

# **The Task Force on the Future of Off-Track Betting in New York State Summary of Comments Received From OTBs**

## **Capital District Regional Off-Track Betting:**

### **CURRENT IMPACT:**

- Employs 300 people of which 200 are AFSCME Union members.
- Has reduced expenses over \$2 million in last four years and continues to cut costs.
- Operates and owns its own TV station that makes horse racing available to over 300,000 people.
- Pioneered the EZ Bet concept to cut cost and reach new fans.
- Has partnered with NYCOTB and NYRA during the Saratoga season to promote racing.
- Has aggressively engaged in new innovations such as Internet wagering and live video streaming on the Internet.

### **RECOMMENDATIONS:**

Provided a copy of the 2009 OTB Omnibus Bill that that Suffolk OTB also submitted as well as copies of approximately 300 letters from Capital OTB employees to their State legislative representatives requesting they support the bill. Stated they supported the bill (which is described in detail in the summary of Suffolk OTB's submission below) however listed the following in their response:

- The OTBs need to maintain local control so they can obtain input on many issues.
- Single tote system for all 6 regional OTBs
- Statewide TV Station that cable companies would be legislatively required to provide at no cost.
- Legislative action described in the 2009 OTB Omnibus Bill.
- Eliminate the hold harmless payments to the tracks.
- Authorize VLTs at OTBs.
- Enhance and coordinate marketing efforts with all OTBs and NYS tracks.

### **MORATORIUM ON LONG TERM CONTRACTS:**

Cited several reasons why abiding by the Task Force's request to not enter into long term contracts until the Task Forces mission is complete and respectfully declined to do so. The main reason provided is that they believe it would detrimental to the corporation's bottom line.

Additional Comment – June 30, 2009 – Stated that Capital OTB should not be portrayed as “top heavy” with management as they felt was done at the Task Force's June 25, 2009 meeting. Information was provided that reports that by promoting individuals in the company and not filling the Executive Vice

Presidents position that they achieved a \$108,500 savings. In addition they have cut cost over the past several years and now has the lowest corporate wages in 22 years.

Second Additional Comment – June 30, 2009 – Provided copies of a form letter signed by 15 Capital OTB patrons. The comments are supportive of the promotions, Internet wagering, cash rewards and general customer services. The individuals who signed the letter are:

1. Rick Caputo
2. Vincent Arduini
3. Bob Schere
4. Rick Alfred
5. Andrew Weir
6. Miles Bailey
7. Don Matusik
8. Roddy Valente, Horse owner
9. Stew Boschwitz
10. Todd Dugan, Horse owner
11. Ron Mutch
12. Cos Cavallo
13. Carl Stowell
14. Alan Boulant, Horse owner
15. Gordon Mayo

Third Additional Comment – July 2, 2009 – Copies of resolutions that were passed in 2004 and 2005 from the following Capital OTB participating municipalities were provided requesting state legislation to assist Capital OTB, allow VLT's at OTBs and repeal certain legislation such as the hold harmless provision:

- City of Schenectady – Supportive of VLTs (2004)
- Cortland County - Supportive of VLTs (2004)
- Madison County - Supportive of VLTs (2004)
- Clinton County - Supportive of VLTs (2004)
- Oneida County - Supportive of VLTs (2004)
- Fulton County - Supportive of VLTs (2004)
- Intercounty Legislative Committee of the Adirondacks  
(Representing the Counties of Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, St. Lawrence, Saratoga, Warren and Washington) - Supportive of VLTs (2004)
- Montgomery County - Supportive of VLTs (2004)
- St. Lawrence County - Supportive of VLTs (2004)
- Warren County - Supportive of VLTs (2004)
- Warren County – Authorize \$1,000 paid from Capital OTB to be distributed to the Warren County Soil and Water Conservation District for the Envirothon Program.
- Herkimer County - Supportive of VLTs (2004)
- Greene County - Supportive of VLTs (2004)
- Rensselaer County - Supportive of VLTs (2004)

- Washington County - Supportive of VLTs (2004)
- Franklin County - Supportive of VLTs (2004)
- Essex County - Supportive of VLTs (2004)
- Columbia County - Supportive of VLTs (2004)
  
- Warren County – Opposes State Tax on OTB handle (2005)
- Fulton County – Eliminate Hold Harmless provisions, increase takeout on NYRA races, increase breakage, authorize Internet betting, and reduce State Taxes on OTB handle. (2005)
- Warren County - Eliminate Hold Harmless provisions, increase takeout on NYRA races, increase breakage, authorize Internet betting. (2005)
  
- Warren County – Repeal regulatory fee, require an OTB representative be on the NYRA Board, reduce or eliminate hold harmless provisions, include hold harmless payments to be made to Capital OTB from Turning Stone Casino and Saratoga Harness, mandate special smoking rooms for OTB parlors. (2004)
- St. Lawrence County - Repeal regulatory fee, require an OTB representative be on the NYRA Board, reduce or eliminate hold harmless provisions, include hold harmless payments to be made to Capital OTB from Turning Stone Casino and Saratoga Harness, mandate special smoking rooms for OTB parlors. (2004)
- Montgomery County - Repeal regulatory fee, require an OTB representative be on the NYRA Board, reduce or eliminate hold harmless provisions, include hold harmless payments to be made to Capital OTB from Turning Stone Casino and Saratoga Harness, mandate special smoking rooms for OTB parlors. (2004)
- Clinton County - Repeal regulatory fee, reduce or eliminate hold harmless provisions, include hold harmless payments to be made to Capital OTB from Turning Stone Casino and Saratoga Harness, mandate special smoking rooms for OTB parlors. (2004)
- Rensselaer County - Repeal regulatory fee, require an OTB representative be on the NYRA Board, reduce or eliminate hold harmless provisions, include hold harmless payments to be made to Capital OTB from Turning Stone Casino and Saratoga Harness, mandate special smoking rooms for OTB parlors. (2004)
- Fulton County – Repeal regulatory fee, require an OTB representative be on the NYRA Board, reduce or eliminate hold harmless provisions, include hold harmless payments to be made to Capital OTB from Turning Stone Casino and Saratoga Harness, mandate special smoking rooms for OTB parlors. (2004)
- Columbia County - Repeal regulatory fee, require an OTB representative be on the NYRA Board, reduce or eliminate hold harmless provisions, include hold harmless payments to be made to

Capital OTB from Turning Stone Casino and Saratoga Harness, mandate special smoking rooms for OTB parlors. (2004)

In addition with this correspondence a copy of a letter from the Chairman of the Legislature from Rensselaer County was sent to various State Legislatures in 2005 that supports elimination of the Hold Harmless provisions, increase takeout on NYRA races, increase breakage, authorize internet betting.

**Suffolk Regional Off-Track Betting** – Provided a detailed submission referred to as “The Suffolk Plan” including a proposed bill drafted to amend the racing law to support their plan. The plans main points are:

- Creation of an umbrella, Service corporation consisting of the 6 independent OTBs (maintain local autonomy to the independent corps to deal with branch locations, union issues other matters having to do with specific branch location issues.)
- Development and implementation of a state-wide tote-system
- Development and implementation of one upstate and one downstate telephone wager center
- Establishment of a statewide “OTB/Racing” cable television station
- Development and implementation of a statewide internet wagering site for use by all NYS OTBs
- Development and implementation of a statewide branding and marketing effort
- Development and implementation of a shared purchasing policy for all OTBs.
- Eliminate maintenance of effort payments to privately owned harness tracks
- Eliminate dark day payments to privately owned harness tracks
- Require out-of-state ADW companies to pay the same statutory and regulatory fees as OTBs.
- Require licensing of ADWs and modify required account wagering procedures (currently addressed by rule) into statute.
- Remove restriction on wagering on Palm Sunday
- Make statutory payments after operational expense based on percentage of take instead of handle.
- Either completely eliminate all regional statutory payments to tracks or reduce such payments by 50% and require all remaining payments to be made to purses.
- Amend Section 516 of the Racing Law to allow carry over of losses from one quarter to the next to apply to subsequent quarter’s profit.
- Amend current in-home simulcasting restrictions to free up the ability for in home distribution including video streaming provided the approval of the Regional OTB.

- Authorize VLTs at OTBs and include authorization for video lottery table games.
- The OTBs should have free and unimpeded access to the simulcasting of each NYS track.
- The Racing & Wagering Board should audit each track to determine whether each track has passed through to the horsemen those OTB funds they have been statutorily required to.
- Each OTB should be authorized to open additional teletheaters.

**MORATORIUM ON LONG TERM CONTRACTS:**

Cited several reasons why abiding by the Task Force's request to not enter into long term contracts until the Task Forces mission is complete and respectfully declined to do so. The main reason provided is that they believe it would detrimental to the corporation's bottom line.

**Nassau Regional Off-Track Betting** – Provided a thirteen-page submission however requested it be exempt from public disclosure. The submission was returned and a request for a submission for public disclosure was made. A second submission was made on June 30, 2009 without a request for exemption from public disclosure. Nassau reported the contributions it made to Nassau County, the State and racing since its inception and noted they employ 315 individuals and continue to streamline operations through the use of technological innovations. As the industry has been changing Nassau has reduced the number of branches but has increased branch size and concentrated on amenities. Nassau has also turned its focus to account wagering, the fastest growing segment of wagering in horse racing. They are the first OTB to provide video streaming to their Internet wagering customers (located in Nassau County) and launched a reward program all for customer convenience. They also developed a restaurant / branch program to reach more customers and host / promote many events regarding NY racing and wagering activities.

Nassau and Suffolk OTB jointly operate a telephone wagering facility that provides a cost savings to both and suggest the Task Force consider such a model. They claim that the Racing Law they are forced to follow is outdated and the revenue and distributions requirements are not in conformity with generally accepted accounting principles (GAAP). As a result they recommend:

1. Eliminate Racing Law Sections 1016 and 1017 payments
2. Eliminate 2% tax on out-of-state thoroughbred handle after 7:30 pm over \$100 million.
3. Allow the OTBs to receive a credit for uncashed winning tickets turned over to the State against the regulatory fee they pay
4. Eliminate pari-mutuel taxes on tele-theatre handle
5. Eliminate requirement for simulcast agreement with regional tracks
6. Eliminate regional track designation for tracks more than 50 miles from Nassau County (except NYRA tracks)
7. Change maintenance of effort calculations to be based on composite amounts not individuals track levels

8. Give the OTBs the right to approve any in-state track's agreement to export to an out-of-state entity
9. Reduce minimum pay on wagers from .05 to .025 per \$1 (\$2.05 minimum on \$2 Wager).

Nassau drafted the New York Racing Initiatives program in 2005 with the intent of improving cooperation between the State's OTBs and NYRA and believes much of that program would be useful today. They suggest that the NY tracks need to re-invest in their infrastructure and explore running nighttime thoroughbred races. In addition field sizes should have a required minimum and VLT monies should "seed" Pick Four and Pick Six pools to entice more wagering. Backstretch conditions must be improved and better enforcement is needed to rebuild the integrity of racing.

Suggest that NYRAs' takeout could be increased and money could be diverted to the New York Racing Initiatives Fund. The Initiatives program also includes a call for statewide platform for Internet, Player Reward, Television & Account Wagering.

Statutory and regulatory payments should be reduced and some monies should be redirected to the Initiatives program.

Out-of-State ADW's should be prohibited from accepting wagers from NY residents unless they are licensed and regulated by NYS and pay the same statutory payments as the NY OTBs.

Suggest that the State join the federal lawsuit to legalize sports betting and authorize the OTBs to offer sports betting as they have the systems in place to handle such activity. Nassau also suggests that VLTs be approved for the theatres.

**MORATORIUM ON LONG TERM CONTRACTS:**

Cited several reasons, very similar to Capital's why abiding by the Task Force's request to not enter into long term contracts until the Task Forces mission is complete and respectfully declined to do so. The main reason provided is that they believe it would detrimental to the corporation's bottom line.

**Catskill Regional Off-Track Betting** – Provided some financial / statistical information that reports Catskill OTB as the most efficient OTB in the state with highest revenues to participating municipalities and lowest expenses. Also provided a summary of several events that have caused diminishing returns to municipalities such as the Racing Board authorizing rebates, the opening of Tioga Downs and the new Yonkers Raceway, New Jersey OTB beginning operations, out of state ADWs, poor economy and no Triple Crown winner.

**RECOMMENDATIONS:**

- Repeal Section 1017-a(2)(a) and (b) – the hold harmless and maintenance of effort payments to harness tracks.
- Return unclaimed winning tickets to the OTBs to distribute to member counties.

- Require cable TV to provide public access racing channels.
- Eliminate regulatory fee or spread it across “all handle” or at least cap it.
- Eliminate regional payments to tracks with VLTs.
- Eliminate consent by tracks over OTBs.
- Authorize OTBs to retain surcharge payable to local governments where a track is located if such track has VLTs.
- Prohibit or license out of state ADWs
- If out of state ADWs are permitted to accept wagers from NYS resident then assess them a 2.5% “source market fee” and require them to pay same statutory payments as NYS OTBs.
- Authorize 500 permanent or experimental VLTs for each OTB to be installed at one or more facilities each.
- Require any racino payments enacted to be paid as “host community” fees to be paid to the regional OTB for distribution to the host communities.

Based on the above Catskill OTB projects it will gain \$51,870,000 in additional distributions to participating municipalities plus another \$87,500,000 in host community fees for VLTs at OTBs with \$58,300,000 to be raised for Education.

MORATORIUM ON LONG TERM CONTRACTS:

Cited several reasons, very similar to Capital’s why abiding by the Task Force’s request to not enter into long term contracts until the Task Forces mission is complete and respectfully declined to do so. The main reason provided is that they believe it would violate their fiduciary responsibility.

Second Response – Some comments received by the Task Force are “wild-eyed ideas”. It is “ILL ADVISED” to allow the take over of OTBs by the bankrupt NYRA or failed harness tracks. . “How dare any respectable respondent or task force member even imagine such an idea.” There is nothing wrong with the management of OTBs or their regional concept, it’s the laws that have failed them. He recommends:

- A. Repeal Section 1017-a(2)(a) of the Racing Law, the hold harmless provision that requires OTBs subsidize harness tracks/VLT vendors that compete against OTBs.
- B. Repeal Section 1017-a(2)(b) of the Racing Law, the maintenance of effort provision that requires OTBs to subsidize the same tracks as above.
- C. Eliminate regional designation and payments to tracks with VLTs
- D. Eliminate consent by tracks over OTB, says this could save millions.
- E. Prohibit or license out of state ADWs. If licensed they must pay same fees as OTB does and an out of state source market fee of 2.5%
- F. Amend cable TV stations to require 2 channels with each franchise agreement for the use of OTB in promoting NY racing.

Further states the Task Force could help facilitate a joint marketing program and joint services (tote, internet & telephone wagering platforms) with required participation of all NY OTBs and tracks.

**Western Regional Off-Track Betting** – State they have a unique perspective as an OTB and harness track/VLT operator. While financially strong as a result of the VLT operations they offer the following recommendations:

- Hold harmless payments are no longer necessary as well as several other similar payments.
- Fundamental problem such as paying beneficiaries under Racing Law Section 527 before OTB operational expenses must be addressed.
- They stated that they will rely upon the tracks and OTBs to more specific as to their respective recommendations, which they state would “unquestionably agree”.

**MORATORIUM ON LONG TERM CONTRACTS:**

No response was offered on this.

**New York City Off-Track Betting** – Contacted the Task Force stating they were working on the submission but it would be a couple days late. No response was received as of the date of this report.