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Texas Legislature

For the first time in over 50 years, Texas lawmakers in a special session voted in favor of a racing bill for the Lone Star State, granting the long-awaited opportunity for citizens to vote on the issue in a statewide referendum

It survived several tense rounds of voting in both the House and the Senate, where it hadn't survived since 1933.

It survived the proposal (and subsequent defeat) of numerous amendments, some similar to the amendments that managed to kill it in 1985.

It survived the threat of a filibuster, and the poised-pen, Final Hour deliberation of a governor seemingly determined to veto it.

If survival is indeed destined for the fittest, then the Texas pari-mutuel bill is one sound race horse. This bruised, battered yet triumphant piece of legislation survived all these obstacles and more, and it wasn't even on the original agenda.

Now, quite suddenly, we are looking at a promising future free of (most) bureaucratic and political interference as, for the first time in over 50 years, the Texas Legislature approved a pari-mutuel racing bill during a special budget session — finally allowing the voters a chance to say yea or nay on the issue in a statewide referendum next fall.

By ANNE LANG

If the pari-mutuel bill could withstand the assault of all those barriers and still pull up sound, can't that significant progress be viewed as an omen of success destined to continue through the final stretch and well past the wire?

Ricky Knox thinks so. The Texas Horse Racing Association's executive director is elated and relieved about the outcome of last month's legislative action, and is looking ahead with guarded optimism.

"I feel pretty good," Knox declared on September 29, several days after Governor Mark White made his decision to let the bill become law without his signature. "I'm just glad it's over with. There's more a feeling of relief than anything else; to know that you don't have to go back up to the Capitol and work 181 members of the legislature."

This was the second consecutive pari-mutuel battle for Knox. In 1985, he headed up lobbying efforts for a

bill that was prematurely rejected by pro-racing and anti-racing legislators alike for being too weighted down with minority and special program provisions, the language of which was too vague to suit amendment advocates and too binding to satisfy the others.

The disappointed racing lobbyists learned from that experience, however, reconstructing a new bill that earmarked all of the state's share of the pari-mutuel handle to go toward the general fund. This proved to be a wise move.

A brief review of recent events: Texas' ailing oil economy has been a major contributor to a state deficit that had climbed to an alarming \$3.5 billion as of late last spring, prompting Governor White to call a special session of the legislature on August 6 to deal with the crisis. Among the proposed remedies on the governor's agenda was a state income tax, and a temporary sales tax.

Pari-mutuel horse racing, which White has always staunchly opposed on moral grounds and which was not expected to be brought up due to

There is a referendum in November 1987, we will work strenuously and vigorously with the religious community across Texas to defeat this bill."

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Approves Pari-Mutuel Racing

its delayed effect on the state's economy, was ushered in via the "back door" by Rep. Hugo Berlanga when it appeared that the session was going virtually nowhere in its aim to reduce the deficit. Lt. Governor Bill Hobby and House Speaker Gib Lewis agreed to add the bill to the agenda.

Before surprised horsemen around the state even finished their double-takes at the news, the bill was promptly subjected to the legislative process and, ironically, came to be the only piece of legislation to be acted upon in the first special session. (A second special session was called immediately after the first session was adjourned; the temporary sales tax, among other issues, was approved, which helped soften the governor's stance on pari-mutuel.)

Though its passage would not affect the immediate budget shortfall, the potentially long-term impact of pari-mutuel on the state's economy was enough to swing legislative support in its favor — despite the brief threat of some controversial amend-

ments and a filibuster attempt by Sen. Craig Washington. The final House vote was 75-48, and 17-12 in the Senate.

White then had 20 days to either veto the bill, sign it into law or let it become law without his signature. On Day Twenty (September 24), he chose the latter option; the next step, according to the bill, calls for a statewide referendum, to be followed (if passed) by local-option elections in each Texas county that desires to conduct pari-mutuel horse racing.

The bad news: because pari-mutuel failed to register a two-thirds majority vote in either chamber, it could not be included on the general election ballot this November, which includes the gubernatorial election. (Hence: high voter turnout.) The good news: it will be subjected to a statewide referendum vote in November 1987, giving pari-mutuel advocates an entire year to drum up support for racing and to educate the public on the unlimited benefits the potentially enlarged horse industry will have on the state.

Knox said the lobbying team was not as surprised as the public was about the inclusion of the pari-mutuel issue during the special session, nor about the ultimate outcome.

"We'd known for quite a while that we could probably pass it. We knew we had the votes within this current legislative make-up: of these senators and these representatives," Knox admitted. "We also felt confident that we could pass it in January because we'd analyzed the elections to know what would take place this November, and in fact felt like we'd be in better shape in the House after November. But it worked out real well, the way it came about. It could have worked out just as well in January."

Knox added that initial conversations with House Speaker Gib Lewis, who told the lobbyists he did not have pari-mutuel on the agenda, caused the team to pull back and not push for legislation at that point. They waited, Knox said, until the speaker decided he wanted to go ahead and "get the issue out of the way" during the special session, in-

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stead of having it come back to tie up precious budget debate time during the regular session in January.

Hobby concurred with Lewis, and White had no choice but to let the issue hit the floor for what was to be its final — and ultimately most victorious — appearance at the Capitol.

Even horse racing opponents were helpful in pushing through the bill, Knox pointed out, because they were tired of the issue being introduced every session and taking up valuable legislative time that could, in their estimation, be better spent on the immediate budget situation, and other pressing issues. Many of those opponents urged White not to veto the bill, because they wanted to get it out to the people for a vote, "once and for all," Knox said. "They're going to have major financial issues coming up in January, and no one wanted to see this issue back on the floor at that time."

[Actual pari-mutuel debate time logged during the special session added up to 6½ hours on the House floor, and 5½ hours in the Senate.]

Support in the House, where the bill's progress had always been impeded during past legislative sessions, was stronger than ever this time, Knox said. The changed atmosphere there was infectious.

"We'd always talked about how, once we broke through that psychological bubble in the House and got enough votes, that additional people would come on board and help us with amendments, and that was the attitude that developed on the House floor: they knew we had the votes to pass the bill. That fact circulated with the very first vote we got, when we knocked down the first proposed amendment by 105 votes — the word was out that the horse racing people had their votes, so a lot of people started coming up to us and asking, 'Is there anything I can do to help you out?' That's a good feeling."

In reviewing the collective factors that led to eventual passage, Knox named education and awareness as major contributors to the outcome. Extensive, continuous efforts by horsemen, legislative proponents (such as Speaker Lewis, Lt. Gov. Hobby, Rep. Berlanga, Sen. Ike Harris, Rep. Lloyd Criss and others) and lobbyists to illustrate the benefits of horse racing as an entire new in-

dustry for the state finally paid off at the Capitol.

"A lot of people tie the passage of the bill to the state's economic condition, and I really don't think that was the case," Knox stated. "I think that if you talk to the other lobbyists — Bob Johnson, Hilary Doran and Rob Johnson — they'll agree that the economy was not the major reason it passed. A lot of it was due to the work that's been done in the past to educate the legislators about the potential industry as a whole, and that pari-mutuel goes beyond just wagering at the tracks.

"Of course, there's no question that the present economy focused more attention on the message, and I think that was the key that made legislators really listen to what we were saying. The members understood that pari-mutuel horse

"They [legislators] understood that pari-mutuel horse racing is not a short-term solution to the financial problems facing the state of Texas; they understood that it's a long-term program bringing a strong new industry to the state."

racing is not a short-term solution to the financial problems facing the state of Texas; they understood that it's a long-term program bringing a strong new industry to the state. That, to me, is the underlying factor that helped pass the .bill," Knox concluded.

White's decision to let the bill become law was highly influenced by the people of Texas, Knox said. Horsemen's letters and phone calls received by the governor's office had a major impact, and "really got his attention." Similar supportive input (during the 20-day post-passage period) from the general public all across Texas was also very strong.

"There are a lot of people out there who support pari-mutuel horse racing, as we've always known through our own public opinion polls," Knox said. "And Governor

White's own people, who were all around the state talking to people at the grassroots level, knew that the feeling was 'Let the people vote on the issue.' That's pretty tough to go against: how, when the legislature has voted to let the people decide, can one person stand in the way of the people of Texas having the right to vote?"

Although White has declared he will actively work against the bill between now and the statewide referendum, his opponent in the upcoming gubernatorial race, former Texas Governor Bill Clements, has taken a neutral stance on the issue and will probably remain that way if elected, Knox predicts, publicly speaking neither for nor against pari-mutuel. Clements' position all along has been in favor of letting the issue come to a vote of the people, he added, and a sudden change of attitude is not expected.

With regard to the opposition's claim that a particular loophole in the bill could mean that statewide referendum condition could be ruled in the courts as illegal or unconstitutional, Knox carefully illustrated the actual circumstances.

"It's true that the Texas Constitution does not provide for initiative and referendum," Knox admitted. "But basically what the legislation says in Article 17 of the bill is that pari-mutuel wagering will not take place in the state of Texas unless a statewide referendum receiving a favorable majority vote of the people of Texas is held. The courts are not going to stand in the way of the bill's legislative intent to go to a vote of the people. The courts never take action before an event; the courts always take action after an event, and decide on an actual situation. They don't initiate legislation.

"Now, suppose we were to lose in the statewide referendum, and we subsequently went to the courts and claimed that the statewide referendum is unconstitutional, therefore making the referendum invalid and thus allowing pari-mutuel automatically — that possibility is not allowable in the bill.

"It specifically says in Article 17 that if the referendum is held and a majority of the voters vote against the bill, and subsequently it's taken

to court and the courts rule that the referendum is unconstitutional, then this whole act dies. So that's really a safeguard for the opponents of pari-mutuel," Knox said.

In fact, it was pari-mutuel supporters who proposed the statewide referendum condition in the first place (Sen. Bob McFarland, 1983), Knox reported. "So I'm confident, and Bob Johnson's confident, and most of the constitutional lawyers are confident that a statewide referendum will be held, in November of 1987."

Knox shares everyone's disappointment that the bill will not be on the 1986 ballot, since support for horse racing is at an all-time high right now, and passage this fall would mean installation of race tracks that much sooner. Plus, the gubernatorial elections will ensure higher voter turnout this November, while next November is an "off" election year; the only issues on the ballot at that time will be pari-mutuel and any constitutional amendments that passed during the special session and the regular 1987 session.

"The problem we ran into with the pari-mutuel bill was, again, the Texas Constitution," Knox explained, "which stipulates that if you are within 90 days of an election, you cannot put an issue on the ballot unless it receives at least a two-thirds majority vote in both the House and the Senate. That required us to get 100 votes in the House and 21 votes in the Senate. That was impossible."

The 90-day condition exists to allow time to distribute information across the state on ballot issues so the voters will have some idea of what's going on, Knox said.

Not surprisingly, having to wait another year for the statewide referendum is going to result in increased expenditure of both money and man-hours, Knox said, in order to effectively promote the issue.

If pari-mutuel passes in the statewide referendum next fall, the next likely step will be the local-option elections in each of Texas' 254 counties. (Only those counties that desire to conduct pari-mutuel horse racing will be required to hold

elections.) The bill limits Class I tracks (operational at least 45 days per year) to counties with populations of at least 750,000, and any adjacent counties. Smaller tracks (Classes II and III) could be operated in other counties, for shorter time periods. Dog racing counties are restricted to Cameron (Brownsville), Nueces (Corpus Christi) and Galveston.

A little-known fact, Knox pointed out, is that the local-option elections can conceivably be conducted before the statewide referendum takes place, if a county decides to do so. The statewide referendum is actually considered to be the final endorsement of the bill.

According to Knox, the sequence of events is thus: the pari-mutuel bill (Senate Bill 15) becomes law on

"In 10 or 20 years, I expect we'll be competing strongly with California — their tracks are contributing \$152 million in annual pari-mutuel tax just from the tracks. And they estimate the overall industry there to amount to \$10-\$12 billion per year."

December 4 of this year. As early as February, 1987, the governor can appoint the six racing commission members (the remaining two commission members, as stated in the bill, will always be the state comptroller of public accounts and the chairman of the department of public safety committee). If Governor White is re-elected, he can even appoint the racing commission after December 4 of this year, if he chooses to do so. If Clements is elected, he can appoint the commissioners next February.

Once the bill is on the books December 4, local-option elections can be conducted, the racing commission (once appointed) can begin drawing up the rules of racing and licensing procedures, etc.

"I don't think it's advisable for any

county to hold its local-option election before the statewide referendum — that's just my opinion," Knox stated. "It might happen anyway, in those counties where pari-mutuel is very popular. One thing they need to be careful of, though: once a county conducts a local-option election on a particular issue, they cannot hold another election on that issue for another five years.

"And, as far as public relations are concerned, it's not too advisable to have your local-option election before the statewide referendum is completed, because it's confusing: people might not realize that they have to go back and vote again, in November of 1987. And we're going to need every county contributing every single voter they can to the statewide referendum, because until that referendum is held, it's 'all for one' among the Texas counties. We're all in this together," Knox said.

Knox predicts that most counties will wait, although some might conduct their local elections as early as 30 days following the statewide referendum; others will wait until January or February of 1988. The densely-populated Class I counties will probably hold off until the early spring of 1988, he estimated, because they will want to launch major pre-election campaigns to ensure passage.

How soon after county elections, then, can we realistically expect completion of the first Class I track?

"That's a tough timetable to figure out," Knox said. "So much of it hinges on when the governor appoints the racing commission, and how much effort the commissioners have put into visiting other U.S. tracks, hiring their staff, establishing their ground rules for licensing procedures, and so forth. If the racing commission is appointed in, say, February of 1987, and they immediately begin the process of educating themselves on the subject of racing and establishing their rules, then ideally it would go as follows:

"November 1987, statewide referendum. February, March or April 1988, local-option election in a Class I county. Then, if the potential developers and financial planners have been doing their homework — getting an option on the proposed

"Some Class I tracks elsewhere have been built in 18 months. If that were the case here, we'd be looking at completion in late 1989, early 1990."

land, full architectural renderings, financial plans — if all those factors were put together and everyone was doing their work, you might see someone make application to the racing commission in June of 1988 for a Class I license. It could be even earlier, if the local-option election is held earlier."

After the license application is submitted, Knox said, the racing commission has 120 days to act upon the application. If they haven't taken action within that time period, they can extend their review time for another 30 days, but they must take action (to either accept or reject the application) by the time those 30 days are up.

"So, let's say a license is granted by September of 1988 and construction of a track begins immediately," Knox suggested. "Some Class I tracks elsewhere have been built in 18 months. If that were the case here, we'd be looking at completion in late 1989, early 1990. Which is only four years away — that's pretty fast to bring a \$100 million facility on line."

Knox said he does not expect Texas racing to be stalled by any of the problems that have plagued Oklahoma since its passage of pari-mutuel in 1981. Oklahoma's primary error was the takeout structure they established, he said: it was a 6-6-6 split (six percent of the handle to go to the state, six percent to purses, and six percent to the track, with the remaining 82 percent to be divided among the winning tickets). Six percent was not enough to allow track owners to feasibly maintain a Class I facility, nor even to begin construction. Texas learned from Oklahoma's mistake, Knox declared.

"The Texas Senate Bill 15 calls for a 5-5-8 split on a straight wager; on a multiple wager it's 5-5-10,"

Knox explained. "The financial projections we reviewed before we began constructing the bill indicated that our takeout structure is financially feasible for operating a track.

"I think we've learned from Oklahoma that you do have to have a financially workable takeout, but you also have to have a takeout structure that makes the state satisfied that it's getting enough benefit from pari-mutuel to allow it to take place," Knox said. "So we tried to find a compromise. Originally, in the 1983 and 1985 bills, the legislation called for a 5-5-5 takeout, which was financially unworkable, so we increased the track's take to eight percent to make sure that first-class facilities can be built and maintained."

Knox added that with the present price of oil being down, some potential track owners and developers might not be on as firm financial footing as in the past, but "if oil will stabilize somewhere around the \$20-per-barrel level it will help our economy, thus get these people back on their feet to where these tracks can be developed and constructed across the state."

Texas will begin seeing a net profit from pari-mutuel "probably in 1988," Knox projected, which is when some of the Class II tracks will begin their pari-mutuel programs. In past reports, the THRA has estimated that a fully operational horse industry in Texas could be a \$1.2-billion-a-year industry, and

hopefully grow into a \$10-billion-a-year industry.

During the special session debate, bill co-sponsor Ike Harris forecasted that pari-mutuel wagering alone will provide \$110 million to the state's general revenue account by the year 1991. A Texas Department of Agriculture study shows that pari-mutuel will boost the farm economy by approximately \$713 million, and will bring 25,000 new horses to the state.

"I wish there was some way to calculate the effect of all the satellite industries — tourism, horse sales, real estate purchases, construction — all those factors and more that are going to contribute to the economy, because I think it's going to end up being far more than anyone's projected," Knox said. "The amount of money being spent in the Texas horse industry even right now is substantial.

"In 10 or 20 years, I expect we'll be competing strongly with California — their tracks are contributing \$152 million in annual pari-mutuel tax just from the tracks. And they estimate the overall industry there to amount to \$10-\$20 billion per year."

But there's still a lot of work to do here — for everyone — before we can start gloating over our success, Knox warned. The most important thing that horsemen and other pari-mutuel supporters can do right now is to help identify other citizens

We Need You!

Your help is needed more than ever to ensure passage of the pari-mutuel racing bill in the November 3, 1987 statewide referendum. Within the next 12 months, the Texas Horse Racing Association will attempt to accumulate the names of one million registered voters who have indicated they will vote for pari-mutuel.

These people will **ALL** be contacted by telephone on the evening of November 2, to encourage them to go to the polls the next day.

Horsemen are urged to contact everyone they know who supports pari-mutuel. Submit each person's name, address and **HOME** phone number to:

Texas Horse Racing Association
P.O. Box 50234
Austin, Texas 78763
512/480-8288

Also, please indicate whether or not each person is registered to vote. The THRA will send voter registration cards to those who are not registered.

It's not too early to start **TODAY!**

who will vote for pari-mutuel in 1987, Knox stated. The THRA's goal is to accumulate (and enter into its computer) at least one million names, addresses and home phone numbers of Texans who (1) are registered voters, and (2) have indicated they will vote for pari-mutuel.

The home phone numbers are especially important, Knox explained, because the THRA will be conducting a massive phone-bank session on the evening of November 2, 1987 — one day before the statewide referendum is scheduled to take place.

The THRA currently has 82,000 names in its computer system, obtained through a recent statewide distribution of voter canvas forms. Knox would like to see each of those 82,000 people identify 10 more pro-pari-mutuel voters: which would bring the total to 820,000, climbing closer to the one-million mark.

"We're going to have to keep this cycle going," Knox said. "Horsemen and other supporters are urged to help us identify as many of these people as possible. This is the number-one goal, because if we don't have one million registered voters in our computer system — with home phone numbers — one year from now, we're going to have serious trouble passing the statewide referendum."

Knox suggested that horsemen contact not only equine-related people they do business with, but others as well. Doctors, barbers, filling station attendants — every person a horseman spends money with during the course of a year — should all be identified, because those people are receiving dollars that were initially earned within the horse industry, he pointed out. Therefore, it will behoove them to support pari-mutuel; to vote for pari-mutuel is to keep those dollars coming.

"This identification process is going to be critical," Knox stressed. "Our one weak area in the horse industry right now is that we don't have the number of people to go out to the polls and pass this referendum. We have to reach out to Texans across the state, outside the horse industry, and get them identified."

When talking with a contact, first ask if that person is supportive of pari-mutuel, Knox instructed. If the

answer is yes, find out if he or she is registered to vote. (The THRA will provide voter registration cards to anyone who is not registered.) Then get that person's name, address and home phone number, and submit all information to the THRA (see address and phone number in the box accompanying this article).

The oppositional forces, Knox added, will be doing the same thing, and will also be raising funds to help spread their message of the so-called "evils" of pari-mutuel across the state. The THRA will attempt to combat those efforts by staging a major public relations campaign of its own.

"We'll be trying to refute their misinformation: such as their scare tactics on organized crime, and other negative theories that deter from the issue of a new industry

"Our one weak area in the horse industry right now is that we don't have the number of people to go out to the polls and pass this referendum. We have to reach out to Texans across the state, outside the horse industry, and get them identified."

coming to Texas," Knox said. "They're just scare tactics for an uneducated public. It's one of the problems we're going to have to overcome: we have a lot of people in Texas who, even though we're surrounded by states that have horse racing, have never attended a pari-mutuel horse race in their life and don't know a thing about it."

The THRA has begun planning media blitzes that will promote the benefits of pari-mutuel racing and the horse industry, and which will hopefully motivate people to go to the polls. This includes radio, television, newspaper and magazine advertising. Voter canvas forms will be placed in numerous statewide publications. In short, the THRA will be getting the word out, using every available avenue to accomplish this monumental task.

To be sure, it's going to be a roll-your-sleeves-up year for everyone who wants to help ensure victory in the statewide referendum. Although several rough furlongs loom ahead in the race for pari-mutuel, the issue is by no means a dark horse, and there is plenty of reason to have a positive attitude, Knox said.

"We have to realize that it was 49 years ago this summer that pari-mutuel horse racing was voted out — in a special session — and I'm sure there have been efforts during all those 49 years to bring pari-mutuel racing back to Texas. For this bill to pass the legislature now, with a 75-48 vote in the House and a 17-12 vote in the Senate, is a major accomplishment and a major message to the people of Texas from the legislature that they're going to allow us, finally, the opportunity to vote yes or no on the future of this industry in Texas," Knox said.

"And when that vote takes place on November 3, 1987, from seven in the morning until seven that night, the issue of the horse industry is on the line, probably forever in this state: I think this will be the final chance for there to be horse racing in Texas.

"Every horseman who called the governor's office, or who talked to their House member, or who is a member of TTBA, THRA or any of the breed registries, ought to be proud because what they're getting ready to do is help bring what I feel will be the second-largest industry to the state of Texas — tourism being number one. We can probably be the premier racing state in the U.S.; maybe even in the world. I think the future really is that bright.

"Twenty years from now, when we're looking at the Santa Anita of Houston, the Santa Anita of Dallas and the Santa Anita of San Antonio, and all the first-rate Class II tracks, and all those white fences and horses galloping across pastures throughout the state, it's going to be so exciting to know that EVERYBODY had a part in bringing that reality to Texas," Knox said.

"Sure, we've got the economic and climatic conditions here, but the most important thing is, we have the spirit of Texans." ▀