

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
COMMITTEE ON PARI-MUTUELS
DUCK KEY, FLORIDA
FRIDAY, JANUARY 12, 2007
DRAFT MINUTES

The Committee on Pari-Mutuels of the National Council of Legislators from Gaming States (NCLGS) met at the Hawk's Cay Resort in Duck Key, Florida, on Friday, January 12, 2007, at 9:45 a.m.

Representative Vincent Lofink from Delaware, Chair of the Committee, presided.

Other members of the Committee present were:

- Rep. Kevin Ryan, CT
- Rep. Helene Keeley, DE
- Rep. Bill Oberle, DE
- Rep. Pamela Thornburg, DE
- Sen. Steven Geller, FL
- Sen. Richard Lerblance, OK
- Rep. Chris Sainato, PA
- Rep. Tim Solobay, PA

Other legislators present were:

- Rep. Joseph Miro, DE
- Rep. John Viola, DE
- Rep. Anthony Lourey, MN
- Sen. Ann Rest, MN

Others present were:

- Susan Nolan, Nolan Associates, NCLGS Executive Director
- Nicholas Brozean, Nolan Associates, NCLGS Assistant Legislative Coordinator

MINUTES

The Committee voted unanimously to accept, as submitted, the minutes of its June 2, 2006, meeting in Boston, Massachusetts.

CONSIDERATION OF RESOLUTION SUPPORTING ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL (RCI) INTEGRITY SYSTEM

Mr. Ed Martin, Commissioner of the Association of Racing Commissioners International (RCI), said he last reported on RCI's plan to implement an independent national monitoring system of pari-mutuel pools in the US at the NCLGS Summer Meeting in June, 2006. He said wagering on horse and greyhound racing is regulated at a state level and not on a federal level, as it is in Canada.

Mr. Martin said the Canadian Pari-Mutuel Agency monitors wagering occurring in Canada. He said no such national system has been instituted formally in the US.

Mr. Martin said state racing commissioners are attempting to duplicate Canada's monitoring system. He said RCI feels regulators' inability to independently monitor a large growing and increasingly complex wagering system puts pari-mutuel racing, as well as the integrity of wagers placed by the general public, at risk. He said this could ultimately depress these sports survival.

Mr. Martin said failure to monitor the wagering system has resulted in several high profile embarrassments for the racing industry. He said RCI members feel that only an independent computerized monitoring system, not an industry self-policing method, can provide assurances to the general public that placing a bet at a racetrack, an OTB, or from home by phone or internet, is secure and that no pool manipulation exists.

Mr. Martin said RCI software for an independent monitoring system is now complete and had been tested. He said RCI had formed an alliance with Gaming Laboratories International (GLI) for independently testing the pari-mutuel system.

Mr. Martin said stipulations since existed regarding wagers coming from an off-shore site through Oregon into pools within Florida, which were illegal under Florida statute. He said an independent monitoring system would have the ability to protect, detect, and prevent illegal actions by using checks to safeguard public interest.

Mr. Martin said RCI previously asked the committee and organization to approve the monitoring program. He said state racing regulators in a variety of states are approaching this in a number of different ways. He said in New York, the state racing board is in the process of promulgating a rule requiring the independent monitoring system of tote companies.

Mr. Martin said Colorado has added a requirement for independent monitoring of wagering pools in their totalizator standards, with which licensees must comply. He said a number of other states are considering requiring that wagering systems be independently monitored, perhaps as a condition to granting track or simulcast licenses. He said the RCI monitoring system has attracted the interest of several clients, two of which are expected to launch the system within 60 days.

Mr. Martin said NCLGS endorsement of this resolution is important to RCI because the racing industry has not voluntarily bought into an independent monitoring system and the real-time policing of the pari-mutuel system by its regulators. He said the National Thoroughbred Racing Association (NTRA) had attempted to create a National Office of Wagering Security, but the program never went through. He said such lack of progress on other fronts has prompted racing commissions through RCI to act.

Mr. Martin said that pari-mutuel wagering is the only form of legal electronic wagering within states that continues to operate without requirements for independent computerized monitoring, as is required for lotteries and VLT programs.

Mr. Martin said racing depends on wagers coming from many sources. He said if consumers and public interests are going to be safeguarded, pools need to be honest and secure. He said no one should be turning losing bets into winning bets, stealing uncashed tickets, or printing duplicate winning tickets, as has happened. He said fraudulent activities jeopardize tracks and state resources, as well as the integrity of individual wagers, as racing fans want a fair shot at winning when placing a bet.

Mr. Martin said a sense exists in some quarters that pari-mutuel wagering should be self-policed by the racing industry. He said state regulators have no problem with industry efforts in this area but they do not absolve state regulators of the responsibility to ensure wagering security. He said RCI's program is an attempt to deal with this responsibility collectively and it should be independent of the industry. He said it would be highly unusual to allow a gambling enterprise to self-police itself. Mr. Martin said regulators feel the wagering security database should reside with regulators and RCI has created a not-for-profit subsidiary to do that and provide the monitoring service.

Mr. Martin said a database independent of any for-profit racing entity makes the most sense because no track company wants their competitors to have access to their data. Martin said passage of the resolution would be a very strong signal to send to the industry because it asks industry to voluntarily buy into the system that the industry has publicly said is needed. Mr. Martin said support for the resolution from the NCLGS organization would strengthen RCI efforts.

Mr. Kevin Mullally, general counsel & director of government affairs for Gaming Laboratories Inc., said unlike the casino industry, securities do not exist within the racing industry. He said the racing industry does not require independent testing software, surveillance confirming equipment has not been tampered with, and, in most states, sealed containers for verification.

Mr. Mullally said it is no surprise that the racing industry continues to see gaming manipulation. He said RCI development of model rules and technical standards for these systems, while monitoring the wagering system and the regulatory aspects, is important.

Mr. Mullally said he believes an efficient model exists that can be used by individual states to test systems nationally and limit costs to the industry. He said the model has been shown to work not only in the US, but around the world.

Sen. Lerblance asked Mr. Martin what is being done to monitor races themselves with exception to totes, and whether or not RCI will also be overlooking these aspects.

Mr. Martin said the main focus of racing regulators in the past has been medication and performance of the actual race and that these remain a priority. He said if somebody is going to use an illegal substance to affect the outcome of a race they are not going to do it for the purse alone because the return would be small. He said those who cheat will profit at the betting window and an independent monitoring system is vital to combating this type of fraud.

Mr. Martin said in the old days all betting was done at the track, therefore it was easier for track investigators to detect fraudulent activities. He said it is not more difficult to detect such activities since most wagering is now done off-track. He said with a national wagering security database, data can be easily accessed by state regulators.

Mr. Martin said for a number of years Canada has used a monitoring system. He said the system RCI will deploy is augmented by a pattern analysis fraud detection component that was developed for RCI by Isidore Sobkowski, the individual hired by the National Thoroughbred Racing Authority (NTRA) to advise them on wagering security issues following the Breeders Cup Pick 6 crime in 2002. He said the fraud detection module is similar to one used on the New York Stock Exchange to detect insider trading scams. He said the system is now complete and has been tested using wagering data in Nebraska.

Mr. Martin said it is RCI's hope that the monitoring system will be state mandated if racing companies choose not to voluntarily deploy it. He said that RCI has publicly expressed a willingness to discuss possibly implementing a public-private partnership between industry and regulators.

INNOVATIONS TO INCREASE TRACK HANDLE

Mr. Jeffrey Seder, president of EQB Agents and Consultants, said in the last 10 years, pari-mutuel handle within the US has leveled out and recently showed a slight decrease.

Mr. Seder said, after looking at several horse tracks, it was found that handle increases as field size increases, and as purses increase field size decreases, therefore handle generally does not increase with purse increases. He said achieving higher handle is more complex than increasing purses or lowering takeout.

Mr. Seder said when looking at Saratoga stakes races, 41 races had the same name in 2005 and 2006. He said 17 out of 18 races with more runners had more handle, and 12 out of the 15 races with fewer runners had less handle. He said six out of eight races with the same runners had more handle, but the day of week and weather contributed to this figure.

Mr. Seder said it is important to increase handle and field size to increase money from stakeholders. He said to achieve these results and maximize net revenue to track and purses it is necessary to monitor complex regional activity.

Mr. Seder said surface has an effect on handle. He said since not as many turf races exist, there is an increased demand on horses for turf races and increasing the amount of horses within races leads to a bigger handle. He said tracks with more turf have experienced larger field size and handle.

Mr. Seder said field size responds to surface, but there are only limited characteristics to change regarding surface. He said field size also responds to poly-track, similar to turf, carrying higher fields. He said handle responds to field size and surface. He said a correlation is not very evident between surface, and takeouts or purses. Mr. Seder said exotic wagers contribute to field size and handle, although more complicated it does lead to more total betting.

Mr. Seder said Fuller Fields Inc. has assembled a team of scientists from major universities with diverse backgrounds and experience to develop mathematical scheduling solutions that have succeeded in other industries.

GROWTH PATTERNS IN RACINO VLT HANDLE

Mr. Charlie Vickery, Research Director of Fuller Fields Inc., reported on New York casino VLTs. He said he has studied Tioga Downs' market demographics relative to potential casino revenues at the race. He said Tioga Downs is a racetrack that came online in July of 2006. He said Tioga Downs is a casino built at least 80 miles from its nearest competitor.

Mr. Vickery said he found that a population within a 40 mile radius provided reasonable estimates of per capita revenues for Tioga Downs, Monticello, and Saratoga. He said these three race tracks he studied all had similar per capita revenue when, controlling for population density and per capita income. He said these patterns help to project future revenues and to interpret data for racetrack casinos coming online in the future.

Mr. Vickery said each week in New York racetracks have brought in \$25,000 more than the week before because more tracks have gone online since January of 2004. He said over the course of a year, peak revenue has occurred in the summer, and high and low revenue occurs because of seasonality.

He said New York has 250 off-track betting outlets within the state and they are divided into six OTB regions.

IMPACT OF SMOKING BANS ON TRACKS AND RACINOS

Mr. Bill Fasy, Chief of Operations of the Delaware Thoroughbred Horsemen's Association (DTHA), said the Clean Indoor Air Act went into effect in Delaware on November 27, 2002.

Mr. Fasy said prior to the smoking ban going into effect, Delaware slot revenues were up 9.3 percent year after year. He said for comparison, Atlantic City slot revenues were up 4.8 percent through November 2002.

Mr. Fasy said Delaware racetracks saw a 21.7 percent decline in slot revenue after smoking bans were implemented. He said the Delaware lottery made suggestions to increase lost revenue, such as adding designated smoking areas close to the gaming floor and increasing marketing.

Mr. Fasy said other implemented legislative changes during 2003 included an additional 500 units for each track, addition of royalty games to the gaming floor, expanded hours of operation, extended credit to slot players, and addition of 30 machines to be used strictly for slot tournaments. He said after changes were implemented, the decline reversed and higher revenues were generated than those previous to smoking bans.

CONSIDERATION OF RESOLUTION SUPPORTING ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL (RCI) INTEGRITY SYSTEM

Ms. Nolan read a proposed resolution regarding an integrity system.

The resolution established that NCLGS support the efforts of state racing regulators through their national association, Racing Commissioners International, to independently monitor U.S. pari-mutuel wagering.

The resolution also established that state racing commissions should encourage the voluntary participation of wagering system operators in an independent monitoring system, the system at the same time move to transition within existing statutory authority.

Mr. Fasy of the DTHA said he did not have any objections to the resolution and that after listening to previous testimony regarding the proposed resolution, he believed having states monitor a totalizator and checking software is a good idea. He questioned the implementation costs and whether it was duplicative to the Thoroughbred Racing Protective Bureau (TRPB) and action already taking place in the industry.

Mr. Martin said, responding to Mr. Fasy, states would need to determine their need for participation. He said most state racing commissions impose an unfunded mandate on licensed tracks in the form of backstretch security. He said some states are not considering opposing an unfunded mandate in terms of wagering security.

Mr. Martin said Canada's assessment is based on handling and also covers drug testing. He said the maximum cost of monitoring a system in the US would be half the assessment in Canada. He said getting more participation from industry would not be as difficult as volume increases. He said what this resolution affirms is that state regulators can seek voluntary cooperation and put together a public-private partnership.

Sen. Geller said upon conferring with his regulator he supported the resolution.

Upon a motion made and seconded, the Committee, by a seven to one vote, adopted the resolution and referred it to the NCLGS Executive Committee. Representative Oberle abstained.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:45 a.m.