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FISCAL IMPACT REPORT

SPONSOR Papen ORIGINAL DATE 01/23/13
 LAST UPDATED 02/22/13 HB _____

SHORT TITLE Racehorse Testing Standards SB 72/aSCORC /aSFC

ANALYST Martinez

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
\$0.00	\$0.00	(\$350.0)	(\$700.0)	(\$700.0)	Recurring	General Fund
\$0.00	\$0.00	\$350.0	\$700.0	\$700.0	Recurring	Racehorse Testing Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicates House Bill 187

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Racing Commission (SRC)

Taxation and Revenue Department (TRD)

State Fair Commission (SFC)

SUMMARY

Synopsis of the SFC Amendment

The Senate Finance Committee amendment to Senate Bill 72 strikes all Senate Corporations and Transportations Committee amendments, and strikes each appearance of the wording “~~urine and other specimens~~” to clarify that the money in the fund is appropriated to the commission for pre and post-race testing, out of competition testing, and necropsy testing for blood serum plasma and urine as well as other appropriate samples taken from racehorses. The amendment also clarifies that each specimen taken from a racehorse shall be divided into two or more “equal” samples.

The amendment also strikes “~~not naturally occurring in a horse~~” and inserts “as defined by the Association of Racing Commissioners International (ARCI), incorporated, classification guidelines as class 1 or class 2, penalty class A drugs”.

Synopsis of SCORC Amendment

The Senate Corporations and Transportations Committee amendment to Senate Bill 72 adds serum and plasma testing in addition to urine test as recommended by the Association of Racing Commissioners International (ARCI).

Synopsis of Original Bill

Senate Bill 72 creates the racehorse testing fund to be administered by the State Racing Commission (SRC). Money in the fund is appropriated to the commission for the handling and testing of urine and other specimens taken from racehorses pursuant to the Horseracing Act. The bill provides that, beginning on January 01, 2015, an amount equal to one-half of the daily capital outlay tax shall be transferred to the racehorse testing fund. Any unexpended balance remaining in the racehorse testing fund at the end of the fiscal year in excess of \$600 thousand shall revert to the general fund.

This bill provided for ongoing appropriations from the fund to the commission for racehorse testing. The bill further amends the Horseracing Act to require that the SRC contract only with independent laboratories that meet or exceed the current national laboratory standards for the testing of drugs or other foreign substances not naturally occurring in a horse, as established by the ARCI.

FISCAL IMPLICATIONS

Under current law on or after January 01, 2015, 50 percent of the daily capital outlay tax collected for both class A and class B racetrack licensees would be transferred to the general fund. This bill proposes that revenue be transferred to the racehorse testing fund instead of the general fund. As a result, the bill would have a negative general fund impact of roughly \$350 thousand for the second half of FY15, and roughly \$700 beginning in FY16 going forward.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

The SRC writes: A significant funding increase will ensure that the SRC will have sufficient funds for the testing of racehorses at a laboratory that meets or exceeds the current national laboratory standards for the testing of drugs or other foreign substances. As long as a pari-mutuel tax is maintained, this will be beneficial to the testing program; however, if pari-mutuel tax revenue falls it may cause considerable difficulty toward meeting testing standards and may result in the agency having to seek funding.

In last year's horseracing season, 3,127 horse races occurred, with 3,769 tests performed. This accumulates to each race winning horse being tested plus a few out-of-competitions, random, and necropsy tests being performed. Out of the 3,769 tests performed, 98, or 2.6 percent of the results were positive. However in some races a substantial higher percent of positive results have occurred.

The State Fair Commission writes: The money that had been received by the State Fair from the pari-mutuel tax is being used to pay the debt service on outstanding bonds, to address the capital deferred maintenance needs of 191 individual state fair structures, deteriorating infrastructure and to fund EPA mandated requirements.

OTHER SUBSTANTIVE ISSUES

According to data from the New Mexico Finance Authority, revenues generated by the capital outlay horseracing tax/pari-mutuel tax have declined in recent years. Under current law, 50 percent of the revenue is distributed to five race tracks for capital improvements and the remaining 50 percent is distributed to the New Mexico State Fair to pay off bonds issued for capital outlay. Distributions to the state fair expire on January 01, 2015 and would instead go to the general fund. Recent distributions include:

(Dollars in Thousands)

	General Fund	State Fair	Other Tracks
FY10	\$ -	\$ 1,031.8	\$ 1,031.8
FY11	\$ -	\$ 1,010.6	\$ 1,010.6
FY12	\$ -	\$ 928.4	\$ 928.4
FY13	\$ -	\$ 846.2	\$ 846.2
FY14	\$ -	\$ 771.4	\$ 771.4
FY15	\$ 700.0	\$ -	\$ 700.0

TECHNICAL ISSUES

The bill specifies laboratory standards of the ARCI shall be followed; however, there are other standards being considered at a national level such as racing medicating testing consortium. Specifying the standard to be used in statute may make it difficult to make changes at a later date if better standards exist elsewhere.

To comply with the LFC policy on continuing appropriation, P.2 L.7 insert after “appropriated” strike “to” and insert “by” the legislature for P.2 L.8 “strike” for and insert “in”.

QUESTION

What will be the impact of the facility replacement, improvement and maintenance plans at the State Fair?

RM/svb:blm