

Approved 3-13-91
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Sen. Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./p.m. on March 8, 1991 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

Emalene Correll, Legislative Research Department
Mary Galligan, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Ms. Melanie Jack, Assistant Attorney General, Kansas Bureau of Investigation
Rev. Richard Taylor, Kansans for Life at its Best
Mr. Dana Nelson, Executive Director, Kansas Racing Commission
Mr. Allen Jones, Kansas Bureau of Investigation

Hearing on: SB 366 - Relating to investigations of violations of the Kansas parimutuel racing act.

Ms. Melanie Jack, Assistant Attorney General, KBI, gave testimony in support of the bill, saying the intent is to clarify the KBI law enforcement position at the racetrack. (Attachment 1)

Attached to her testimony was new proposed language for Section d.

Rev. Richard Taylor, Kansans for Life at its Best, gave testimony in support of the bill, saying lawmakers who want to keep the criminal element out of Kansas race track gambling should give the KBI any law they request. (Attachment 2)

Mr. Dana Nelson, Executive Director, Kansas Racing Commission, said he has just had a positive meeting with the KBI and is in support of the proposed language. He said there is a proper role for the KBI as well as for the racing commission and that they plan to work together. He said there has been some resistance by track employees to KBI officials. This bill would substantiate the role of the KBI at the track. He wants their overt presence to prevent trouble. He said the racing commission employees have little authority unless there is a violation of rules and regulations. Kansas has a good set of regulations.

Mr. Nelson said they have one security officer at each track; he couldn't be there 24 hours a day. He spoke of the procedure in South Dakota where the racing commission does not have security authority and uses the local law enforcement on an on-call basis. However, it is not unusual for racing people across the country to have some law enforcement authority.

Mr. Allen Jones, KBI, gave an example of a groomer coming to them with concerns about what is going on on the "backside." He said they are willing to do searches but want it in the statute that they do have that authority.

Hearing on: SB 367 - Relating to disclosure of certain information concerning the Kansas parimutuel racing act.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,
room 254-E Statehouse, at 11:00 a.m./~~p.m.~~ on March 8, 1991

Ms. Melanie Jack, KBI, gave testimony in support of the bill saying it will hopefully resolve the difficult problem faced by the KBI in the preparation and presentation of background investigations for the Kansas Racing Commission. (Attachment 3)

Rev. Richard Taylor spoke for the bill, saying, "We support the KBI."

Mr. Dana Nelson, Kansas Racing Commission, said the commission supports this bill, that sources should be protected.

A motion was made by Senator Bond and seconded by Senator Morris to amend SB 367 by making it effective upon publication in the State Register. The motion carried.

A motion was made by Senator Bond and seconded by Senator Morris to recommend the bill favorably as amended. The motion carried.

Staff presented a request for a bill introduction which would authorize the Secretary of Health and Environment to purchase vaccine for hepatitis to be distributed through local health departments for immunizations of law enforcement officers and that it be referred to Public Health and Welfare.

A motion was made by Senator Morris and seconded by Senator Bond to introduce the bill. The motion carried.

The minutes of March 7, 1991, were approved.



JAMES G. MALSON
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL

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ROBERT T. STEPHAN
ATTORNEY GENERAL

**TESTIMONY OF MELANIE S. JACK, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
FOR THE
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
MARCH 8, 1991
SENATE BILL 366**

Mr. Chairman and Members of the Committee:

My name is Melanie Jack and I am appearing today on behalf of the Kansas Bureau of Investigation (KBI) and its Director James Malson in support of Senate Bill 366.

At the time that this Bill was proposed, the language in Section d was suggested as a starting point in helping to define and clarify the KBI's investigative role at the race track. Since that time we have had the opportunity to consult with the Kansas Racing Commission, which involved a discussion regarding the role of each agency. At this time we would ask you to consider the proposed language attached. In preparing this legislation, the intent the KBI had in introducing it was not to enhance the authority that we have at the racetrack, but to clarify our law enforcement position. It is KBI's goal to assist the racing commission and the racetracks in enforcement of both the criminal and administrative regulations. Those duties are in the Kansas Administrative Regulation, but not specifically mentioned in the parimutual racing statutes. The KBI's efforts at enforcement have met with resistance from track employees and other licensees. KSA 74-8807 clarifies the role of the

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investigators employed by the Kansas Racing Commission. It was thought that by including the proposed Subsection d, such a clarification of the KBI's duties would reduce the resistance encountered by track personnel and licensees. The proposed bill would not provide more authority than is already possessed by the KBI, but would allow agents in the course of their investigations to cite the statute in support of their investigative activities.

Since the KBI is an independent law enforcement agency, we believe that their continued presence at the track not only has a deterrent effect, but protects the wagering public from abuses which are often present. There are two provisions within the Kansas Administrative Regulations that give general authority to law enforcement officers to access restricted areas and to issue orders to persons at the racetrack facility when they are acting in the performance of their duty. Another provision of the Kansas Administrative Regulations allows the KBI to search certain areas of the track for criminal violations of the Kansas Racing Act or under any of the Administrative Rules and Regulations. While these provisions in the administrative regulations set forth the authority of the Kansas Bureau of Investigation, it is hoped that this statutory addition of the KBI's duties would clear up any misconception regarding the KBI's presence at the racetracks. This provision will not change what the KBI is doing at the track, but

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should allow us to do our job more efficiently and promote a better understanding of our law enforcement role.

We ask for your favorable support for Senate Bill 366. Thank you.

Attachment

(d) It shall be the duty of the Kansas Bureau of Investigation (KBI) to be an investigative agency of criminal violations of this act, or other violations of the rules and regulations adopted hereunder. Such duty may be performed independently of, or in conjunction with employees of the commission designated pursuant to this section. Employees of the Kansas Racing Commission (KRC) shall report any criminal violations of this act or other suspected criminal activity at a race facility to the KBI immediately. Employees of the KBI shall report any violations or suspected violations of the rules or regulations adopted pursuant to this act to the executive director of the KRC or to employees of the KRC designated pursuant to K.S.A. 74-8807.

March 8, 1991 11:00 a.m.
Hearing on Senate Bills 366 & 367
Senate Federal & State Affairs Committee

Rev. Richard Taylor
KANSANS FOR LIFE AT ITS BEST!

Lawmakers who want to keep the criminal element out of Kansas race track gambling should give the Kansas Bureau of Investigation any and every law they request.

Thomas Kelly presented the legislature a detailed study on THE IMPACT OF PARIMUTUEL WAGERING ON LAW ENFORCEMENT in Kansas. This news clipping is an excellent summary.

TOPEKA (AP) — Both sides of the question of pari-mutuel wagering on horse races had their day of rebuttal Thursday before a Kansas Senate committee.

Thomas Kelly, director of the Kansas Bureau of Investigation, warned that introducing trackside betting would cause significant law enforcement problems.

HE SAID A KBI survey of the 32 states with pari-mutuel wagering indicated that such an operation in Kansas would mean increases in crime, including illegal gambling, bribery, race-fixing, fraud and corruption in the race organizations.

"There is a definite impact of pari-mutuels on law enforcement when it comes into a state," he said, adding that some states such as Oregon and Rhode Island had problems with organized crime trying to control the gambling operations.

THE WICHITA EAGLE-BEACON
Friday, February 20, 1981

The attached sheet gives you a few of the news stories out of Wichita. I have stacks more in my office.

Gambling is a criminal activity. It attracts organized crime. Attorney General Stephan on WIBW TV, March 5, 1983, said it all. "We have very little problem with public corruption in Kansas. One of the reasons for that, for example, are the difficulties involved in opening liquor stores, in regulated private clubs, in the lack of commercial gambling. The cash flow that attracts so many problems just isn't here. And I'm glad. The thing other than organized crime, is the fact that there is always illegal off track betting and there are many stories of the drugging of horses, and about cheating in regard to the races." I have the full interview on video tape.

Please pass any measure the KBI needs relative to gambling in Kansas.

Respectfully yours,

Richard Taylor

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State starts probe of Wichita Greyhound Park

By Bill Hirschman
The Wichita Eagle

State investigators arrived at Wichita Greyhound Park on Monday to audit its financial records, a painstaking process expected to last several weeks.

The Kansas Racing Commission is investigating allegations that track managers hid contracts and expenditures from state officials.

Later this fall, auditors will review financial records of other com-

announced Monday that they are proposing that John Williamson of Florida fill in for Delbert Reed, the general manager accused of helping a gambler place off-track bets. Reed was suspended from the job when the charges were disclosed.

Four accounting experts began examining the track's books to determine how money has been spent, said David Elkoun, a Wichita attorney hired by the Kansas Racing Commission to investigate the

decided with Williamson's arrival at the track.

The owners agreed Sunday to hire Williamson, pending approval of the racing commission and Wichita Greyhound Charities Inc., Calvin McMillan, track president.

Reed will have a hearing before the racing commission on Oct. 30. He has denied the charges against

Williamson's hiring will be completed Wednesday by the board of directors of Wichita Greyhound

Horses: Ak-Sar-Ben sale

Ak-Sar-Ben wants to sell 300 acres that includes its financially-struggling horse race-track because the property is worth more than the income it generates, the philanthropic organization said Tuesday. Ak-Sar-Ben will continue horse racing through the 1991 season, and it will encourage any buyer

Judges suspend dog track manager for alleged betting

State commission to hear complaints manager assisted off-track wagers

support the general manager. He said "Mr. Reed showed poor judgment" but was the victim of an injustice. Alljan said he will press the

Suspended dog-track manager faces additional charges

By Bill Hirschman
The Wichita Eagle

The Wichita Greyhound Park's general manager was hit with three more allega-

Commissioners ask who's running dog track

Track boss fighting for his career

By Bill Hirschman
The Wichita Eagle

Favors between acquaintances

Wichita Greyhound

to rush the probe, she just wants it better defined. "We may have created a monster," Arvin said. "I just feel the system very much out of

The two were suspended in September by four men who

KBI is asked to join track investigation

Saturday, August 18, 1990 THE WICHITA EAGLE 3D

Dog track's management probed

By John Hanna
Associated Press

TOPEKA — A private investigator hired by the state Racing Commission is investigating whether money has been funneled into the Wichita Greyhound Park of state, a partner in the firm Friday.

ture of payments from the Wichita track to American

Maisel, Harold Ripps and Herbert Meisler — former American Rac-

Suspended manager says he's done nothing wrong

expertise in investigation, not to use any criminal allegation if one is made, said Assistant Attorney General Janet Chubb, who heads the investigation.

The commission has also authorized paying the law firm to go to work already on a thorough track's financial take seve

Dog track chief quits in midst of hearing

By Judy Lundstrom Thomas
The Wichita Eagle

The embattled general manager of Wichita Greyhound Park resigned Wednesday in the final hours of a hearing into allegations that he

Feuding dog-track owners try to mend fences

By Bill Hirschman
The Wichita Eagle

Owners of Wichita Greyhound Park are working quietly to mollify the Kansas Racing Commission, which is considering whether to revoke their license to manage the track.

The owners, investors from Kansas and Alabama, have been feuding since before the track opened last

license. "I think it will help our relationship with both the charities and the racing commission," said Calvin McMillan, track president and Wichita stockholder. "But as far as that being the primary moving factor, I think it behooves any stockholders to try to resolve differences whether you have outside forces or not."

During a license review in May, commissioners found no regulations mis-

"I think it will help our relationship with both the charities and the racing commission. But as far as that being the primary moving factor, I think it behooves any stockholders to try to resolve differences whether you have outside forces or not."

Calvin McMillan, track president

Dogs suspended in Wisconsin could race in Kansas

KENOSHA, Wis. — Fifteen greyhounds suspended from racing at Dairyland Greyhound Park here in connection with a Kansas investigation into illegal live-lure training

The Wisconsin Racing Board has suspended the trainers, William and Rodney Boatright of Mayfield, Kan., for at least 90 days pending the outcome of the investigation, Executive Director Thomas Dunleavy said.

acing Commission or Don Hamer continue the dogs suspended

Eureka Downs dealt new blow by racing panel

By Stan Finger
The Wichita Eagle

The Kansas Racing Commission voted on Friday to let a federal bankruptcy judge decide whether weekend matinee races can return to Wichita Greyhound Park before the end of the Eureka Downs racing season.

The commission earlier had prohibited dog racing on the weekends that the horses were running at Eureka Downs. The ailing track filed for financial reorganization Monday, listing \$750,000 in debt.

Eureka Downs told to shape up or else

By John Hanna
The Associated Press

TOPEKA — The commission started a process to suspend or revoke the financially troubled horse track.

The commission accused the track's operators of acts that would put it in terms of its license. The allegations concerned parties in track security.

Commissioners also said who is making operation through the Greenwood Co. ation is licensed to overs horse track, located in Eureka, about 55

The Kansas Racing Commission started a process that could lead to suspension or revocation of the license of the financially troubled Eureka Downs horse track. The commission's staff accused the track's operators of numerous acts that violate of the terms of its license. /1D

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Eureka that it track begin

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essentially, the commission would a hearing at which Eureka Downs officials would have to defend their conduct. No hearing date has been set. The report from the commission's staff

the expertise or ability to run the track properly. "I would say they're not in control at the moment," said Warren Wiebe, an assistant attorney general who serves as an attorney for the commission. "There's a vacuum, and nobody is in control of at least of all the o license."

Two weeks ago a review of what complied with the action came short for bankruptcy. Downs' operator management to i The track has its 1989 and 1990

there, r day. "Thei Commis want to solvable,

The owners of Eureka Downs canceled this weekend's races and will file for bankruptcy reorganization Monday to shield themselves from creditors. —AP

EDITORIALS

Wake up! Dog track woes grow, but officials snooze on

The people who run the Wichita Greyhound Park remain amazingly un-track and the pari-mutuel industry apparently are not serious enough to concern



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FOR THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
MARCH 8, 1991
SENATE BILL 367

Mr. Chairman and Members of the Committee:

I am appearing today on behalf of the Kansas Bureau of Investigation (KBI) and its Director Jim Malson in support of Senate Bill 367. Director Malson regrets that he is unable to attend personally, but I hope I can answer your questions.

Senate Bill 367 will hopefully resolve the difficult problem we have faced in the preparation and presentation of background investigations for the Kansas Racing Commission.

In the early stages of the application and licensing period, the Kansas Racing Commission determined it needed access to criminal intelligence and background information to make knowledgeable decisions on who would be granted the original licenses. However, the Kansas Racing Commission was concerned that any information obtained would be subject to the Open Records Act and in January, 1988, requested an Attorney General Opinion as to whether they could maintain the confidentiality of such reports. Attorney General Opinion 88-3 issued on January 9, 1988, stated that the Kansas Open Records Act would apply to any such reports that were obtained and therefore would be subject to public disclosure. During the 1988 session the legislature amended K.S.A. 74-8804, the same statute we are dealing with here today, with the intent to make it clear that such

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reports were not to be disclosed. Based upon that language, the Kansas Racing Commission felt that it was statutorily prohibited from releasing background information and proceeded with the licensing process.

This position was challenged in the Kansas Racing Management v. Kansas Racing Commission case, which opinion was filed February, 1989. In that case the Kansas Supreme Court interpreted the statutory language to make disclosure of confidential information discretionary with the Kansas Racing Commission. In other words, if certain criteria were met, the Racing Commission had the discretion to release confidential information.

At that point, the KBI was placed in a difficult position wherein we could no longer assure individual sources and other agencies that the intelligence information they provided us would not be disclosed. Without assurances of confidentiality, the decision was made not to provide the Racing Commission with additional intelligence information on background investigations. Fortunately, at that point, most of the major licenses had already been granted.

Senate Bill 367 should make it clear to the courts, the racing commission and law enforcement, that the intelligence information and background information provided will not be disclosed, thus enabling us to provide it once again to the Racing Commission.

The KBI has been able to access for the Racing Commission, not only our own intelligence files, but those of other law enforcement agencies, and gain the cooperation of individuals close to the applicants, largely

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because the KBI was able to provide assurances that the information would not be made public and get back to the individual under investigation.

Our investigations, both criminal and background, are enhanced by our working relations with federal agencies such as the FBI, DEA, other state law enforcement agencies, racing commissions and local law enforcement agencies. They allow us access to their intelligence information and we reciprocate because there is an agreement that such information will not be disclosed. If the information is disclosed, even what seems like innocuous and trivial information can jeopardize or destroy the cooperation of an informant, an agency, or endanger the life of an undercover agent.

The scope of disclosure for background investigations needs to be defined by the legislature.

We believe that in the balance of the public's right to know versus the need for complete and thorough background investigations, this bill will assure the integrity of racing in Kansas.

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