Most Options to Aid Pari-Mutuel Industry Not Implemented; Legislature Determining How to Regulate Slot Machines

at a glance

The financial health of the pari-mutuel industry has not improved, and tax revenues have not been sufficient to cover both regulatory costs and the distribution of funds to counties. However, the recent constitutional amendment and local referendum to authorize slot machines at pari-mutuel facilities in Broward County will likely increase state revenues. The division and Legislature have not yet implemented options for cutting state regulatory costs or revising the distribution of funds to counties.

Scope

In accordance with state law, this progress report informs the Legislature of actions taken in response to a 2003 OPPAGA examination of the Department of Business and Professional Regulation’s Division of Pari-Mutuel Wagering.

Background

Florida authorizes pari-mutuel wagering for thoroughbred, harness, quarter horse, Appaloosa, and Arabian horseracing, greyhound racing, and jai alai as well as cardroom games. Florida is one of the primary pari-mutuel states in the nation and hosts more dog races and jai alai games than any other state.

The Division of Pari-Mutuel Wagering’s primary responsibilities are

- ensuring that races and games are conducted fairly and accurately;
- ensuring the safety and welfare of racing animals;
- collecting state revenue accurately and timely; and
- ensuring that permitholders, licensees, and totalizator companies comply with state law.

Office of Program Policy Analysis & Government Accountability
an office of the Florida Legislature
Historically, the pari-mutuel wagering tax revenue collected by the division supported both program operations and distribution of funds to counties. Since horse and dog racing were first authorized in 1931, Florida counties have received a share of state pari-mutuel wagering revenues. In 1980, the Legislature authorized a fixed lump sum of $29,915,500 to be paid from the Pari-Mutuel Wagering Trust Fund; these funds were divided equally among the 67 counties; this burden was shifted to the General Revenue Fund in 2000.

Prior Findings

Our 2003 review found that the division performed well and effectively regulated the pari-mutuel wagering industry. However, the industry had declined steadily over time due to competition with other entertainment and gaming options, and pari-mutuel tax revenues had fallen substantially. We identified options that the Legislature could consider to cut state regulatory costs, aid the industry, and/or revise the distribution of funds to counties.

The division performed well, but data reliability controls needed improvement

We concluded that the division was effective at accomplishing its mission of ensuring the health, safety, and welfare of the public, racing animals, and licensees. However, the division needed to improve the reliability of its performance data. 6

The industry was declining and did not generate sufficient revenue to support both regulation and county funding

Our 2003 review found that over the last decade, attendance and wagering at Florida’s pari-mutuel wagering facilities had declined substantially, due in part to increased competition from the state lottery, tribal casinos, and gambling cruise ships. To assist the industry, the Legislature had amended pari-mutuel laws several times to decrease state taxes and increase permitholder revenue potential. Despite these changes, state pari-mutuel tax revenues no longer covered the state’s costs of regulating the industry and distributing funds to counties. While the state collected $34.9 million in industry taxes, fees, fines, and interest income in Fiscal Year 2002-03, it spent $10 million for division operations and distributed $29.9 million to counties, resulting in a $5 million subsidy from other general revenue sources.

The division and Legislature could consider options to aid the pari-mutuel industry

We analyzed three options to cut program costs and increase revenues—reducing regulatory costs associated with maintaining OPS employees at facilities and regulating Salix; expanding the types of gaming permitted in pari-mutuel facilities; and reducing funds distributed to counties.

Decrease state regulatory costs. Although the division had taken steps to reduce costs, additional steps were feasible. Between Fiscal Years 2000-01 and 2002-03, the division had decreased full-time equivalent personnel by 26% and other personnel service employees by 14%, producing in a savings of approximately $3.9 million. 7 We identified two opportunities for the division to reduce additional personnel.

- Reduce OPS employees at pari-mutuel facilities. If the division reduced its OPS employees to the minimum staffing levels at all facilities, it could eliminate 12 additional OPS employees for an annual cost savings of approximately $199,000.

6 Since our 2003 review, the department’s inspector general issued a report that noted that the division has improved its data collection, reporting procedures, and documentation. However, the inspector general also reported that although there have been improvements in data collection procedures, the division has not done recommended tests to confirm reliability.

7 The division’s OPS employees serve as judges, stewards, veterinary supervisors, veterinary assistants, and inspectors at pari-mutuel facilities. This includes monitoring each race/game to ensure fairness, collecting post-race samples from racing animals for the detection of drugs, and testing racehorses for the Salix drug.
Modify Salix regulation. Salix is a diuretic that is widely used as a therapy for bleeding that occurs in the lungs of some racehorses during high intensity exercise. State regulatory agencies vary widely in their regulation of Salix, with some jurisdictions completely banning its use and others allowing use with limited oversight. Eliminating testing at Florida racetracks would have saved $74,839.

Expand pari-mutuel products authorized in permitted facilities. The Legislature had considered additional steps to expand the range of gaming authorized within pari-mutuel facilities. During the 2003 session, the Legislature considered, but did not pass, several bills that would have authorized video lottery terminals in pari-mutuel facilities. At the time of our report, a political action committee was seeking Florida Supreme Court approval to put on the 2004 ballot a constitutional amendment allowing Miami-Dade and Broward counties to hold referenda on whether to authorize slot machines in existing, licensed pari-mutuel facilities within the counties.

Reevaluate $29.9-million county distribution. The Legislature could reevaluate the current county distribution process and either discontinue the distribution or limit it to the amount of net state revenue realized from the pari-mutuel wagering industry. We noted that if the Legislature chose to implement either of these two options, it would be in the best interest of counties for the state to phase the change over time to reduce the impact on local budgets.

Current Status

The financial health of the pari-mutuel industry has not improved, and pari-mutuel tax revenues have continued to be insufficient to cover the state’s costs for both regulation and distributing funds to counties. However, the 2004 passage of a constitutional amendment authorizing slot machines in Broward County pari-mutuel facilities will boost revenues. The division and Legislature have not implemented options for cutting state regulatory costs, expanding pari-mutuel products, or revising the distribution of funds to counties.

Financial health of pari-mutuel industry has not improved

Although legislative changes to cardroom stake limits have produced higher than expected revenues, the overall financial health of the pari-mutuel industry has not improved.

Total state revenue collected by the division has remained relatively unchanged. From Fiscal Years 2002-03 and 2003-04, direct pari-mutuel revenue declined by about $1.9 million, but direct cardroom revenue increased by $1.8 million. 8 In Fiscal Year 2003-04, pari-mutuel revenues were about $34.5 million, while regulatory costs remained relatively stable and the county distribution continued to be $29.9 million. As in previous years, this resulted in a net general revenue subsidy.

The division and Legislature did not fully implement options to aid the industry

The Division of Pari-mutuel Wagering and Legislature have not implemented most of the options we analyzed for cutting state regulatory costs, expanding pari-mutuel products, and revising the distribution of funds to counties. However, the 2004 constitutional amendment and 2005 vote that authorized slot machines in pari-mutuel facilities in Broward County could address the program’s ability to cover regulatory costs and county distributions.

The division has not reduced OPS staffing.

Division officials contend that program personnel costs are as low as practical to properly regulate the industry and that further reduction in OPS staffing could compromise regulatory effectiveness. The division’s operational costs remained relatively stable between Fiscal Years 2002-03 and 2003-04.

8 This is an improvement from when the cardroom legislation was passed in 2003 and the projected increase in state revenue was estimated at $879,000.
However, we continue to believe that whenever possible, the division should evaluate and consider opportunities for lowering program costs by more efficiently using OPS staff.

**Regulation of Salix has not changed.** The division has not modified its regulation of Salix. Division officials report that in 2004 the division began to modify its monitoring of the drug with the goal of bringing Florida’s Salix monitoring practices into agreement with the model rules developed by the National Medication Testing Consortium. However, implementation of these changes has been delayed because of a legal challenge to the proposed administrative rule. Although joining the industry consortium will not significantly reduce program costs in Florida, it will improve rule consistency among participating states as well as for horse owners, trainers, and breeders.

**The Legislature is considering bills that will regulate slot machines and establish related tax rates.** In 2004, Florida voters approved a constitutional amendment to authorize slot machines in pari-mutuel facilities in Miami-Dade and Broward County, subject to local referendums. Citizens in Broward County voted in 2005 to expand gaming in the pari-mutuel facilities in their county; the proposal was defeated in Miami-Dade County. The 2005 Legislature is considering several bills that address implementation of the slot machine initiative. In general, these bills address such topics as:

- how slot machines will be authorized;
- which state agency will be responsible for regulation;
- how many state resources (funds and staff) will be necessary to support regulation;
- what the appropriate tax rate is; and
- how much state revenue will be generated by the introduction of slot machines.

The expansion of gaming at Broward County pari-mutuel facilities will likely produce substantial tax revenues that could resolve the program’s revenue shortfall. However, the Legislature has not yet made decisions on how to allocate the potential revenue. It also will be important for the division or whatever entity regulates the slot machine gaming to carefully monitor implementation of the law to ensure consumer protection and the efficient use of state funds.

**The Legislature has not reevaluated the county distribution.** The Legislature has not modified the $29.9 million county distribution that was historically linked to pari-mutuel wagering revenue. Under this distribution, each county continues to receive $446,500 annually. The Legislature may wish to reconsider this distribution, particularly if tax revenues from slot machines in Broward County are used for other purposes.