

MEMO

Date: July 25, 2014
From: The Senate Republican Caucus
To: The Texas Racing Commission
Re: Proposed Rules on Historical Racing

The Senate Republican Caucus urges the Texas Racing Commission to not adopt the proposed rules on historical racing. As explained below, historical racing goes beyond the statutory language and legislative intent, and is a matter best left to the Texas Legislature to consider.

Gambling, with certain narrow exceptions, is illegal in Texas. One of those exceptions is for pari-mutuel wagering on horse and greyhound races. As defined in the law, pari-mutuel wagering requires the full amount wagered by all parties on any single race be split among the race contestants, the racetrack, and the winning bettors. In this manner, the payoff odds on any particular race vary based on the total amount wagered and the number of successful bettors. The Racing Commission is charged with the control of pari-mutuel wagering on horse and greyhound races.

The prohibition on gambling in the state contains a cross reference to the law allowing pari-mutuel wagering on horse and greyhound races. While pari-mutuel bets on horse and greyhound races made in accordance with the Commission's regulations are not illegal, any gambling in Texas on horse or greyhound races that does not comply with those regulations is a crime. For this reason, any action taken by the Racing Commission to broadly interpret pari-mutuel wagering necessarily limits the Texas gambling prohibition.

Historical racing is allowed only under a broad reading of the pari-mutuel wagering law. By its own terms, historical racing does not split the money as required by the pari-mutuel statute, as those persons winning bets placed on the race when it was originally won are long forgotten, and will not be tracked down and paid additional funds. Further, with each bet placed on a particular race, the odds change, making the payout rates change accordingly.

These rules appear to be an attempt by the Racing Commission to circumvent the Legislature's authority to decide what types of gambling are and are not legal. In the rule proposal, the Commission essentially admits that it is expanding the definition of pari-mutuel wagering, as it says the "mode and manner of pari-mutuel wagering...continues to evolve", and that historical racing "is distinct from live or simulcast racing". The proposed rules note the "primary advantage of historical racing is the additional revenue it provides" for horse and greyhound racing. While adopting new rules to reflect new or changing technologies is a good thing for

the state, adopting rules that fundamentally change the types of activities regulated, or allowed, is not an activity state agencies should undertake.

This is not an appropriate decision for the Racing Commission. This change in policy—the expansion of pari-mutuel wagering beyond the confines of the Racing Act—has broader consequences than simply increasing revenue of existing racetracks. The expansion of pari-mutuel wagering necessarily limits the application of other laws in this state—laws outside the Commission’s jurisdiction. While the Racing Commission regulates only a small (albeit important) part of the Texas economy, the Legislature represents the entire state.

As a caucus that represents diverse and widespread areas of the state, the members of the caucus may agree or may not agree on how or if historical gambling should be allowed in Texas. However, we do strongly agree that the legislature is the appropriate authority to weigh the consequences and impact of the historical racing proposal, as it has ramifications that will be felt statewide. For these reasons, we strongly encourage the Racing Commission not to adopt the proposed rules on historical racing.



Senator Brian Birdwell



Senator Donna Campbell, MD



Senator John Carona



Senator Robert Deuell, MD



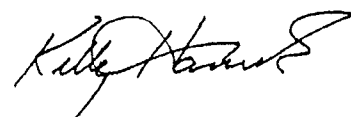
Senator Kevin Eltife



Senator Craig Estes



Senator Troy Fraser



Senator Kelly Hancock