



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 941

PRINTERS NO. 2662

PRIME SPONSOR: Regan

COST / (SAVINGS)

FUND	FY 2015/16	FY 2016/17
General Fund; State Gaming Fund; State Stores Fund; State Racing Fund; Race Horse Development Fund	See Fiscal Impact	See fiscal impact

SUMMARY:

House Bill 941, printer's number 2662, amends the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929, to provide additional duties and powers related to advisory boards and commissions.

ANALYSIS: The bill amends The Administrative Code (Act 175 of 1929) to provide additional duties and powers related to advisory boards and commissions. It also requires a report by the Pennsylvania Gaming Board on the potential of fantasy sports gambling; makes changes to the Citizens Advisory Council within the Department of Environmental Protection (DEP); reduces the licensing fee for distilleries of historical significance from \$5,400 to \$1,200; and repeals the current Race Horse Industry Reform Act to provide a new article for the regulatory oversight of horse and harness racing.

A new Section 309 is inserted directing the Pennsylvania Gaming Board to prepare and submit a report on the potential of fantasy sports gambling as a gambling product in this Commonwealth; it shall not be later than 90 days after the bill's effective date. The report shall consider such issues as a definition of "fantasy sports," the structure of different fantasy sports; the types of fantasy sports entities; and recommendations for legislative action. The report will also include potential safeguards and mechanisms to ensure the reporting of gambling winnings and facilitate the collection of applicable federal and state taxes in compliance with federal and state law.

Section 448 is amended to specify that the Citizens Advisory Council shall be an independent advisory council administratively housed within the Department of Environmental Protection. The DEP Secretary shall serve in an ex officio capacity and the council shall have the sole power to employ and fix the compensation of an executive director.

The bill amends Section 614-A (13)(iii) of the Administrative Code of 1929 to reduce the license fee for a distillery of historical significance from the current \$5,400 to \$1,200. A distillery of historical significance is a distillery which was established prior to January 1, 1875. A distillery of historical significance can only produce 20,000 gallons of liquor per year.

The bill also repeals the Race Horse Industry Reform Act (Act 135 of 1981) and adds new a new article to the Administrative Code to restructure the State Horse Racing Commission and State Harness Racing Commission. This change combines the commissions into one, nine-member State Horse Racing Commission as follows: Five members are appointed by Governor, the first four of which must be from submitted lists of at least 10 qualified persons (including one Thoroughbred horseman, one Thoroughbred breeder, one Standardbred horseman, one Standardbred breeder, and one veterinarian who cannot be a horseman or breeder); Four members are appointed by the four legislative caucuses, none of whom can be horsemen or breeders; and the Secretary of Agriculture is a non-voting ex officio member.

All votes are by a simple majority of nine, except that the two commissioners for each breed consist of a qualified majority and must both vote to approve: "Licensed Racing Entity" licensing process; Hiring/firing of Racing Director of that breed; and Regulations for that breed, including for medications. The Office of Horse Racing, which is comprised of the Bureau of Thoroughbred Horse Racing and the Bureau of Standardbred Horse Racing, shall be established within the commission and have the authority to review and evaluate all applicants for racing licenses and monitor and enforce compliance with the act.

That State Horse Racing Commission, in conjunction with the Department of Revenue, has authority over pari-mutuel wagering, simulcasting, licensed persons engaged in horse racing activities, out-of-competition medication testing of horses and the conduct of horse racing. The bill requires an annual report on general operations of the industry to the General Assembly and the Governor and expenses of the commission must be posted online. It also requires the Department of Agriculture's shared administrative services, staff and facilities to the commission to be reimbursed from the State Racing Fund. The reimbursement is limited to actual costs of providing the services, staff and facilities.

Section 2812-D outlines the additional powers of the commission, such as having the power to regulate the number of racing days at each track and to promulgate regulations pertaining to drug testing and medication guidelines.

The commission is required within 90 days to adopt and publish in the PA Bulletin a comprehensive fee schedule, and in two years, may adopt regulations to annually increase any fee authorized under the act. (Section 2825-D states that administrative fines of up to \$10,000 may be imposed for each violation. Fines shall be deposited into the State Racing Fund.)

Section 2813-D requires the commission and the Department of Agriculture to submit an itemized budget annually to the Secretary of the Budget consisting of the amounts to be appropriated from the State Racing Fund, the Pennsylvania Race Horse Development Fund (RHDF) and the General Fund to administer and enforce this act. It adds that beginning July 1,

2016, and annually thereafter, one percent of the previous fiscal year deposits into the RHDF shall be transferred to the State Racing Fund to provide for the promotion of horse racing.

The bill also outlines various licenses for horse racing with all license fees to be deposited into the State Racing Fund for the enforcement and oversight of racing. The fees include the following:

- Occupational license fees (jockeys, drivers, trainers, owners, vendors, backside employees, etc.) shall be fixed by the commission and shall not exceed \$500/three years;
- A track license is established at \$50,000/three-year term.
- A new, annual license to conduct electronic wagering is required, at an initial fee of \$500,000, with a \$100,000 annual renewal. A track currently licensed does not have to pay these fees; they have paid as part of a slot machine license fee under the Gaming Act.
- An annual license of \$25,000 is established for a totalisator or racing vendor license, with a \$5,000 annual renewal.

Section 2834-D outlines the purpose, tax rate and expenditures related to the State Racing Fund, which is the source for the regulatory oversight of horse and harness racing. It states that, for fiscal year 2015-16, money in the fund is appropriated on a continuing basis to the department. Current revenues to the State Racing Fund come from a tax on pari-mutuel wagers, a tax on wagers made through advance deposit wagering companies, uncashed winning tickets, breakage, occupational license fees and admissions tax.

The bill retains the current pari-mutuel tax rate, but admissions tax is eliminated. The established Pennsylvania Sire Stakes Fund and Pennsylvania Breeding Fund and established distributions are maintained in the bill.

Breakage revenue shall be distributed with thirty-seven and one-half percent (37.5%) to the State Racing Fund and sixty-two and one-half percent (62.5%) is retained by the licensed racing entity.

Section 2872-D establishes the Pennsylvania Race Horse Testing Program, which requires that all costs for medication testing and research shall be paid out of the RHDF in 52 equal weekly payments to the State Racing Fund. This annual transfer shall expire on June 30, 2020. After this date, all costs for the program shall be paid by the commission.

The bill also requires a study under Section 4.1 to be conducted by the Joint State Government Commission with assistance by the Independent Fiscal Office on matters of regulatory governance, regulatory practices, cost effectiveness and funding structure for financial stability. The study is required no later than one year after the effective date of the act.

The effective date of the bill's provisions and sections are as follows:

- The section related to distilleries is effective in 60 days.
- The Citizens Advisory Council and fantasy sports study sections are effective in 90 days.
- Sections related to horse racing are effective immediately.

FISCAL IMPACT:

The enactment of this legislation will affect multiple boards and commissions ranging from no to moderate fiscal impact related to new duties and related fees. This will result in new revenues for some special funds, such as additional fees, licenses and transfers for the State Racing Fund. These impacts are as follows:

The Pennsylvania Gaming Board is required to prepare and submit a report on the potential of fantasy sports gambling. There would be no adverse fiscal impact. It is expected that any operating and administrative costs related to this report will be covered under the board's existing funding authorization.

There will be no fiscal impact related to the changes made to the Citizens Advisory Council within the Department of Environmental Protection. The council was established in 1971 (per Act 275 of 1971) and has performed independent oversight of the department, evaluated issues and regulations, and provided advice to the Governor and General Assembly. The bill clarifies that the council shall be independent and has the sole power to employ and fix the compensation of an executive director.

The Pennsylvania Liquor Control Board reports that they do not currently have any licensed distilleries of historical significance. The reduction in the license fee will bring in a lower amount of potential future license revenue but only to the extent that an entity that qualifies as a distillery of historical significance applies for a license.

However, the bill does provide for new sources of revenue from license fees and fine revenues to the State Racing Fund to support the regulation and oversight of horse racing. For example, administrative fines of up to \$10,000 may be imposed, which increases the current maximum fine from \$5,000. It is estimated that this will result in a loss of annual fine revenue of \$261,000 to the General Fund, which is transferred and results in an increase to the State Racing Fund.

The State Racing Fund would see additional revenue adjustments as a result of increasing the distribution of breakage deposited in the State Racing Fund from 25 percent to 37.5 percent. This is projected to generate \$383,000 for FY 2015-16, while the elimination of the admissions tax is projected to result in a loss of approximately \$21,000 in revenue to the State Racing Fund annually, but should be noted that this continues to decrease annually.

The transfer of funding from the Race Horse Development Fund to the State Racing Fund to pay for the actual costs associated with drug testing by the commission as estimated by the Department of Agriculture will result in the transfer of \$11,346,000 in FY 2016-17. This will reduce additional expenses on the State Racing Fund and allow those revenues from pari-mutuel wagering taxes and new fees to be used for enforcement. However, this transfer from the RHDF will sunset on June 30, 2020.

The bill also adds that beginning July 1, 2016, and annually thereafter, one percent of the previous fiscal year deposits into the RHDF shall be transferred to the State Racing Fund to provide for the promotion of horse racing. This would result in the annual transfer of

approximately \$2.4 million into the State Racing Fund based on \$246 million in RHDF receipts in FY 2013-14.

The State Racing Fund will also receive revenues as a result of new and increased license fees, including occupational licenses, track licenses, and totalisator. There is also the potential for significant revenue from a new advance deposit wagering company license, which requires an initial fee of \$500,000, with a \$100,000 annual renewal. The additional revenues received by the fund will depend upon the number of applicants for these different licenses.

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Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.