



Senate Fiscal Agency  
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BILL ANALYSIS

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Senate Bills 955 through 957 (as passed by the Senate)  
Senate Bill 958 (as reported without amendment)  
Sponsor: Senator Cameron S. Brown (S.B. 955)  
Senator Gerald Van Woerkom (S.B. 956)  
Senator Dennis Olshove (S.B. 957)  
Senator Jim Barcia (S.B. 958)  
Committee: Agriculture and Bioeconomy

Date Completed: 11-18-09

### **RATIONALE**

On October 8, 2009, the Governor signed Executive Order (E.O.) 45 of 2009, as part of an effort to reorganize the executive branch and reduce the number of State departments. Unless the Legislature disapproves the E.O. by December 7, 2009, it will take effect. The primary reorganization under the E.O. is the merger of the Departments of Natural Resources and Environmental Quality into a new Department of Natural Resources and Environment. The Executive Order also makes other changes, including the elimination of the Office of Racing Commissioner, transferring all of the Commissioner's functions and powers to the director of the Michigan Gaming Control Board. Many horse breeders and others have objected to the idea of the Gaming Control Board regulating the industry, and have suggested that the Director of the Michigan Department of Agriculture (MDA) should have oversight of horse racing in Michigan.

### **CONTENT**

**Senate Bill 955 would amend the Horse Racing Law to eliminate the office of the Racing Commissioner and transfer the Commissioner's duties to the MDA Director.**

**Senate Bill 956 would amend Public Act 90 of 1951 (which regulates racing meets) to refer to the MDA Director, rather than the Racing Commissioner,**

**in provisions related to the distribution of outstanding race winnings that have not been claimed by the owner.**

**Senate Bill 957 would amend the Compulsive Gaming Prevention Act to require the Director of the Department of Community Health (DCH) to consult with the MDA Director, rather than the Racing Commissioner, before authorizing the distribution of money from the Compulsive Gaming Prevention Fund.**

**Senate Bill 958 would amend the lobbyist registration Act to remove a reference to the Racing Commissioner from the definition of "official in the executive branch."**

Senate Bill 955 is tie-barred to Senate Bills 956, 957, and 958, each of which is tie-barred to Senate Bill 955.

### **Senate Bill 955**

The Horse Racing Law requires the Racing Commissioner to be appointed for a four-year term by the Governor, with the advice and consent of the Senate. The Commissioner must appoint two deputy commissioners and three State stewards of racing as special deputies for each licensed race meeting in the State, and may delegate the performance of his or her duties to the deputy commissioners or special deputies. The bill would delete these provisions.

The Law permits the Commissioner to promulgate rules for conducting horse racing, pari-mutuel wagering on horse racing results, and simulcasting in the State. The Law also authorizes the Commissioner to conduct investigations to ensure compliance with the Law and with rules promulgated under it, and permits the Commissioner to issue sanctions for a violation of the Law.

The Commissioner may require an employee or official having to do with horse racing, simulcasting, or pari-mutuel wagering to be removed for cause.

The Commissioner may issue race meeting licenses, track licenses, and occupational licenses to individuals involved in horse racing, pari-mutuel racing, or simulcasting at a licensed race meeting in the State, according to procedures and requirements specified in the Law. The Commissioner may suspend or revoke a license or impose penalties upon a licensee for certain violations of the Law.

The Commissioner may authorize a race meeting licensee to simulcast a horse race or to televise a simulcast of a horse race from another racetrack under certain conditions.

The Law requires that pari-mutuel operations at each race meeting be audited by a private auditing firm appointed by the State Treasurer and approved by the Racing Commissioner. Copies of the audit report must be forwarded Commissioner, the Treasurer, and the holder of the race meeting licensee.

Any drug or foreign substance other than a stimulant or depressant may be administered to a horse only if authorized by the Commissioner. Any unauthorized or emergency administration of an unauthorized drug or foreign substance must be reported to the Commissioner, the State Veterinarian, or the steward, and the horse must be scratched from the race.

The Commissioner or his or her designee must conduct random drug testing in all winning horses and any other horse in each pari-mutuel horse race, and may test any specific horse within the racetrack.

The Commissioner must issue written orders or promulgate rules that specify the conditions that permit authorization of the

use and possession of a foreign substance or permissible drug and the procedures that must be followed in administering the drug.

The Commissioner must suspend the license of a licensee who is convicted of certain offenses involving the possession or administration of unauthorized substances, controlled substances, or other devices that can affect racing condition or performance in a race or workout at a licensed race meeting in the State.

The bill would remove the references to the Racing Commissioner in those provisions and instead give the MDA Director those powers and responsibilities.

The Law creates the Michigan Agriculture Equine Industry Development Fund, to be administered by the MDA Director with the assistance and advice of the Racing Commissioner. Under the bill, that Fund would be administered solely by the Director.

The bill would repeal Section 5 of the Law, which requires the Racing Commissioner, before beginning his or her duties of office, to take the constitutional oath of office to competently and faithfully execute and perform all the duties pertaining to the office according to the laws of the State.

### **Senate Bill 956**

Under Public Act 90 of 1951, 50% of all funds held by a race meeting licensee for the payment of outstanding winning tickets that have not been claimed by the owner within 60 days after the close of the race meeting must be deposited into the Michigan Agriculture Equine Industry Development Fund.

A licensee who pays a winning ticket after the last day of a race meeting must preserve the cashed winning ticket and give it to the Racing Commissioner. After receiving money and records that were delivered to the Racing Commissioner under the Act and delivering a copy of the cashed winning ticket to the Commissioner, the race meeting licensee is released from all liability or accountability to the owner of the money, as well as from any other reporting requirements to a State, county, or municipal board, commission, or agency, except those that were required before the date of the required delivery and report to the Commissioner.

The bill would refer to the MDA Director, rather than the Racing Commissioner, in those provisions.

### **Senate Bill 957**

The Compulsive Gaming Prevention Act requires the DCH Director, after consulting with the Racing Commissioner, the State Lottery Commissioner, and the chairperson of the Michigan Gaming Control Board, to authorize the distribution of money from the Compulsive Gaming Prevention Fund to be used for the treatment, prevention, education, training, research, and evaluation of pathological gamblers and their families.

Under the bill, the DCH Director would have to consult with the MDA Director, rather than the Racing Commissioner.

The results of funded studies and recommendations for any changes in funding levels under the Act must be submitted to the Racing Commissioner, as well as other specified individuals. Under the bill, that information would have to be submitted to the MDA Director instead of the Racing Commissioner.

### **Senate Bill 958**

The lobbyist registration Act regulates the activities of lobbyists and lobbyist agents. For the purpose of the Act, "lobbyist" or "lobbyist agent" does not include an elected or appointed public official of State or local government who is acting in the course or scope of the office for no compensation other than that provided by law for the office, including an official in the executive branch. The definition of "official in the executive branch" currently includes the Racing Commissioner, among other officials. The bill would remove that reference.

MCL 431.302 et al. (S.B. 955)  
431.252-431.254 (S.B. 956)  
432.254 & 432.255 (S.B. 957)  
4.415 (S.B. 958)

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The horse racing industry is very different from other types of gaming in the State.

Horse breeders and racehorse owners spend most of their time caring for horses; wagering is only a small part of what the industry involves. Before a race can be conducted, the horses must be bred, raised, and trained extensively, and it requires skill, time, and energy to ensure that a horse is well cared for and in optimal condition. Those activities fall outside the expertise of the Gaming Control Board, which currently focuses on the regulation of casino gaming. Horses are livestock, and are cannot be regulated in the same way as slot machines. Also, since casino gaming and horse racing are in competition for the same wagering dollars, it would be inappropriate for one agency to regulate both activities.

Horse racing in Michigan needs an advocate that can promote and strengthen the industry. Attendance at racing events has been dwindling in recent years, and it is crucial for the body overseeing the industry to be able to help reverse that trend. Historically, the Office of Racing Commissioner sought to improve and promote horse racing in Michigan. Because of its role as a regulator, the Gaming Control Board would not be in a position to promote horse racing. The MDA, on the other hand, currently houses the Office of Racing Commissioner and horse racing is closely associated with the agricultural industry. Horses are raised and maintained on farms, and their upkeep supports the farmers who supply hay, straw, and other products. The MDA has a record of promoting different forms of agriculture in Michigan and would be well suited to do the same for horse racing, helping to ensure that it remains a strong part of Michigan's economy.

Legislative Analyst: Curtis Walker

### **FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.