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ResearchBrief

OFFICE OF THE NEW YORK STATE COMPTROLLER

DIVISION OF LOCAL GOVERNMENT AND SCHOOL ACCOUNTABILITY

Are Off-Track Betting Corporations Nearing the Finish Line?

Introduction

The financial condition of off-track betting corporations (OTBs) in New York State has deteriorated in recent years, raising the question of their long-term viability. This has had a negative effect on OTB employees, their communities and the local governments that receive a portion of OTB revenues. OTBs are classified as local authorities, distinguishing them from other gambling venues that exist in the State.

This report, which is part of a series of reports by the Office of the State Comptroller (OSC) on local authorities, discusses the financial condition of OTBs, potential policy changes and the consequences of continued deterioration. It accompanies OSC audits of each of the five regional OTBs, plus a summary audit report that covers the overall financial condition of OTBs.

Declining trends in the horse racing industry and an increase in gaming options have taken their toll on OTBs. With the advent of commercial casinos in the State, policymakers have an opportunity to re-examine the viability of OTBs and how they fit into State-authorized gambling. This should include a comprehensive reassessment of OTBs' gambling-related revenue streams and distributions to the State, local governments and other participating entities.

Local Authorities by the Numbers

- **Off-track betting corporations (OTBs), a type of local authority, employed about 1,200 people in 2015.**
- **Wagering on horse racing has been in decline, both in the State and nationally, for several decades.**
- **OTB handle (total dollar value of bets) was $664.3 million in 2013, an 18.7 percent decrease from a handle of $816.9 million in 2009.**
- **OTBs face increasing competition from casinos, online wagering and other gambling options.**
- **OTBs are required to pay out nearly 13 cents of every dollar wagered to the racing industry, the State and participating local governments.**
- **The New York City OTB ceased operations in 2010. The Suffolk OTB filed for bankruptcy in 2012, but is currently emerging from bankruptcy protection.**
- **OTB distributions to local governments declined from $17.6 million in 2009 to $10.2 million in 2013.**

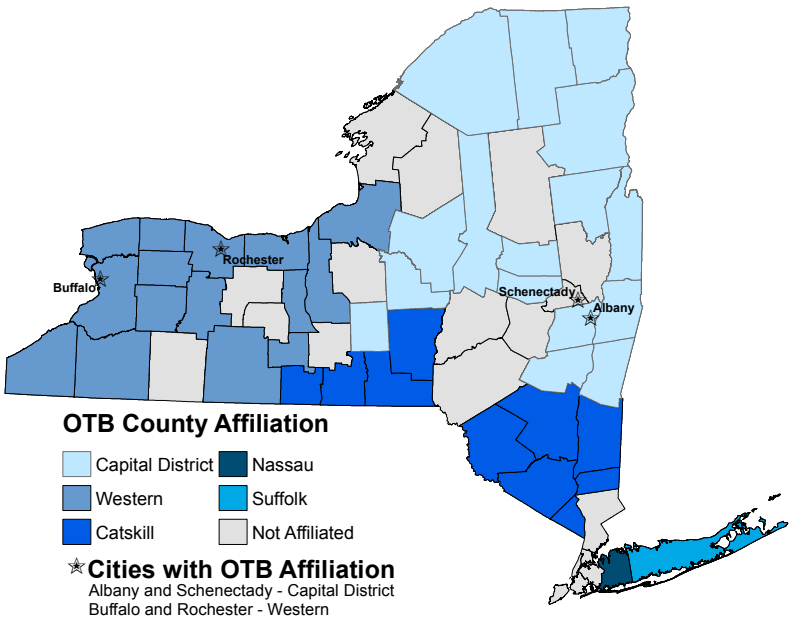
Horse Race Wagering and OTBs

In the early to mid-20th century, the sport of horse racing was considered an American pastime, rivaling baseball in popularity. A big reason for its success was that, at the time, betting at racetracks represented one of the few forms of legal gambling in the United States. However, in New York State, it was only legal to place such bets at the racetracks themselves. Any wagering that took place elsewhere was illegal.

In 1970, the State enacted legislation that allowed certain local governments to operate OTBs.[2] The legislation had two main purposes. First, it created legal venues in which non-racetrack horse race wagering could take place, with the goal of curbing unlawful bookmaking and other illegal wagering. Second, it provided an added source of revenue for participating local governments, the State's horse racing industry and the State itself.

Six regional OTBs, with county and city affiliations encompassing most of the State, were created in the early 1970s (Capital District, Catskill, Nassau, New York City, Suffolk and Western).[3]

County and City Participation in Active Regional OTBs, 2015



Source: Office of the State Comptroller (OSC).
The New York City regional OTB is currently not active.

Although the New York City OTB ceased operations in 2010, a majority of the State's counties still participate in one of the five remaining regional OTBs.[4] As of 2014, these regional OTBs operate 89 branches, 117 remote wagering locations (which include automated betting machines – for example, "EZ Bet" – located in bars and other locations) and 5 tele-theaters. OTBs may also operate advanced deposit wagering (ADW) systems – a service that allows bettors to make wagers via telephone or the Internet. The State Gaming Commission regulates OTBs and has general jurisdiction over all gambling activities in the State.[5]

In the decades since the establishment of OTBs, however, there has been a decline in attendance at tracks and in the amount wagered on races, largely due to increased competition for the attention of potential bettors. The New York State lottery has expanded its offerings since being implemented in 1967, and other states have established lotteries as well. Casino gambling has also become more common, both in neighboring states and at in-state Native American casinos. Even the rising popularity of other sports has taken attention away from horse racing. These factors have contributed to an adverse financial environment for horse race wagering in general.

To help counteract this decline, Western OTB, for example, has expanded its operations to include managing and operating a racetrack and Video Lottery Terminal (VLT) facility.[6] These additional enterprises go beyond the original core function the State intended for OTBs, but have improved Western OTB's overall operating revenues. Over the same period, operating revenues from Western OTB's traditional off-track betting operations decreased by $7.7 million.

NYRA and OTBs

Organized horse racing has taken place in New York State for at least 150 years. In 1955, the State acquired the assets of several racetrack operators and incorporated a not-for-profit racing association, later called the New York Racing Association, Inc. (NYRA). This was done in part so that the State could benefit from the boom in horse racing after the Second World War. NYRA has a franchise agreement with the State as the exclusive operator of the racetracks in Aqueduct, Belmont and Saratoga.[7]

OTBs compete with NYRA for customers, and at the same time they are customers of NYRA's product. A potential bettor might choose to place a wager on a race taking place at one of NYRA's three racetracks at an OTB location, instead of travelling to the racetrack itself, thus reducing the handle for NYRA. However, OTBs pay a fee to NYRA to simulcast its races.[8] NYRA also competes with OTBs by simulcasting races from other racetracks around the country, year-round at its Belmont Park and Aqueduct racetracks, and by operating an ADW system, both of which can draw potential customers from OTB locations.[9]

NYRA's Recent Problems

In 2006, the New York Racing Association (NYRA) filed for bankruptcy. This represented the culmination of years of mismanagement – at one point leading to a criminal indictment – as well as accumulated operating deficits and other problems stemming in part from the proliferation of casinos, lottery games and other forms of legalized gambling. OSC had issued numerous audits critical of NYRA's operations including its repeated underpayment of the franchise fee, which is paid to the State in return for NYRA's exclusive right to operate the three racetracks. In 2008, as part of the bankruptcy settlement, NYRA reached an agreement with the State and the State Franchise Oversight Board that granted the State all ownership rights of the three racetracks NYRA operates. NYRA committed to paying the required franchise fee to the State, while the State would cancel the majority of NYRA's debt obligations. Legislation enacted in 2012 created a temporary, publicly controlled reorganization board for NYRA, with a scheduled return to private control in 2015. However, the State Fiscal Year 2015-16 Enacted Budget extended public control of NYRA for an additional year. This extension will allow NYRA to search for a replacement for its recently departed chairman. The new chair is expected to help complete a reorganization plan that would return NYRA to private control. According to budget documents, NYRA is forecasting a $2.1 million operating surplus in 2015, but the budget shows that due to the high costs of non-operating expenses and VLT capital funding, NYRA will ultimately operate at an overall deficit.

See: "NYRA Files for Bankruptcy Protection," *Glens Falls Post Star*, November 2006, **poststar.com/news/nyra-files-for-bankruptcy-protection/article_255a6a81-bc75-55dd-8dfc-d07f4afcc713.html**;
OSC's previously issued audit reports regarding NYRA:
NYRA, Audit of the Annual Franchise Fee for Calendar Years 2004 and 2005, Report 2006-S-111, December 2007;
NYRA, Audit of the Annual Franchise Fee for Calendar Years 2002 and 2003, Report 2005-S-3, February 2006;
NYRA, Audit of the Annual Franchise Fee for Calendar Years 2000 and 2001, Report 2002-S-31, September 2003;
NYRA, Financial Condition and Selected Governance Activities, Report 2009-S-89, July 2010;
as well as Chapter 59 of the Laws of 2015; and NYRA Board of Directors Meeting Minutes, December 3, 2014, **www.nyra.com/aqueduct/assets/1/7/Meeting_Materials-_BOD_Meeting_12.3.14.pdf**.

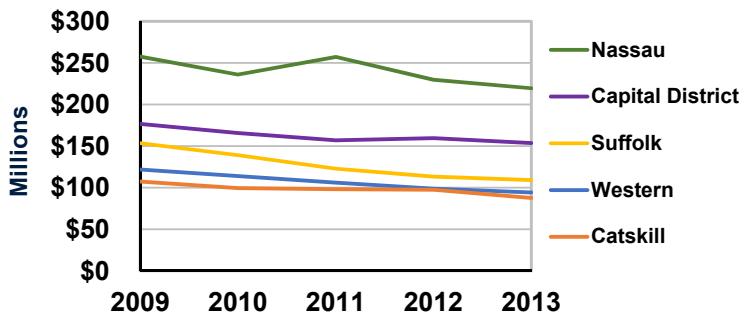
Challenges Facing OTBs

The OTB financial condition audits that accompany this report follow up on a similar set of audits issued in 2010.[10] Those audits found a deteriorating financial condition for the six OTBs existing at the time, and suggested several cost-saving measures. The current audits credit OTBs with implementing these measures, but the financial situation of OTBs has continued to decline. There are some clear causes for these problems, as discussed below:

Handle

OSC's recent global audit of OTBs summarizes common problems facing the State's five remaining OTBs.[11] For the most part, these problems stem from a decline in the "handle," which is the total amount wagered on horse races. The decline in the handle – reflective of an overall decline in horse race wagering – has reduced OTB operating revenues, and ultimately caused a reduction in OTB payments made to participating local governments, the State horse racing industry and the State.

Regional OTB Handle, 2009-2013



Source: OSC.

Combined, the five OTBs have experienced a $152.7 million, or 18.7 percent, decrease in the handle from 2009 to 2013, from $816.9 million to $664.3 million. The Suffolk OTB had the largest percentage (29 percent) and dollar ($44.3 million) decline during the period.[12] This decline in OTB handle reflects a nationwide 11.4 percent decline in the horse racing handle from $12.3 billion in 2009 to $10.9 billion in 2013.[13]

Operating Losses

The decline in handle has led to a sharp decline in net operating revenue, or the collective bottom line profit or loss, from core OTB operations. Overall, the five OTBs combined for a $12.4 million decrease in net operating revenue from operations over a four-year period, with most OTBs operating at a net loss.[14]

Decline in Net Operating Revenues for OTBs, 2009-2013

Capital	($3,455,468)
Catskill	($2,665,516)
Nassau	($3,804,170)
Suffolk	($87,366)
Western	($2,398,047)
Total	**($12,410,567)**

Revenues for the Western OTB excludes video gaming and live racing activities.
Source: OSC.

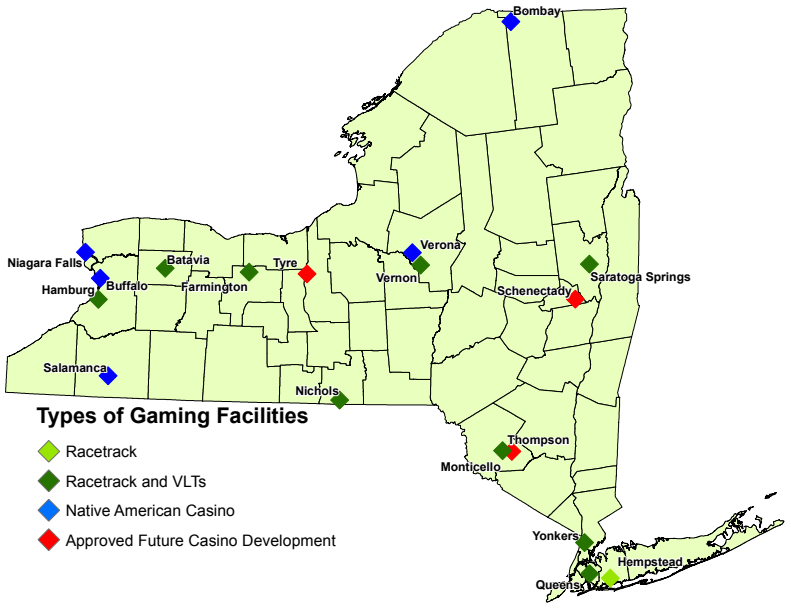
Competition

The main reason for the decline in OTB handle has been competition, both within the shrinking horse racing industry and from an increase in other gambling venues. As alternative entertainment options continue to grow, and with the increased popularity of other sports, attendance at horse tracks nationally has been substantially reduced (from 78 million spectators in 1975 to 42 million in 1997, a decline of 46 percent) and the sport has failed to attract younger people.[15] NYRA has also reported that attendance at their tracks conducting live racing in 2013 decreased by over 7 percent compared to the prior year, for a total of almost 1.7 million spectators. However, the attendance figures reported by NYRA may be inflated.[16] In addition to the competition from NYRA noted above, OTBs – and horse racing in the State overall – are competing with Internet-based gambling, state-sponsored lotteries, nine racing tracks in the State offering VLTs, five Native American casinos in the State offering slot machines and table games, casinos in neighboring Connecticut, New Jersey and Pennsylvania and a racino in Massachusetts. Private ADW services, often run from out of State, are another direct competitor to OTBs, since they accept wagers from State residents. With their minimal overhead and operating costs, these services are able to provide their best customers with rebates and cash incentives that OTBs cannot match. Effective in 2014, multi-jurisdictional (out-of-state) ADW service providers are required to pay a fee on wagers accepted from State residents.[17] These fees can help offset regulatory fees that OTBs would make, but at least one ADW has avoided the fee by "partnering" with an in-state racetrack.[18]

Adding to the competition, in 2013, New York State voters approved a State constitutional amendment that would enable the State Gaming Commission to award up to four casino licenses in certain parts of the State.[19] The casino licenses will be awarded to facilities located in counties that are already affiliated with OTBs.

These existing and potential future competitors, within the State and across its borders, are all vying for a finite pool of gambling revenue. With the handle continuing to decline and increasing competition, it is likely that the financial challenges facing OTBs will intensify.

Location of Gaming Facilities in New York State, 2015

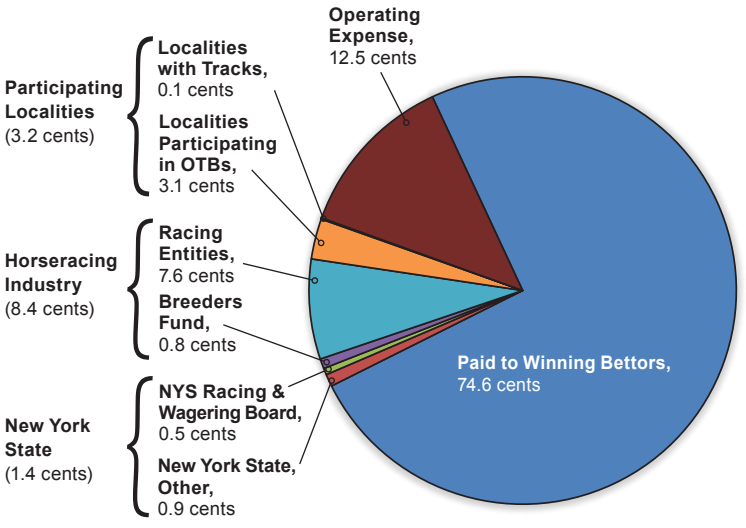


Source: NYS Gaming Commission.
Saratoga Springs houses both the Saratoga Race Course and the Saratoga Casino and Raceway (harness racing). The future casino development has been approved only by the Gaming Facility Location Board (GFLB), not yet by the NYS Gaming Commission. GFLB is also considering an additional casino in the Southern Tier region. Only Native American casinos offering "Grade III" gaming (table games) are included in this map.

Distribution of Revenues

OTBs are statutorily required to distribute their handle. For example, at the Western OTB, for every $1 bet, the OTB must pay nearly 13 cents in various statutory distributions: 8.4 cents to the State's horse racing industry, 1.4 cents to the State, 3.2 cents in surcharges to participating localities.[20]

Distribution of $1 OTB Wager, Western OTB 2013



Source: OSC.
Total may not add to $1.00 due to rounding

In addition, the 12.5 cents that the Western OTB pays for its own operating expenses is likely to be relatively high compared with online-only betting competitors. Track rates, or compensation paid to track owners to allow OTBs to broadcast horse races, have increased as much as 300 percent during the period from 2009 through 2013.[21] Since OTBs need a product to broadcast to their customers, these track rate increases have added to the operating expenses at the OTBs.[22]

By contrast, direct competitors to OTBs, such as private ADWs – aside from collecting a surcharge on wagers placed by in-state residents using their services – have no required distributions. This allows them to provide more benefits to bettors while retaining greater profit for themselves, putting OTBs at a decided disadvantage. Some indirect competitors, such as Native American casinos, however, do make payments to the State and local governments.

In 2003, the State enacted a law that allowed OTBs to accept wagers from evening races at out-of-state racetracks. A statutory "maintenance of effort" or "hold harmless" provision required OTBs to provide in-state harness racing tracks with a minimum payment to offset the potential adverse impact on the harness tracks' evening races.[23] However, OTBs never saw an increase in revenue from the evening races. Instead, the provision actually cost the OTBs revenue, as the harness track payments are based on a 2002 handle figure of $2.04 billion, which has since declined by 67 percent, to $664 million in 2013.[24]

Facilities

Under pressure from declining revenue, OTBs have largely been prevented from modernizing most of their locations. Since OTBs are now in competition with casinos and betting venues in other states that provide considerably greater amenities, the less attractive nature of their locations may also contribute to the decline in handle and revenues.

Video Lottery Terminals

VLTs are similar in appearance to casino-style slot machines, except that VLTs are connected to a central computerized system and are considered to be part of the New York State Lottery.[25] There are nine facilities throughout the State that are now allowed to operate VLTs, all located at racetracks (a combination known as a "racino").[26]

Three OTBs currently either have or are authorized to establish VLTs. The Western OTB operates a racino-style VLT parlor in conjunction with owning and operating a racing facility. In 2013, the Western OTB received $566 million in revenue solely from its VLT operations. This has helped the Western OTB to remain in the black, even while its racing handle continues to decline – by 22.7 percent from 2009 to 2013.

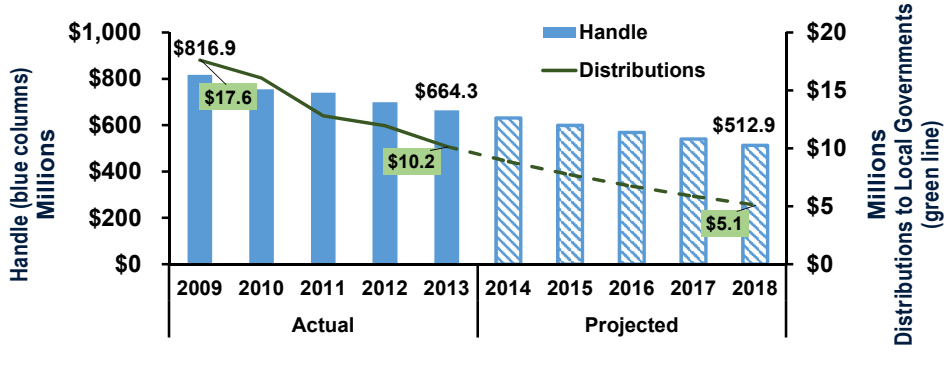
The 2013 Upstate New York Gaming Economic Development Act allowed the Nassau and Suffolk OTBs to each operate a VLT parlor, which would be the first at non-racing facilities.[27] Currently, these OTBs are in the process of planning these venues, which are expected to open in the next few years.[28] As with the Western OTB, this change will likely provide a significant new revenue stream for the two Long Island OTBs as they continue to see less revenue from horse race wagering. The prospective establishment of one of these new VLT locations has assisted the Suffolk OTB in its process of emerging from bankruptcy.[29] National gaming operators, such as the one that manages the Western OTB's VLT parlor, will be running VLT operations for the Nassau and Suffolk OTBs.

Potential Impact of Current Trends

From 2009 through 2013, local governments received a total of $68.6 million in distributions from OTBs. However, the OTB handle has decreased by 18.7 percent during this period. Because of this decline and the corresponding decline in net operating revenue, distributions to local governments from the five OTBs have dropped by 42.3 percent, from $17.6 million to $10.2 million. The additional payments to local governments with a racetrack in their jurisdiction totaled $19.6 million during the 2009-2013 period.

The average annual decline in handle from 2009 to 2013 was about 5.0 percent per year, while the average annual decline in distributions to local governments, excluding the additional payments for local governments with a track, was 12.8 percent. If these trends were to continue through 2018, the handle at OTBs would be reduced to $512.9 million while distributions to local governments would fall to $5.1 million. This projection does not take into account potentially negative effects of the new casinos that will be opening throughout the State. These downward trends would make it increasingly difficult for OTBs to fund and maintain their operations. At some point the declines in the handle, with undiminished requirements for distribution of revenues to various partners, could push OTBs to the point where they cannot meet their expenses, putting their entire operation – including the distribution of funds to local governments – in jeopardy.

OTB Finances, 2009-2013 Actual and 2014-2018 Projected



Source: OSC.

The closing of the New York City OTB and the bankruptcy of the Suffolk OTB are troubling indicators of the challenges facing OTBs. As noted earlier, the Suffolk OTB is in the process of emerging from bankruptcy and is expecting to fully repay its creditors. This turnaround for the Suffolk OTB is due, in part, to new legislation enabling the OTB to operate a VLT parlor and allowing, in some cases, the OTB to use assets in a capital acquisition fund for its corporate purposes. Under the plan, the new VLT facility is expected to maintain many employees who had worked at the OTB, as well as to hire new employees for related jobs.[30]

Effects of Potential OTB Failure

In 2015, the five OTBs operating in the State employed nearly 1,200 workers. Most OTBs have been reducing the number of employees and their associated costs, yet still face serious challenges. If, as happened with the New York City OTB, an OTB were to fail without some form of reorganization plan, it could put the OTB's employees out of work and potentially hurt retired OTB employees who might lose certain benefits.[31]

OTB Employment, First Quarter 2015

	Full Time	Part Time	Other*	Total
Capital	157	30	13	200
Catskill	52	117	0	169
Nassau	107	142	7	256
Suffolk	69	164	0	233
Western	141	205	2	348
All OTBs	**526**	**658**	**22**	**1206**

* Includes consultants and contractors.
Does not include 177 VLT employees at Western OTB.
Source: New York State Gaming Commission.

The Failure of the New York City OTB

In 2008, OSC conducted an audit of the financial condition and governance of the New York City Off-Track Betting Corporation (NYC OTB). This audit found that the corporation had operating deficits for five consecutive fiscal years, and by June 30, 2008, the NYC OTB had an accumulated balance sheet deficit of more than $228 million – consisting mainly of accrued post-employment retirement benefits. The audit also found potential management inefficiencies, including maintaining a fleet of 87 vehicles.

NYC OTB (like other OTBs) had been established as a public benefit corporation, operated by a Board of Directors appointed by New York City's Mayor. In 2008, the State attempted to halt further deterioration in NYC OTB's financial condition by amending the statute authorizing the NYC OTB to allow the State to take control of the entity. Despite this, the NYC OTB filed for bankruptcy in 2009 and ceased operations in 2010. As a result of the closing, NYC OTB employees were terminated and NYC OTB retirees lost some of their benefits.

Legislation that would have extended the Catskill Regional OTB to include the NYC OTB Region, and thus potentially reopen some OTB locations in New York City, was vetoed by the Governor in 2012. Besides Internet-based ADW operators, the only current legal option for horse racing wagering within New York City is the Aqueduct racetrack in Queens, which is managed by NYRA.

See *An Assessment of New York City Off-Track Betting Corporation's Financial Condition and Governance,* Report 2008-S-147, August 2009, **www.osc.state.ny.us/audits/allaudits/093009/08s147.pdf**;
"Bleeding Cash and Deep in Debt, OTB Files for Bankruptcy Protection," *New York Times*, December 3, 2009, **www.nytimes.com/2009/12/04/nyregion/04otb.html**;
"New York OTB: Remembering a City Icon," *Daily Racing Form*, February 7, 2013, **www.drf.com/print/news/new-york-otb-remembering-city-icon**; and
"Extends the Catskill Region to Include the Five Counties Comprising the City of New York," A.7301-B/S.5054-A, vetoed by the Governor, Veto Message Number 172 in 2012.

A failure of any of the remaining OTBs would also have a negative impact on other gaming-related entities. For example, in 2013, NYRA generated $24.3 million in revenue from OTBs, which represented approximately 9 percent of total NYRA operating revenue. Due to the Suffolk OTB bankruptcy filing, NYRA has already made an allowance that substantially all of the $3.1 million that it is owed from the OTB will not be collectible.[32] If additional OTBs became eligible to file for bankruptcy, NYRA's revenues could be further impaired.[33] If they were to fail, this revenue would cease, as would the OTBs' distribution of revenue to 47 different local governments.

Options and Potential Reforms

OTBs face strong competition from alternative gambling options, and their challenges continue to multiply as the years go on. Still, there are options and reforms that could help the OTBs to compete more effectively.

OTBs in Other States

New York State was the first state to create OTBs. Other states followed its example and some of these states' OTBs have been having their own problems:

Kentucky — As of June 2013, the Kentucky OTB had closed all its remaining facilities, saying that "the bottom line is that it is not profitable and does not make economic sense to keep operations open." The OTB had been formed by private racetracks, and distributed some of its revenues to cities and counties that hosted facilities.

New Jersey — OTBs were first established in New Jersey in 2001. There are currently five OTBs in New Jersey. Unlike in New York, these are operated by private entities, including a national gaming operator. They have had success opening locations that are restaurant/sports bar facilities that also include a horse race wagering area. Two of these locations are close to New York City, and have benefited since the closure of the NYC OTB.

Pennsylvania — Private operators of in-state racetracks operate the State's OTB locations. However, like the New York OTBs, they are not faring well and are closing. Pennsylvania has also become increasingly competitive in the horse racing field by allowing racetracks to legalize VLTs. This has enabled the racetracks to significantly enhance purses and breeder awards, but has not helped the brick and mortar OTB parlors.

See: "Kentucky Off-Track Betting Closes Remaining Facilities," *Lexington Herald-Leader*; March 2013, Off Track Wagering, New Jersey Racing Commission, **www.nj.gov/oag/racing/simulcasting.html**; "In New Jersey, New Gamblers Being Sought," *The Wall Street Journal*, July 8, 2012; "Penn National to Close Off-Track Betting Site in Chambersburg," June 4, 2013, WFMZ/AP; "Off-Track Betting Site to Close," *The Sharon Herald,* October 28, 2014; and 2013 NYRA Audited Financial Statements, p. 25.

Efficiencies

Since 2009, the five regional OTBs have individually reduced expenses relating to employee salaries by an average of 25.2 percent. In 2013, the five OTBs operating in the State spent approximately $55.8 million on employee salaries and related cost.[34] OTBs may be able to work together to achieve further operational efficiencies through actions such as centralizing administrative functions.

Distribution of Revenues

The current distribution of OTB revenues is a major factor contributing to the difficulties in sustaining their operations. Payments to other entities are based on formulas established many years ago, when OTBs were the "only game in town." The requirements for revenue distribution are thus considerably different between OTBs and their newer competitors. A complete reassessment of the OTBs' required distributions and their role in the overall gaming industry in New York State is overdue. There may also be other options to consider, such as evaluating if OTBs should participate in more types of revenue-generating activities. In particular, State policy makers might consider the following options:

1. A review of the "maintenance of effort" payment mechanism. As discussed above, OTBs were required to make maintenance of effort payments to harness racing tracks when they began to accept wagers on out-of-state evening races, apparently under the expectation that the OTBs would experience a related increase in revenues and the harness tracks a decrease. However, OTBs have not realized additional revenues from these races, and in recent years, harness tracks have increased their revenues through VLT parlors.

2. Further changes to restore the intended effect of the 2014 legislation requiring multi-jurisdictional (out-of-state) ADW service providers to pay a fee on wagers accepted from State residents.[35] These fees can help offset regulatory fees that OTBs must pay, but at least one ADW has "partnered" with an in-state racetrack, so that it is now considered to be operating within the State and as a result has avoided remitting this fee.[36]

3. NYRA operates a simulcast facility at Belmont Park that is located in the territory of the Nassau OTB. Since this facility is in competition with the OTB's operation, consideration could be given as to whether to and how to balance the revenues of the two entities.[37]

4. Additional consideration by policy makers allowing OTBs to operate other gaming activities may be warranted. The one OTB that has been operating VLT facilities has found that this expansion helped to balance declining revenues in its core racing business. As of 2015, two more OTBs have been authorized to operate VLTs, and other OTBs have expressed interest in doing so.

OTBs have been on the scene in New York for decades. However, changing times for the horse racing industry and an increase in overall gaming options in New York have taken their toll. Now, with the advent of commercial casinos in the State, it would seem to be the right time to re-examine how OTBs fit into State-authorized gambling, as well as consider a comprehensive reassessment of OTBs' gambling-related revenue streams and distributions to the State, local governments and other participating entities.

Notes

[1] OSC, *Financial Condition of New York State Regional Off-Track Betting Corporations,* 2014-MS-6, 2015. Information from the global audit report and the audit reports on the regional OTBs is used throughout this report.

[2] Chapter 346 of the Laws of 1973, currently Articles 5 and 6 of the Racing, Pari-Mutuel Wagering and Breeding Law (Racing Law).

[3] One of the regions authorized in statute (Central) has never become operational.

[4] A participating county or city is eligible to have directors appointed to the board of its regional OTB, may have OTB branch facilities located within the county and share in earnings that the regional OTB may distribute.

[5] Before the creation of the State Gaming Commission in 2012, which became effective in 2013 (see Chapter 60 of the Laws of 2012 and Chapter 457 of the Laws of 2012), OTBs, along with all other horse racing activities and pari-mutuel betting activities in the State, were under the jurisdiction of the State Racing and Wagering Board (Racing Board). The Racing Board was merged with the State Division of Lottery, along with other agencies, to create the State Gaming Commission. For additional information, see the Horse Racing section of the State Gaming Commission website at: **www.gaming.ny.gov/horseracing**.

[6] In general, VLTs are machines that allow players to bet on the outcome of a computer-generated game, and are similar in appearance to slot machines. See 9 New York Codes Rules and Regulations (NYCRR) Section 5100.2 for definitions relating to video lottery gaming and other terms associated with VLTs.

[7] **www.nyra.com/belmont/information/about-nyra/**.

[8] A simulcast is a telecast of live audio and visual signals of running, harness or quarter horse races for the purpose of pari-mutuel wagering. See Racing Law Section 1001(a).

[9] NYRA has been processing ADW accounts over the Internet since 2007.

[10] OSC, *Financial Condition of New York State Regional Off-Track Betting Corporations,* 2009-MS-10, May 2010. **www.osc.state.ny.us/localgov/audits/swr/2010/otb/otbglobal.pdf**.

[11] See OSC, *Financial Condition of New York State Regional Off-Track Betting Corporations,* 2014-MS-6, 2015.

[12] After its initial petition was dismissed in 2011, the Suffolk OTB again filed for Chapter 9 bankruptcy protection in 2012 and is now emerging from bankruptcy. See "Suffolk OTB Reorganization Viewed as Chapter 9 Model," *The Bond Buyer*, January 9, 2015; also see United States Bankruptcy Code, Chapter 9.

[13] See "No, Horse Racing Can't be Saved – Even by a Triple Crown Winner," *The Atlantic,* May 20, 2014, **www.theatlantic.com/entertainment/archive/2014/05/no-horse-racing-cant-be-savedeven-by-a-triple-crown-winner/371255/**; "Goodbye to the Glory Days of California Horse Racing," *The Guardian,* September 30, 2013, **www.theguardian.com/sport/2013/sep/30/santa-anita-hollywood-park-california-horse-racing-crisis**; "Reasons for the Decline of Horse Racing," *The New York Times,* June 6, 2010, **therail.blogs.nytimes.com/2010/06/06/reasons-for-the-decline-of-horse-racing/#**; and *2014 Fact Book*, "Pari-Mutuel Handle," The Jockey Club, **www.jockeyclub.com/default.asp?section=FB&area=8**.

[14] See OSC, *Financial Condition of New York State Regional Off-Track Betting Corporations,* 2014-MS-6, 2015 for additional information on OTB net operating revenue.

[15] "No, Horse Racing Can't Be Saved – Even by a Triple Crown Winner," *The Atlantic*, May 20, 2014. Since 1997, the racing industry has not released annual attendance figures.

[16] For attendance figures see: NYRA 2013 Audited Financial Statements, **www.nyra.com/assets/1/7/NYRA_2013_Audited_Financial_Statements.pdf,** p. 13. Attendance figures reported by NYRA for these years included spectators who purchased multiple admissions to obtain vouchers to redeem giveaway items, such as T-shirts and caps. Also the reported attendance figures include season pass holders in Saratoga that are treated as daily attendees even if the season pass holder does not visit the track on a given day. See: "Season Passes Inflate Track Figures: Daily Paid Attendance Includes 6,300-plus Pass Holders," *The Saratogian*, August 2, 2014, **www.saratogian.com/general-news/20140802/season-passes-inflate-track-figures-daily-paid-attendance-includes-6300-plus-pass-holders**.

[17] See Racing Law Section 1001(t) for definition of "multi-jurisdictional account wagering provider."

Notes

[18] See Racing Law Sections 115-b and 1012-a. Also See "OTB Cuts Jobs to Stay in Race," *Albany Times Union,* February 5, 2015, **www.timesunion.com/news/article/OTB-cuts-jobs-to-stay-in-race-6063522.php**; and "Another Day, Another Story of Churchill Downs Inc. Gripes," *Louisville Courier-Journal,* June 6, 2014, **http://www.courier-journal.com/story/horse-biz/2014/06/06/another-day-another-story-of-churchill-downs-inc-gripes/10060965**.

[19] See the Upstate New York Gaming Economic Development Act, Chapters 174 and 175 of the Laws of 2013. As of January 2015, the Gaming Facility Location Board (GFLB) has recommended that certain proposed facilities located in the Town of Thompson, Sullivan County; the Town of Tyre, Seneca County; and the City of Schenectady, Schenectady County; be permitted to apply to the New York State Gaming Commission for a gaming facility license (see, GFLB, *Report and Findings of the New York GFLB,* February 27, 2015 at **http://gaming.ny.gov/pdf/02.27.15.GFLBFinalAppendicesWebSmall.pdf)**. An additional casino license may be recommended for a location in the Southern Tier by the GFLB.

[20] See Articles 5, 5A and 10 of the Racing, Pari-Mutuel Wagering and Breeding Law.

[21] In general, OTBs may contract with tracks throughout the United States and Canada to simulcast races run at these tracks. In exchange for the OTB's right to broadcast these races, the hosting tracks may receive certain fees based on the handle that is wagered for the race.

[22] See OSC, *Financial Condition of New York State Regional Off-Track Betting Corporations,* 2014-MS-6, 2015.

[23] See Racing Law Section 1017.

[24] "OTB Cuts Jobs to Stay in Race," *Albany Times Union,* February 5, 2015, **www.timesunion.com/news/article/OTB-cuts-jobs-to-stay-in-race-6063522.php.**

[25] See 9 New York Codes Rules and Regulations (NYCRR) Section 5100.2.

[26] See Tax Law Section 1617-a(a).

[27] Chapters 174 and 175 of the Laws of 2013.

[28] The Suffolk OTB has acquired a location and is planning on having its facility open in 2016. The Nassau OTB has not yet selected a location. See "Nassau and Suffolk Moving Ahead on VLT Parlors," *Newsday,* December 17, 2014; and "Suffolk Pols Nix Bill Opposing Medford Casino Plan," *Long Island Press,* March 3, 2015.

[29] "Suffolk OTB Reorganization Viewed as Chapter 9 Model," *The Bond Buyer,* January 9, 2015, **www.bondbuyer.com/news/regionalnews/suffolk-otb-reorganization-viewed-as-chapter-9-model-1069404-1.html**.

[30] "Suffolk OTB Reorganization Viewed as Chapter 9 Model," *The Bond Buyer,* January 9, 2015.

[31] Total number of employees at OTBs is as of the end of the first quarter of 2015, per the State Gaming Commission. Employees from the Western OTB who operate its VLT facility were excluded.

[32] NYRA, Audited Financial Statements for Year Ended December 31, 2013, March 2014, **www.nyra.com/assets/1/7/NYRA_2013_Audited_Financial_Statements.pdf**.

[33] Racing Law Section 503-a was added by Chapter 58 of the Laws of 2012, which granted an OTB, if certain criteria were met, the authority to file a petition for bankruptcy with the court.

[34] Related costs include pension costs, payroll taxes, employee business expenses, employee reimbursed education, training expenses and health insurance.

[35] See the Upstate New York Gaming Economic Development Act, Chapters 174 and 175 of the Laws of 2013.

[36] The out-of-state ADW operator, TwinSpires, partnered with the Finger Lakes Gaming and Racetrack, which gives TwinSpires in-state status.

[37] A 2014 bill that would have required that the operator of a simulcast theater in an OTB Region wholly within one county enter into agreement with the OTB in order to operate the theater and that all revenues derived by the theater be distributed pursuant to the terms of agreement (i.e., NYRA reaching an agreement with the Nassau OTB for a distribution of simulcast-derived revenues) was pocket vetoed by the Governor (A7578-A/S5584-A; Veto Number 588).

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