

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1908 – HB 2109

March 8, 2018

**SUMMARY OF ORIGINAL BILL:** Deletes statute regarding the State Horse Racing Advisory Committee. Creates the Tennessee Horse Racing Commission (Commission) to be comprised of seven members. Establishes appointment and membership requirements. Commission members receive no compensation, but are eligible for reimbursement of necessary travel expenses. The Commission is administratively attached to the Department of Commerce and Insurance (TDCI) and is responsible for developing: safety standards; medical practices; tax incentives and other incentive programs to develop the equine industry; programs that tie the horse racing industry with the state's higher education institutions; and programs which ensure that Tennessee remains in the forefront of equine research. Establishes that the Commission has authority over: horse race meetings; any person or entity that offers pari-mutuel or advance deposit account wagering to residents of this state; any manufacturer, wholesaler, distributor, or vendor of any equine drug, medication, therapeutic substance, or metabolic derivative which is purchased by or delivered to a licensee; and any horse race training center or facility.

Requires any individual or business to become licensed prior to conducting a horse race meeting, simulcasting, or intertrack wagering. Requires applications for such licensees to include financial, operational, and other disclosures. The Commission may require certain applicants to submit to a background check.

Requires the Commission to promulgate rules which include, but are not limited to, a fee schedule for applications for licensure, reporting requirements, and penalties, including suspension, revocation, or refusal to issue or renew licensure for committing any state or federal violation. Prohibits any fee for licensure from exceeding \$10,000 annually.

Establishes an excise tax of 0.5 percent on all money wagered on live races at a track conducting pari-mutuel wagering on live racing.

Establishes an excise tax of 0.5 percent on money wagered at tracks conducting telephone account wagering, on tracks participating as receiving tracks in intertrack wagering under the jurisdiction on the racing commission, and all tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon. Stipulates that this excise tax does not apply to pari-mutuel wagering on live harness racing performed at a county fair.

An excise tax of 0.5 percent is applicable to any track whose daily average live handle is less than \$1,200,000. All revenue collected pursuant to such tax is allocated to the Backside Improvement Fund. Establishes the purpose of the backside improvement fund is to improve the backside of Thoroughbred racing associations averaging \$1,200,000 or less pari-mutuel handle per racing day on live racing. The racing commission must use the backside improvement fund

only to promote, enhance, and improve the conditions of the backside of eligible racing associations. Conditions considered shall include, but not be limited to, the living and working quarters of backside employees.

Establishes a tax of fifteen cents (\$0.15) upon each person who physically attends a horse track race. This tax shall be imposed each day of a race, regardless of whether a ticket is for races held over multiple days. Revenue from this tax shall be remitted to the state by the responsible track.

Establishes an excise tax on all advance deposit account wagering licensees at a rate of 0.5% of all amounts wagered through the licensee by Tennessee residents. Revenue from this tax shall be allocated as follows: 15 percent to the State Treasury and credited to the General Fund and 85 percent to the association that conducted the race.

Prohibits any political subdivision of the state from making or enforcing any local laws, ordinances, or regulations on the subject of horse race meetings.

**CORRECTED FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Expenditures - \$49,700/One-Time/Division of Regulatory Boards  
\$220,300/Recurring/Division of Regulatory Boards

Other Fiscal Impact - Due to various unknown factors, the extent and timing of receipt for any additional state tax revenue cannot be reasonably estimated. Any such amounts received are not anticipated to cover expenses in the short term; but is assumed to cover expenses incurred in the long term.

As of June 30, 2017, the Division of Regulatory Boards had a cumulative reserve balance of \$26,350,035.

To the extent that horse racing becomes established in this state, the Department of Revenue could eventually require additional positions in its Taxpayer Services Division and Audit Division; however, due to unknown factors, any determination with regards to such additional positions cannot be made at this time with any reasonable certainty.

**SUMMARY OF AMENDMENT (014429):** Deletes and rewrites all language after the enacting clause without making any substantive changes to the legislation.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the corrected fiscal note.**

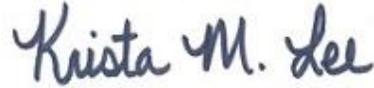
Assumptions for the bill as amended:

- An effective date of July 1, 2018.
- This legislation will legalize and regulate various forms of horse racing and para-mutuel wagering in this state.
- Due to various unknown factors, including but not limited to, the number of associations that will become licensed, the number and type of tracks that will hold horse race meetings, the number of wagers that will be placed, and the number of physical attendees of horse race meetings, and the base upon which the various taxes imposed by this legislation will be applied, an impact upon state revenue and the timing for any such revenue that will be received cannot be estimated with any reasonable certainty.
- This undetermined amount of revenue will impact the State Treasurer, General Fund, and associations holding such races.
- Any tax revenue received is not anticipated to cover expenses associated with passage of this legislation in the short term; however, such revenue would be expected to cover expenses in the long term.
- The Division of Regulatory Boards will promulgate rules and create a fee schedule for licensees. The number of licenses that will be issued pursuant to this legislation cannot be determined with any reasonable certainty.
- Public Chapter 1016 of the Public Acts of 2016 created the State Horse Advisory Committee. The fiscal note for Public Chapter 1016 was estimated to be “NOT SIGNIFICANT”; therefore, abolishing this Committee is estimated to result in no significant impact on state expenditures.
- The Tennessee Horse Racing Commission will be comprised of seven members.
- An average mileage of \$139.59 per member per meeting.
- A recurring increase in state expenditures of \$3,909 for four annual meetings (7 members x 4 meetings x \$139.59).
- This Commission will be placed under the Division of Regulatory Boards.
- Pursuant to Tenn. Code Ann. § 4-29-121, all regulatory boards are required to be self-supporting over any two-year period.
- As of June 30, 2017, the Division had a cumulative reserve balance of \$26,350,035.
- Based on information provided by the TDCI, the Department will require three additional positions: one regulatory board executive director position, one regulatory board investigator position, and one regulatory board administrative assistant 2 position.
- A recurring increase in state expenditures of \$216,343 (salary \$167,500 + benefits \$22,229 + FICA \$12,814 + office lease \$6,600 + phone/network \$5,400 + supplies \$1,800); and one-time state expenditures of \$9,800 (office furniture \$6,000 + computer \$3,800).
- An additional one-time increase in state expenditures of \$1,500 for one rulemaking hearing (court reporter \$500 + transcript copies \$1,000), all of which will be incurred in FY18-19.
- An additional one-time increase in state expenditure of \$38,400 (320 hours x \$120 per hour) for a vendor to perform work on the Division’s electronic licensing system.
- The total one-time increase in state expenditures is estimated to be \$49,700 (\$9,800 + \$1,500 + \$38,400).

- The total recurring increase in state expenditures is estimated to be \$220,252 (\$3,909 + \$216,343).
- To the extent that horse racing becomes established in this state, the Department of Revenue could eventually require additional positions in its Taxpayer Services Division and Audit Division; however, due to unknown factors, any determination for such additional positions cannot be made at this time with any reasonable certainty.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jdb