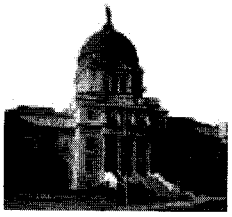

Legislative Background Brief

for the
Economic Affairs Interim Committee

August 2011 - updated April 2012

Board of Horseracing

Prepared by Pat Murdo, Legislative Research Analyst

Administrative Appointments: By Governor

Executive Secretary: Christian Mackay, acting secretary

Statutorily Established - 2-15-3106, MCA. Created in 1965 as the Horse Racing Commission. Later attached to the Department of Professional and Occupational Licensing. Currently attached to the Department of Livestock.

Purposes:

- govern race meets and the parimutuel system, as provided in Title 23, chapter 4;
- license and regulate racing, match bronc rices, and wild horse rides, advance deposit wagering, and simulcast facilities;
- collect wagers and distribute as provided in law, which includes "other purposes for the good of the existing horseracing industry"; and
- oversees operations of fantasy sports leagues, as provided in Title 23, ch. 5, part 8.

Board: 7 members. Five members must be appointed from one of five districts and may not be in the horseracing industry. Two must be in the horseracing industry and may not be from the same district.

Members/Address	Representing	Term Expires
Dale Mahlum, Missoula	horseracing industry	1/20/2013
Ralph Young, Columbus	horseracing industry	1/20/2013
Allen Fisher, Ashland District 1	Blaine, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Treasure, Valley, and Wibaux counties. (18)	1/20/2015
Shawn Real Bird, Hardin District 2	Big Horn, Carbon, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Sweet Grass, Stillwater, Wheatland, and Yellowstone counties. (11)	1/20/2013
John Hayes, Great Falls District 3	Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole counties (8)	1/20/2015
Susan Egbert, Helena District 4	Beaverhead, Broadwater, Deer Lodge, Gallatin, Jefferson, Lewis and Clark, Madison, Meagher, Park, and Silver Bow counties (10)	1/20/2014
Susan Austin, Kalispell District 5	Flathead, Granite, Lake, Lincoln, Missoula, Mineral, Powell, Ravalli, and Sanders counties (9)	1/20/2013

Topics of Interest

- The Board of Livestock learned in January 2012 that the Board of Horseracing has a projected debt of more than $500,000. (As of March 27, 2012, the debt had grown to $609,638.) Christian Mackay, executive director for the Board of Livestock and in charge of day-to-day operations for the Department of Livestock, has assigned himself the task of executive secretary for the Board of Horseracing after the previous executive secretary was laid off. Mr. Mackay is one of 3 members of a Business Advisory Council appointed by the Governor to provide financial, budget, and business strategy advice to the Board of Horseracing. The other members are Sen. Cliff Larsen and Dore Schwinden, director of the Department of Commerce. The deficit raised concerns the Board of Horseracing would be unable to participate in horseracing meets this year, although the Miles City Bucking Horse Sale has confirmed its plans to operate. An initial proposed budgetary "fix" to the deficit was to use per capita fees but various legal opinions, including one by Bart Campbell (see separate document) suggested that would be unconstitutional. Instead, the advisory council helped to work out a loan from the Department of Administration for $609,638 to be paid over 8 years. The loan is to be repaid from income from advanced deposit wagering and fantasy sports earnings. The first loan payment of $76,203 is to be paid by June 30.

- Due to a diminished number of live horse races in Montana over time, Gov. Schweitzer established a Montana Horse Racing Task Force in 2006 under executive order No. 33-2006, to examine the trends in the horseracing industry, identify impediments, and make recommendations on ways to revitalize the industry. One result was HB 616, sponsored by Rep. Bill McChesney in 2007, which allowed fantasy sports leagues under a parimutuel network to be licensed by the Board of Horseracing, which shared in the wagering proceeds. The income from fantasy sports leagues was $29,286 in FY 2009 and $34,543 in FY 2011.

2011 Legislation Enacted Regarding Board of Horseracing

- SB 16, sponsored by Sen. Taylor Brown, requires a person conducting simulcast racing through a simulcast parimutuel network to enter into a contract with the Board of Horseracing and allows the Board of Horseracing to itself act as a simulcast parimutuel network provider.

Audits

- In the 2009-2010 interim, the Legislative Audit Committee requested information from the Attorney General regarding the appropriateness of the Montana Lottery--at the behest of the Board of Horseracing--to handle the fantasy sports games and parimutuel network licensing. A separate request to the Attorney General by the Board of Horseracing asked if the fantasy sports game offered by the Board of Horseracing through the Montana Lottery was a "sports pool" under Title 23, part 5, MCA. The narrower question resulted in a "not a sports pool" response in a letter of advise, issued Dec. 29, 2010: http://www.doj.mt.gov/resources/lettersadvice2010/2010carruthers.pdf.

Budget, FY 2013-FY2014 (does not include statutory appropriations)

	FY 2013 FTE	General Fund	State Other	Total All
Board of Horseracing	2.28	$0	$350,070	$350,070

Source: Legislative Fiscal Division

Possible Questions:

- Is the outstanding debt due to contractual obligations, and if so, to whom?
- How was the Board of Horseracing able to run up a debt of more than $600,000? Where were the checks or balances? Is this a problem arising from administrative attachment?
- What legislative fixes are needed to prevent the Board of Horseracing from obligating funds that it does not have to payment of purses or other activities for the good of the horseracing industry? (23-4-105)
- Should the Board of Horseracing be under the Department of Justice Gambling Enforcement Division with appropriate statutory requirements for protection of horses and jockeys?