

ANALYSIS

Item 76: Oregon Racing Commission Revenue Impacts

Analyst: Ben Ruef

Request: Acknowledge receipt of a report on the financial impact to the Oregon Racing Commission related to the departure of Advance Deposit Wagering Multi-Jurisdictional Hub companies from Oregon.

Analysis: The Oregon Racing Commission (ORC) submitted a report on the financial impact to the Oregon Racing Commission related to the departure of Advance Deposit Wagering Multi-Jurisdictional Hub (ADW) companies from Oregon required by a budget note in the agency's budget bill, SB 5535 (2023).

The ORC is funded exclusively with Other Funds derived from the agency's share of revenue from live horseracing, simulcast wagering, and off-track betting sites; participant license fees; business licenses from companies that process pari-mutuel wagers; fines; unclaimed winnings; and historic racing wagers. The Commission receives 1% of bets made at live Oregon race meets and on simulcast events.

Approximately 76% for ORC's total revenue comes from ADWs through a \$200 daily licensing fee and a tax on the gross wagering receipts. The tax is calculated as a percentage of gross wagering receipts according to one of two formulas ADWs elect to use, as set out in administrative rule. These payments are capped in administrative rule and increase by 2.5% each year unless the Commission changes the limit before the fiscal year begins. ADW revenue is divided between agency operations and racing development (75%) and the state's General Fund (25%).

Oregon faces competition from other states (primarily North Dakota) to attract ADW businesses and must provide a consistent regulatory structure as well as a predictable tax environment for these businesses to remain in Oregon.

During the 2021-23 biennium, ORC lost two ADW licensees (ELS and US Off-Track) due to Oregon restrictions in mobile platform and greyhound race betting resulting in an estimated \$358,798 decrease in revenue per biennium. This brought the number of ADW licensees from 10 in the 2021-23 biennium to eight at the beginning of the 2023-25 biennium. ORC's 2023-25 legislatively adopted budget included reductions in special payments to account for the decreased revenue projections.

In July 2023, another ADW (Premier Turf Club) stopped taking greyhound wagers and made several other changes that have resulted in a 95% decrease in assessed fees; however, additional revenue from the remaining ADWs has offset this loss. ORC indicates it's likely that Premier Turf Club will close by the end of the fiscal year, which is expected to result in a projected loss of \$73,500 in revenue for the 2023-25 biennium and approximately \$148,000 in future biennia.

The agency is monitoring three additional ADWs for a potential exit from Oregon which would result in the loss of ORC revenue of up to \$611,596 for 2023-25 and approximately \$2.3 million per biennium in the future. ORC's ADW revenue loss equates directly to reductions in special payments for fair meets, commercial tracks, race industry associations, and other race related entities up to a maximum of \$2.9

million. Once special payments have been fully reduced, operational expenditure reductions will be required. In addition, any future reductions in ADW revenue will also impact payments to the General Fund due to a ADW revenue distribution split of 25% to General Fund and 75% to ORC.

ORC's ending fund balance is expected to remain at the budgeted \$1.3 million for the 2023-25 biennium due to the agency's ability to make cuts in special payments to mitigate unforeseen revenue reductions from changes in ADWs operational changes in Oregon.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means acknowledge receipt of the report.

Request: Report on the revenue impact to the Oregon Racing Commission related to the departure of Advanced Deposit Wagering Multi-Jurisdictional Hub companies from Oregon.

Recommendation: Acknowledge receipt of the report.

Discussion: The Oregon Racing Commission (Commission) is submitting a report, per a budget note in the budget report for Senate Bill 5535 (2023). The following is the budget note requiring a budget report on potential revenue impacts to the Commission from the departure of Advanced Deposit Wagering Multi-Jurisdictional Hub (ADWs) companies from Oregon.

Budget Note:

By January 1, 2024, the Oregon Racing Commission shall submit a report to the Emergency Board or Interim Joint Committee on Ways and Means with an update on the financial impact to the agency from the departure of Advanced Deposit Wagering Multi-Jurisdictional Hub Companies from Oregon.

During the 2023 Legislative Session, House Bill 3514 was introduced, which was a bill to prohibit Oregon residents from wagering on greyhound racing on the effective date of the bill and prohibit ADWs, doing business in Oregon, from accepting or facilitating wagers on greyhound races on July 1, 2029. While the bill remained in its original committee (House Committee on Gambling Regulation) upon adjournment, it prompted conversations between ADWs and the Commission about whether the ADWs would continue to be licensed to do business in Oregon. While greyhound racing is currently illegal in Oregon, there is nothing prohibiting an Oregon resident from betting with an on-line wagering company on greyhound races occurring legally in other states (or other countries). It is expected that conversations and potential legislation will be considered during the February 2024 Legislative Session, to make it illegal for Oregon residents to place on-line bets on any greyhound racing in or out of the country. As such, ADWs are keeping a close eye on this issue and whether they will continue to do business and be licensed in the state.

The Commission derives most of its operating revenue and the revenues it distributes for the benefit of Oregon pari-mutuel racing industry through ADWs. The fund from which the Commission distributes funds through Special Payments to entities involved in the pari-mutuel horse racing industry for the benefit of Oregon's pari-mutuel racing is commonly referred to as the "Hub" fund. The operational revenue and Hub funds are essential to not only continuing the regulation, through the operations of the Commission, but to the racing industry itself. Per ORS 462.725, the Commission receives one percent of total gross receipts of mutuel wagering recorded by totalizer system, of which 25 percent is directed to the General Fund and the remaining 75 percent is retained by the Commission for both operations of the Commission and the Hub fund distribution to racing entities.

For the 2023-25 Legislatively Adopted Budget (LAB), the Commission anticipated receiving \$8,415,020 from various fees, charges for services and fines. Of that amount, \$6,283,705 is from pari-mutuel receipts (representing 75 percent of the Commission's revenue). Of the pari-mutuel revenue, \$1,570,927 will be transferred to the General Fund leaving the Commission with \$4,712,778 for operations and Hub fund distribution. The 2023-25 LAB operational budget for the commission is \$4,370,622 and the remaining \$2,942,799 is anticipated for distribution to entities for the benefit of pari-mutuel horse racing in Oregon. The revenue for these special payments is made up of a portion of funds carried forward from the 2021-23 biennium, and the new revenue anticipated from ADWs in 2023-25. The expenditures for the 2023-25 biennium total \$7,313,421 for the Commission, which Leaves an anticipated ending balance of \$1,290,679 or seven months of operational reserves for the Commission.

To date, one ADW has stopped doing business in Oregon. On June 20, 2023, U.S. Off-Track chose to no longer do business in Oregon. This ADW operates the Greyhound Channel. The company relocated its license to North Dakota. The impact to the Commission from U.S. Off-Track's departure results in a loss of \$145,600 (\$72,800 per year) in licensing fees dedicated to operational costs of the Commission, \$30,000 in losses to the Hub fund and \$10,000 in losses to the General Fund. Without accounting for savings in certain expenditures, the Commission believes it will realize this loss of revenue leaves the Commission with approximately four months of operational reserves. However, the Commission anticipates it will save approximately \$175,000 through vacancy savings, reductions to legal fees, a reduction in overtime work, and savings in telecommunications charges. The anticipated savings can cover the loss of revenue from US Off-Track no longer being licensed in Oregon.

There is a potential for additional ADWs to leave Oregon and difficult to determine the impact to the Commission until such actions occur. However, if more ADWs do end up leaving Oregon and the Commission loses additional revenue this biennium, an evaluation of replacement revenues or additional savings will need to occur in order to ensure the Commission has adequate funding to continue to regulate horse racing in Oregon. The Commission reports in its letter that legislation will be introduced during the 2024 Legislative Session, through the Gambling Regulation Committee, to address not only the prohibition of allowing Oregon residents to bet on greyhound racing through ADWs (greyhound racing is illegal in Oregon, so no bets can be made on racing in Oregon), but also address potential revenue issues for the Commission.



Oregon

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December 1, 2023

Via Electronic Mail

The Honorable Senator Elizabeth Steiner-Hayward, Co-Chair
The Honorable Tawna Sanchez, Co-Chair
Joint Interim Committee on Ways and Means
900 Court Street NE H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairpersons:

Nature of the Request

The Oregon Racing Commission (ORC) requests to present during the January IJWM on the Impact to the agency from the departure of Advanced Deposit Wagering Multi-Jurisdictional Hub Companies from Oregon. This is based on a budget note requesting this information in conjunction with SB 5535.

Agency Request

Review impact of the agency from the departure of one advanced deposit wagering multi-jurisdictional hub (ADW). This was requested by the Ways and Means Subcommittee on Transportation and Economic Development as a budget note during the 2023 session.

Provide information on other licensed ADW's that the commission is watching and may be at risk of losing.

Provide additional relevant information on the ORC budget.

US Off-Track has departed Oregon.

Why:

US Off-Track has left due to changes in legislation which has made their virtual dog racing illegal as well as the potential for greyhound racing becoming illegal. US Off-Track operates the Greyhound Channel Advanced Deposit Wagering Company which primarily offers greyhound racing. The company has relocated their license to North Dakota.

When:

The last day of operation for US Off-Track was June 30, 2023.

The mission of the Oregon Racing Commission is to regulate and facilitate all aspects of the pari-mutuel industry in the State of Oregon for the benefit of the citizenry, the licensees, the participants, and the economy.

Budget impact:

The total impact to the budget is as follows:

- \$72,800.00 per year for licensing fees which are earmarked for operations of the agency.
- \$20,000.00 per year (approximately) with 25% (\$5,000.00) going to the general fund and 75% (\$15,000.00) earmarked for hub funds to support the racing industry.

ORC Operations Impact: \$145,600.00

ORC Hub Fund Impact: \$15,000.00

2023-2025 Total ORC Impact: \$160,600.00

Impact to the ending balance:**Agency Action:**

The agency has been able to absorb the losses from the departure of US Off-Track.

2023-2025 Projected Savings:

Savings from vacating our office space:	\$117,432.00
Savings from open positions	\$36,000.00
Reduction in legal fees:	\$64,000.00
Reduction in overtime:	\$35,000.00
Telecom/Tec Service Charges Savings:	\$40,000.00

Total Savings: \$292,4332.00

The additional funds will cover the unbudgeted COLA increases.

Uncertain Risks and Opportunities

The Oregon Racing Commission is aware that at least two bills are being proposed that would impact the budget.

1. The first bill would allow the agency to retain 25% of the hub funds that currently goes to the general fund. These funds would be specifically earmarked for the safety of our athletes, both equine and human. Providing this bill is introduced and passes it would give the ORC an estimated 1.5 million a biennium. Assuming the bill was effective January 1, 2025, the impact is as follows:

2023-2025 projected additional funds for safety: \$375,000.00

2. The second bill addresses four issues which could result in a fiscal impact:

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- a. All greyhound wagering would be illegal both on ground and online for any of our licensees. Provided we only lost the wagers that are greyhounds and did not lose any ADW's the total cost to the agency is estimated to be between \$40 - \$65,000 per year. This cost includes wagers bet online and the wagers placed at the OTB's. The assumption is the bill would go into effect January 1, 2025. The below number does not include the 25% going to the general fund.

2023-2025 projected losses: **\$20,000.00 - \$32, 500.00**

- b. Fines would go from a maximum of \$500.00 to \$5,000.00. Assuming the bill would be effective January 1, 2025.

2023-2025 projected additional funds: **\$25,000.00**

- c. Illegal wagering fines would be implemented for online providers operating in Oregon and not licensed in the state. The fine is projected to be \$25,000.00 per incident. Assuming this bill is passed and effective January 2025. We hope that some of the illegal operators will self-select to stop taking wagers knowing that the activity carries a large fine. It is reasonable to assume at least one will be fined.

2023-2025 Projected additional funds: **\$25,000.00**

- d. Increased costs for individual licenses. This change would allow us to charge up to \$60.00 per year for individual licenses up from \$30.00. In rule we would increase our three-year license from \$60.00 to \$90.00 starting January 1 of 2025 with the assumption this would go into effect at that time.

2023-2025 Projected additional funds: **\$10,000.00**

Other ADW's we are watching:

Premier Turf Club (PTC):

Premier Turf Club has gone through two acquisitions and former staff that had working relationships with ORC are no longer employed there. In addition, they stopped taking greyhound wagers and made several other changes that have resulted in a 95% decrease in assessed fees. This loss began approximately July of 2023. This loss has been made up by additional revenue from NYRA Bets. We believe this ADW will likely close by the end of the fiscal year. The fiscal impact of them closing would be licensing fees annually of \$73,000.00 plus estimated assessed fees of \$1,000.00 annually.

ORC Operations: **\$146,000.00**
ORC Hub funds **\$1,000.00.00**

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2023-2025 Projected losses: \$73,500.00

Possible ADW losses due to greyhound wagering becoming illegal:

Churchill Downs:

If Churchill Downs decided to pull their license from ORC and move to North Dakota, Assuming it is effective January 1, 2025, The ORC would occur the following losses: The annual licensing fee is \$73,000.00. Hub fund cap for FY 25 \$817,588.18. Additional fees from large affiliate estimated at \$75,000.00 per year.

ORC Operations: \$146,000.00
ORC Hub Funds: \$1,615,385.00

2023-2025 Projected losses: \$403,846.25

AmWest Entertainment:

If AmWest Entertainment decided to pull their licenses from ORC and move to North Dakota, assuming it was effective January 1, 2025, the ORC would occur the following losses: The annual licensing fees of \$73,000.00 and the annual assessed fees at approximately \$100,000.00.

ORC Operations: \$146,000.00
ORC Hub funds: \$200,000.00

2023-2025 projected losses: \$86,500.00

Game Play Network (GPN):

Based on the SOS audit we are working closely with the Department of Justice to determine if in fact, Game Play Network is not operating in violation of the Oregon Statute. It is our belief that they are operating legally. The DOJ had provided an opinion in 2013, based on the ORC minutes that the concept was legal. Nothing has changed in the constitution since then.

If GPN did close, we believe it would be effective as early as March of 2024. The annual licensing fee is \$73,000.00 and the hub funds are approximately \$24,000.00 per year.

ORC Operations: \$146,000.00
ORC Hub Funds: \$48,000.00

2023-2025 projected losses: \$121,250.00

Ending Balance and Possible Impact to the Agency:

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Based on the aforementioned information, it is clear that there are many variables that are not yet known.

Best case scenario, we do not lose any more ADW's and both bills pass. This would leave us with some shortfalls, but the additional income above would cover all of them.

Worst case scenario, the 25% that currently goes to the general fund continues and we lose the ADW's listed above. This would leave us able to function, provided we could keep the remaining four ADW's that only offer horse racing. We would need to reconsider staffing and almost all hub funds would be eliminated. Unless another funding mechanism could be immediately implemented, the racing industry in Oregon would cease to exist.

The ending balance in the best-case scenario would remain at target \$1,290,679.00. The projected amount might change based on the different needs of the agency and staffing levels. This would reduce our overall spending and require a smaller ending balance.

Ending balance:

Plan:	\$1,290,679
Actual	\$1,396,453
Projection:	\$1,290,679

Regards,



Connie Woods Winn
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