

Approved: 2-1-95  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen on January 30, 1995 in Room 254-E of the Capitol.

Members present were: Senator Gooch  
Senator Hensley  
Senator Oleen  
Senator Papay  
Senator Parkinson  
Senator Praeger  
Senator Ramirez  
Senator Tillotson  
Senator Vidricksen  
Senator Walker

Committee staff present: Mary Galligan, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
Kim Perkins, Committee Secretary

Conferees appearing before the committee: Art Neuhedel, Executive Director, Kansas Racing Commission  
Richard Teichgraeber, Eureka Downs  
Oscar Peltzer, Kansas Racing Commission Appointee

Others attending: See attached list

Sen. Oleen announced that the committee would begin the hearing for SB 124, an act amending the Kansas parimutuel racing act, and introduced Art Neuhedel to examine the bill. Art Neuhedel discussed the bill section by section and responded to questions (Attachment 1). In Section 1, Sen. Ramirez asked how the statement referring to adoption of rules and regulation changes would be effected by the Governor's statement that there would be no new rules and regulations. Art Neuhedel did not have an answer and Sen. Oleen said she would check on that issue for the committee. In Section 2, Sen. Gooch clarified that the changes would affect only the new appointees.

In Section 4, Sen. Oleen asked if any of the employees of the commission currently own racing animals. Neuhedel answered that currently no one did and that employees were allowed to own racing animals only if they raced in a different state but might be shown in Kansas via simulcast. Sen. Oleen asked how other states treated the same issue and Neuhedel answered that policy varies.

In Section 5, Sen. Oleen asks for clarification and Neuhedel answered that this section allows for a commission employee to substitute as a steward in the case of an emergency, for example, if one of the scheduled stewards becomes ill. Neuhedel explained that this was a cost-saving measure. Sen. Tillotson questioned whether this was a conflict of interest and Neuhedel answered that serving in this capacity would be for an emergency.

In Section 6, Sen. Vidricksen asked for an example of circumstances "for good cause" and Neuhedel cited a jockey strike of a flooded track as examples. Sen. Oleen asked for a definition of just cause and Mary Torrence agreed to find out the working definition.

Sen. Oleen introduced Richard Teichgraeber of Eureka Downs to speak as a proponent for SB 124 (Attachment 2). Teichgraeber's request was that on page 15, line 26, the second word be changed from nine to ten. Sen. Oleen closed the hearing for review.

Sen. Oleen introduced Oscar Peltzer for confirmation hearing for his reappointment to the Kansas Racing Commission. Peltzer introduced himself and gave a brief background of information. Sen. Oleen began the questioning by asking Peltzer if he had served the commission for 3 years and Peltzer answered affirmatively.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E  
Statehouse, at 11:10 a.m. on JANUARY 30

Sen. Tillotson asked Peltzer several questions concerning the current drug testing procedures and if they were adequate. Peltzer responded that Dr. Rankin, the chief veterinarian, would bring any problems to his attention and that Peltzer generally compared the testing procedures to those of other states.

Sen. Tillotson asked for a status report on KBI background checks and Peltzer replied that he understood that they spent \$360,000 a year on these checks. Sen. Tillotson asked if these checks were timely and if, as a result of any of these checks, had the commission taken any action. Peltzer said sometimes there is a time delay. Peltzer answered that due to these back ground checks, two liceses had been denied. He said as a result two law suits have been filed.

Sen. Tillotson asked if the current licensing and fingerprinting laws are adequate and Peltzer responded that he believed that they were except that he did not believe people working for \$4.25 an hour should be required to pay \$40.00 for a background check. Sen. Tillotson asked if currently we required mandatory fingerprinting of all employees and Peltzer said that they did practice mandatory printing.

Sen. Tillotson asked if there were racing commission staff whom the commission did not allow to attend meetings and Peltzer said that they had recommended that people not attend the meeting but had never barred anyone from their meetings. Sen. Tillotson followed by asking for what reasons the commission held executive sessions. Peltzer answered that they did for KBI checks or other types of confidential reasons which are allowed by law.

Sen. Walker then clarified that Peltzer had been reappointed by former Governor Finney. Sen. Papay asked what Mary Kay Peltzer did for the Lottery, and Peltzer answered that Mary Kay was a commissioner. Sen. Gooch asked if the commissioners were paid a salary and Peltzer responded that they received \$24,000. Sen. Ramirez asked if the commission, now that it is established, still warranted that salary and Peltzer stated that at this time they did. Sen. Oleen called on Denise Kobuszewski, another commission member, to answer the same question. Kobuszewski answered that the job demanded quite a bit of time and that in order to continue to have qualified people serve on the board, she believes the salary is necessary as compensation for revenue loss due to time spent on the commission.

Sen. Oleen asked Peltzer to explain organizational changes, specifically the firing of the commission's attorney and the departure of the executive director of the commission. Peltzer responded that the resignation had been a surprise to him and the firing of the attorney was decided by former Attorney General Bob Stephan.

No other questions to come before the confirnee, the meeting was adjourned at 12:05 p.m.

The next meeting is scheduled for January 31, 1995.



STATE OF KANSAS



KANSAS RACING COMMISSION

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STATEMENT OF THE  
KANSAS RACING COMMISSION  
Before the Kansas Senate  
Committee on Federal and State Affairs  
The Honorable Senator Lana Oleen, Chair  
In Support of  
SENATE BILL NO. 124  
January 30, 1995

Madam Chair and Members of the Committee:

I am Art Neuhedel, executive director of the Kansas Racing Commission. Thank you for permitting me this opportunity to present the Kansas Racing Commission's proposed amendments to the Kansas parimutuel racing act, K.S.A. 74-8801, et seq. The commission has considered each of the amendments in the bill before you during the course of several public meetings since the legislature's last meeting, particularly during several meetings this past fall. Turning to the proposed bill, Senate Bill 124, the commission requests the following amendments to the racing act:

Sen. Fed & State  
1-30-95  
Attachment 1

SECTION 1 of the bill commencing on page 4 at line 14 makes changes to K.S.A. 74-8802 by adding a new subsection (dd) defining the term "racing week".

This amendment was originally requested by the Eureka Horsemen's Association and the Greenwood County Fair Association to provide the commission with greater flexibility in setting the beginning and ending dates of fair association race meets by permitting the commission to determine a "racing week" by rules and regulations. Under the prior law a fair association would not be able to open in 1995 on the Saturday of the Kentucky Derby and race through the 4th of July holiday without exceeding the nine week limitation on fair association race meets. By redefining a "race week" as beginning on Saturday and ending on Friday instead of a calendar week as in the prior law it would be possible to include both the Kentucky Derby Day and the 4th of July within the nine weeks that the Eureka fair race meet is permitted to run.

The remainder of the changes to K.S.A. 74-8802 in Section 1 of Senate Bill 124 merely reflect the renumbering of existing sub-paragraphs.

SECTION 2 of the bill commencing on page 5 at line 18 subsection (d) amends K.S.A. 74-8803 to extend the terms of racing commissioners from three to four years.

Over the course of time various commissioners have expressed the feeling that the three year term barely gave them time to get up to speed on the learning curve before their term expired and they either were faced with reappointment or for various reasons left the commission. The general feeling of the commission is that a four year term would better benefit the state by better utilizing the knowledge and experience gained by commissioners during their first year or two on the commission. A comparison of terms for racing commissioners in other states reveals that terms vary in length from three (3) years in Iowa to seven (7) years in Oklahoma. This amendment would put Kansas more in line with the majority of other racing jurisdictions.

SECTION 3 of the bill commencing on page 8 at line 6 subsection (n) amends K.S.A 74-8804 to make fingerprinting of applicants for commission licenses mandatory as opposed to discretionary as the law now exists.

This amendment is necessary to comply with Federal Public Law 92-544 per notification received by former Attorney General Bob Stephan from the U.S. Department of Justice Federal Bureau of Investigation on June 22, 1994. Without this amendment the Feds have served us warning that they will eventually cut off our ability to

run background investigations through the FBI fingerprint system.

SECTION 4 of the bill commencing on page 9 at line 17 and continuing in subsection (c) commencing at line 25 amends K.S.A. 74-8810(b)(2) and (c) to make clear the prohibition against commissioners or the executive director of the commission participating in racing in-state or out-of-state. The insertion of the word "live" on line 17 of subsection (b)(2) would permit certain employees and appointees of the commission to own racing animals that might participate in races conducted outside the state but simulcast back into the state. These persons are permitted to own and race such animals under current law but could be in technical violation of the existing law if a race in which one of their animals happened to be simulcast into Kansas. The amended language would clarify that the prohibition applies only to races run live in this state.

Continuing on with Section 4 of the bill commencing at line 32 on page 9 at subsection (d) you will find a technical amendment to K.S.A. 74-8810 which the commission believes corrects an oversight in the original legislation which prohibited a number of categories of in-laws from holding commission issued licenses but apparently left out sons-in-law and daughters-in-law.

The remainder of the amendments in Section 4 of the bill commencing on page 9 at line 39 through the end of Section 4 on page 12 at line 36 merely reflect the renumbering of subparagraphs to reflect the foregoing amendments.

SECTION 5 of the bill commencing on page 12 at line 38 amends K.S.A. 74-8818 (a) to clarify the number of racing stewards or judges that the commission is required to employ for each racing facility and provides the commission with greater flexibility in scheduling working times for stewards and judges.

Recent adverse fair labor standards act rulings in the area of employee over-time make this change necessary to avoid excessive over-time problems and to ensure that alternate judges have sufficient time available for training.

The language inserted at line 2 on page 13 clarifies the chain of command. It has been the actual practice of the commission more or less since its inception to delegate direct supervision of the stewards and racing judges to the executive director. This language merely codifies and grants specific statutory authority for what is presently being done.

Moving down now on page 13 to line 21 subsection (b) amends K.S.A. 74-8818(b) to permit commission employees



who are qualified to do so to serve as a racing judge or steward on a temporary basis without the necessity of obtaining a judges or stewards occupation license. Commission employees are generally prohibited from holding occupation licenses issued by the commission. The only exception to this prohibition is for racing judges and stewards who must be so licensed. Present law places otherwise qualified employees of the commission who may be needed to fill in on an emergency basis as a judge or steward in a catch 22 situation. They can't act as a judge or steward because the don't have a license and they can't get a license because they are an employee of the commission.

SECTION 6 of the bill commencing on page 14 at line 40 through page 15 line 17 amends K.S.A. 77-8836(b)(1) to permit a "full card" of simulcasting when less than the minimum of ten (10) scheduled live horse races or thirteen (13) scheduled live greyhound races per day are unable to be conducted due to circumstances outside the control of an organization licensee.

This amendment was requested by Woodlands' management and discussed at length with representatives of the effected owner's organizations. The language submitted here is the result of those discussion resulting in a compromise reached at a meeting between Woodlands'

management, horsemen's group representatives and commission staff held at the Woodlands on October 19, 1994.

The remainder of the amendments in Section 6 commencing on page 15 at line 21 subsection (2) reflect changes necessitated by the addition of a definition of "racing week" to K.S.A. 74-8802 as previously discussed.

SECTION 7 commencing on page 19 at line 23 amending K.S.A. 21-3612(a)(2); SECTION 8 commencing on page 20 at line 20 amending K.S.A. 38-1502(a)(7); and SECTION 9 commencing on page 23 at line 13 amending K.S.A. 38-1602(b) all reflect changes in statutory cross references necessitated by the renumbering of K.S.A. 74-8804 subsection (j) to subsection (k) as discussed previously when reviewing the amendments in SECTION 4 of this bill.

SECTION 10 repeals the existing statutes being amended by this bill.

SECTION 11 establishes the effective date for these amendments if enacted.

Madam Chair and Members of the committee:

On behalf of the commission I want to thank you for this opportunity to present the commission's legislative proposals and would respectfully request that this committee report this bill favorably for passage to the full Senate.

If there any questions, I would be happy to take them at this time.

**EUREKA DOWNS HORSEMEN'S ASSOCIATION, INC.**  
A KANSAS NOT FOR PROFIT CORPORATION

P. O. BOX 228

EUREKA, KANSAS 67045

316-583-5528

January 27, 1995

Senator Lana Oleen, Chairman  
Federal and State Affairs  
300 Southwest 10th Avenue  
Topeka, KS 66612-1504

Chairman Oleen and Members of the Committee:

SUBJECT: An act concerning racing with parimutuel wagering; amending K.S.A. 74-8803,  
K.S.A. 1994 Supp. 74-8804, K.S.A. 1994 Supp. 74-8810, K.S.A. 1994 Supp. 74-8818  
and *K.S.A. 1994 Supp. 74-8836*

I am the president of Eureka Downs Horsemen's Association, Inc., a co-organization licensee of Eureka Downs; and I would like to propose a change to the above-captioned bill which originated from the Kansas Racing Commission. My proposed change concerns an amendment to K.S.A. 74-8836 in Section 5 (2) of the bill.

The change would read as follows:

...In no case shall the live meet or simulcast races allowed under this subsection exceed **ten** consecutive racing weeks...

As it stands, the law allows for a county fair meet to run a maximum of 21 days. However, because Eureka Downs only conducts races two days per week on Saturdays and Sundays, and occasionally on holidays, it poses a problem to get full benefit of the 21 days allowed within the nine-week period. It is for that reason that I am requesting this change of wording.

I am pleased with the wording the Commission has included whereby they may determine the bounds of a racing week. Both this wording by the Commission plus my change as described above are necessary to ensure us full benefit of the 21 days allowed.

Thank you for considering my amendment.

Sincerely,

  
R. K. Teichgraeber  
President

Sen. Fed & State  
1-30-95  
Attachment 2