2011 HOUSE AGRICULTURE

HB 1186

2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

HB 1186
January 21, 2011
Job # 13198

☐ Conference Committee

Committee Clerk Signature Re Mae Kuehn

Explanation or reason for introduction of bill/resolution:

Membership of the ND racing commission.

Minutes:

Rep. Kreidt, Co-Sponsor, District 33: Someone in my district asked if I would introduce this bill.

L. J. Harsche, Raises and Races Thoroughbred Horses: (See attached testimony #1)

Representative Boe: What exactly is the difference between the North Dakota Thoroughbred Association and the Thoroughbred Owners and Breeders Association?

L. J. Harsche: They are two different organizations within the state. They both promote thoroughbred racing. The Thoroughbred Owners and Breeders Association devoted itself to promoting thoroughbred horse racing only within the state of North Dakota.

Representative Boe: How many members does the Owners and Breeders Association have?

L. J. Harsche: About 75-100 at this point.

Representative Rust: This change eliminates one association and replaces it with another?

L. J. Harsche: No it changes the wordage to a national organization that accepts memberships from all associations. Even if there are two or three memberships within a state, it only changes the wordage to the national organization. There are some states that have two thoroughbred associations.

Representative Rust: Earlier you said that the North Dakota Thoroughbred Association and the Thoroughbred Owners and Breeders Association are two different groups?

L. J. Harsche: Two different state thoroughbred organizations not national organizations.

Representative Mueller: Is it conceivable the individual that represents this group would not be a North Dakotan?

L. J. Harsche: NO. Because we don't appoint people to the racing commission. The racing associations are only racing associations within the state to promote thoroughbred horse racing for their breeds. As far as the commission is concerned we have nothing to say.

Leigh Backhaus, New Salem, Director of ND Thoroughbred Owners and Breeders Assn.: I've been raising thoroughbreds all of my life. I am also a member of the horseman's council advisory committee. The advisory committee didn't vote on this bill but I know they support it. This change brings everything on a level playing field and equal talk. The way it is now, it eliminates people who are trying to promote horse racing here in the state. When we come to the racing commission and ask for funds they would recognize everybody instead of just a few.

Representative Wrangham: Current language is exclusive. The change would make it inclusive and everybody would be able to be appointed. Is that correct?

Leigh Backhaus: Whether there is one organization or ten they would all have a say. The way it is written now there is one and that is it.

Opposition:

Winston Satran, Director of ND Racing Commission: (See testimony #2)

Included the Secretary of State's information on the registration of each organization.

In this bill, on Line 13 it crosses out ND Thoroughbred Association and replaces Thoroughbred Owners and Breeders Association. So we have replaced the organization that has been formed in 1964 with one from 2009.

People can nominate to the Racing Commission but the nomination goes to Governor's office for appointment. We try not to influence the Governor's office. That is the Governor's constitutional responsibility. There have been some actions taken in the past that are favorable to the Thoroughbred Owners and Breeders Association. The past chairman of the commission appointed Mr. Backhaus to the Horseman's Advisory Council. So considerations have been given at that time to participate in decisions by the racing commission.

Representative Boe: It is your opinion with the current language that this is not inclusive of everybody. It is picking one over the other. Is that your interpretation?

Winston Satran: What I am repeating is what was in the original statute drafted for the racing commission. We at the commission are looking at the organization that represents the greatest number of horseman in North Dakota.

One of the things we do at the commission is make grants to race tracks and racing organizations. Last summer we contacted the Quarterhorse Association asking for their membership. I believe it was 54 members. We contacted the North Dakota Thoroughbred Association and they had 78 members. We contacted the Harness Association. We didn't get a response so we called them. There are about 7 or 8 harness racers in North Dakota. They are not actually organized. We then contacted Thoroughbred Owners and Breeders Assn. and we received an email back. "I'm not sure this is a legal request or a form of intimidation. We have to discuss this and reply." We received a second email stating they were going to have a membership meeting but they never returned the number of members. We would like that information so that when we give out funds it goes to the greatest number of horseman. Not only did the other organizations give numbers but they gave a list of the members.

Representative Headland: How long have you been a racing commissioner?

Winston Satran: I was a commissioner for one year and then I became acting director of racing and now I am the Director of Racing.

Representative Headland: Why was a new association started in 2009?

Winston Satran: I don't know the reason.

Representative Rust: Are you a member of any of these organizations?

Winston Satran: No I am not.

Representative Schatz: Representative Headland asked you how long you were the head of this association. I didn't hear the answer to that.

Winston Satran: I was on the Racing Commission for one year, acting director for about five months, and the Director of Racing for one year.

Other Opposition:

Scott Horst, Vice President of ND Thoroughbred Assn.: We have been sanctioned with the state since April of 1964. We have 78 members state wide in ND, SD, and Montana.

In the past we have raced in ND and in Canada. Tracks in ND are not up to standards for these big time races from Canada and other states. Canada used to kick in $6,000 per race. We'd have four races. We have not asked for money to run races from the racing commission. We generate our own money by stallion auctions. There are donated stallions from all over the state and country. That money is used for our purse money.

We are a nonprofit organization. We've been around for a while.

Representative Headland: Why was another association created in 2009?

Scott Horst: There were a couple of people not happy with our association and left to start a new association.

Representative Headland: L. J. Harsche indicated his belief was that his organization is the Cadillac of organizations.

Scott Horst: I would say the ND Thoroughbred Association is the Cadillac in North Dakota. We've some members for years and years. There were some issues where some people decided to leave and start their own. The Thoroughbred Owners and Breeders Association is a national organization just like the American Quarterhorse Association. The American Quarterhorse Association is registered as a ND Quarterhorse Association. If you read that statute, it's telling me that anybody in the American Quarterhorse Association can come to this state and recommend a representative to be on the Racing Commission. We are a state organization working in ND. The Quarterhorse Association is registered as a ND Quarterhorse Association.

Representative Mueller: Could you compare and contrast the two?

Scott Horst: We do have races every year. They do not. We meet twice a year. We have stallion auctions and award banquets and meetings. We have a Vice President and President and six chairmen. I don't know much about theirs.

Representative Mueller: You do four races per year and involve Canadians. You don't take money from the racing commission to do that?

Scott Horst: Currently we have not. We create money from our stallion auctions. We had four races in the past. We are down to two. The economy is hurting us as well. We do a 2-year old race and a 3-year old race.

Representative Mueller: But you could ask for money to conduct your activities from the racing commission. Would it be fair to say that any organization that would replace you would do the same thing in terms of accessing money from the commission?

Scott Horst: We will be if Fargo runs this year rather than Canada. We will be asking for half of the purse from the racing commission

Representative Mueller: So it is important who is on that commission as to who gets that money to run races.

Scott Horst: The money is usually given by the commission or the race track.

Representative Boe: We've heard of memberships of 55 for one organization 78 for another. Any chance some of those members are the same?

Scott Horst: There is a chance. I know of maybe two.

Representative Boe: The frequency of dual membership would be little?

Scott Horst: Correct. In the last 2-3 years they ran one race. Last year they wanted four races in Belcourt and there were no entries. The previous year they had one or two.

Representative Boe: Do you feel this is substituting one name for another?

Scott Horst: Yes.

Representative Boe: What is important to you is to keep your name. Would you have problems if the other name was also included?

Scott Horst: That is hard to say because of the credibility.

Representative Boe: So that would be a no?

Scott Horst: I look at it if someone is trying to cut out our name, I'm here to voice our association.

Opposition: None

Vice Chairman Kingsbury: Closed the hearing.

2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

HB 1186
January 27, 2011
Job #13543

☐ Conference Committee

Committee Clerk Signature Jo Mae Kuch

Explanation or reason for introduction of bill/resolution:

Committee work for membership of the ND racing commission

Minutes:

Representative Schatz: Just to clarify this, we have the Breeders' Association which has one member and TOBA (Thoroughbred Owners and Breeders Association) wants to be the other group. So there would be two groups eligible?

If we do not pass it, it goes back to the one group. Is that correct?

Vice Chairman Kingsbury: TOBA is still a separate group. They would still remain their own group. But the racing commission would remain the same as it is.

Representative Boe: This bill did not add one more. It substituted one for the other. If we kill this, it will stay the same as it is now.

Representative Schatz: Could it be amended to have two?

Representative Boe: Winston Satran testified that he definitely did not want that. He didn't want both—it would be messy.

Vice Chairman Kingsbury: Moved for **Do Not Pass.**

Representative Belter: Seconded the motion

A Roll Call vote was taken. **Yes: 7, No: 3, Absent: 4,**
Representatives Rust, Wall, Wrangham, and Mueller)

DO NOT PASS carries

Representative Kingsbury will carry the bill.

Date: 1/27/11

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1186

House **Agriculture** Committee

Legislative Council Amendment Number

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended

☐ Rerefer to Appropriations

Motion Made By Vice Chairman Kingsbury Seconded By Representative Belter

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	X		Tracy Boe	X	
Joyce Kingsbury, Vice Chair	X		Tom Conklin	X	
Wesley Belter	X		Richard Holman	X	
Craig Headland		X	Phillip Mueller	AB	
David Rust	AB				
Mike Schatz		X			
Jim Schmidt		X			
Wayne Trottier	X				
John Wall	AB				
Dwight Wrangham	AB				

Total **Yes** 7 **No** 3

Absent 4

Bill Carrier Vice Chairman Kingsbury

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1186: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO NOT PASS** (7 YEAS, 3 NAYS, 4 ABSENT AND NOT VOTING). HB 1186 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1186

#1
1/21/11

Chairman Johnson and Distinguished members of this Committee:

My Name is L.J. (Lee) Harsche; I raise and race Thoroughbred Horses here in ND. I am here to speak in favor of HB 1186:

I've been blessed in my life to be born and raised on a ranch in Southwest North Dakota, be a Rancher and feed lot owner/operator and also served on many Local, State and National Boards as Director, President and CEO.

The following correction is requested in the one Racing Breed wordage of this statute. All of the other three racing associations are listed as their National or International Racing Associations or affiliate of them. An example of this is the "American Quarter Horse Association" is the Breed Registry Association for Quarter Horses; the "American Quarter Horse Racing Association" is the Horse Racing Branch for them. ND statute refers to the "American Quarter Horse Racing Association or its state Affiliate." The same type of wordage is true for the other Horse Racing Associations; ND Statute plainly states their National Racing Associations or its State Affiliate except in the case of the Thoroughbreds. The "Jockey Club" is the Thoroughbred Breed Registry and "The Thoroughbred Owners and Breeders Association," is the National Thoroughbred Horse Racing Association for the Thoroughbred Breed. We choose the "Thoroughbred Owners and Breeders Association" because it is considered by the vast, vast majority of Thoroughbred people to be not only the National Thoroughbred Horse Racing Association but provides a range of valuable services for its individual and state association members. It is North America's most influential and active organization for Thoroughbred owners, breeders and Horse Racing. The "Thoroughbred Owners and Breeders Association," which was formed in 1961, is the voice of owners and breeders-and for the sport of Thoroughbred racing. Whether members of them or not, "all" Thoroughbred People are reaping the benefits of them, from the educational programs to the vast number of races they sponsor from the Breeders Cup Classics on down through the state and local level. While there are other wannabes in the Thoroughbred Industry, the "Thoroughbred Owners and Breeders Association" is the Cadillac of national thoroughbred associations in the United States that virtually all State and local Associations are affiliated with. In fact they boast tens of members and supporters from their national association down through their state and local affiliates throughout the United States. They also accept memberships from multiple affiliates even within a specific state. Therefore for anyone to question their stature would be a misnomer.

In my research, in our state alone, from talking to both Horse Race Track officials and many other horse racing people, I have discovered that since the inception of Horse Racing at Chippewa Downs in the mid to late 1980's and the North Dakota Horse Park's beginning in 2003, one thing stands out. That is that at both of our Paramutual Horse Race Tracks in North Dakota, the "Thoroughbred Owners and Breeders Association" is the only thoroughbred racing association to have "scheduled, sponsored or sanctioned" Thoroughbred Horse Races, not just have their members participate in Thoroughbred races there throughout that history. In fact some of their members have been racing Thoroughbreds most of, if not all, of that history in North Dakota. In my judgment, a Horse Racing Association listed in North Dakota Statute that has been repeatedly invited to hold their Breed races at our horse race tracks in North Dakota during that long history, but continued to hold them not only out of North Dakota but in a foreign country is ludicrous.

With that in mind we believe "The Thoroughbred Owners and Breeders Association or its State Affiliate" should, at the very least, be added to the statute. There is and has been a Thoroughbred State Affiliate of the "Thoroughbred Owners and Breeders Association" in North Dakota and their members and supporters should be rewarded for their efforts to expand and promote Thoroughbred horse racing in this Great State.

In closing, it is also our understanding from other Legislators that ND Statute cannot specifically name a Private Person or Business within the state, therefore, we believe this correction in the Statute wording needs to be changed in order to make this Statute not only consistent with the other breed associations' wordage but possibly legal.

Thank you for your time. If you have any questions I will be happy to answer them.

L.J. (Lee) Harsche

#2

House Bill No. 1186
ND Racing Commission
Winston E. Satran, Director
January 21, 2011

62nd Legislative Assembly
House Agriculture Committee
Peace Garden Room, State Capitol
Representative Dennis Johnson, Chairman

Pari-mutuel Horse Racing was created in 1987 with the enactment of Chapter 53-06.2 of the North Dakota Century Code. In that statute, the nomination for Commissioners was defined in section 53.06.2-02 **Racing commission --- Members --- Appointment --- Term --- Qualifications --- Compensation.**

"1. A North Dakota racing commission is established consisting of the chairman and four other members appointed by the governor. One of the members must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association."

The North Dakota Quarter Horse Racing Association became registered with the Secretary of State on July 30, 1993 and presently has 55 members. The North Dakota Thoroughbred Association became registered with the Secretary of State on April 22, 1964 and presently has 78 members. The North Dakota Thoroughbred Owners Breeders Association registered with the Secretary of State on February 19, 2009.

As Director of the Racing Commission, I do not see any need to change the present statute which denotes the process to nominate potential commissioners to the

Racing Commission. There has been a long and significant history with these associations, the Racing Commission and the nomination process. The present Commission members are:

Chairman Dr. Jim Ozbun - former President of North Dakota State University - raised on a ranch at Flasher, North Dakota - taught at a number of the prestigious agriculture colleges in the United States - nominated by former Racing Commission Chairman Judge Patrick Weir.

Clarence Frederick - a member of the Turtle Mountain Band of Chippewa from Belcourt - long-time Administrator of the Hospital in Belcourt - represents the tribal interests in horse racing.

Tom Seftner - owner of Patriot Fence Company and cattle rancher - owned and raced thoroughbred horses in North Dakota - nominated by the North Dakota Thoroughbred Association.

Steve Hartman - cattle rancher and Sales and Service Manager for Knight Oil Tools - lobbyist for the original pari-mutuel and simulcast statutes in North Dakota - former President of the North Dakota Thoroughbred Association - received Meritorious Award from the Association - performed Horsemanship Clinics at Dickinson State University - nominated by western horsemen.

Representative Andrew Maragos - Minot business owner - State Representative -UND Graduate - nominated by the Quarter Horse Association.

This concludes my testimony. As Director of the Dakota Racing Commission, I recommend a do not pass to House Bill 1186.

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SECRETARY OF STATE
NORTH DAKOTA

NORTH DAKOTA QUARTER HORSE RACING ASSOCIATION

Corporation Details

System ID: 5394700
Type: NONPROFIT CORPORATION
Status: Active & Good Standing
Original File Date: 07/30/1993
State of Origin: North Dakota

Phone: (701) 222-3499

Effective Date: 07/30/1993

[redacted]ture of Business

PROMOTE QUARTER HORSE & QUARTER HORSE RACING IN NORTH DAKOTA

Principal Office

1720 BURNT BOAT DR STE 200 PO BOX 7400 BISMARCK, ND 58507-7400

Registered Agent

MANAGEMENT, CLERICAL & CONSULTING SERVI
CES, LLC
1720 BURNT BOAT DR STE 200
PO BOX 7400
BISMARCK, ND 58507-7400
Established Date: Nov 04, 2010

[redacted]

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SECRETARY OF STATE
NORTH DAKOTA

THE NORTH DAKOTA THOROUGHBRED ASSOCIATION

Corporation Details

System ID: 4213800
Type: NONPROFIT CORPORATION
Status: Active & Good Standing
Original File Date: 04/22/1964
State of Origin: North Dakota

Phone: (701) 222-3499

Effective Date: 04/22/1964

Nature of Business

PROMOTE THOROUGHBREDS & RACING OF THEM IN NORTH DAKOTA

Principal Office

1811 E THAYER AVE PO BOX 2496 BISMARCK, ND 58502-2496

Registered Agent

PERSONALIZED MANAGEMENT SERVICES, INC.
1811 E THAYER AVE
PO BOX 2496
BISMARCK, ND 58502-2496
Established Date: Jan 28, 2005

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SECRETARY OF STATE
NORTH DAKOTA

NORTH DAKOTA TOBA

Corporation Details

System ID: 25215400
Type: NONPROFIT CORPORATION
Status: Active & Good Standing
Original File Date: 02/19/2009
State of Origin: North Dakota

Phone: (701) 255-3555

Effective Date: 02/19/2009
Fed. Tax Exemption: 501(C)(3)

Nature of Business

[redacted]IMPROVE CONDITIONS FOR PRODUCTION/RACING THOROUGHBRED HORSES

Principal Office

1119 UNIVERSITY DR LOT 914 BISMARCK, ND 58504-6609

Registered Agent

L J HARSCHE
1600 66TH ST SE
BISMARCK, ND 58504-3815
Established Date: Feb 19, 2009

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