as one of the top four greyhound breeding states.

Despite declining wagers and a shrinking industry, Texas has a clear and continuing interest in regulating pari-mutuel racing.

- ◆ The pari-mutuel racing industry involves gambling and because of the very nature of gambling, the industry needs strict state oversight. To ensure compliance with the Texas Racing Act and the Rules of Racing, the Commission licenses racetrack facilities, which includes racetrack owners, and facility managers. The Commission currently oversees seven operational racetracks – five horse racetracks and two greyhound racetracks – and six non-operational racetrack licensees. Before issuing a racetrack license, the Commission reviews all applications for feasibility, examining areas such as financial soundness, facility design, and racetrack security plans.

To ensure that racetrack facilities remain safe for the general public and racing participants, the Commission maintains an on-going enforcement presence, supervising all live racing events, and periodically inspecting the facility for maintenance issues and compliance with Commission standards. In 2007, Commission staff conducted 62 facility inspections, resulting in 63 violations needing corrective action. Commission staff worked with racetrack management to resolve 52 of those violations, and staff continue to address the remaining 11 issues during the 2008 racing season.

- ◆ To help ensure the safety of race participants, including race animals, and to safeguard against potential corruption, the Commission also regulates all people involved in pari-mutuel horse and greyhound racing. In fiscal year 2007, the Commission issued more than 15,000 occupational licenses – about 4,700 of which were new licenses. Before issuing a permanent license, each applicant receives a criminal history background check. The Commission may deny or revoke the license of an individual who has been convicted of a crime that affects racing, as outlined in Commission rule.

The Commission maintains oversight of occupational licensees through field investigators who focus on finding licensee violations. In 2007, Commission staff opened nearly 300 cases for rule violations. Commission-employed racing officials also oversee those licensees involved in live racing events. Racing officials act as referees during live racing events and also process all enforcement actions against licensees. In 2007, Commission racing officials issued a total of 579 disciplinary actions against occupational licenses, some of which were the result of investigator-initiated cases and some of which were initiated by the officials themselves. All disciplinary actions included administrative fines or license suspensions.


- ◆ The Commission protects the integrity of pari-mutuel wagers placed at Texas racetracks and on Texas races, by overseeing each racetrack's wagering system. In 2007, Commission staff reviewed wagering data on more than 770,000 live and simulcast races. Staff also completed more than 2,200 full compliance audits of various simulcast accounting divisions.

Commission staff also drug test each winning race animal and randomly test other entries to further ensure the integrity of each race. In 2007, the Commission performed about 15,000 greyhound and 12,000 equine drug tests to detect potentially race-altering substances. Significantly less than 1 percent of the animals tested resulted in a positive drug test and disciplinary action.

- ◆ Commission veterinarians also help safeguard the health of race animals by performing pre-race fitness examinations. Veterinarians examined 77,014

*Commission
racing officials
issued 579
disciplinary
actions in 2007.*

*Significantly less
than 1 percent
of race animal
drug tests showed
violations.*


If racetrack revenues continue to decline, upkeep of facilities and wagering systems may suffer.

greyhounds and 26,652 horses before live racing events. Commission veterinarians also provide emergency care to injured race animals.

- ◆ If the decline of the racing industry continues and revenue losses increase, the State's role in protecting those involved in live racing and those betting at Texas racetracks is needed more than ever. In times of economic distress, resources for general racetrack maintenance and wagering systems upkeep may suffer, potentially threatening the safety of racing participants and betting integrity. Although the Commission adjusts the agency's size to accommodate shifts in the declining industry, because of these risks, a basic level of State regulation is needed to oversee the racing industry.

In the current gaming environment, the Commission is the most appropriate agency to regulate the pari-mutuel racing industry.

- ◆ While other organizational options are available, the Commission effectively oversees the pari-mutuel horse and greyhound racing industry as an independent agency. One alternative could be to merge the Texas Racing Commission with the Texas Lottery Commission to create a state gaming commission to oversee all types of gambling. However, the missions and activities of these agencies differ considerably and functions do not overlap. Running the State's lottery is not a traditional regulatory activity, lacking similarity to the type of regulatory duties performed by the Commission. If the Legislature authorizes additional forms of gambling in the future, an assessment of a new regulatory structure for overseeing that new form of gaming, along with the racing industry and the lottery, could be reassessed at that time.
- ◆ Although the Department of Public Safety (DPS) assists the Commission with enforcement efforts relating to criminal history background checks and racetrack inspections, DPS is not equipped to handle oversight of racing-specific functions, like monitoring wagering systems and refereeing racing conduct. Requiring DPS to oversee the racing industry would also take away from the Department's primary law enforcement mission.

All states that authorize pari-mutuel racing regulate the industry.

- ◆ Thirty-nine other states allow pari-mutuel racing, and most regulate the racing industry in a similar way to Texas' system of an independent commission or board. The table shown on the following page, *Pari-Mutuel Racing Across the Nation*, shows which states authorize pari-mutuel horse and greyhound racing and what type of regulatory system oversees the racing industry. Some of the states listed in the independent commission or board category also allow other forms of gambling, such as video lottery terminals or casino-style gambling. However, the states that have a gaming commission are noted in the table.

Pari-Mutuel Racing Across the Nation

Type of Regulation	Horse Racing	Greyhound Racing
Independent Racing Commission or Board	AL, AZ, AK, CA, CO, ID, IL, IN, KY, LA, ME, MD, MA, MI, MN, MT, NW, NV, NH, NJ, NM, NY, ND, OH, OK, PA, SD, TX, VA, WA, WV, WY	AL, AZ, AK, CO, MA, NH, TX, WV
Gaming Commission	IA, KA	IA, KA, WI
Other	CT, DE, FL, RI	CT, FL, RI

Recommendation

Change in Statute

3.1 Continue the Texas Racing Commission for six years.

This recommendation would continue the Commission as an independent agency for six years, instead of the standard 12 years. This would allow the Legislature the opportunity to re-evaluate the Commission's role in regulating a declining industry at that time. While the State should continue regulating the pari-mutuel racing industry, the future of the industry is unknown at this time and the Commission may need additional tools to again readjust to a further decline or a revived industry.

Agency Response to 3.1

The agency agrees with this recommendation. (Charla Ann King, Executive Director – Texas Racing Commission)

For 3.1

None received.

Against 3.1

None received.

Fiscal Implication

If the Legislature continues the current functions of the Texas Racing Commission, the need for the agency's annual appropriation of approximately \$10.1 million from the Commission's General Revenue Dedicated Account would continue. The Commission would continue to pass through about half of these funds to the horse and greyhound breeding industries, as required by statute. The agency's appropriation is entirely paid for by racing-related fees, fines, and pari-mutuel wagers.

Commission Decision

Adopted Recommendation 3.1.

Legislative Action

Senate Bill 2, 1st Called Session, 81st Legislature, continues the Texas Racing Commission until 2011 and requires the Sunset Commission to focus its next review of the Texas Racing Commission on the appropriateness of its previous recommendations to the 81st Legislature.

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¹ American Horse Council Foundation, *The Economic Impact of the Texas Horse Industry (2005)*, p.2.

² American Greyhound Council, Greyhound Racing Fact Sheet, www.agcouncil.com. Accessed: February 5, 2008.

Issue 4

The State No Longer Needs the Equine Research Account Advisory Committee.

Summary

Key Recommendation

- ◆ Abolish the Equine Research Account Advisory Committee and continue Texas AgriLife Research's authority to expend appropriated Equine Research Account funds.

Key Findings

- ◆ The Equine Research Account Advisory Committee recommends equine research projects for funding.
- ◆ Benefits of all equine research funded through the Committee are not clear.
- ◆ Texas does not need a separate committee to review and recommend equine research grants.
- ◆ Few entities fund equine research to benefit the horse racing industry.

Conclusion

In 1991, the Legislature amended the Texas Racing Act to set aside a portion of pari-mutuel wagers placed on Texas horse races to fund equine research relating to the horse racing and breeding industries. The Equine Research Account Advisory Committee (Committee) helps oversee this grant process by setting research priorities, reviewing research proposals, and recommending grant funding levels. While the State and the racing industry could benefit from this Committee-funded research, the impact of funded research is often unknown outside academia. In addition, the Committee's current funding situation and limited oversight process restrict research possibilities and overall impact.

Sunset staff evaluated the Committee structure and research proposal review and grant process, and concluded that Texas AgriLife Research, which is ultimately responsible for administering Committee-recommended grants, can provide the same benefits. Dissolving the Committee structure would allow Texas AgriLife Research to directly administer grant funds and pool racing-industry funding with other funding sources – providing a greater research impact, while increasing oversight of research results. Staff also concluded a state created entity is not required to allow industry groups to meet and discuss equine-related issues.

Support

The Equine Research Account Advisory Committee recommends equine research projects for funding.

- ◆ In 1991, the Legislature amended the Texas Racing Act to create the Equine Research Account (Account), which uses a dedicated amount of wagering proceeds to fund equine research benefiting the horse racing and breeding industries. The Legislature charged the Director of Texas AgriLife Research, formerly known as the Texas Agricultural Experiment Station, to administer Account funds and also created the Equine Research Account Advisory Committee (Committee) to advise the Director during the research proposal and grant award process. Texas AgriLife Research is an independent agency within the Texas A&M University System and is located at Texas A&M University in College Station.

The Committee's primary role in overseeing Account funds is to select research priority topics and then review and recommend research funding. Statute requires Texas AgriLife Research to hold an annual conference showcasing racing-related equine research, using account funds to defray conference costs.

- ◆ The Committee recommends funding research topics based on the amount of money collected in the Account and the amount the Legislature appropriates for the Committee's use. However, for the past two Sessions the Legislature has not appropriated Account funds. Instead, Texas AgriLife Research gifted the Committee funds in the account equal to the revenue collected in the Account. In 2006, using money from Texas AgriLife Research, the Committee recommended funding four equine research proposals, which resulted in the Director awarding a total of \$90,470. Since its inception, the Committee has funded 36 grants totaling more than \$1.2 million, with individual grants averaging about \$20,000. Appendix B provides a detailed list of each of the projects funded since 1994, the first year the Committee awarded research funding.
- ◆ The Committee consists of 11 members, including representatives from various agricultural colleges in Texas and members of the horse breeding and racing industries. All members are appointed by Texas AgriLife Research's Director and serve two-year staggered terms. The textbox, shown on the following page, *Statutory Committee Membership Requirement*, details the Committee's membership requirements and the current members fulfilling each requirement. The Committee does not have a staff of its own, but relies on staff from the Director's Office of Texas AgriLife Research to provide administrative support.
- ◆ The research funding process begins with the Committee selecting priorities and distributing an open call for requests for proposals to all Texas colleges and universities that have a focus on equine research. Grant recipients must be affiliated with Texas colleges and university, although

The Legislature gave the Director of AgriLife Research ultimate authority to award equine research grants.

The Committee's recommendations have resulted in 36 funded research projects, totaling \$1.2 million in grants.

research teams may include partners from different Texas universities or even members who are located out of state. Applicants submit a completed proposal to the Director of Texas AgriLife Research. Agency staff review each proposal for completeness and then submit proposals for peer review, which provides additional subject-matter expertise. After the peer review is complete, the Committee holds a meeting to examine the proposals and peer review recommendations, and then recommends the award of funds.

Statutory Committee Membership Requirement

Two Committee Members – Members of the Institute for Equine Science and Technology and faculty members of the College of the Texas A&M University College of Agriculture and Life Sciences.

- ◆ Dr. Larry Boleman, Texas A&M University, College Station
- ◆ Dr. David Forrest, Texas A&M University, College Station

Two Committee Members – Members of the Institute for Equine Science and Technology and faculty members of the Texas A&M University College of Veterinary Medicine.

- ◆ Dr. Kent Carter, Texas A&M University, College Station
- ◆ Dr. Dickson Varner, Texas A&M University, College Station

Two Committee Members – Members must be affiliated with research organizations that have equine research capabilities.

- ◆ Dr. Don Henneke, Tarleton State University
- ◆ Dr. Heidi Brady, Texas Tech University

Five Committee Members – Members must be Texas residents and have a demonstrated interest in the horse racing and breeding industries, with one selected from a list of names submitted by each of the following associations:

- ◆ Texas Thoroughbred Association – Dr. Charles Graham, Elgin
- ◆ Texas Quarter Horse Association – Dr. Barry Thompson, West
- ◆ Texas Paint Horse Association – Lex Smurthwaite, Fort Worth
- ◆ Texas Appaloosa Horse Club – none
- ◆ Texas Arabian Breeders Association – Claudia Spears, Willis

Benefits of all equine research funded through the Committee are not clear.

- ◆ The Committee's limited resources and minimal administrative support result in insufficient performance review and analysis of research impact. While Committee members regularly interact with grant recipients and typically share informal knowledge about research results, the Committee does not always have direct knowledge or any concrete way to measure the success of all grants awarded. Committee members often rely on journal articles or racing industry publications to learn the outcome of seed projects funded through Committee recommendations. While some research outcomes funded by the Committee are touted within the racing industry, many of the research projects funded have unknown results outside Texas' universities.

*The impact of
funded research
is generally
unknown.*

- ◆ Texas' horse industry ranks as one of the top in the nation and has a significant impact on the State's economy. According to a 2005 report commissioned by the American Horse Council Foundation, nearly one million horses in Texas and nearly 500,000 Texans are involved in the horse industry. The horse industry estimates a \$3 billion impact on the Texas economy, of which the racing industry contributes about \$506 million.¹ Within the racing industry, race performance and animal safety are of the utmost importance to the industry's overall success. Given these factors, research that provides insight into keeping horses healthy and productive could be important to the State.

- ◆ Limited Equine Research Account funding leads to small-scale research projects. The Committee lacks the financial resources to provide significant funding for equine research. The Texas racing industry is declining, and because the Committee is funded at a level based on the total amount of wagers placed, the Equine Research Account's funding levels are also declining. Also, the Legislature has not appropriated Account funds for the past two biennia and Texas AgriLife Research funded grants at a lower level than the amount collected in the Account. As a result, according to the Committee, most grants fund short term projects or only provide enough resources for seed projects, which often require additional funding to complete the results. The Committee was not able to provide data or evaluations showing the impact of Committee-funded projects. In fact, in one year, the Committee funded the purchase of lab equipment instead of providing money for small projects.

Despite the potential for equine research, the Committee does not have a stable funding source. For the past two legislative sessions, the Legislature has not appropriated Equine Research Account funds. While the Committee continues to recommend grants and distribute funds, grant funds no longer come from the Account. Currently, Texas AgriLife Research gifts the Committee 100 percent of the grant money awarded and covers the minimal cost of administrative support. In total, Texas AgriLife Research has spent about \$165,000 plus administrative costs, during the past three years to support the Committee's work.

*Texas AgriLife
Research provided
funding for
the past two
grant cycles.*

- ◆ Although the Legislature intended Account funds to target racing-related equine issues, grants recently recommended by the Committee do not relate directly to the racing industry. For example, grant topics awarded in 2006 include stem cell research, research relating to overall equine health and fertility, and causes of West Nile Virus transmission in the Texas equine industry. According to Committee members, these research projects support the horse industry as a whole, and are thus applicable to a race horse and benefit the racing industry. Of the 36 projects funded to date, 30 were granted to individuals or research teams affiliated with Texas A&M University.

Texas does not need a separate committee to review and recommend equine research grants.

- ◆ While the Committee structure allows members of the racing industry to interact with equine researchers from various universities, the Committee does not have ultimate control over grant recipients or the amount of funding awarded to those recipients. The Legislature established the Committee to act in an advisory role and gave Texas AgriLife Research's Director the authority to actually administer grants. Statute also authorizes the Director to consult other academic experts when deciding which grant proposals to fund. Currently, Texas AgriLife Research's Director consults with Texas A&M University faculty members to review all grant proposals before the Committee review process. Committee members use this peer review information to make their grant award recommendations to the Executive Director.

The Committee also heavily relies on Texas AgriLife Research to complete its mission. Staff in the Director's office draft the requests for proposals, compile the submitted proposals, coordinate the peer review process, and act as a liaison between the Director and Committee members. In addition, staff plan the Committee's meetings, and the agency pays the cost of the meetings. As a result, the Committee's only functions are to set research priorities and review the peer review recommendations to provide additional insight. While these functions certainly incorporate another viewpoint – the racing industry's – these opinions can be obtained in other ways. Committee members see a value in using the Committee process as a forum for industry groups to discuss equine-related issues. However, a state created entity is not required for this discussion to occur.

- ◆ Texas AgriLife Research administers research programs without the regular use of advisory committees. In 2007, Texas AgriLife Research employed more than 425 doctoral-level scientists and operated on an annual budget of more than \$155 million. As part of its overall mission to support Texas agricultural research, the agency gathers input from many different stakeholder groups when awarding funding and has processes in place to ensure the proper use of funds research and verify outcomes. Also, as part of the Texas A&M University System the agency adheres to System-wide policies that prevent impropriety or a potential conflict of interest when funds are granted. As such, Texas AgriLife Research has a process in place to administer Equine Research Account Funds without the added advice of an Equine Research Account Advisory Committee.

Few entities fund equine research to benefit the horse racing industry.

- ◆ Texas offers more equine research grant opportunities than most states. According to Texas AgriLife Research, the Committee's funding level of about \$100,000 per biennium to Texas researchers, constitutes a significant

*The Committee
advises Texas
AgriLife directly
on which projects
to fund.*

*The AgriLife
Research
administers
other research
programs without
the need for
advisory bodies.*

amount of funding offered nationwide. Most of the other equine research funding offered is directly administered by universities in other states. For example, University of Florida, Louisiana State University, and the University of Kentucky all have equine research programs funded, at least partially by the pari-mutuel racing industry. However, none of these programs limit the research performed at these institutions to only that which impacts the racing industry. Beyond the funds granted by the Committee, the Texas A&M System also grants equine research in the College of Agriculture and Life Sciences and the College of Veterinary Medicine.

Recommendation

Change in Statute

4.1 Abolish the Equine Research Account Advisory Committee and continue Texas AgriLife Research's authority to expend appropriated Equine Research Account funds.

This recommendation would eliminate the Equine Research Account Advisory Committee from statute and continue Texas AgriLife Research's authority to expend appropriated Equine Research Account funds. In expending these funds, Texas AgriLife would use its existing research proposal review and award process, including involving subject-matter experts to evaluate proposals, when needed, and would adhere to Texas A&M University System conflict of interest provisions. Texas AgriLife Research would also be able to pair Equine Research Account funds with other agency revenue or funding sources to create larger funding pools for long-term research initiatives. Under this recommendation, Texas AgriLife Research would also use existing agency resources to communicate the impact of funded research projects to the racing industry, including the Texas Racing Commission.

Abolishing the Equine Research Account Advisory Committee would simplify the process for awarding grants to Texas' equine research community, while providing greater oversight of research projects funded using Equine Research Account funds. Using existing agency processes, Texas AgriLife research would also provide greater oversight of grants awarded. While, under this recommendation, Equine Research Account funds would be directly associated with the Texas A&M University System, other Texas university faculty would not be prohibited from partnering with A&M System faculty to receive funds, as is commonly done now.

Committee Response to 4.1

The Committee does not support this recommendation to abolish the Equine Research Account Advisory Committee (ERAAC). Committee members believe that abolishing the ERAAC would be very detrimental to the advancement of equine research in the state of Texas. Justification for the continuation of the ERAAC includes, but is not limited to, the following.

The current Committee structure is designed to ensure representation by a broad and diverse group, including the industry and academia. The Committee serves a valuable role in providing an inclusive approach to fostering research relating to the horse racing and breeding industries. The varying perspectives of the Committee members provide important expertise for submission and evaluation of research proposals.

Committee Response to 4.1 (continued)

Maintaining the Committee enhances prospects for funding to faculty outside the Texas A&M University System.

The Committee structure serves important functions in addition to the review and recommendation of funding equine research grants. The Committee serves as a conduit for the exchange of ideas and identification of equine research issues among faculty, the horse racing industry, breed associations, and horse breeders. Representatives from the Texas Racing Commission regularly attend Committee meetings and provide important insight into research priorities for the race horse industry.

Committee Modification

1. Provide for representatives from the Texas Racing Commission and other industry groups to serve as Committee members.

(David Forrest, Ph.D., Chair – Equine Research Account Advisory Committee)

Affected Agency Response to 4.1

Texas AgriLife Research is flexible on the recommendation. Although the agency has received great value from the Committee, especially when funds have been appropriated to the Equine Research Account, in defining priorities, communicating research impacts to the racing community, and providing guidance on funding allocations.

The agency appreciates the confidence placed in Texas AgriLife Research that the authority to expend Equine Research Account funds be continued. The agency understands that equine research is important to the State, which is why, as a result of the Legislature not appropriating Equine Research Account funds, Texas AgriLife has funded projects over the last two biennia.

If the Legislature chooses to abolish the Committee, Texas AgriLife Research is confident in its ability to continue fair and effective administration of the Equine Research Fund and would likely continue using a similar ad hoc external committee to provide input.

Texas AgriLife Research Modification

2. Increase the diversity of Committee members by adding members of the Texas Racing Commission and other industry groups.

(Mark A. Hussey, Ph.D., Director – Texas AgriLife Research)

Affected Agency Response to 4.1

The Texas Racing Commission agrees that the efforts of the Equine Research Account Advisory Committee have suffered in recent years. The Committee's opportunities to improve the health and safety of race horses in Texas have been diminished by the decline in the industry and by the Legislature's sweep of the pari-mutuel revenue dedicated to the purpose of equine research.

In the past two years, Racing Commission members increased their participation at the Committee level and found interaction with the Committee beneficial. The agency's Chief Veterinarian now attends the meetings regularly and has been communicating the need for scientific research to

Affected Agency Response to 4.1 (continued)

support the State's regulation and control of drugs and medications used in racing. Additional benefit came recently through the Committee at the national conference of state racing regulators, which focused its equine research forum on results of projects recently funded by the Equine Research Advisory Committee.

Although it appears from Sunset staff's review that the Committee does overlap with Texas AgriLife Research and that Texas AgriLife Research has significant resources to offer the equine research process, the current recommendation to blend the current Committee process into Texas AgriLife Research does not address all of the concerns cited by Sunset staff.

In addition, every effort should be made to restore the equine funding as intended by statute.

Texas Racing Commission Modification

3. Require equine research, funded through pari-mutuel revenue, to benefit the racing industry. Designate the Texas Racing Commission, representatives of the breed registries, and the official horsemen's organization to provide input into the research funding process. Direct Texas AgriLife Research in its assessment of the research conducted, a review of the impact on the racing industry. Require enhanced distribution of research results, including a report to the Texas Racing Commission and to the relevant legislative committees.

(Charla Ann King, Executive Director – Texas Racing Commission)

For 4.1

None received.

Against 4.1

Charles Graham, D.V.M. – Equine Research Account Advisory Committee, Elgin

David Hooper, Executive Director – Texas Thoroughbred Association, Austin

Modifications

4. Continue the Equine Research Account Advisory Committee, but provide for meaningful input on research projects and funding from each officially recognized state breed registry, the officially recognized horseman's representative, and the Texas Racing Commission. (David Hooper, Executive Director – Texas Thoroughbred Association, Austin)
5. Require Texas AgriLife Research to have an equine and greyhound research component to ensure adequate funding of research projects with representation within that component to include representatives from each officially state recognized state breed registry, the officially recognized horseman's representative, and the Texas Racing Commission. (David Hooper, Executive Director – Texas Thoroughbred Association, Austin)

Modifications (continued)

6. Establish a new equine research foundation comprised of representatives from each state breed registry, the officially recognized horseman's representative, and the Texas Racing Commission, plus distinguished researchers and veterinarians. (David Hooper, Executive Director – Texas Thoroughbred Association, Austin)

Staff Comment: The above modifications are intended to be separate alternatives to Recommendation 4.1 and should not be read together.

Fiscal Implication

This recommendation would not have a fiscal impact to the State. Texas AgriLife Research would administer any appropriated funds in the Equine Research Account and any savings in administrative costs would be used to fund additional research proposals.

Commission Decision

Adopted Recommendation 4.1.

Legislative Action

Senate Bill 2, 1st Called Session, 81st Legislature, continues the Equine Research Account Advisory Committee until 2011 and requires the Sunset Commission to focus its next review of the the Committee on the appropriateness of its previous recommendations to the 81st Legislature.

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¹ American Horse Council Foundation, *The Economic Impact of the Texas Horse Industry (2005)*, p.2.

ACROSS-THE-BOARD RECOMMENDATIONS



Texas Racing Commission

Recommendations	Across-the-Board Provisions
Already in Statute	1. Require public membership on the agency’s policymaking body.
Update	2. Require provisions relating to conflicts of interest.
Already in Statute	3. Require unbiased appointments to the agency’s policymaking body.
Already in Statute	4. Provide that the Governor designate the presiding officer of the policymaking body.
Already in Statute	5. Specify grounds for removal of a member of the policymaking body.
Already in Statute	6. Require training for members of the policymaking body.
Already in Statute	7. Require separation of policymaking and agency staff functions.
Already in Statute	8. Provide for public testimony at meetings of the policymaking body.
Already in Statute	9. Require information to be maintained on complaints.
Apply	10. Require the agency to use technology to increase public access.
Apply	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

Commission Decision



Adopted staff recommendations.

Legislative Action



The recommendations were not adopted, as S.B. 1013 failed to pass.

NEW ISSUES



New Issues

The following issues were raised in addition to the issues in the staff report. These issues are numbered sequentially to follow the staff's recommendations.

5. Require the Commission to provide venues for discussions of the economic health and development of the racing industry. (Charles L. "Sonny" Sowell, Commission Member – Texas Racing Commission)
6. Require the Commission to periodically issue a report on the racing industry's economic condition. (Charles L. "Sonny" Sowell, Commission Member – Texas Racing Commission)
7. Require the Commission to partner with the Texas Department of Agriculture, the Texas Economic Development and Tourism Office, Texas AgriLife Research, and any other state agency or college or university group charged with furthering economic development in Texas. (Charles L. "Sonny" Sowell, Commission Member – Texas Racing Commission)
8. Grant the Texas Racing Commission the authority to regulate and tax advance deposit and Internet wagering by Texas residents. (Andrea Young, Chief Operating Officer – Sam Houston Race Park, Houston)
9. Authorize off-track betting facilities in Ector County, Texas. (Kevin Corbett, Ector County)
10. Eliminate current statutory limitations which prevent track patrons from being able to withdraw more than \$200 from a checking or savings account. (Gregg Scoggins, D.V.M., J.D., National Director of Regulatory Affairs – Magna Entertainment Corporation, Ashland, Virginia)
11. Authorize the Texas Racing Commission to establish a program to review and promote economic development of the racing industry. The Commission would be authorized to:
 - ◆ Identify potential opportunities for racetrack associations and other industry organizations to promote the racing industry;
 - ◆ Work to encourage communication between industry organizations and racetrack license holders to improve the economic state of the racing industry; and
 - ◆ Coordinate meetings with industry representatives to discuss these recommendations to bring to the Legislature. (The Honorable Kenneth "Kim" Brimer, Member – Sunset Commission)

Commission Decision

Adopted New Issue 10.

Legislative Action



The statutory recommendation was not adopted, as S.B. 1013 failed to pass.

AGENCY INFORMATION

(MARCH 2008)



Agency Information

Agency at a Glance

The Texas Racing Commission (the Commission) regulates all aspects of horse and greyhound racing to protect the animals and participants involved in live racing, and to ensure the integrity of pari-mutuel wagering. The Legislature authorized pari-mutuel wagering on horse and greyhound races in 1986 by passing the Texas Racing Act, and establishing the Texas Racing Commission to oversee the racing industry and promote the economic and agricultural development of racing.

To accomplish its mission, the Commission:

- ◆ licenses racetrack facilities and all racing industry occupations;
- ◆ enforces the Texas Racing Act and establishes rules for racing conduct;
- ◆ allocates race dates and supervises licensee and animal conduct during live racing performances;
- ◆ oversees all pari-mutuel wagering activity, including wagers placed on simulcast races; and
- ◆ administers the Texas-bred Incentive Program.



Regulatory information for the industry and consumer information about pari-mutuel wagering and Texas racetracks is available on the Commission's website, www.txrc.state.tx.us.

Key Facts

- ◆ **Funding.** The Commission spent more than \$4.5 million for its operations in fiscal year 2007, all of which came from wagers, and racing-related fees and fines. In fiscal year 2007, the Commission also collected about \$5.2 million in dedicated, pass-through funds to administer the Accredited Texas-bred Incentive Program.
- ◆ **State Revenue.** In fiscal year 2007, the State received about \$4.3 million in pari-mutuel tax on simulcast wagers. The State did not receive any live racing pari-mutuel tax because none of the racetracks met the State's tax threshold of \$100 million in live racing revenue.
- ◆ **Texas Racetracks.** The Commission currently regulates five active horse racetracks and two active greyhound racetracks. The Commission also oversees six non-operational racetrack licenses.
- ◆ **Regulation.** The Commission currently employs a staff of 78, with 40 employees located at racetrack facilities throughout the state. These employees supervise live racing and oversee the more than 15,000 occupational licensees registered with the Commission. During fiscal year 2007, Commission staff resolved 586 disciplinary actions involving licensees.



Voters approved pari-mutuel racing in 1987 and Texas' first pari-mutuel racetrack opened two years later.

Major Events in Agency History


- 1986 The Legislature adopts the Texas Racing Act allowing, upon voter approval, pari-mutuel horse and greyhound racing, and creates the Texas Racing Commission to oversee the racing industry.
- 1987 Texas voters pass a statewide referendum to approve pari-mutuel wagering on live-racing events.
- 1988 The Texas Racing Commission holds its first meeting and begins the rulemaking process to define the rules of racing conduct.
- 1989 The Commission reviews 22 racetrack applications and approves 12 racetrack licenses. Texas' first pari-mutuel racetrack opens on October 6, 1989.
- 1995 The Commission undergoes its first Sunset review; however, the agency's Sunset bill fails to pass and the Legislature continues the Commission for an additional two years.
- 1997 Through the agency's Sunset bill, the Legislature eliminates the separate designated horse and greyhound commissioners, and unifies the Commission to oversee both industries. The bill focuses the Commission on effective regulation of the industry and removes references to promotion of the racing industry.

Organization

Policy Body

The Texas Racing Commission consists of seven members appointed by the Governor and confirmed by the Senate, and two voting ex officio members – the chair of the Texas Department of Public Safety and the Comptroller of Public Accounts, or their designees. The seven Governor-appointed members serve six-year terms and the ex officio members serve for the duration of their other office. Five of the seven Governor-appointed members represent the public and must have a general knowledge of business or agribusiness. Of the remaining two members, one must have a background in horse racing and one in greyhound racing. Additionally, one of the five public members may be a licensed veterinarian.

The Governor selects one of the five public members to serve as Chair. The table shown on the following page, *Texas Racing Commission*, identifies current Commission members. Generally, the Commission's main duties are to grant racetrack licenses, approve live racing dates, adopt rules to govern live racing, and hire the agency's Executive Director. The Commission meets at least six times per year, usually in Austin.



Seven commission members represent the horse and greyhound racing industries and the general public.

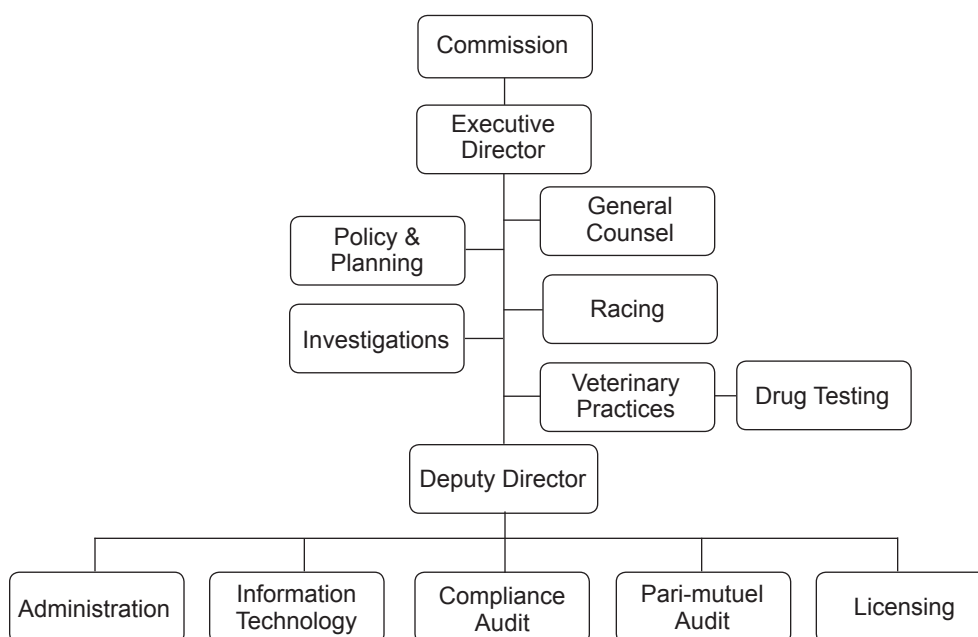
Texas Racing Commission

Member	City	Qualification	Term Expires
Jesse R. Adams Chair	Helotes	Public Member	2009
G. Kent Carter, D.V.M. Vice Chair	College Station	Public Member, Veterinarian	2009
Ronald F. Ederer	Fair Oaks Ranch	Background in Horse Racing	2013
Gloria Hicks	Corpus Christi	Public Member	2013
Rolando Pablos	San Antonio	Background in Greyhound Racing	2011
Robert Schmidt, M.D.	Fort Worth	Public Member	2011
Charles L. Sowell	Houston	Public Member	2009
Allan B. Polunsky	San Antonio	Ex Officio Public Safety Commission, Chair	N/A
The Honorable Susan Combs	Austin	Ex Officio Comptroller of Public Accounts	N/A

Staff

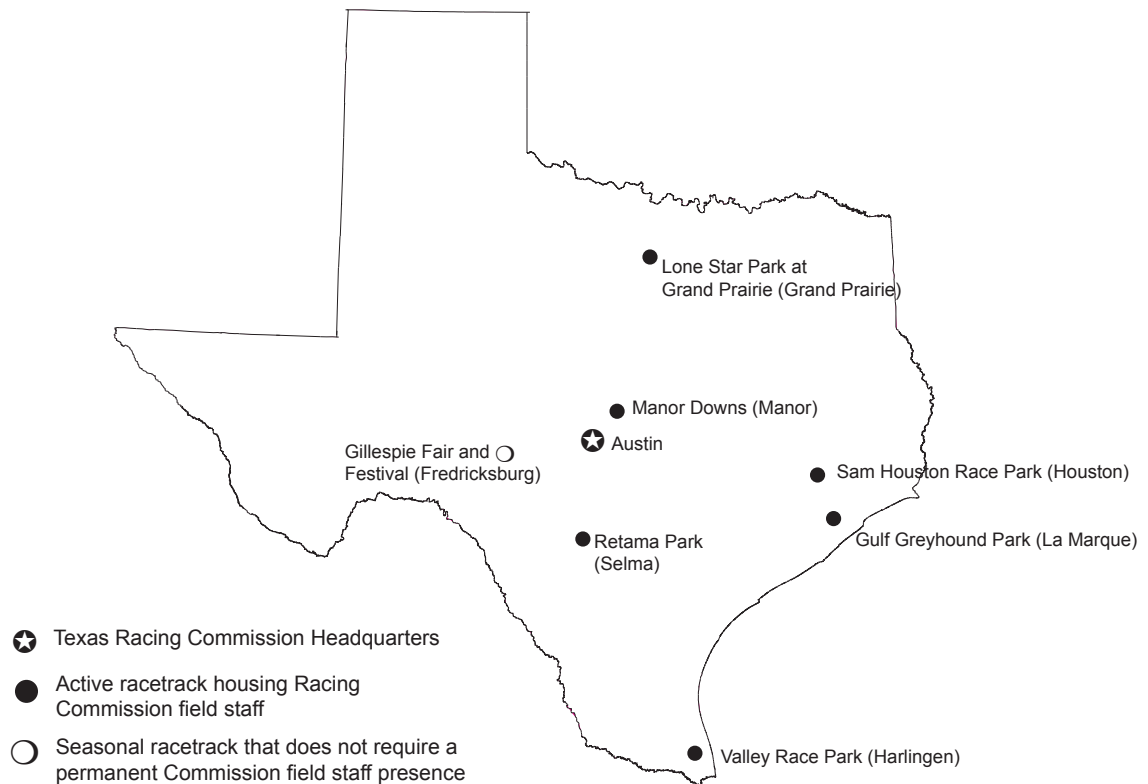
The Executive Director manages the agency’s day-to-day operations, with the help of the Deputy Director for Finance and Regulatory Control. The Commission is organized into five main departments – Racing, Investigations, Licensing, Pari-mutuel Audit, and Veterinary Practices – with several other departments providing support services. The *Texas Racing Commission Organizational Chart* depicts the structure of the agency.

Texas Racing Commission Organizational Chart



The Commission currently has a staff of 78 employees. Although based in Austin, the Commission maintains a significant presence statewide, with about 40 field staff located at the seven operational racetracks throughout the state. Agency field staff often fluctuate between working full- and part-time to provide necessary staffing and oversight during live race meets. Field staff perform on-site licensing, enforcement, and monitoring functions. The map, *Texas Racing Commission Field Staff*, shows the racetracks with agency field offices.

Texas Racing Commission Field Staff



Appendix C compares the agency’s workforce composition to the minority civilian workforce from fiscal years 2005 to 2007. Generally, the agency fell short of the civilian workforce standards, though it did exceed the percentages for female administration and female administrative support.

Funding

Revenues

The Commission’s fiscal year 2007 revenues totaled about \$10.3 million. The agency’s revenue primarily comes from fees assessed to racetracks and occupational licensees; however the Commission also receives additional

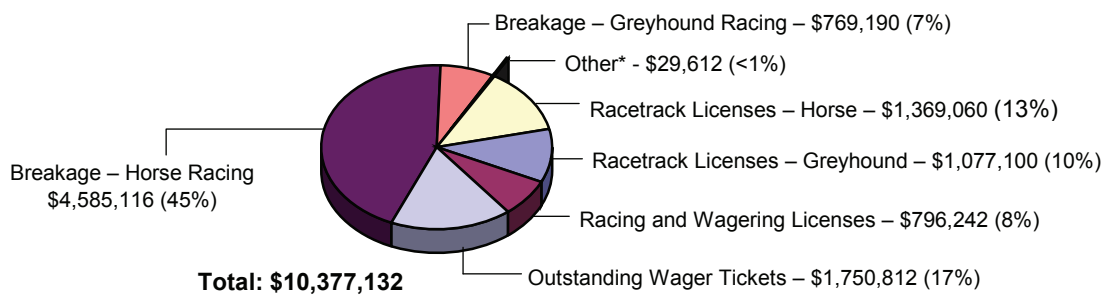
revenue collected from uncashed winning tickets, called “OUTs.” Until September 1, 2007, the agency received additional revenue from 50 percent of the total greyhound “breakage” – the amount left over after payoffs to winning ticket holders are rounded down to the nearest dime.

In addition to collecting fees that cover the cost of regulation, the Commission also collects money from each wager placed at a Texas racetrack for the Accredited Texas-bred Incentive Program. This program helps promote Texas-bred race animals by offering owners and breeders of winning race animals additional money. The Texas Racing Act provides for the Accredited Texas-bred Incentive Program’s funding stream with almost all of the total breakage from live, simulcast same-species, and simulcast cross-species handle; and a small percentage of exotic wagers from live, simulcast same-species, and simulcast cross-species handle. For a complete glossary of racing-related terminology, including multiple-two and multiple-three wagers, see Appendix D. The amount of money wagered at Texas racetracks directly determines the amount of Texas-bred Program funds. In fiscal year 2007, the Commission received about \$5.2 million in dedicated funding for the Texas-bred Program.

*More than half
of the agency’s
appropriation
passes through
to the Texas-
bred Program.*

The Commission’s revenue is deposited into a dedicated account in the General Revenue Fund. The chart, *Texas Racing Commission Sources of Revenue*, illustrates the amount of money generated to support the regulation of the racing industry and the Accredited Texas-bred Incentive Program. Any revenues not used during the first year of the biennium may be carried over to the following year.

**Texas Racing Commission Sources of Revenue
FY 2007**



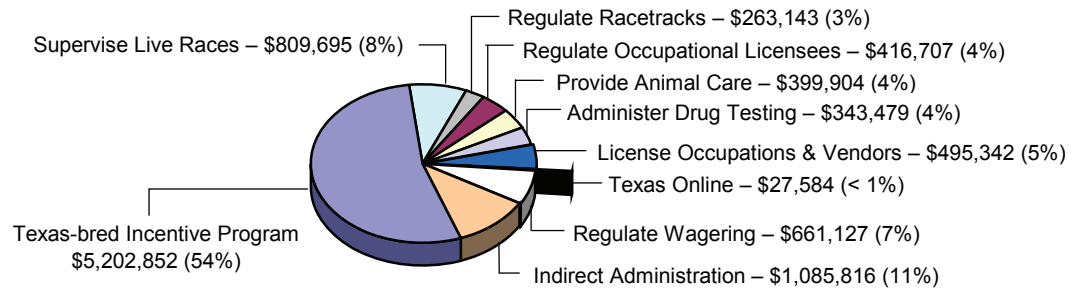
* Combines fees for copies or filing of records and third party reimbursements.

Expenditures

During fiscal year 2007, the Commission spent more than \$4.5 million in four main areas: live racing regulation, regulation of racing participants, regulation of pari-mutuel wagering, and agency administration. The Commission also distributed more than \$5.2 million amongst the statutorily defined breed associations as part of the Accredited Texas-bred Incentive Program. The

chart, *Texas Racing Commission Expenditures*, provides a breakdown of the Commission's expenditures in fiscal year 2007. The largest portion of the agency's budget went toward funding the Texas-bred Program.

Texas Racing Commission Expenditures FY 2007



Total: \$9,705,649

Appendix E describes the Commission's use of Historically Underutilized Businesses (HUBs) in purchasing goods and services for fiscal years 2004 to 2007. During the past four years, the agency exceeded the statewide goals for the professional services and commodities categories.

Texas' Racing Industry

The Legislature first legalized wagering on horse races in 1905, however four years later the State repealed this law and prohibited all forms of wagering. During the next 80 years, the Legislature again legalized and prohibited wagering, as shown in the textbox, *History of Pari-Mutuel Wagering in Texas*. Today the Racing Commission oversees seven active racetrack facilities. Thirty-nine other states also allow some type of pari-mutuel wagering.

History of Pari-Mutuel Wagering in Texas

- 1905 The Legislature legalizes wagering on horse races in Texas.
- 1909 The Legislature prohibits wagering on horse races.
- 1933 In an effort to raise tax revenue, the Legislature amends the appropriations bill to authorize pari-mutuel wagering on horse races.
- 1937 The Legislature again prohibits pari-mutuel wagering in Texas.
- 1986 The Legislature passes Senate Bill 15, the Texas Racing Act, contingent on voters passing a statewide referendum authorizing pari-mutuel wagering on greyhound and horse races in Texas, and creates the Texas Racing Commission to oversee the racing industry.
- 1987 Texas voters pass a statewide referendum to legalize pari-mutuel wagering on greyhound and horse races in the state.

Pari-Mutuel Wagering

Texas' horse and greyhound racetracks operate pari-mutuel wagering, a system of betting that gives winners a share of the money pooled by all betting participants. The textbox, *Types of Pari-Mutuel Wagers*, defines some of the most common pari-mutuel wagers offered at racetracks. Winning shares are determined by both the type of bet placed and the amount of money placed on the race. Although patrons at Texas racetracks are permitted to place bets on both live racing events and simulcast races – races held at one racetrack and broadcast to another racetrack – bettors must place all bets within a racetrack facility. Texas does not authorize any form of off-track betting.

Types of Pari-Mutuel Wagers

Win – A “win” wager is a bet that the bettor’s selection will finish first in a race.

Place – A “place” wager is a bet that the bettor’s selection will finish first or second in a race.

Show – A “show” wager is a bet that the bettor’s selection will finish first, second, or third in a race.

Exotic – Bets other than win, place, or show.

- ◆ Quinella – Winnings are collected if the bettor selects the first two finishers of a single race, finishing order does not matter.
- ◆ Exacta – Winnings are collected if the bettor picks the first two finishers of a single race in exact order of finish.
- ◆ Trifecta – Winnings are collected if the bettor selects the first three finishers of a single race in exact order of finish.
- ◆ Superfecta – Winnings are collected if the bettor picks the first four finishers of a single race in exact order of finish.
- ◆ Daily Double – Winnings are collected if the bettor selects the winner of two designated, consecutive races.
- ◆ Pick 3 – Winnings are collected if the bettor selects the winner of three designated, consecutive races.
- ◆ Pick 4 – Winnings are collected if the bettor selects the winner of four designated, consecutive races.

Money returned to winning bettors is called the “payoff,” and the portion set aside for the State, winning race entries (purses), the breeding industry, and the racetrack association is called the “takeout.” Each wager placed at a racetrack facility goes into a pool that generates money for winning payoffs, winning race entries, racetrack profits, the State, and in some cases, the breeding industry. Different wagering pools have different payoff and takeout amounts, and together these pools make up a racetrack’s handle. A racetrack’s handle represents the total amount bet on a particular race or at the racetrack during a given amount of time. For the definition of handle and other select racing terms, see Appendix E.

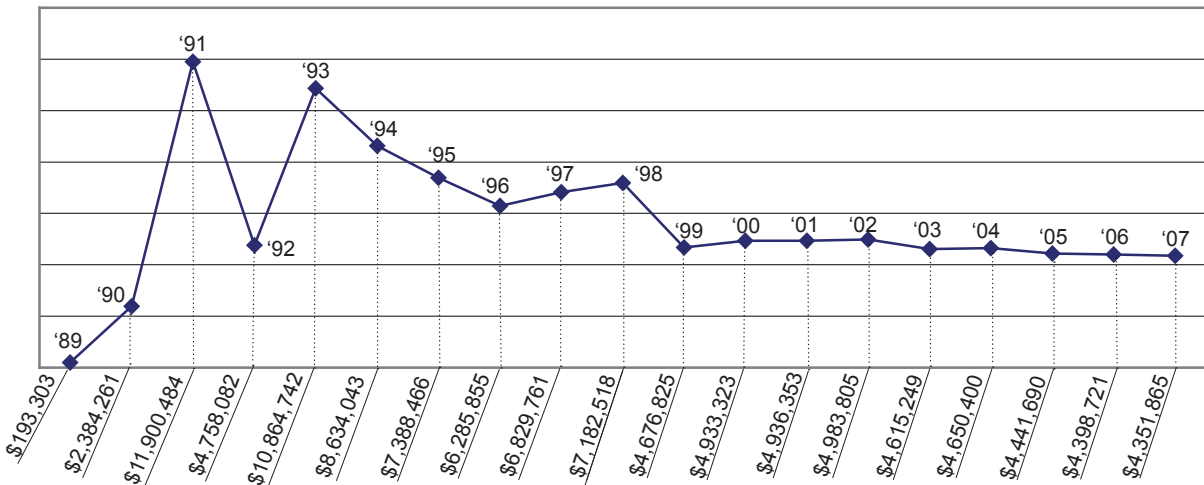
Both payoff and takeout percentages vary depending on the type of wager placed, however the Racing Act designates the takeout percentages for all bets placed on live racing events. While some takeout percentages for simulcast events are detailed in statute, other takeout components vary based on individual contracts between the racetrack providing the simulcast signal and the receiving racetrack. For a complete description of live racing and simulcast takeouts, see Appendix F.

State Tax Revenue

Pari-mutuel wagering generates revenue for the State through a pari-mutuel tax paid by each racetrack to the Comptroller of Public Accounts. The table, *Live Racing Pari-Mutuel Tax Rates*, details the State's pari-mutuel tax schedule for live racing events. During the past 19 years, the State collected more than \$49 million in pari-mutuel tax revenue from live racing events. The State also requires all racetracks to pay a 1 percent tax on same-species simulcast wagers and a 1.25 percent tax on all cross-species simulcast wagers, which the State began collecting in 1991. In total, the State has collected almost \$59 million in simulcast same-species and cross-species tax revenue. Today, the State only collects simulcast tax revenue because none of the Texas racetracks have met the live racing handle threshold since 1999. The graph, *State Pari-Mutuel Tax Receipts*, details the tax revenue generated by live and simulcast racing since 1989.

Live Racing Pari-Mutuel Tax Rates	
Total Handle	Tax Rate
\$100 million to \$200 million	1%
\$200 million to \$300 million	2%
\$300 million to \$400 million	3%
\$400 million to \$500 million	4%
\$500 million and more	5%

State Pari-Mutuel Tax Receipts 1989 – 2007



In addition to a state tax, local governments may collect a 15 cents-per-ticket fee on track admission fees. Currently, 10 local governments collect this fee for local entities, generating more than \$2.4 million in tax revenue during the past five years. The table, *Local Government Admissions Fee*, details each local entity and the amount that entity collected during the past five years.

**Local Government Admissions Fee
2003 – 2007**

Dallas County	\$478,141
Tarrant County	\$478,141
City of Grand Prairie	\$478,141
Harris County	\$342,862
City of La Marque	\$216,759
Galveston County	\$216,759
City of Selma	\$78,851
Bexar County	\$78,851
Nueces County	\$38,753
City of Corpus Christi	\$38,753
Total Revenue	\$2,446,011

Agency Operations

The Texas Racing Act charges the Texas Racing Commission with providing a safe and secure environment for race animals and participants, and ensuring the integrity of pari-mutuel wagering for the betting public. To accomplish this goal, the Commission licenses racetracks and occupations involved in racing, oversees live racing events, monitors and audits wagering, and performs drug testing on race animals to ensure they race free of prohibited substances. The Commission is also responsible for administering the Accredited Texas-bred Incentive Program to help promote the breeding of race animals in Texas.

Racetrack Licensing

To ensure the integrity of racetrack operations, the Commission licenses all racetracks where pari-mutuel wagering on horse and greyhound race events occurs. Racetrack licenses are divided into two categories: horse racetracks and greyhound racetracks. Horse racetracks are then further divided into classes one, two, three, and four. The Texas Racing Act prohibits the Commission from issuing more than three licenses for Class 1 horse racetracks or greyhound racetracks. The textbox, *Racetrack License Limitations*, further details the statutory limitations placed on Texas racetrack licenses.

Racetrack License Limitations

Horse racetracks – The Commission may issue four types of horse racetrack licenses.

Class 1: May have an unlimited number of race dates per year, but may only operate in a county with a population of more than 1.3 million, or in an adjacent county. Licenses are limited to three at any time.

Class 2: Is entitled to race 60 days per calendar year, but the number of licenses is not limited.

Class 3: May race no more than 16 days per calendar year and operates as a non-profit or county fair.

Class 4: May race no more than five days per calendar year and operates as a county fair.

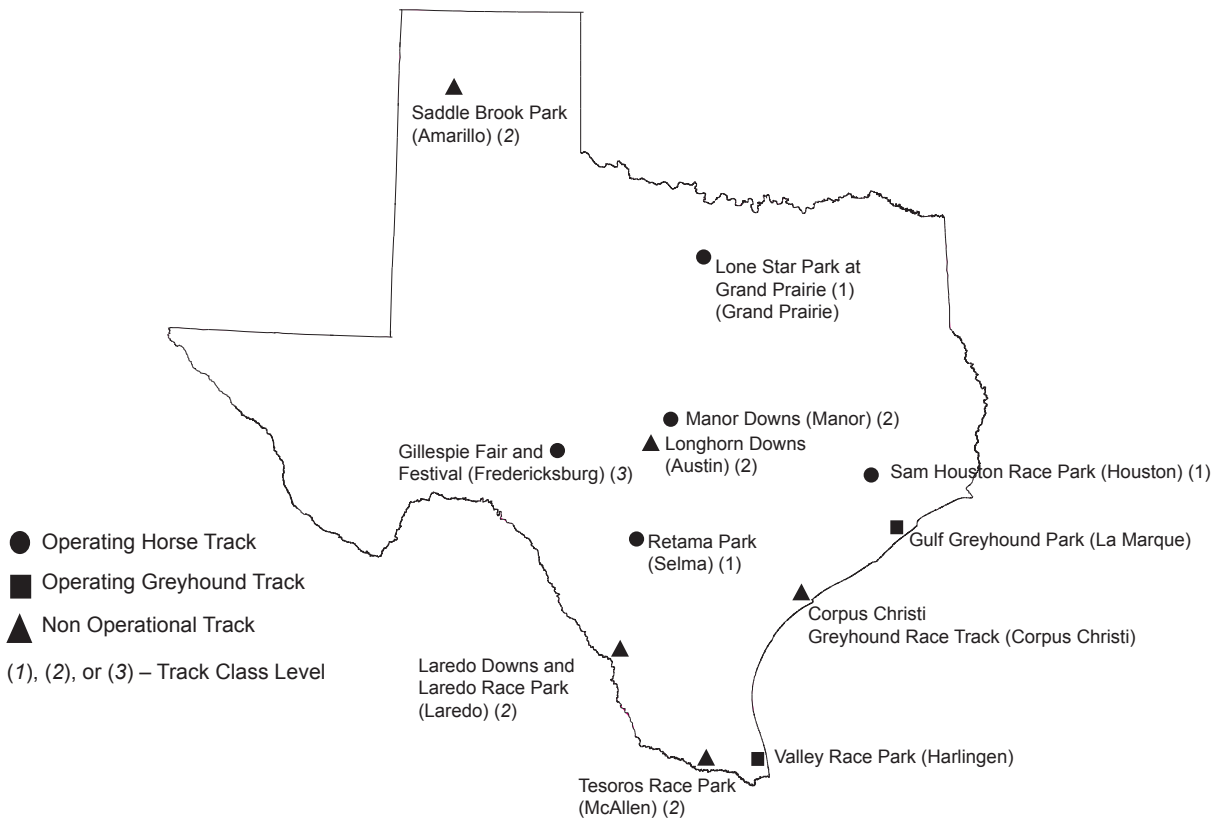
Greyhound racetracks – The Commission may only issue three greyhound racetrack licenses and each facility must be located in a coastal county.


The Commission recently approved three new Class 2 horse racetrack licenses.

Individuals seeking a racetrack license must request an open application period from the Commission and, once granted, applicants submit an application packet that includes detailed personal and financial information, a long-range business plan, proposed site locations, and vendor contracts. The Texas Department of Public Safety performs extensive criminal history investigations on all applicants. Once agency staff verify that each application contains all of the necessary information, staff review the pieces of the application for quality and feasibility. Staff then compile a summary report and bring that report and the request for licensure to the Commission. Staff spend about four months processing each racetrack application. The Commission may either grant the license or refer the application to the State Office of Administrative Hearings for a hearing. Once the Commission grants a racetrack license, agency staff oversee the design and construction process to ensure that the racetrack and other facilities meet Texas' standards.

The Commission approved three new racetrack licenses in 2007. The Commission received one request for an open application period during 2007, but this request was later withdrawn. The Commission currently oversees a total of 13 racetrack licensees – seven active racetracks and six inactive. The map, *Texas Racetrack Locations*, shows the location or proposed site of inactive racetracks and the locations of active racetracks. All of the current racetrack licenses are for Class 1, 2 3, or greyhound. In fact, the Commission has never received a Class 4 racetrack license application.

Texas Racetrack Locations



Racetrack Supervision

Once a racetrack is licensed, Commission staff perform regular inspections of the racetrack and other facilities to ensure the safety and security of the race animals, racing participants, and wagering public. Failure to maintain the racetrack or facilities can result in administrative penalties or suspension of race dates. The textbox, *Racetrack Inspection Activities*, details the steps each agency department takes to ensure that a racetrack is in the proper condition to host live racing events. Commission staff also supervise each race during live racing events. Commission racing officials monitor the quality and soundness of the racetrack and general conditions of the facility during a live racing meet.

Racetrack Inspection Activities

Various Commission departments perform the following tasks before a racetrack opens for live racing or during a greyhound race season to ensure that racetrack equipment and facilities are properly maintained.

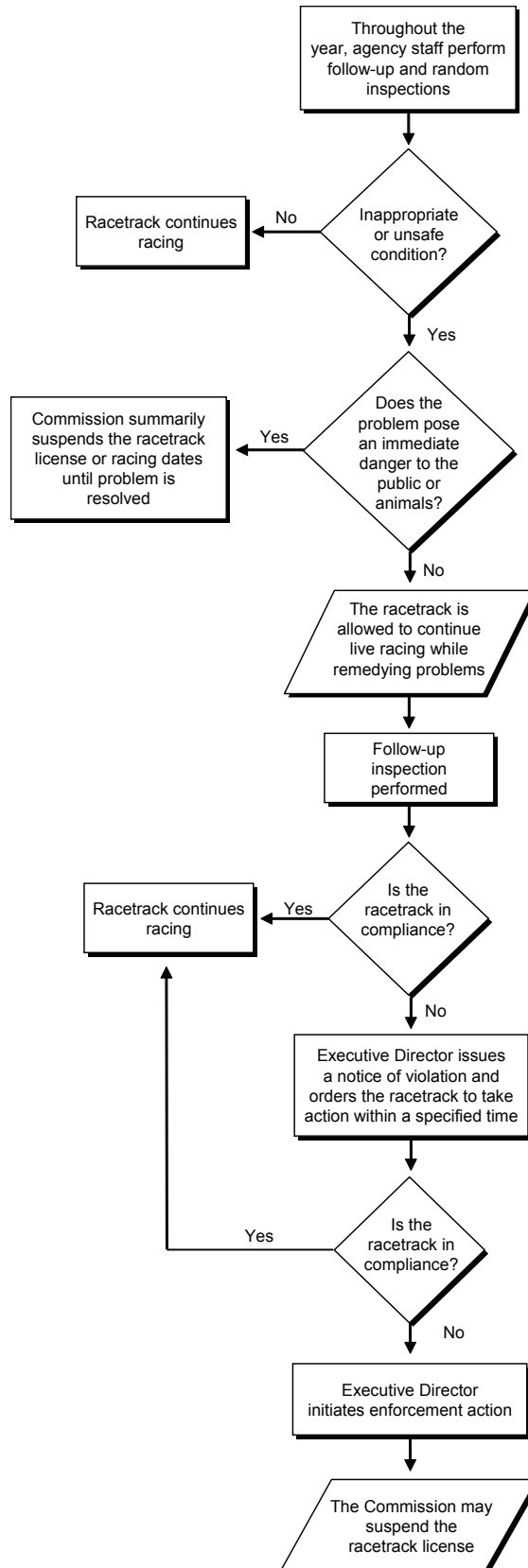
- ◆ Racing officials: internal communications system, public address system, photo-finish equipment, videotape equipment, race results display board, track surface, watering system, starting gates and boxes, and lure equipment.
- ◆ Investigations staff: complaint office, proper lighting, breathalyzer, security personnel, adequate stable and kennel area fencing, fire prevention requirements, and proper signage.
- ◆ Central office staff: designated non-smoking areas, the safety and cleanliness of all facilities, accommodations for disabled persons, properly posted public notices, parking facilities for licensees, automatic banking machines, records, and liability insurance.
- ◆ Veterinarians: Commission veterinarian's office and lab, effective insect control, clean and well-repaired animal facilities, exercise areas, the test area for the collection of specimens, and emergency care equipment and facilities.
- ◆ Pari-mutuel and auditing staff: office space for agency staff, the integrity of pari-mutuel wagering, daily pari-mutuel summary reports, explanations on wagering and wagering information, a plan for the posting of race results, copies of simulcast contracts, and prominently posted signs that describe the procedure for filing complaints.

In 2007, staff performed 62 new inspections. Staff discovered more than 60 items in need of immediate attention during 28 of the inspections. To verify racetrack management made the necessary repairs, agency staff completed another 33 follow-up inspections. When a violation is found, Commission staff typically resolve the matter with the racetrack on an informal basis. If the issue is not resolved, Commission staff follow the steps shown in the flow chart, *Racetrack Inspection Process*, on the following page.

Occupational Licensing and Enforcement

To ensure that only qualified people enter the racing industry and to protect against a breach in racing integrity, the Commission licenses all racing participants, including jockeys, and stable-area and kennel-area professions, like trainers, farriers, and kennel helpers and groomers. The Commission also licenses all employees and vendors of the racetrack, including pari-mutuel tellers, concession workers, parking attendants, and vendors delivering supplies. In total, the agency offers 53 different kinds of licenses. In fiscal year

Racetrack Inspection Process



2007, Commission staff issued 11,519 occupational licenses and 105 business licenses. Of the licenses issued, 4,735 were new licenses and 6,784 were renewed licenses. The 105 business licenses consisted of 26 kennel licenses and 79 vendor licenses. In total, the Commission oversees more than 15,000 licenses, some who are licensed for two or three year renewal terms.

The process for obtaining an occupational license shares some similarities across the different categories, such as criminal background checks and proof of identity. However, some occupations are also required to show ability in a practical or written exam, or both. The textbox, *Occupations With Exam Requirements*, details the licensee categories that are required to pass exams as a condition of licensure. For those occupations that do not require a proficiency exam, applicants are immediately licensed, but may be retroactively denied the license if the background check reveals a criminal history that relates to racing and is in violation of the Act or Commission Rules.

Occupations With Exam Requirements
◆ Apprentice Jockey – Practical exam only
◆ Assistant Horse Trainer – Practical and written exam
◆ Greyhound Trainer – Practical and written exam
◆ Horse Trainer or Trainer/Owner – Practical and written exam
◆ Jockey – Practical exam only
◆ Jockey Agent – Written exam only
◆ Exercise Rider/Pony Person – Practical exam only

Occupational licensing fees range from \$20 to \$75. The Act requires licensure fees be proportional to the comparative income of the various occupations. For a complete listing of occupational licenses offered and the associated fees, see Appendix G. Most licensees must renew their license on an annual basis. Every fifth year, the Commission requires an additional fingerprint background check at renewal.

Once licensees submit fingerprints and fulfill exam requirements, agency staff provide the licensee with a photo identification badge that grants access to various areas on the racetrack. For example, Commission staff issue concession vendors a badge that only allows access to non-restricted areas, while horse trainers receive a license that allows backside track access, which is considered a restricted area. Racetrack management and pari-mutuel staff are the only licensees granted access to the pari-mutuel wagering and money rooms.

Licensee Enforcement

Investigations field staff and racing officials provide an ongoing enforcement presence at each racetrack during live racing events and when simulcast wagering occurs. A team of investigators and racing officials – in horse racing, called stewards, and in greyhound racing, called judges – monitor occupational licensees to ensure compliance with the Act and the Commission’s rules.

The Commission employs commissioned peace officers who maintain a year-round enforcement presence at each racetrack. Investigators conduct unannounced racetrack facility inspections, investigate potential licensee violations on behalf of Commission race officials, perform weekly inspections of trainers quarters, cultivate leads on alleged violations, and provide an enforcement presence at each live race. Agency investigators work closely

*Commissioned
peace officers
provide oversight
of the agency’s
15,000 licensees.*

with the Texas Department of Public Safety when performing unannounced inspections of the racetrack's restricted areas. These inspections provide a way to look for contraband, such as drugs without prescription labels, firearms, and syringes. In 2007, investigators performed 125 compliance inspections, which resulted in 31 contraband cases.

When an investigator witnesses a suspected violation, a report is filed with Commission racing officials. These officials review the report and issue a notice of violation to the licensee if a violation occurred. Licensees can elect to have a hearing before the Commission's racing officials to review the investigator's findings. Racing officials may also issue a notice of violation without an investigator's report. For example, racing officials may file a notice of violation if a jockey causes interference during a live race. Racing officials referee all live racing events to watch licensee behavior and confirm the order of finish. In fiscal year 2007, investigators opened 293 cases for rule violations; and, the racing officials issued a total of 579 disciplinary rulings. These rulings resulted in four appeals to the State Office of Administrative Hearings, two of which were withdrawn and the remaining two are still pending. The flowchart on the following page, *Occupational Licensing and Enforcement Process*, gives a detailed view of the agency's licensing and enforcement processes for all occupational licensees.



*The Commission
also relies on
racing officials to
oversee licensee
conduct.*

Pari-mutuel Wagering Regulation

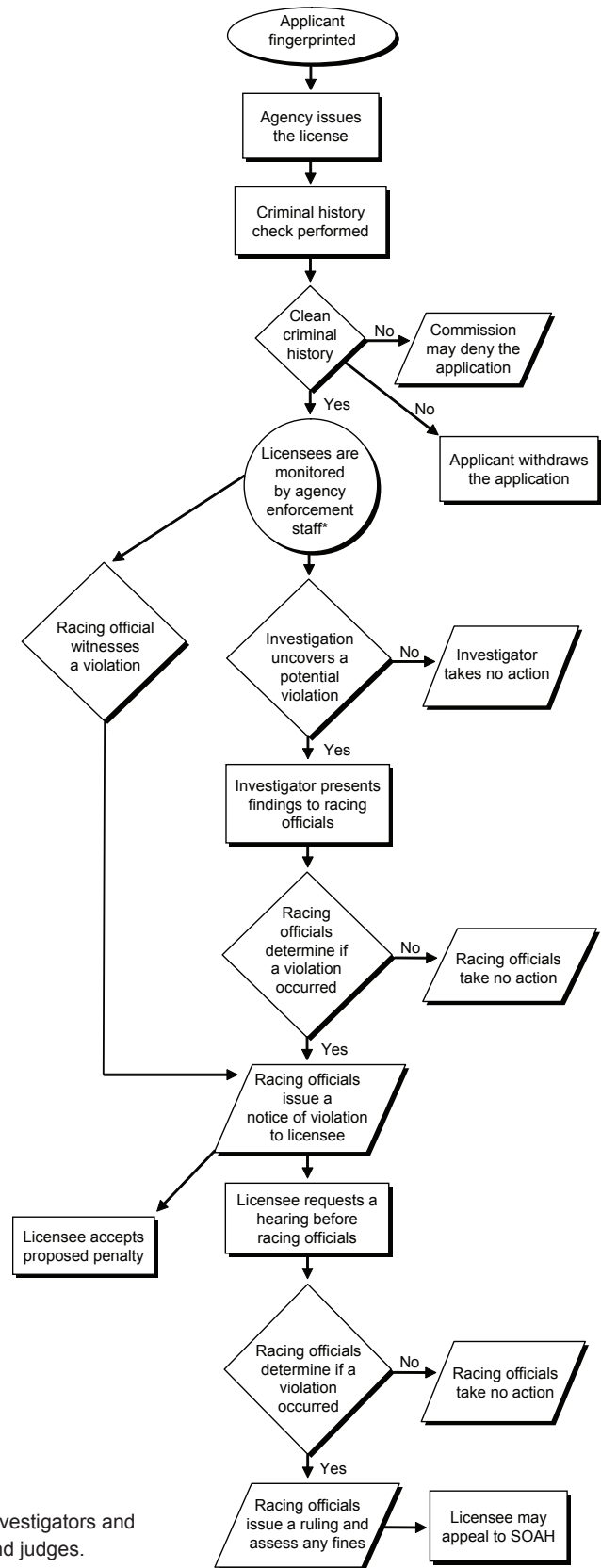
All members of the Texas racing industry depend on the money wagered at Texas racetracks. However, if winning bettors do not receive prompt and accurate payment, patrons may lose trust in the approved wagering systems. To safeguard against this problem, the Commission's pari-mutuel audit department regulates all wagering transactions at Texas racetracks. On a daily basis, the wagering department confirms wagering totals and payouts made by pari-mutuel tellers on all simulcast races and live racing events, as well as on wagers placed on exported simulcast events. The department also certifies the accuracy of each computer that keeps track of bets and calculates payoffs, by running random audits on the machines. In 2007, Commission staff audited more than 12,500 live races and more than 765,000 simulcast races to ensure proper collection of wagers and distribution of funds. In 2007, only 13 racetrack violations were filed by the Commission's Executive Director and all involved problems with simulcast contracts.

In addition, pari-mutuel auditors keep track of uncashed winning tickets, which are used to pay the cost of drug testing race animals and as an additional source of funding for the agency. Pari-mutuel auditors also make sure that each owner receives the correct share of the purse, and work with agency investigators to prevent illegal wagering on site. With the advent of new technology, the department is able to track when, where, and at what terminal each bet was made to better monitor any attempts at illegal wagering. Finally, auditing staff also review all simulcast contracts, both importing signals and exporting, for compliance with state racing laws and federal interstate racing laws. Commission auditors reviewed nearly 2,000 simulcast contracts in 2007.



*Commission
auditors
provide on-site
enforcement of
each racetrack's
wagering systems.*

Occupational Licensing and Enforcement Process



*Enforcement staff include investigators and racing officials – stewards and judges.

Commission veterinarians ensure that animals are fit to race and provide emergency care to injured animals.

Veterinary Care and Drug Testing

Before each live racing event, Commission veterinarians perform a pre-race examination on all animals slated to race in the day's events. Veterinarians look for muscle weakness and tenderness, which indicates either a current injury or the potential for an injury while racing. Based on their professional opinion, Commission veterinarians have the authority to remove animals from the race if they feel that an animal is in danger of injuring itself or others. Last year, Commission veterinarians performed 77,014 pre-race examinations on racing greyhounds and 26,652 pre-race examinations on horses. By performing these examinations, the Commission helps ensure not only that race animals are well-taken care of and less susceptible to injury, but also that wagers are placed on sound animals. Commission veterinarians also provide emergency care to animals injured during a race.

To further protect the integrity of wagering, agency staff tests winning race animals to ensure they did not place in a race with the aid of a prohibited substance. Commission field staff use a strict protocol for the collecting of drug testing samples. At each track, an agency veterinarian oversees the collection of blood and urine samples from the race animals. Generally, the winning and second place animals from each race are tested. All drug samples are then sent to the Texas Veterinary Medical Diagnostic Laboratory at Texas A&M University in College Station for processing.

Horse and greyhound trainers are ultimately responsible for the condition of the race animal, regardless of who administered the prohibited substance. As such, trainers are subject to administrative penalties whenever a horse or greyhound tests positive for a prohibited substance. Texas is a zero-tolerance state for greyhounds, which means that no drugs at any dosage may be found in the greyhound's urine. However, horses are allowed to race with therapeutic levels of two different drugs.

Only 3 percent of the more than 27,000 race animal drug tests were positive for prohibited substances.

If a race animal tests positive, a board of racing officials decide what action to take against the trainer and owner. In fiscal year 2007, the agency collected 15,428 greyhound urine samples, and 6,032 equine urine and 6,344 equine blood samples. Out of all tests performed, only 21 drug positives were found in greyhounds and 18 drug positives in horses. For both types of race animals, none of the positives found were Class 1 substances, the most potent and most dangerous to the animal.

In 2006, the Commission also began a new testing process that evaluates the carbon dioxide levels in a racehorse to detect bicarbonate, which decreases lactic acid build-up in muscles and potentially increases racing performance. Agency staff performed 2,599 total carbon dioxide tests in 2007, with no violations found.

Accredited Texas-Bred Incentive Program

The Accredited Texas-bred Incentive Program encourages Texans to breed race animals by supplementing purses and by offering monetary awards to breeders, as well as special stakes races for Texas-bred animals. Funding for

the Texas-bred greyhound program comes from 50 percent of the total breakage – the amount leftover after every payoff is rounded down to the nearest dime – from all live and simulcast wagers, and from a percentage of the exotic wagers, which are bets placed on combinations of horses or greyhounds to finish in a certain order. The Texas-bred horse program awards money using breakage from all pari-mutuels pools and, like the greyhound awards, 1 percent of exotic wagers. The Commission’s pari-mutuel audit division is responsible for ensuring that each breed registry receives the correct allocation.

The Texas Racing Act defines which breed registries in the state are eligible for Texas-bred Program funds. The textbox, *Texas Breed Registries*, provides a full list of Texas breed registries. Horse organizations receive funds from the Commission and distribute the funds as purse supplements to each owner and breeder of Texas-bred horses that finish in the top three at a Texas race.

- Texas Breed Registries***
- ◆ Texas Greyhound Association
 - ◆ Texas Appaloosa Horse Club
 - ◆ Texas Arabian Breeders Association
 - ◆ Texas Paint Horse Breeders Association
 - ◆ Texas Quarter Horse Association
 - ◆ Texas Thoroughbred Association

The Texas Greyhound Association distributes 50 percent of the collected money to stakes races and 50 percent to the owners of all winning Texas-bred greyhounds racing in Texas. Additionally, the Texas Greyhound Association sets aside 2 percent of the breakage received to provide grants for rehabilitating and locating homes for retired racers. The table, *Accredited Texas-Bred Funds*, details the amount of funds the agency distributed during 2007.

Accredited Texas-Bred Funds – 2007

Breed Registry	Amount Awarded
Texas Thoroughbred Association	\$2,964,612
Texas Quarter Horse Association	\$1,388,188
Texas Greyhound Association	\$634,675
Texas-bred Stakes Race Supplements	\$162,687
Texas Arabian Breeders Association	\$41,444
Texas Paint Horse Breeders Association	\$22,613
Texas Appaloosa Horse Club	\$0
Total	\$5,214,219

COMMITTEE INFORMATION

(MARCH 2008)



Committee Information

Committee at a Glance

The Equine Research Account Advisory Committee (Committee) helps address the informational needs of the equine breeding and racing industries by recommending funding for equine research at Texas universities. In 1991, the Legislature amended the Texas Racing Act to dedicate a small amount of horse-racing wagers for equine research. These funds are deposited into the Equine Research Account, which is administered by the Director of Texas AgriLife Research, a system agency part of the Texas A&M University System and formerly known as the Texas Agricultural Experiment Station. The Committee, also created in 1991, provides subject matter expertise to AgriLife Research's Director when making grant decisions. To accomplish its mission, the Committee sets grant topics, reviews grant proposals, and recommends grant awards. The Committee is also statutorily charged with holding an annual conference on relevant equine research topics.

Key Facts

- ◆ **Funding.** In fiscal year 2006, Texas AgriLife Research gifted the Committee more than \$90,000 to award equine research grants.
- ◆ **Staffing.** Texas AgriLife Research provides administrative support to the Committee.
- ◆ **Research Grants.** Since its inception, the Committee has recommended awarding funding to 36 research projects, totaling \$1.2 million.
- ◆ **Equine Research Conferences.** The Committee has not held a conference on equine research in the past five years. However, the Committee plans to hold a jointly sponsored conference with other organizations.

*Since its inception,
the Committee has
recommended funding
36 grants, totaling
\$1.2 million.*

Major Events in Committee History

- 1991 The Legislature amends the Texas Racing Act, dedicating a portion of pari-mutuel wagers placed on horse races to fund the Equine Research Account, and creates the Equine Research Account Advisory Committee to advise how the funds should be awarded.
- 2005 The Equine Research Account loses its statutory source of funding, and Texas AgriLife Research gifts money to award research grant proposals during fiscal year 2006. Texas AgriLife Research has promised continued funding for equine research through fiscal year 2009.

Organization

Advisory Body and Staff



*The Committee
relies on Texas
AgriLife staff
to help plan
meetings and
review research
proposals.*

The Equine Research Account Advisory Committee consists of 11 members that represent the horse industry and academia. Of the members, four must be faculty from Texas A&M University – two from the College of Agriculture and Life Sciences and two from the College of Veterinary Medicine. Two members must also be affiliated with research organizations that have equine research capabilities. The remaining five members must be Texas residents who have a demonstrated interest in the horse racing and breeding industries, with one of the five selected from a nominee of a major horse association.

Texas AgriLife Research’s Executive Director selects all Committee members and also makes the final decisions when awarding grants. The table, *Equine Research Account Advisory Committee*, identifies current Committee members. Committee members serve two-year, staggered terms. Committee members select one member to serve as the presiding officer. The Committee typically meets twice per year in College Station – once in February to discuss and select grant topics, and once in August to review and recommend grant funding. All members serve without reimbursement or travel compensation. Texas AgriLife Research staff provide administrative support to the Committee, such as help planning Committee meetings and assisting in gathering research proposals.

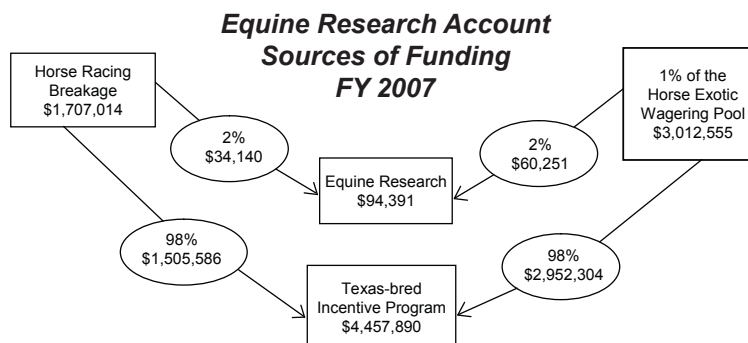
Equine Research Account Advisory Committee

Member	City	Qualification	Term Expires
David Forrest, Ph.D. Chair	College Station	Faculty Member College of Agriculture & Life Sciences	2009
Larry Boleman, Ph.D.	College Station	Faculty Member College of Agriculture & Life Sciences	2008
Heidi Brady, Ph.D.	Lubbock	Equine Research Representative	2008
G. Kent Carter, D.V.M.	College Station	Faculty Member College of Veterinary Medicine	2009
Charles Graham, D.V.M.	Elgin	Industry Representative	2008
Don Henneke, Ph.D.	Stephenville	Equine Research Representative	2008
Lex Smurthwaite	Fort Worth	Industry Representative	2008
Claudia Spears	Willis	Industry Representative	2009
Barry Thompson, Ph.D.	West	Industry Representative	2008
Dickson Varner, D.V.M.	College Station	Faculty Member College of Veterinary Medicine	2008

Funding

Revenues

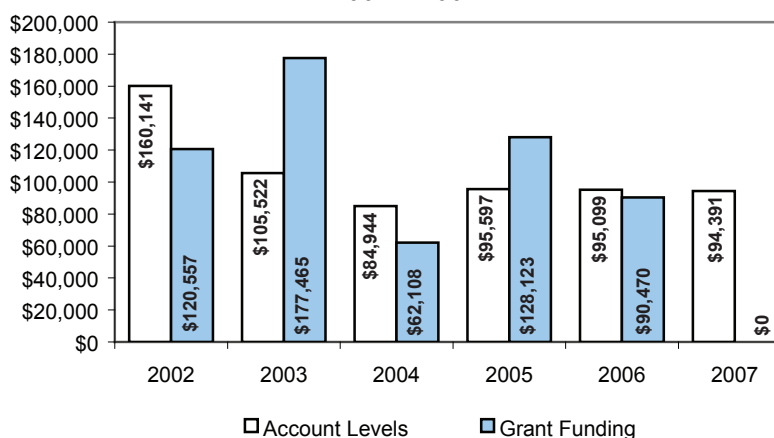
Statute dedicates money wagered on pari-mutuel horse racing to fund the Equine Research Account. The chart, *Equine Research Account Sources of Funding*, shows the revenue flow from pari-mutuel wagers placed on Texas horse races into the Account during fiscal year 2007. Revenues collected in the Account are appropriated by the Legislature for the following calendar year.



The Accredited Texas-bred Program, which supplements race purses and provides other financial incentives for horses bred and raced in Texas, also shares the same funding stream, but receives a larger percentage of wagering dollars. One percent of the exotic wagering pool – the bets other than a typical Win, Place or Show – is dedicated to the horse breeding and racing industry. Only 2 percent of these dedicated funds go toward equine research. The Equine Research Account also receives 2 percent of total horse breakage – the amount left over after payoffs to winning ticket holders are rounded down to the nearest dime.

Since 2005, the Legislature has not appropriated Equine Research Account funds. As a result, Texas AgriLife Research provided agency funds to award equine research proposals. The chart, *Equine Research Account Levels and Funding*, shows the amount of money deposited in the Equine Research Account during the past six years, and the total amount of funding granted each year. In 2006, however, because the Committee did not have access to Account funds, Texas AgriLife Research gifted money to award grants at a similar level as the amount collected in the Equine Research Account. Texas AgriLife Research did not gift any additional funds in 2007. The agency’s Director pledged to fund the Committee’s work during fiscal years 2008 and 2009 – at \$75,000 and \$50,000 – but has not committed funding beyond that time period.

**Equine Research Account Levels and Funding
2002 – 2007**



Expenditures

In 2006, the most recent year available, the Committee recommended, and Texas AgriLife Research's Director approved, funding for four research proposals at a total of \$90,470. These projects, their grantees, and academic institutions are listed in the textbox, *Funded Equine Research Projects*. The Committee did not recommend funding any research proposals during 2007 because of a lack of funding. However, some of the awards made during fiscal year 2006 did carry over into fiscal year 2007. In reviewing research proposals, the Committee often relies on a peer review process to help make funding recommendations. During fiscal year 2006, the Committee used three outside reviewers to evaluate submitted proposals, at no cost to the agency or Committee funds. Statute also requires the Committee to host an annual conference on equine research, however the last conference took place in 2002. The Committee does plan to host a conference during 2008, however expenses are not yet determined.

Funded Equine Research Projects

Whole Genome eDNA Microarray for Improved Equine Health and Fertility
by Dr. Bhanu Chowdhary, Texas A&M University – Veterinary Integrative Biosciences – \$26,540

Establishment of Embryonic Stem Cells in the Horse
by Dr. Katrin Henrichs, Texas A&M University – Veterinary Physiology and Pharmacology – \$22,100

Causes of Hyperendemic West Nile Virus Transmission in the Texas Equine Industry
by Dr. Michael Ward, Texas A&M University – Veterinary Integrative Biosciences – \$22,100

Bioinformatics Support for Equine Genomics
by Dr. David Adelson, Texas A&M University – Animal Science – \$19,730

While Texas AgriLife Research provides administrative support to the Committee and hosts bi-annual meetings, these costs come from the agency's administrative budget and do not affect money used to fund research proposals. Statute requires that less than 10 percent of the Account funds collected go toward the Committee's administrative support, if Equine Research Account funds are used to award research grants.

Committee Operations

The Committee advises and assists Texas AgriLife Research's Director in administering the Equine Research Account. Specifically, the Committee helps determine what areas of research and which equine research projects to fund using Account funds. These research projects have included topics that focus on health, nutrition, and breeding issues in the equine racing industry. The Committee has also recommended grants to purchase additional laboratory equipment for various academic research departments.

Each year, the Committee sets a priority for the upcoming grant proposal process. This year's request was extended to all aspects of equine research

that relate to the horse racing industry. Although not specifically stated in the request for proposal, the Committee also made an effort to contact researchers who specialize in drug testing equine athletes. Applicants for research grants must be affiliated with a Texas-based institution of higher education, although oftentimes research teams may include partners that are from out-of-state colleges or universities. Once the Committee identifies priority topics, requests for proposal are distributed to all Texas colleges and universities that have a focus on equine research. Applicants submit the completed proposal to the Director of Texas AgriLife Research.

Agency staff review all submitted proposals and solicit individuals who have subject-matter expertise in the given topic to review the proposals. Reviewers may be internal or external to the Texas A&M University System. The Committee meets in an open meeting to review the proposals and peer review recommendations and then recommend the final decisions to award funds. Committee members are not prohibited from submitting requests for grant money, but if they do so are prohibited from participating in that year's proposal review. Grants awarded by the Committee are not typically restricted in any way, but they may not be used to defray an institution's operating costs or to replace funds that would have been received from another source. While some grant recipients go before the Committee to share preliminary data or research findings, the Committee does not have a standard method for evaluating the impact of all funded research projects.



*Grant applicants
must be affiliated
with Texas higher
education.*

APPENDICES



Appendix A

Texas Racing Industry Performance 1989 – 2007

The table below details racetrack revenues and other indicators of industry success since Texas' first racetrack opened in 1989. Overall, the racing industry has experienced a steady decline during the past 19 years. For example, attendance at Texas' racetracks has decreased nearly 41 percent since its peak in 1993, and during that same timeframe, live handle decreased by more than 82 percent. As a result of decreased wagering, state pari-mutuel tax and the amount of purses paid to winning race entries has also declined.

Year	Number of Racetracks	Live Handle/ Live Race Dates	Simulcast Handle/ Number of Signals Taken	Total Handle	Total Attendance	State Pari-Mutuel Tax	Total Purses Paid
1989*	1	\$366,059 24	N/A	\$3,800,000	51,760	\$193,302	N/A
1990	5	\$44,999,387 225	N/A	\$44,999,387	560,722	\$2,384,261	\$3,054,354
1991	6	\$262,107,332 1,158	\$1,079,138 3 days**	\$263,768,178	2,480,941	\$11,900,421	\$16,239,026
1992	7	\$296,107,332 1,340	\$24,673,726 292 days**	\$320,781,058	2,733,950	\$4,758,083	\$23,928,460
1993	7	\$437,444,294 1,689	\$72,501,554 760 days**	\$509,945,848	3,853,785	\$10,864,563	\$33,231,422
1994	8	\$354,817,092 1,846	\$164,621,820 2,077 days**	\$519,438,912	3,772,317	\$8,633,684	\$39,402,952
1995	9	\$262,654,405 1,686	\$258,840,661 10,835	\$521,495,066	3,534,208	\$7,386,299	\$36,544,986
1996	8	\$171,798,417 1,264	\$335,472,828 15,490	\$507,271,245	3,036,702	\$6,285,622	\$30,575,571
1997	7	\$204,470,138 1,294	\$377,322,976 19,736	\$581,793,114	3,510,281	\$6,815,182	\$41,822,609
1998	7	\$186,298,579 1,256	\$434,277,050 28,287	\$620,575,629	3,508,490	\$9,353,898	\$46,607,818
1999	7	\$172,397,736 1,272	\$451,928,576 35,802	\$624,326,312	3,375,588	\$4,676,860	\$48,170,585
2000	8	\$157,839,705 1,285	\$475,868,631 44,980	\$633,708,336	3,307,714	\$4,933,323	\$51,768,317
2001	8	\$146,527,915 1,354	\$473,486,206 54,821	\$620,014,121	3,191,420	\$4,936,353	\$50,806,825
2002	8	\$131,282,149 1,365	\$477,657,907 58,800	\$608,940,056	3,052,598	\$4,982,805	\$52,307,192
2003	8	\$114,414,754 1,395	\$443,112,863 64,036	\$557,527,617	2,862,501	\$4,615,249	\$47,114,548

Appendix A

Year	Number of Racetracks	Live Handle/ Live Race Dates	Simulcast Handle/ Number of Signals Taken	Total Handle	Total Attendance	State Pari-Mutuel Tax	Total Purses Paid
2004	8	\$117,674,166 1,352	\$446,623,183 66,542	\$564,297,349	2,783,720	\$4,650,399	\$58,168,384
2005	8	\$89,095,132 1,228	\$425,979,354 64,022	\$515,074,486	2,432,071	\$4,441,690	\$44,085,864
2006	8	\$82,985,634 1,298	\$421,247,936 67,118	\$504,233,570	2,361,397	\$4,398,721	\$43,524,681
2007	8	\$74,989,502 1,255	\$417,210,488 67,727	\$492,199,990	2,276,747	\$4,351,865	\$41,664,542

* G. Rollie White Downs, in Brady, Texas, was the first racetrack to open in Texas. The racetrack conducted 265 races in 1989, with at least \$193,302 paid to purses, however the exact amount of purses paid is unknown.

** In 2004, Lone Star Park at Grand Prairie hosted the Breeders' Cup races, resulting in a unique, positive impact on live and simulcast handle and attendance rates, as well as other associated outcomes, such as the amount of purses offered.

*** Before 1995, the Commission only tracked the total number of days racetracks took simulcast signals, instead of the total number of signals taken, which the Commission now tracks.

Appendix B

Research Projects Funded by the Equine Research Account Advisory Committee

Research Project Funded	Principal Researcher	Academic Affiliation	Amount Funded														
			1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006		
Immunobiology of the Race Horse	Melissa Hower	Texas Tech University Animal & Food Sciences	\$5,550														
An Epidemiologic Study of Musculoskeletal Injuries in Racing Thoroughbred Horses	Noah Cohen	Texas A&M University Large Animal Clinical Sciences	\$21,794	\$17,819													
An Economic Analysis of Texas Horse Racing in an Evolving Gaming Industry	Lonnie Jones	Texas A&M University Agricultural Economics	\$21,515	\$17,540													
Mineral Balance and the Bone Remodeling Process in Young Horses in Training	Gary Potter	Texas A&M University Animal Science	\$21,596	\$17,819													
Cohort Study of Musculoskeletal Injuries in Racing Thoroughbred Horses: Risk Assessment and Risk Management Based on Findings of Pre-Race Physical Examination	Noah Cohen	Texas A&M University Large Animal Clinical Sciences		\$23,584	\$22,784												
DNA Markers for Genetic Typing in Horses	Loren Skow	Texas A&M University Veterinary Integrative Biosciences		\$25,000	\$25,000												
Effects of Commonly-Used Progestagen on Behavior and Reproductive Function of Stallions	Dickson Varner	Texas A&M University Large Animal Clinical Sciences		\$25,000	\$24,800												
Persistent Endometritis and Myometrial Dysfunction in Mares	Robert Burghardt	Texas A&M University Veterinary Integrative Biosciences			\$23,800				\$24,100								
Anchored Microsatellite Markers for a Comparative Genetic Map of the Horse	Loren Skow	Texas A&M University Veterinary Integrative Biosciences			\$25,000				\$25,000								
Regulation of Furosemide (Lasix®): Relationship of Furosemide Administration and Plasma Concentration with Urine Specific Gravity in Thoroughbred Racehorses	Noah Cohen	Texas A&M University Large Animal Clinical Sciences							\$11,287								
Reduced Uterine Muscle Contractility in Mares Susceptible to Persistent, Post-Mating Endometritis - Is there a Structural Component to the Contractile Defect?	Sherri Rigby	Texas A&M University Large Animal Clinical Sciences							\$10,800	\$4,000							
Sequences and Cytokine of Equine Infectious Anemia Virus Strains in Texas	Judith Ball	Texas A&M University Veterinary Pathobiology							\$15,360	\$10,640							
The Effects of Ascophyllum nodosum on Transport Stress in Horses	Heidi Brady	Texas Tech University Animal & Food Sciences							\$24,593	\$22,949							

Appendix B

Research Projects Funded by the Equine Research Account Advisory Committee

Research Project Funded	Principal Researcher	Academic Affiliation	Amount Funded														
			1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006		
Comparative Genomics of the Horse: Mapping Functional Genes in Horse Radiation	Loren Skow	Texas A&M University Veterinary Integrative Biosciences								\$20,000	\$15,000						
Nutritional Requirements and Management Systems to Enhance Bone Growth Mineralization, Modeling and Remodeling in the Juvenile Equine Athlete	Gary Potter	Texas A&M University Animal Science								\$20,000	\$15,000						
Does Apoptosis Explain Germ Cell Losses in Stallions With Poor Semen Quality	Terry Blanchard	Texas A&M University Large Animal Clinical Sciences									\$24,000	\$15,600					
Regulatory Factors Controlling Spermatogenesis in the Stallion	Larry Johnson	Texas A&M University Veterinary Integrative Biosciences					\$24,000		\$24,000	\$20,000	\$15,000	\$15,000					
Analyzing the Equine Genome to Approach Genes Governing Disease and Performance Traits	Bhanu Chowdhary	Texas A&M University Veterinary Integrative Biosciences									\$20,000	\$12,500					
Rhodococcus equi: Iron Metabolism as a Virulence Factor in Foal Pneumonia	Ronald Martens	Texas A&M University Large Animal Clinical Sciences								\$20,000	\$15,000	\$15,000					
Case-Control Study of Management Practices Associated with Developmental Orthopedic Disease in Thoroughbred Race-Bred Yearlings	Noah Cohen	Texas A&M University Large Animal Clinical Sciences									\$12,614	\$12,864					
Genomic Analysis of the Equine Major Histocompatibility Complex	Loren Skow	Texas A&M University Veterinary Integrative Biosciences										\$24,566	\$24,721				
Establishing a Resource Family "Bank" to Analyze Inherited Diseases and Other Traits of Significance in the Horse	Bhanu Chowdhary	Texas A&M University Department of Veterinary Integrative Biosciences										\$25,287	\$22,136				
Laboratory Freezer, Platform Analytical Scale, Tabletop Centrifuge, Circulating Water Bath, Mechanical Convection Oven, Autoclave, Panned Equine Exerciser	John McNeill	Texas A&M University Animal Science											\$27,055				
Cardiff Software with Fujitsu Scanpartner, Serum Amyloid Testing Service, Video Stomach Scope & Color Video Printer, Carbo Pack Analytical Column, Carl Zeiss Digital Imaging System, Executive Desk, Advantage Freeze Dryer	Noah Cohen Ronald Martens Allen Rousel Dickson Varner	Texas A&M University Large Animal Clinical Sciences														\$67,012	

Appendix B

Research Projects Funded by the Equine Research Account Advisory Committee

Research Project Funded	Principal Researcher	Academic Affiliation	Amount Funded													
			1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	
CEROS Sperm Analysis System, Laboratory Centrifuge with Rotors	Heidi Brady	Texas Tech University Animal & Food Sciences										\$23,677				
M-J Research PCR Dyad & Bio-Rad Smartsepc Plus Spectrophotometer	Bhanu Chowdhary	Texas A&M University Veterinary Integrative Biosciences											\$18,500			
METRIX Oval Head Morphology Option & HDATA-ASCII Data Storage System	Heidi Brady	Texas Tech University Animal & Food Sciences											\$7,300			
Stainless Steel Equine Metabolism Crates	Jeff Pendergraft	Sul Ross State University Animal Science											\$16,725			
GS800 Calibrated Imaging Densitometer	Gary Potter	Texas A&M University Animal Science											\$11,600			
NanoDrop® 1000 Spectrophotometer	Nancy Ing	Texas A&M University Animal Science											\$8,063			
Application of the Indicator Amino Acid Oxidation Technique in the Horse	Don Henneke	Tarleton State University Animal Sciences												\$15,148		
Whole Genome cDNA Microarray for Improved Equine Health and Fertility	Bhanu Chowdhary	Texas A&M University Veterinary Integrative Biosciences												\$25,000		\$26,540
Establishment of Embryonic Stem Cells in the Horse	Katrin Hinrichs	Texas A&M University Veterinary Physiology & Pharmacology												\$25,000		\$22,100
Causes of Hyperendemic West Nile Virus Transmission in the Texas Equine Industry	Michael Ward	Texas A&M University Veterinary Integrative Biosciences												\$24,975		\$22,100
Validation of A Blood Test for Gastric Ulcers in Horses	Allen Roussel	Texas A&M University Large Animal Clinical Sciences												\$25,000		
Bioinformatics Support for Equine Genomics	David Adelson	Texas A&M University Animal Sciences												\$13,000		\$19,730
Amount Funded by Year			\$70,405	\$53,178	\$73,584	\$72,584	\$72,800	\$73,100	\$142,040	\$141,589	\$120,557	\$177,465	\$62,188	\$128,123	\$90,470	
			Total Research Funded 1994-2006 \$1,278,083													

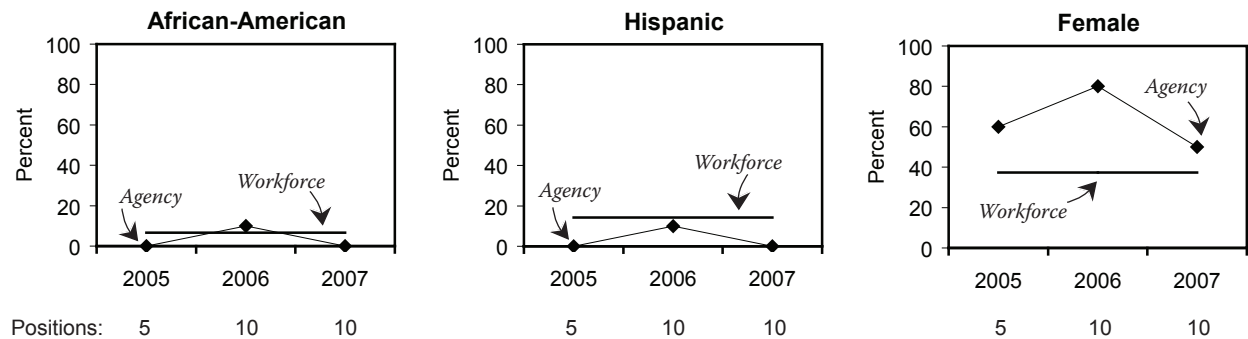
Appendix C

Equal Employment Opportunity Statistics 2005 to 2007

In accordance with the requirements of the Sunset Act, the following material shows trend information for the Texas Racing Commission employment of minorities and females in all applicable categories.¹ The agency maintains and reports this information under guidelines established by the Texas Workforce Commission.²

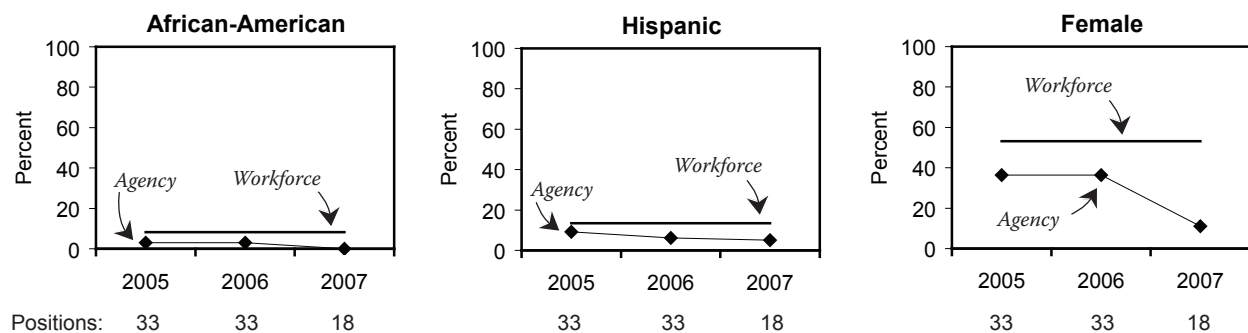
In the charts, the flat lines represent the percentages of the statewide civilian workforce for African-Americans, Hispanics, and females in each job category. These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent the agency's actual employment percentages in each job category from 2005 to 2007. While the agency has exceeded some percentages, it has experienced trouble meeting others. However, the agency has few positions in some job categories, making it difficult to meet the percentages. Also, during 2007 the agency reclassified some positions resulting in a marked difference for the professional, technical, administrative support, and service/maintenance categories.

Administration



The agency fell short of the percentages for Hispanics each year, but exceeded the percentages for African-Americans one year and for females all three years.

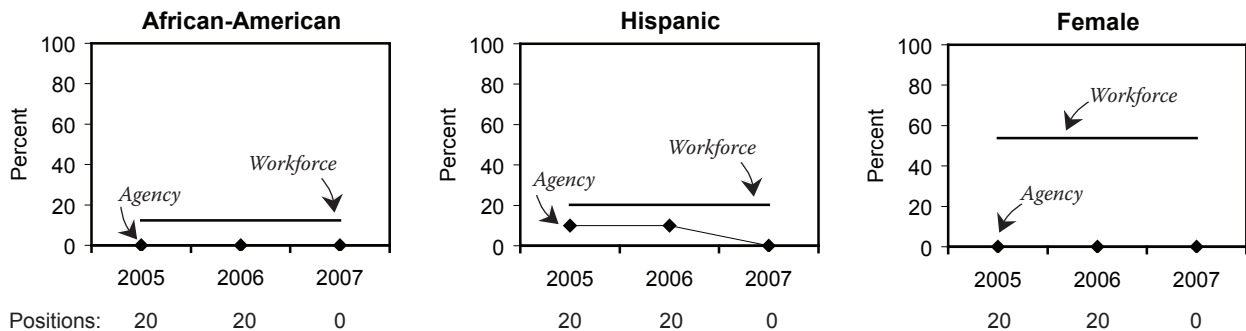
Professional



The agency fell short of the percentages in all categories in all three years.

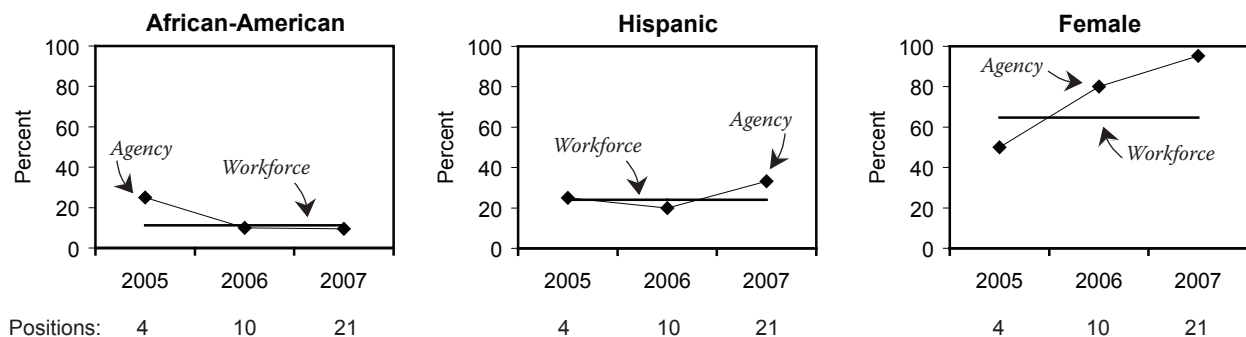
Appendix C

Technical



The agency has not met the percentages in all three categories in the past three fiscal years.

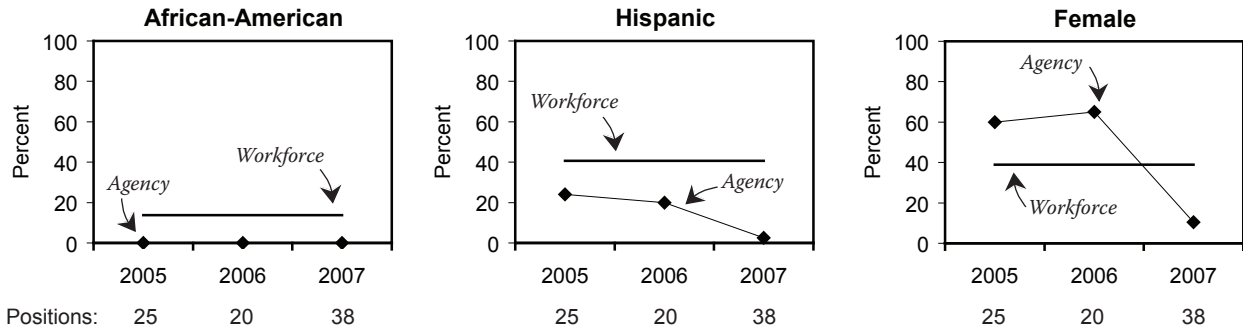
Administrative Support



In the administrative support category, the agency stayed relatively close to civilian workforce percentages for African-Americans and Hispanics, and exceeded the percentage for females in the past two fiscal years.

Appendix C

Service/Maintenance³



The agency fell short of the percentages for African-Americans and Hispanics, but exceeded the percentages for females in 2005 and 2006.

¹ Texas Government Code, sec. 325.011(9)(A).

² Texas Labor Code, sec. 21.501.

³ The Service/Maintenance category includes three distinct occupational categories: Service/Maintenance, Para-Professionals, and Protective Services. Protective Service Workers and Para-Professionals used to be reported as separate groups.

Appendix D

Glossary of Select Racing Terms

Accredited Texas-bred race animal – a Texas-bred horse or greyhound that meets the accreditation requirements of the particular state breed registry for that breed.

Backside – the back part of a racetrack where race animals are cared for and housed.

Breakage – the pennies that are left over after winning payoffs are rounded down to a multiple of 10 cents, except in the event of a negative pool, in which case the breakage is based on multiples of five cents.

Cross-species signal – a horse race simulcast signal broadcast at a greyhound racetrack facility or vice versa.

Exotic Pool – a pari-mutuel pool that involves wagers on more than one entered horse or greyhound, or on entries in more than one race.

Handle – the total amount of money wagered at a racetrack during a given time period.

Judge – a racing official who is appointed by the Racing Commission, who works in a group of three, to call the order of finish in a greyhound race and ensure that all participants race on their own merits and adhere to the rules of racing.

Multiple-two wager – a wager placed on two animals in one race, or on one animal in two races.

Multiple-three wager – a wager placed on three or more animals in one or more races.

Odds – an estimation of the chance of an entered race animal winning, shown as the figure or fraction by which the racetrack offers to multiply a bettor's wager if their selection wins.

Outstanding ticket – a winning pari-mutuel ticket that is not cashed before the end of the race day for which the ticket was purchased, also referred to as "OUTs."

Pari-mutuel wagering – a betting system in which all bets of a particular type are placed together in a pool; taxes, fees, and other takeouts are removed; and payoff odds are calculated by sharing the pool among all placed bets.

Place – a race finish in second place.

Placing Judge – a racing official employed by a racetrack association that calls the order of finish in a horse race.

Purse – horse or greyhound owners' cash winnings for a live racing event.

Show – a race finish in third place.

Simulcast – the telecast or other transmission of live audio and visual signals of a race, transmitted from a sending track to a receiving location, for the purpose of wagering on the race at the receiving location.

Appendix D

Simulcast pari-mutuel pool – the total amount of money wagered by patrons at a racetrack on the result of a particular simulcast race or combination of simulcast races.

Stakes race – races that derive added purse money from the stake, or entry fee, owners must pay to enter the race.

Steward – a racing official appointed by the Racing Commission, who works in a group of three, to oversee live horse racing events, ensuring that every participant competes on its own merits, verifying the order of finish, and imposing penalties for any breach of the rules of racing.

Takeout – a percentage deducted from pari-mutuel pools that is shared by the racetrack association and the State in the form of profits, purses, and taxes.

Win – a race finish in first place.

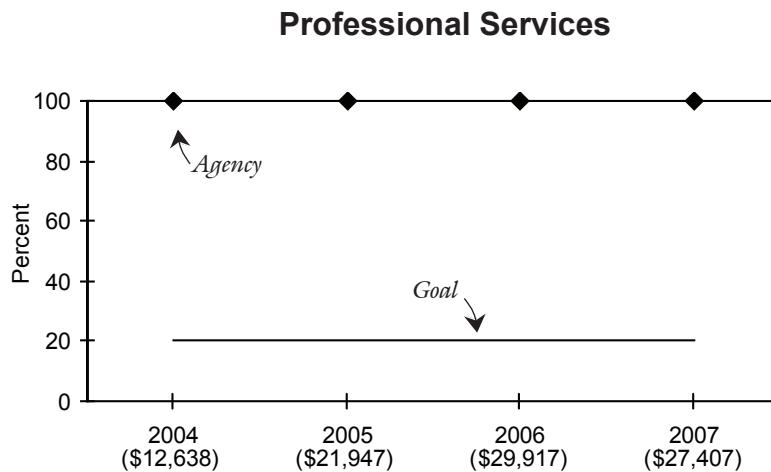
Appendix E

Historically Underutilized Businesses Statistics

2004 to 2007

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.¹

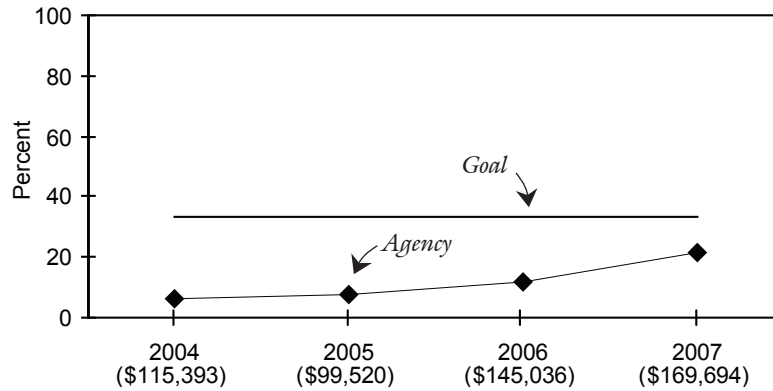
The following material shows trend information for the Texas Racing Commission's use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in statute.² In the charts, the flat lines represent the goal for HUB purchasing in each category, as established by the Comptroller's Office. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from 2004 to 2007. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category. The agency has exceeded the State's HUB purchasing goals in the professional services and commodities categories in the past four fiscal years. However, the agency fell short of the goal for the other services category each year.



The agency exceeded the state's goal for HUB spending for professional services each year.

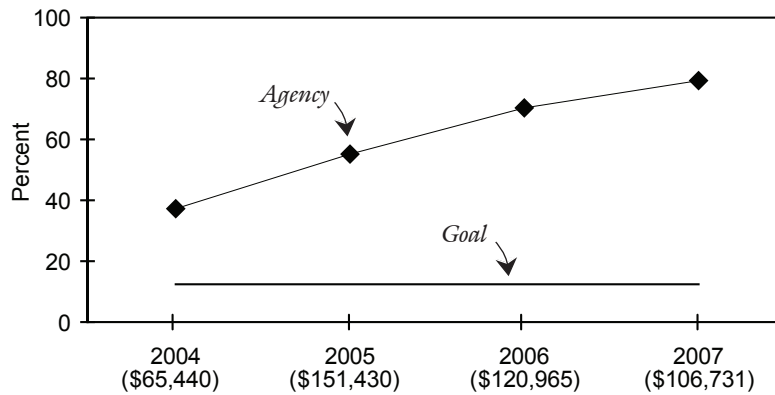
Appendix E

Other Services



The agency failed to meet the goals for the other services category.

Commodities



The agency exceeded the goals for this category.

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¹ Texas Government Code, sec. 325.011(9)(B).

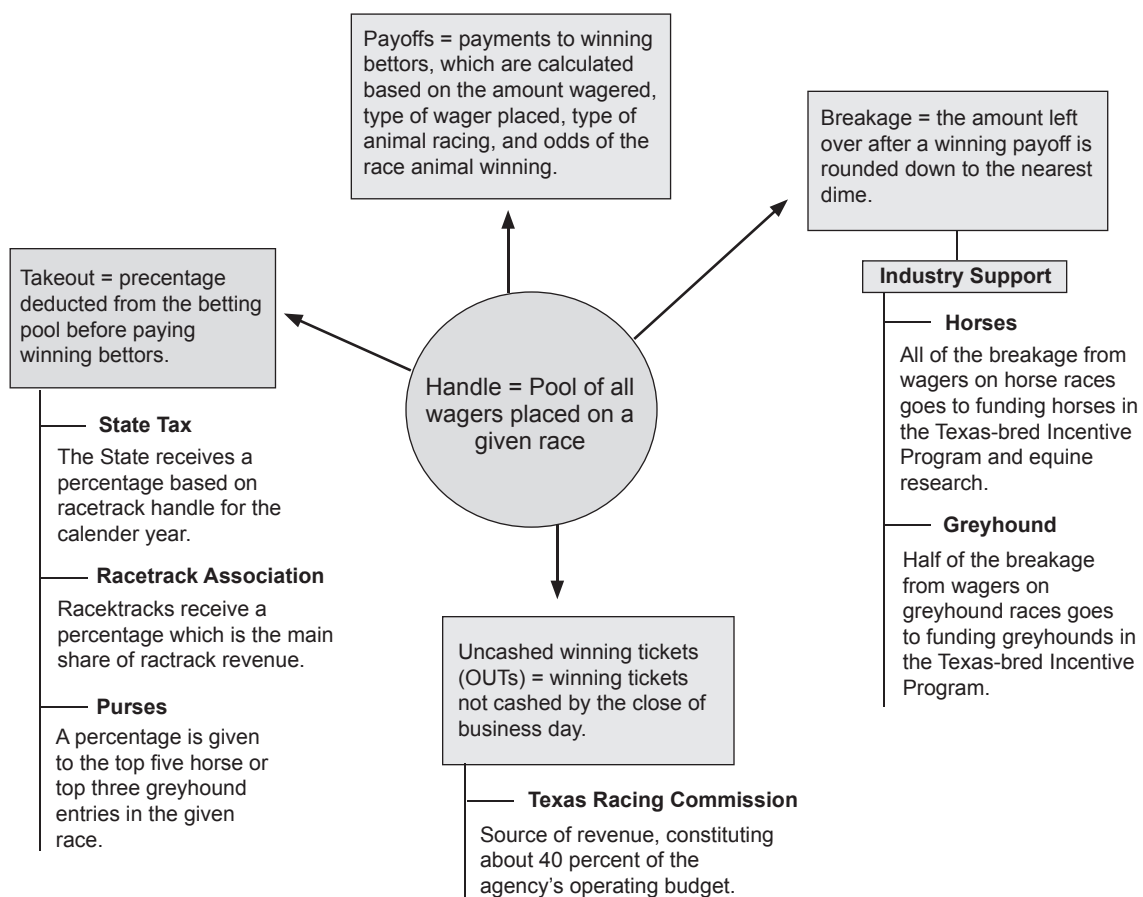
² Texas Government Code, ch. 2161.

Appendix F

Pari-mutuel Revenue Takeout Rates for Live Racing

The Texas Racing Act details the allocation of takeout – money left over from a wager pool after payouts are made to winning bettors – for each pool of bets placed on a live racing event. Takeout and payoff rates depend on the type of animal racing in the event and the type of wager placed on the race. The flow chart below shows the main recipients of revenue from the wagering pool, including the State, racetrack associations, racing industry and the Texas Racing Commission.

The percentage of revenue distributed from simulcast wagering pools varies considerably from the live racing pool. Sending and receiving racetrack associations enter into contracts, approved by the Commission, that specify the percentage of association profit and money returned for purses. Typically, the takeout structure in place where the broadcasting racetrack is located dictates the percentage of takeout for the simulcast wagering pool. Racing Commission staff audit both live racing and simulcast takeouts and payouts. The Comptroller’s Office also audits simulcast takeout.



Appendix G

Occupational License Types and Associated Fees

Adoption Program Personnel	\$20
Announcer.....	\$25
Apprentice Jockey.....	\$55
Assistant Farrier / Blacksmith	\$20
Assistant Starter	\$20
Assistant Trainer.....	\$75
Assistant Trainer / Owner	\$75
Association Assistant Management.....	\$35
Association Management Personnel.....	\$50
Association Officer / Director	\$75
Association Other	\$50
Association Staff.....	\$25
Association Veterinarian.....	\$50
Authorized Agent.....	\$10
Chaplain.....	\$20
Chaplain Assistant	\$20
Exercise Rider.....	\$20
Farrier / Plater / Blacksmith.....	\$55
Groom / Hot Walker.....	\$20
Jockey*	\$75
Jockey Agent	\$75
Kennel	\$50
Kennel Helper	\$20
Kennel Owner*	\$75
Kennel Owner / Owner*	\$75
Kennel Owner / Owner-Trainer*	\$75
Kennel Owner / Trainer*	\$75
Lead-out.....	\$20
Maintenance.....	\$20
Medical Staff.....	\$25
Miscellaneous	\$20
Multiple Owner*	\$25
Mutuel Clerk.....	\$25
Mutuel Other	\$25

Appendix G

Owner*	\$75
Owner-Trainer*	\$75
Pony Person	\$20
Racing Industry Representative	\$75
Racing Industry Staff	\$25
Racing Official	\$25
Security Officer	\$25
Stable Foreman	\$25
Tattooer	\$75
Test Technician	\$20
Tooth Floater	\$75
Trainer*	\$75
Training Facility Employee	\$25
Training Facility General Manager	\$25
Valet	\$20
Vendor Concessionaire	\$75
Vendor / Concessionaire Employee	\$25
Veterinarian*	\$75
Veterinarian Assistant	\$25

*The Commission also offers select license types a license valid for two or three years instead of the standard annual renewal timeframe.

Appendix H

Staff Review Activities

During the review of the Texas Racing Commission and the Equine Research Account Advisory Committee, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; attended Commission meetings; met with staff from legislative agencies; 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 and functions in other states; and performed background and comparative research using the Internet.

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

- ◆ Visited racetracks in Selma, Manor, Grand Prairie, and Corpus Christi and met with racetrack management and various industry representatives.
- ◆ Observed pre-race veterinary health checks for both horses and greyhounds, as well as the drug testing process after a horse race.
- ◆ Met with staff from the Texas Veterinary Medical Diagnostic Laboratory at Texas A&M University in College Station.
- ◆ Observed tote system operations and the agency's Pari-mutuel Audit division functions.
- ◆ Accompanied Commission staff on a pre-meet racetrack and facility inspection.
- ◆ Toured greyhound kennels and met with greyhound adoption personnel and kennel owners.
- ◆ Accompanied Department of Public Safety officers and Commission investigators on an unannounced racetrack inspection.
- ◆ Observed Commission and racetrack association racing officials during a live racing event.
- ◆ Attended a topic proposal selection Equine Research Account Advisory Committee meeting.

PROVISIONS ADDED BY LEGISLATURE



Provisions Added by Legislature

Senate Bill 1013 failed to pass.

**SUNSET STAFF REVIEW OF THE
TEXAS RACING COMMISSION
EQUINE RESEARCH ACCOUNT ADVISORY COMMITTEE**



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