

Issues to Consider When Removing References to Greyhound Racing From Arkansas Constitution, Amendment 100

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Background

- ▶ Arkansas Constitution, Amendment 100, “The Arkansas Casino Gaming Amendment of 2018”, was adopted at the 2018 general election through the initiative process.
- ▶ Among other provisions, the amendment directed the Arkansas Racing Commission to issue a casino license to a Franchise holder in Crittenden County, there being only one, to conduct casino gaming at a casino to be located at or adjacent to the Franchise holder’s greyhound racing track and gaming facility as of December 31, 2017.
- ▶ “Franchise holder” is defined as any individual, corporation, partnership, association, trust, or other entity holding a franchise to conduct horse racing or greyhound racing under Arkansas law as of December 31, 2017.
- ▶ Southland stopped conducting greyhound racing as of January 1, 2023.



Issue #1 to Consider When Removing Greyhounds From Amendment 100

- Currently 17.5% of the net casino gaming receipts tax is distributed to Oaklawn and Southland “to be used only for purses for live horse racing and greyhound racing by the Franchise holders”.
- For the period prior to January 1, 2024, 60% of that amount goes to Oaklawn and 40% goes to Southland.
- On and after January 1, 2024, the funds are distributed pro rata to the Franchise holders based upon the total respective amounts of each Franchise holder’s pari-mutuel wagering handle during each respective immediately preceding calendar year from wagers placed on and off –track on the Franchise holder’s live races conducted at the licensed premises.
- Southland is not conducting greyhound racing this year.



Issue #1 to Consider When Removing Greyhounds From Amendment 100

- ▶ How should the 40% of the 17.5% tax distribution directed to Southland be addressed?
- ▶ In AG Opinion 2023-022, the AG opined that if Southland had ceased greyhound racing, then the commission was prohibited from sending any of the 17.5% to Southland.
- ▶ In the AG's opinion, the share that would have gone to Southland could be distributed to Oaklawn as Amendment 100 does not prohibit the Racing Commission from sending more than 60% to Oaklawn. Thus, "it would be consistent with, but not required by, Amendment 100 for the Commission to send the 40% to Oaklawn for it to pay out in racing purses."
- ▶ However, if Southland were to resume greyhound racing, it would be eligible to receive Amendment 100 funds.




Issue #2 to Consider When Removing Greyhounds From Amendment 100

- ▶ Under Amendment 100, 14% of net casino gaming receipts are set aside by Southland “for so long as a Franchise holder is operating a franchise to conduct greyhound racing” to be used only for live greyhound racing and for capital improvements to the Franchise holder’s facility.
- ▶ Also, a Franchise holder “operating a franchise to conduct greyhound racing” is instructed to pay 1% of net casino gaming receipts to the Racing Commission to be used for breeders’ awards in order to promote and encourage greyhound breeding activities.
- ▶ Should these provisions be repealed or should these set asides be directed to other purposes?



Issue #3 to Consider When Removing Greyhounds From Amendment 100

- ▶ Southland's casino license was issued based on it being a franchise holder to conduct greyhound racing on December 31, 2017.
 - ▶ Should those references regarding initial licensure be preserved for historical purposes or to otherwise indicate the basis of Southland's licensure?
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Issue #4 to Consider When Removing Greyhounds From Amendment 100

- ▶ Amendment 100 contains some typographical errors and manifest reference errors, such as a reference to the Arkansas General Revenue Fund rather than the General Revenue Fund Account, missing punctuation and formatting, incorrect internal references, and duplicative words.
- ▶ Should an amendment to remove references to greyhounds also address the non-substantive errors that are present in the affected provisions?
- ▶ If that effort was undertaken, would it want to look at Amendment 100 as a whole?



Issue #5 to Consider When Removing Greyhounds From Amendment 100

- ▶ There are references in Amendment 100 to the Arkansas Greyhound Racing Law and the Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act.
 - ▶ The statutory legislation prepared by the committee would repeal and rename those sections.
 - ▶ The modification of the references in Amendment 100 would need to correspond with legislative action to modify the underlying legislation.
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Questions?