

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 327
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: MARCH 18, 2022

SUMMARY

- Synopsis:** Requires New Jersey Racing Commission to adopt procedures to enforce internal controls; requires annual audit.
- Type of Impact:** State General Fund expenditure increase.
- Agencies Affected:** New Jersey Racing Commission, Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) notes this bill is in response to the comments and recommendations contained in the State Auditor’s Report regarding a July 1, 2016 to March 31, 2020 review of selected programs of the New Jersey Racing Commission in the Department of Law and Public Safety. The costs to the commission to address the deficiencies found in the State Auditor Report have been incurred and should not be attributed to this bill.
- The costs of this bill include monitoring current procedures to enforce internal controls of the New Jersey Racing Commission and conducting an annual audit to ensure those procedures are followed regarding fingerprinting, information technology system controls, the submission of equine fatality reports, the collection and accounting for revenues, and the collection of unpaid fines.
- Unless the Executive Branch can explain otherwise, the monitoring and audit procedures required in this bill should be able to be accomplished within existing staffing levels and resources of the commission and the Department of Law and Public Safety. If not, that may explain why deficiencies in internal controls were found by the State Auditor.

BILL DESCRIPTION

This bill is in response to the comments and recommendations contained in the State Auditor’s Report regarding a July 1, 2016 to March 31, 2020 review of selected programs of the New Jersey Racing Commission in the Department of Law and Public Safety.

The bill will require the New Jersey Racing Commission to adopt procedures to enforce internal controls of the New Jersey Racing Commission and will require an annual audit to ensure those procedures are followed.

Federal Fingerprinting

The bill requires that the commission implement monitoring to ensure that all licensees of the commission have their fingerprints taken and that all fingerprints are renewed in a timely manner and in accordance with all applicable State and federal laws. The State Auditor found that the licensees of the commission were not always fingerprinted in a timely manner and recommended that the “commission properly monitor to ensure that the licensees’ fingerprints are updated and are notified of renewals timely.”

The Division responded that in 2019, the commission instituted a fingerprint initiative to ensure that all licenses have current fingerprints on file and are in compliance with the New Jersey Racing Commission requirements. In addition, in 2019 the commission purchased Livescan fingerprinting machines to facilitate the timely collection of fingerprints.

Information Technology System Controls

The bill requires that the commission and the Department of Law and Public Safety Information Technology Unit monitor to ensure that all employees’ access privileges to the New Jersey Racing Commission Licensing, Mutuels, and Breeders system are authorized and are commensurate with their job duties and classification. The State Auditor found that controls over user access privileges and adding and removing users from the system needed to be improved and recommended that the commission and the Department of Law and Public Safety Information Technology Unit monitor all users and their access privileges to ensure that the access is commensurate with the users’ job duties. In addition, the State Auditor recommended that a written formal policy regarding granting and removing users to the system be developed and implemented and documentation should be maintained.

The division responded that they intended to develop a formal policy, in conjunction with the Department of Law and Public Safety Information Technology Unit to regularly monitor the users and their access privileges to ensure that access is commensurate with the users’ job duties.

Equine Fatality Reporting

The bill requires that all equine fatality reports are complete and submitted in a timely manner to the commission during the fiscal year and codifies an equine fatality reporting process prescribed by the commission and the elements required to be included in an equine fatality report pursuant to New Jersey Administrative Code section 13:71-20.24.

The State Auditor found that equine fatality reports are not always complete and the timeliness of the submission of reports cannot be determined. As such, the State Auditor recommended that the commission implement procedures to ensure the Equine Fatality Reports are reviewed for completeness and are submitted in a timely manner in order to maintain proper oversight of the race horses’ general health, as well as to observe any trends in racing-related fatalities of race horses.

The division responded that it has proposed extensive revisions to the rules requiring the filing of equine fatality reports. On December 2, 2019, the commission proposed amendments to New Jersey Administrative Code sections 13:70-14.16 and 13:71-20.24. The commission reported that it expected the adoption of the proposed amendments, which will implement positive changes in

overseeing race horses' general health and will provide for the observation of trends in racing-related fatalities beyond those set forth in the recommendation.

According to the division, "the proposed amendments would expand the report requirement of providing the tattoo number of the deceased horse to require the tattoo number 'or other registration identification' of the deceased equine, in order to reflect the registration and identification of race horses is no longer accomplished solely through the use of tattoos. The registration and identification of race horses now also include the use of freeze brands and microchips. Other amendments the commission proposed for equine fatality report rules would require that an appropriate post-mortem necropsy be conducted by a qualified veterinarian on the remains of any race horse that died on the racetrack during racing or training, or which died within one hour after racing or training on a racetrack, to determine the cause of death. Verbal notification of the death of the horse shall be given to the State Steward or a commission veterinarian within one hour of the horse's death and would prohibit the removal of the horse's carcass without the authorization of the State Steward or Chief State Veterinarian, or their designee. The carcass of a horse that died on the racetrack under these circumstances shall be transported to a facility identified by the commission as qualified to conduct the post-mortem necropsy, thereby prohibiting the unauthorized removal of the remains of a deceased horse from the racetrack, and ensuring that the commission has complete and adequate information regarding carcass removal."

In addition, the division's response stated that, "the proposed amendments, if adopted as intended, will also require that equine fatality reports be submitted in a timely manner. Pursuant to the proposed rule amendments, the report must be filed within 48 hours of the death of the horse and require that the report shall be filed with the commission's State Steward and Chief State Veterinarian. The commission plans to implement training procedures for the State Steward and Chief State Veterinarian to ensure their review of the filed reports for completeness and timeliness."

Revenues

The bill requires that all revenues be collected in a timely manner, properly recorded in the State accounting system, and accounted for in the New Jersey Racing Commission Licensing, Mutuels, and Breeders system and codifies a process in Circular Letter 12-02-OMB, which establishes the State's policies and procedures regarding the deposit and recording of funds by State agencies be enforced.

The State Auditor found that the commission was not in compliance with its monitoring procedures to ensure all revenues collected are deposited in a timely manner, properly recorded in the State accounting system, and accounted for in the commission's system. As such the State Auditor recommended the commission reinforce existing procedures to ensure that all revenues are deposited in a timely manner and in compliance with Treasury Circular No. 12-02-OMB. In addition, the State Auditor recommended that the commission should comply with its own policies to ensure all revenues collected are properly accounted for on the date they are received. Furthermore, the State Auditor recommended that the commission interfund transactions between the New Jersey Racing Industry Special Fund and the General Fund be processed properly with the assistance of the Department of the Treasury.

The Division responded that the commission has phased out the acceptance of cash payments at its licensing offices and has obtained technology to allow credit card payments. In addition, the commission is investigating the possibility of allowing New Jersey Racing Commission licensing inspectors to make electronic deposits in and electronic deposits in compliance with Treasury Circular Letter 12-02-OMB, as well as offering training to licensing inspectors to ensure that

collected revenue is deposited timely, properly recorded in the State accounting system, and accounted for in the New Jersey Racing Commission's system.

Suspension and Unpaid Fines

The bill requires that the commission ensure that all fines and fees imposed on licensees are collected and licensees who do not pay their fines are suspended in accordance with the New Jersey Administrative Code and codifies a process prescribed in by Treasury Circular letter No. 13-11-OMB. The State Auditor found that improvements are needed in the commission's enforcement of controls regarding suspensions and uncollected debt and recommended that the commission suspend the racing licenses of individuals who do not pay their fines in compliance with the New Jersey Administrative Code and the commission's internal procedures. If the commission is not able to collect a debt within 90 days, the account should be transferred to the Division of Revenue and Enterprise Services in the Department of the Treasury.

The Division responded that individuals who do not pay their fines are placed on the Security Guide and are not able to be issued a license until the fine is paid. In addition, the division, stated that the commission can transfer to the Division of Revenue and Enterprise Services any debt that it has been unable to collect for 90 days and that the commission will draft a procedure to transfer such fines to the Division of Revenue Enterprise Services. The division noted that any such monies collected will be transferred to the Backstretch Fund in accordance with N.J.S.A. 5:5-44.8.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that the New Jersey Racing Commission responded to the findings and recommendations in the State Auditor's Report regarding a July 1, 2016 to March 31, 2020 review of selected programs of the New Jersey Racing Commission in the Department of Law and Public Safety. In the responses to the recommendations, the commission explained how it had addressed the fingerprinting, revenue, unpaid fine, and information technology system control deficiencies. In addition, the commission stated that in 2019 it had proposed changes to the Administrative Code to address the deficiencies in its equine fatality reporting procedures. Thus, the costs to the commission to address the deficiencies found in the State Auditor Report have been incurred and should not be attributed to this bill.

The costs of this bill include monitoring current procedures to enforce internal controls of the New Jersey Racing Commission and conducting an annual audit to ensure those procedures are followed. The procedures include:

- Monitoring to ensure that all licensees of the commission have their fingerprints taken and that all fingerprints are renewed in a timely manner and in accordance with all applicable State and federal laws in accordance with current internal controls;
- Monitoring to ensure all employees' access privileges to the New Jersey Racing Commission Licensing, Mutuels, and Breeders system are authorized and are

commensurate with their job duties and classification in accordance with current internal controls;

- Monitoring to ensure that all equine fatality reports are complete and submitted in a timely manner to the commission during the fiscal year in accordance with currently proposed internal controls;
- Monitoring to ensure that all revenues are collected in a timely manner, properly recorded in the State accounting system, and accounted for in the New Jersey Racing Commission Licensing, Mutuels, and Breeders system in accordance with current internal controls;
- Monitoring to ensure that all fines and fees imposed on licensees are collected and licensees who do not pay their fines are suspended; and all interfund transactions between the New Jersey Racing Industry Special Fund and the General Fund are processed with the assistance of the Department of the Treasury in accordance with current internal controls.

Unless the Executive Branch can explain otherwise, the monitoring and audit procedures should be able to be accomplished within existing staffing levels of the commission and the Department of Law and Public Safety. If not, that may explain why deficiencies in internal controls were found by the State Auditor.

Section: State Government

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).