

STATE OF WEST VIRGINIA

**Update of the
PRELIMINARY PERFORMANCE REVIEW OF THE
West Virginia Racing Commission**

**Planned Compliance with 3 Recommendations
In Compliance with 1 Recommendation
Non Compliance with 1 Recommendation**

**OFFICE OF LEGISLATIVE AUDITOR
Performance Evaluation and Research Division
Building 1, Room W-314
State Capitol Complex**

**CHARLESTON, WEST VIRGINIA 25305
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November 2001

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Executive Summary

This report is the second update of the Preliminary Performance Review of the West Virginia Racing Commission. The original report was issued in January 1999 and was updated in October 1999. This report is conducted in accordance with the West Virginia Sunset Law, West Virginia Code, Chapter 4, Article 10, Section 5a. The purpose of this update is to determine whether or not the agency has complied with the recommendations made in the original review.

The January 1999 review identified the following issues:

1. The Racing Commission Lacks Security Due to the Absence of a Director of Security or an Inspector at Each Track.
2. Racing Commission Employees Are Not Receiving Annual or Sick Leave.
3. The Racing Commission Lacks the Necessary Controls for Expenditures for the WV Breeder's Classic.

The October 1999 update found the Commission was in compliance with recommendations 5 and 6 and in partial compliance with recommendation 7 and in non-compliance with recommendations 1, 3, 4, and 8. Recommendation 2 required legislative action. This update uses the following designations of levels of compliance :

Table 1
Levels of Compliance

<u>In Compliance</u> - The Commission has corrected the problems identified in the review.
<u>Partial Compliance</u> - The Commission has partially corrected the problem identified in the review.
<u>Planned Compliance</u> - The Commission has not corrected the problem but has provided sufficient documentary evidence to find that the Commission will do so in the future.
<u>In Dispute</u> - The Commission does not agree with either the problem identified or the proposed solution.
<u>Non-Compliance</u> - The Commission has not corrected the problem identified in the review.
<u>Requires Legislative Action</u> - The recommendation was intended to call to the attention of the Legislature to one or more statutory issues.

The West Virginia Racing Commission is in **Planned Compliance** with Recommendation 1; **Planned Compliance** with Recommendation 3; **In Compliance** with Recommendation 4; **Non Compliance** with Recommendation 7; and **Planned Compliance** with Recommendation 8.

Issue 1: The Racing Commission Lacks Security Due to the Absence of a Director of Security or an Inspector at Each Track.

Recommendation 1:

The Racing Commission should hire more security officers and investigators as required by the West Virginia Code, as amended.

Level of Compliance: Planned Compliance

The Racing Commission has initiated the process to hire one investigator at each race track. See Appendix D.

Issue 2: Racing Commission Employees Are Not Receiving Annual or Sick Leave.

Recommendation 3:

The West Virginia Racing Commission should change the current per diem employees to bi-monthly, salaried employees so they are able to accrue sick and annual leave.

Level of Compliance: Planned Compliance

The Racing Commission has accumulated weekly data from the implementation of recommendation four that will enable the Commission to arrive at a compensation package. The Commission, with the full support of the Department of Tax and Revenue, intends to begin implementation of this recommendation with its four full time veterinarians.

Recommendation 4:

The Racing Commission should require all employees to complete time sheets.

Level of Compliance: In Compliance

Beginning in October 1999, the Racing Commission has required employees to complete time sheets. The form is available in Appendix B.

Issue 3: The Racing Commission Lacks the Necessary Controls for Revenues and Expenditures for the WV Breeder's Classic.

Recommendation 7:

The Racing Commission should promulgate Legislative Rules pertaining to promotional expenditures for the West Virginia Breeder's Classic or any other expenditures for stakes races paid from funds controlled by the Commission.

Level of Compliance: Non Compliance

The Racing Commission has not promulgated rules since the original report, nor has it indicated that it intends to promulgate rules pertaining to promotional expenses for the Breeders Classic. In August 1999, the Purchasing Division awarded West Virginia Breeder's Classic, LTD sole source provider status. In October 1999 the Racing Commission reported that "the desired goals and objectives" of the recommendation were achieved by the contract with the West Virginia Breeder's Classic, LTD.

In September 2001, the Racing Commission reported that:

No rule per se has been submitted yet. To address this [The Director of Racing] was appointed as chairperson of the "Committee to Enhance the Quality and Quantity of Racing Thoroughbreds in West Virginia". This Committee is comprised of thoroughbred breeders, racing officials, and representatives of racetrack management. They have been tasked in their meetings to make recommendations to the West Virginia Racing Commission on this matter.

The Legislative Auditor recommended that the Commission promulgate rules so that allowable promotional expenses would be clearly defined. Although the Racing Commission has taken action to bring more controls over the Breeder's Classic expenditures, there is a need to define what are appropriate means of promoting and what sources are also appropriate such as radio, television and the emergence of the internet.

Recommendation 8:

The Racing Commission should immediately close the local bank account for the Breeder's Classic funds and transfer the balance and any future proceeds into a state account with the State Auditor's Office.

Level of Compliance: Planned Compliance

The outside bank account for the Breeder's Classic fund contains over \$10 million. (See

Table 2).

Table 2
West Virginia Racing Commission Racetrack Video Lottery Account

	Fiscal Year 2000	Fiscal Year 2001
Deposits	\$2,870,230	\$4,586,519
Expenditures	\$1,060,101	\$2,098,718
Year End Balance	\$6,989,650	\$10,614,421
Source: Information provided by the Racing Commission at the request of the Legislative Auditor.		

On October 30, 2001, the Commission informed the Legislative Auditor that it intends to seek a statutory change that “would require this outside bank account to be an additional special revenue fund for which we would be required to submit to the annual budget process involving the executive and legislative branches of government”. As a special revenue account the Breeder’s Classic fund would be a state account administered by the State Auditor’s Office and the Treasurer’s Office.