

TEXAS RACING COMMISSION

MEETING

10:30 a.m.
Friday,
October 2, 2020

VIA GOTOMEETING

COMMISSIONERS PRESENT:

JOHN T. STEEN III, Chair
RONALD F. EDERER, Vice-Chair

TIM KLEINSCHMIDT
CONNIE McNABB, D.V.M.
STEVEN P. MACH
ROBERT C. PATE
ARVEL "A.J." WAIGHT, JR.

ON THE RECORD REPORTING
(512) 450-0342

I N D E X

| <u>AGENDA ITEM</u> | <u>PAGE</u> |
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| I. CALL TO ORDER Roll Call | 3 |
| II. LEGISLATIVE APPROPRIATIONS REQUEST Discussion and possible action to approve the Commission's Legislative Appropriations Request for FY 2022-23 | 4 |
| III. EXECUTIVE SESSION | None |
| IV. SCHEDULING OF NEXT COMMISSION MEETING | 17 |
| V. ADJOURN | 17 |

P R O C E E D I N G S

1
2 CHAIRMAN STEEN: Good morning. At this time,
3 I'd like to call today's meeting of the Texas Racing
4 Commission to order. The time is 10:30.

5 Before we begin, I want to remind everyone that
6 it will be extremely important to keep your device on mute
7 until you are called upon, put your device back on mute
8 afterwards.

9 If you have not previously submitted your
10 intention to comment on a particular agenda item, you will
11 be given the opportunity at the appropriate time. You can
12 send an email to info@TxRC.Texas.gov -- again, that's
13 info@TxRC.Texas.gov at any time to request to comment.
14 Please be specific about which agenda item you want to
15 comment on.

16 Robert, could you please call the roll?

17 MR. ELROD: Yes, sir. Chairman Steen?

18 CHAIRMAN STEEN: Present.

19 MR. ELROD: Commissioner Ederer? I can see
20 you.

21 COMMISSIONER EDERER: Present.

22 MR. ELROD: Commissioner Martin? Commissioner
23 Martin?

24 (No response.)

25 MR. ELROD: Commissioner McNabb?

1 (No response.)

2 MR. ELROD: Commissioner Moore?

3 (No response.)

4 MR. ELROD: Commissioner Pate?

5 COMMISSIONER PATE: Present.

6 MR. ELROD: Commissioner Waight?

7 (No response.)

8 MR. ELROD: Commissioner Kleinschmidt?

9 COMMISSIONER KLEINSCHMIDT: Here.

10 MR. ELROD: Commissioner Mach?

11 COMMISSIONER MACH: Present.

12 CHAIRMAN STEEN: Robert, do we have a quorum?

13 MR. ELROD: Yes, we do.

14 CHAIRMAN STEEN: Great.

15 COMMISSIONER WAIGHT: Commissioner Waight is on
16 board.

17 CHAIRMAN STEEN: Great. We'll move on to item
18 II. Consideration and possible action to approve the
19 Commission's Legislative Appropriations Request for FY
20 2022 and 2023.

21 Gerry Dube, director of administration, will
22 you please present the item?

23 MR. DUBE: Thank you, Commissioner Steen and
24 commissioners. Good morning. And thank you for the
25 opportunity to present an overview of the Racing

1 Commission's fiscal year '22-'23 Legislative
2 Appropriations Request.

3 The Racing Commission oversees and regulates
4 pari-mutuel horse and greyhound racing. Its primary
5 mission is to ensure the safety, integrity, and fairness
6 of Texas pari-mutuel racing. The agency regulates nine
7 licensed racetracks, six of which are open to the public
8 offering live and simulcast wagering.

9 The fiscal year '22-'23 Legislative
10 Appropriations Request was prepared assuming the agency
11 would regulate and support 36 live greyhound performances,
12 146 live horse race days, and approximately 2,200
13 simulcast race days. This was also the base consideration
14 for fiscal year '20 and '21 which we are tied to in this
15 particular upcoming biennium.

16 Based on these assumptions, staff estimates the
17 need for 39.6 full-time positions. There are no rider
18 changes in this document. However if the riders are
19 invoked, this would add up to five additional positions,
20 for a total of 44.5 full-time equivalents for the
21 biennium. The riders are on pages 83 through 88 if you
22 want to read more detail.

23 I'm sorry. Did you have a question?

24 (No response.)

25 MR. DUBE: The new LAR -- if you would please

1 go to page 14 and look at the LAR budget overview, I think
2 -- if you have the document in front of you. I'm going to
3 reference that document primarily at this time.

4 The LAR was prepared assuming the agency will
5 continue to regulate and support the same number of live
6 race days and simulcast days as it did in FY '20 and '21.

7 The baseline request is for \$12,874,000 in appropriations
8 for the FY '22-'23 biennium.

9 This consists of \$6.43 million, or 51.4 percent
10 for each year for operational expenses and \$6.26 million
11 per year, or 48.6 percent of the budget for the Texas-Bred
12 Incentive Program. Additionally an estimated \$2.06
13 million, or \$1.03 million per year, is needed in
14 unappropriated budget authority for benefits each year.

15 Revenue is estimated for operations, not
16 counting Texas-Bred, of \$8.8 million for the biennium, or
17 \$4.4 million per year. This can be found on page 121 if
18 you want to reference that later.

19 A 5 percent reduction is requested by the LBB
20 for the biennium for '22 and '23. They are using the
21 baseline of fiscal year '20 and '21 as the starting point.

22 Because the budget for the LAR is restricted to the '20
23 and '21 base budget, with a 5 percent reduction, the
24 fiscal year '22 and '23 budgets --

25 CHAIRMAN STEEN: I'm sorry, Gerry, to

1 interrupt.

2 Robert, do you mind muting caller 5?

3 MR. ELROD: I just did, yes, sir.

4 CHAIRMAN STEEN: Thank you.

5 Go ahead, Gerry. I apologize.

6 MR. DUBE: No, that's fine.

7 The fiscal year '22-'23 budget is reduced by
8 \$351,760 for the biennium as compared to the original
9 fiscal year '20 and '21 appropriated budget. To meet this
10 objective, operating funds were reduced by maintaining
11 certain staff vacancies, reducing travel costs, and
12 reducing rental costs in FY '22 and '23 due to a projected
13 move to state office facilities in the fall-winter of
14 fiscal year '22.

15 If you would go to page 10 in the
16 administrative statement, there is a listing there of
17 exceptional items that we are requesting on page 10 of the
18 administrative statement in your packet. The agency
19 recognizes the extraordinary impact the pandemic has had
20 on the state's economy, however, our exceptional items,
21 including restoring the agency's budget, will be covered
22 by GR dedicated funds and revenues from the agency at no
23 cost to the state's general revenue fund, therefore, we
24 believe the following items are essential in order to
25 fulfill the agency's mission.

1 First, the restoration of the 5 percent
2 reduction, \$350,000, primarily to fund existing vacancies
3 that were reduced or unfilled in fiscal year '20 and
4 remain so in FY '22 and '23 if unfunded.

5 Number two, the governor's request to improve
6 access to occupational licensing programs which would
7 require us to reduce license fees for some licenses to 75
8 percent of what other states charge. This would cause a
9 reduction in revenue of \$279,626 for the biennium. The
10 governor is requesting that agencies who are being
11 requested to do this include an exceptional item
12 requesting revenue for this from the legislature to cover
13 their revenue losses.

14 These funds for us require a change to the
15 Texas Racing Act because we cannot accept general revenue
16 per the Racing Act. Also, it would require a change in
17 the Racing Act in the way we price out our licensing. So
18 if we are granted this exceptional item, we would reduce
19 some of our licensing costs, but we would also need to
20 have changes in the Racing Act to accept the funds.

21 Veterinary services, the agency would request
22 \$246,060 to hire a veterinarian to expand the hours of
23 oversight to include observation of horse training at the
24 racetracks in the mornings. And this has been successful
25 already and this would help that program.

1 We would also, in number four, request an
2 information security officer. We requested this last
3 session. It would be \$246,060. The Texas Administrative
4 Code mandates designation of an ISO for each state agency.

5 Docking desktops and monitors. The agency is
6 scheduled to move into new facilities at 1801 N. Congress
7 in fiscal year 2022. The agency requests these docking
8 stations which are needed to replace older units.

9 One change I have for you today: please note
10 that Schedule 3.A.1 on page 82 in your LAR document has
11 been updated per the LAR instructions from the LBB. The
12 priority order was adjusted to show priority by strategy,
13 and the header has been corrected to show that this is for
14 the 87th Legislative Session, not the 85th.

15 The staff recommends that the FY '22-'23
16 Legislative Appropriations Request be approved by the
17 Commission with the understanding that some technical
18 corrections may be made as the document is reviewed in the
19 LAR submission process to the LBB.

20 If you have any questions, I'm happy to answer
21 anything that you may have. It's a large document.

22 CHAIRMAN STEEN: Thank you, Gerry.

23 MR. DUBE: Thank you.

24 CHAIRMAN STEEN: Commissioners, do you have any
25 questions?

1 COMMISSIONER PATE: I have a question. This is
2 my first time through this process, so I just want to make
3 sure I understand. I'm really asking Gerry, does the
4 Legislative Appropriations Request fully fund all the
5 administrative and regulatory functions of the agency?

6 That's what I really want to know. And are we
7 asking for funds, or any additional funds for the costs
8 incurred in managing the Horse Industry Escrow Account for
9 the next biennium?

10 MR. DUBE: The answer to the first question is
11 it would, I guess, provide a very lean operating budget to
12 manage the regulatory operations of the agency. It does
13 not include a request to hire somebody to manage the Horse
14 Industry Escrow fund.

15 COMMISSIONER PATE: Okay. And my question
16 then, I mean, is that really appropriate? I understand
17 what the Sunset Commission is recommending and I sense
18 what the attitude of the agency is there, but in order to
19 get us to where we're going to be -- we're going to be
20 operating at least for the next year, so I'm just
21 wondering if that's appropriate.

22 I'm just throwing that out there, whether or
23 not it's really fair to the State of Texas to not to have
24 a budget that fully costs and provides for the operation
25 of the agency in a totally transparent fashion.

1 MR. DUBE: I think the best start to that would
2 be the first exceptional item, which is to restore the
3 budget. I think that gets us three-quarters of the way
4 there. If the commissioners want, we can add another
5 exceptional item for the Horse Industry Escrow Account
6 management, if you like.

7 COMMISSIONER PATE: I don't think we can assume
8 what the Sunset is going to do or what the legislature is
9 going to do, is the point. Y'all know more about it than
10 I do.

11 COMMISSIONER MACH: I would agree with that
12 assessment. We can't assume that Sunset is going to do
13 anything, even though it's likely they will do something
14 pretty significant. We just don't know, and so we have to
15 assume business as usual.

16 COMMISSIONER KLEINSCHMIDT: This is
17 Kleinschmidt. If we ask for at least -- even if we ask
18 for like 2-1/2 percent out of that \$7-1/2 million, that's
19 \$187,500, that's probably -- I'd have to ask Gerry or
20 somebody, but that would come close to paying the overhead
21 of someone and office overhead costs to handle that
22 particular administration of that horse fund account.

23 MR. DUBE: Yes, sir, it would. You're exactly
24 right, it would cover that.

25 COMMISSIONER KLEINSCHMIDT: So I would suggest

1 we ask, if it's an exceptional item or however we phrase
2 that, I would request that we be given the authority to
3 use up to 2-1/2 percent of that fund to administer the
4 fund.

5 MS. RUYLE: Excuse me. Commissioner
6 Kleinschmidt, are you saying using 2 percent of the HIEA
7 fund for administration?

8 COMMISSIONER KLEINSCHMIDT: Yeah, 2-1/2
9 percent, yeah, because there are no other funds out
10 there to administer that account. Devon took that on as
11 an additional duty this last time around, but I don't
12 expect her to have to continue to do that work, hold two
13 or three different jobs down.

14 MS. RUYLE: I don't disagree with that about
15 Ms. Bijansky, but have you spoken with the bill's author?

16 MR. ELROD: Mary, we need you to introduce
17 yourself, please.

18 MS. RUYLE: Oh, I apologize. This is Mary with
19 Texas Thoroughbred Association.

20 I'm just concerned that --

21 COMMISSIONER PATE: Mary, this is forward-
22 looking. This isn't changing anything that exists today.
23 This is forward-looking.

24 MS. RUYLE: I understand.

25 COMMISSIONER PATE: So the bill's authors and

1 the entire legislature would have a chance to look at it
2 and consider it.

3 MS. RUYLE: I don't disagree. I just would
4 like everybody to realize, in my opinion, that was never
5 the intent of that bill.

6 COMMISSIONER PATE: Well, I think Commissioner
7 Kleinschmidt said it well in all of our Horse Industry
8 Account meetings, that it's hard to manage and hand out
9 money without some money to do it. I think we've
10 experienced that.

11 And so I personally agree with the thoughts of
12 Commissioner Kleinschmidt that we need to provide for some
13 mechanism, not assuming anything about Sunset but assuming
14 we're going to be business as usual. And I personally
15 also think that we need to make sure that we have -- in a
16 transparent function, that we have the funds necessary to
17 adequately regulate these races. And that includes the
18 veterinarian costs, I mean, everything, and I think that's
19 the fair way to do it, and it's just the cost of doing
20 business for the industry, in my opinion.

21 MS. RUYLE: I don't disagree with that either,
22 commissioner. My concern is that the bill is not strictly
23 limited to Texas racing. It's the horse industry as a
24 whole, so I don't see that -- to me that's problematic.

25 COMMISSIONER PATE: Well, it may be. We'll let

1 the legislature decide.

2 MS. RUYLE: Certainly. Thank you.

3 CHAIRMAN STEEN: Robert, has anyone else signed
4 up for public comment?

5 MR. ELROD: Only Mary.

6 Mary, did you also have a question about page
7 11?

8 MS. RUYLE: I'm sorry. A question about what?

9 MR. ELROD: I thought you emailed me that you
10 had a question.

11 MS. RUYLE: Yes. It was on page 11 where it
12 says, "In addition, a portion of the \$50 million Horse
13 Industry Escrow Account could also be used." That was my
14 question. Thank you.

15 MR. ELROD: Okay.

16 No one else, Chairman Steen.

17 CHAIRMAN STEEN: Thank you.

18 Is there anyone else who would like to speak on
19 the item that hadn't previously signed up?

20 (No response.)

21 CHAIRMAN STEEN: Commissioners, any further
22 discussion?

23 (No response.)

24 CHAIRMAN STEEN: Commissioners Pate and
25 Kleinschmidt, I'm not sure if you were intending to make a

1 motion or if a motion is needed for what you have been
2 discussing.

3 COMMISSIONER KLEINSCHMIDT: Mr. Chairman, I
4 would move that we accept and approve the Legislative
5 Appropriations Request as submitted by staff, subject to a
6 change of a request, whether it's an exception item or
7 appropriate request, for monies to administer the horse
8 industry event fund account.

9 COMMISSIONER PATE: I would second that motion.

10 CHAIRMAN STEEN: Motion made by Commissioner
11 Kleinschmidt, seconded by Commissioner Pate.

12 Devon, is that an appropriate motion, or do you
13 need more clarification or something different than that?

14 MS. BIJANSKY: Did it specify 2-1/2 percent or
15 a source of the funds, or is it your intention that staff
16 just write it --

17 COMMISSIONER KLEINSCHMIDT: I would specify
18 it --

19 MS. BIJANSKY: -- the number.

20 COMMISSIONER KLEINSCHMIDT: This is
21 Kleinschmidt. I would specify it as being up to 2-1/2
22 percent out of the horse industry event fund.

23 COMMISSIONER PATE: Or such other funds as the
24 legislature might want to appropriate.

25 COMMISSIONER KLEINSCHMIDT: I agree with that.

1 MS. BIJANSKY: With that modification, that's
2 sufficient.

3 CHAIRMAN STEEN: And so just for clarification
4 there, Commissioner Pate, you're saying it may come out of
5 this fund or another source.

6 COMMISSIONER PATE: Correct. I mean, I would
7 envision the staff would write it to notice that that fund
8 has provided -- there have been no funds available to
9 administer that fund and that one way to fund it might be
10 a percentage of those funds or other funds allocated by
11 the legislature for that purpose. Sure. And I think the
12 staff can write that in there.

13 MR. DUBE: Yes. It would enter as an
14 exceptional item. The LBB or the legislature may decide
15 to -- if they want to adopt it, would have to probably put
16 it in a rider of some sort, but it would go in as an
17 exceptional item.

18 COMMISSIONER PATE: Okay.

19 CHAIRMAN STEEN: If we're satisfied with the
20 motion, is there any further discussion on the item?

21 (No response.)

22 CHAIRMAN STEEN: If not, I'll take it up for a
23 vote. All those in favor please signify by saying aye.

24 (A chorus of ayes.)

25 CHAIRMAN STEEN: Any opposed?

1 COMMISSIONER WAIGHT: Aye. (Delayed response in
2 affirmative.)

3 CHAIRMAN STEEN: That motion carries.

4 Commissioners, after hearing back from the
5 majority of you, the next meeting is now tentatively
6 scheduled for Tuesday, December 1, instead of November 17.
7 Please be sure to contact Jean if you're not able to
8 attend on this date.

9 COMMISSIONER PATE: But likely a virtual
10 meeting still?

11 MS. BIJANSKY: At this point we expect so.

12 COMMISSIONER PATE: Okay.

13 CHAIRMAN STEEN: With no further business,
14 unless anyone has anything, the time is now 10:51 and
15 we're adjourned. Thank you.

16 (Whereupon, at 10:51 a.m., the meeting was
17 adjourned.)

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MEETING OF: Texas Racing Commission

LOCATION: via GoToMeeting

DATE: October 2, 2020

I do hereby certify that the foregoing pages, numbers 1 through 18, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Elizabeth Stoddard before the Texas Racing Commission.

DATE: October 6, 2020

/s/Nancy King
(Transcriber)

On the Record Reporting
7703 N. Lamar Blvd., #515
Austin, Texas 78752