

Texas Racing Commission

Equine Research Account Advisory Committee

Project Manager: Steven Ogle

Agency at a Glance

The Texas Racing Commission (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 established 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 events;
- oversees all pari-mutuel wagering activity, including wagers placed on simulcast races; and
- administers the Accredited Texas-bred Incentive Program.

A majority of Sunset's 2008 recommendations remain appropriate with a few modifications.

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 of the Texas A&M University System. 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.

Summary

These special purpose reviews of the Texas Racing Commission and the Equine Research Account Advisory Committee follow up on the full Sunset reviews conducted in 2008. At that time, the Sunset Commission adopted and forwarded to the 81st Legislature recommendations on the Texas Racing Commission and the Advisory Committee. However, the Legislature did not pass the Sunset bill on either entity. Instead, the Legislature continued both for two years in separate legislation, and focused the current Sunset staff reviews on the appropriateness of the recommendations voted on and adopted by the Sunset Commission in 2008.

Based on this re-examination, the Sunset Commission concluded that a majority of its previous recommendations on the Racing Commission remain appropriate with a few modifications, and that statutory authority and direction are needed to implement them. In 2008, the Sunset Commission made only one recommendation related to the Advisory Committee, which was to abolish it. That recommendation continues to be appropriate. The following material summarizes the Sunset Commission's recommendations on the Texas Racing Commission and Equine Research Account Advisory Committee for consideration by the 82nd Legislature.

Issue 1

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

Recommendations

Change in Statute

1.1 Require the Commission to designate each racetrack license as either active or inactive and develop renewal criteria for inactive licenses.

Some racetrack license holders have failed to choose a location or build facilities for more than 20 years. Under this recommendation, the Commission would be required to determine whether each racetrack license holder is actively working to fulfill the basic obligations of a license and then designate each racetrack license either active or inactive. The Commission would establish standards, by rule, to be considered an active license holder, based on the overall standard of either holding live races or making good faith efforts to hold live races. The Commission would complete assessments of all existing racetrack license holders by September 1, 2012, and would complete assessments of all new licenses within one year of license issuance. Inactive licenses would be subject to an annual license renewal process until active status is achieved or the Commission refuses to renew the license. Active licenses would have their operations reviewed by the Commission every five years, as required in statute and further explained in Recommendation 1.6.

The Commission would devise, by rule, a renewal process for licenses designated as inactive. In developing this process, the Commission should consider factors reviewed during the initial licensure process, including financial soundness and the ability to conduct live races. The Commission would be authorized to charge inactive racetracks a fee to cover any additional costs associated with processing license renewals. The Commission would review each inactive racetrack license holder, no later than one year after the designation of the license as inactive, to determine whether the licensee has taken

sufficient steps to meet the obligations of a license holder. Additionally, the Commission would be authorized to not renew an inactive license if it finds the licensee has not made a good faith effort to conduct live racing or if continuing to grant the license is not in the best interests of the racing industry or the public. If renewed, the Commission would annually review an inactive license for as long as the license remains inactive.

1.2 Clarify the Commission's authority and ability to revoke a license.

This recommendation would clearly grant the Commission authority to revoke a license from any license holder for significant violations of the Act or Commission rules. The recommendation would require the Commission to adopt rules clearly outlining the revocation process. Under this recommendation, licenses would no longer be held in perpetuity.

1.3 Authorize the Commission to require license holders to post security at any time.

The Racing Act only provides for new licensees to post security. This recommendation would allow the Commission to require racetrack license holders to post security at any time, instead of only when a new license is issued. This would assist the Commission to ensure that license holders fulfill their statutory obligations to build their tracks and run live races.

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

This recommendation would remove an unstable and dwindling source of revenue as a funding mechanism for the agency. Racetracks would be allowed to keep revenue from uncashed winning tickets and continue to use that revenue to offset the cost of drug testing race animals. The Commission would replace the lost revenue by adjusting other racing-related regulatory fees paid by each licensed racetrack, a more stable source of funding.

1.5 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 unless sanctioned by the Act. 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.

Management Action

1.6 The Commission should review the operations and management of all active racetrack licenses.

This recommendation directs the Commission to begin conducting reviews of racetrack licenses under the agency's existing authority to review license holders. The Commission should conduct thorough, but abbreviated, reviews that do not overwhelm staff's ability to conduct the reviews while also completing other necessary agency tasks. Further, the Commission should develop a schedule for reviews that would allow it to continue conducting reviews on each racetrack license every five years as currently set out in statute.

Issue 2

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

Recommendations

Change in Statute

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

This recommendation would limit Commission licensure to only those individuals directly involved with pari-mutuel racing. The Sunset Commission found no reason for the agency to continue licensing workers such as popcorn vendors and parking attendants. 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 the actions of non-licensed employees through their employers. Racetracks would be responsible for ensuring employees' compliance with the Racing Act and Rules of Racing.

Commission investigators would be able to focus their attention on the other licensees who account for most 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.

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. Licensees would pay these costs.

Issue 3

Texas Has a Continuing Need for the Texas Racing Commission.

Recommendations

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, and the Commission may need additional tools to again readjust to a further decline or a revived industry.

3.2 Apply the standard Sunset across-the-board requirements to the Commission.

This recommendation would ensure that the Commission develops and implements a policy to encourage alternative procedures for rulemaking and dispute resolution, conforming to the extent

possible to model guidelines by the State Office of Administrative Hearings. The agency would also coordinate implementation of the policy, provide training as needed, and collect data concerning the effectiveness of these procedures. Because the recommendation only requires the agency to develop a policy for this alternative approach to solving problems, it would not require additional staffing or other expense.

In addition, this recommendation would update language in the Commission's statute to more fully conform to the across-the-board Sunset provision regarding conflicts of interest. The provision would ensure that Commission members and high-level employees are free from both actual and apparent conflicts of interest in the performance of their duties.

Issue 4

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

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.

The functions of the Equine Research Account Advisory Committee are not necessary for the effective administration of funds from the Account. This recommendation would eliminate the Advisory Committee from statute but retain Texas AgriLife Research's authority to expend appropriated Equine Research Account funds. In expending these funds, Texas AgriLife Research 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.

Fiscal Implication Summary

These recommendations would not have a fiscal impact to the State.

