

Thomas E. Noonan

tenoonan.com

96 Ludlow Street
Saratoga Springs, New York 12866

518.583.7346
noonante@gmail.com

January 16, 2017

By email and first class mail

Senator John J. Bonacic
Room 503
State Capitol
Albany, NY 12247

Re: Legislation affecting the New York Racing Association

Dear Senator Bonacic:

I am writing concerning a significant aspect of legislation that would amend the statute concerning the New York Racing Association. While much of the discussion last year talked about returning NYRA to private control, I think there were aspects of both the Governor's legislation and the bill passed by the Legislature that were flawed significantly in achieving that goal.

By way of introduction, I am a free-lance journalist who has written extensively about NYRA since 2012 when the current statute was enacted. I am also an attorney and a breeder of New York-breds and currently have five horses in training with the hope of racing this year.

Both of last year's legislative proposals would have continued control of NYRA by a Board of Directors in large part controlled by appointees of the Governor. Under the Legislature's bill, each of the legislative chambers would appoint one member, and representatives of two groups representing owners and breeders would each have an appointment. The Governor would directly make two appointments, and NYRA's CEO - essentially a gubernatorial appointment - would also sit.

The remaining eight members of the 15-member board would be appointed by the Executive Committee of the current NYRA Board. Of the six members of the Executive Committee, three were appointed by the Governor. Chairperson Michael Del Giudice was appointed by the former Speaker of the Assembly, but has been a close confidant of both the Governor and his father. The Governor, therefore, controls four of the six members. It means that he would have control of 11 of the 15 Board members under the Legislature's bill from last year. This, of course, would not amount to private control.

It does not have to be this way. The eight members that would be selected by the Executive Committee could instead be nominated by an independent panel of knowledgeable experts. Governor Cuomo himself demonstrated the value of this approach when he addressed a crisis in racing fatalities at Aqueduct in 2012. A four-person Task Force of independent experts produced a report that was widely praised and accepted as a blueprint for enhancing the safety of both the equine and human athletes.

I have prepared the enclosed information sheet that specifies in greater detail how such a plan could work. It is, of course, only one person's approach. There are many other possibilities which would also help restore New York racing to the place of prominence it should have in the nation.

Thank you for your attention to this. Please do not hesitate to contact me if I can be of any assistance in your efforts.

Sincerely,

Thomas E. Noonan

Proposal to return NYRA to private control

Essential components for selecting private members:

- **Appointees must have Integrity, Competence and Independence**
- **Private members cannot be selected by government appointees**

- ❖ **Governor appoints two members**
- ❖ **Temporary President of Senate appoints one member**
- ❖ **Speaker of the Assembly appoints one member**
- ❖ **NYRA CEO is a member of the Board, but cannot be the Chair**
- ❖ **New York Thoroughbred Horsemen's Association appoints one member**
- ❖ **New York Thoroughbred Breeders appoint one member**
- ❖ **New York State Comptroller appoints one member**
- ❖ **Seven private members appointed from among those nominated by a Special Committee**
- ❖ **The five current private members, NYTHA, NYTBA and Comptroller's designee appoint the Special Committee. Members cannot be from the group making the appointments.**
- ❖ **Special Committee solicits nominees for appointment as private members of the Board and makes the appointments**

RETURN NYRA TO A REAL - NOT PHONY - PRIVATE CONTROL

The continuation of government-control of New York's premier racing for another year should be viewed as an opportunity, not a failure. The reality is that the competing proposals of the Governor and the Legislature would have ensured control of NYRA by Andrew Cuomo for an indefinite period.

Much of the attention on the two bills focused on the Governor's effort to strip NYRA of \$16 million to which it was entitled under the agreement reached when NYRA transferred title to the tracks to the state. While that is indisputably an essential matter, not enough attention was paid to the governing structure of NYRA going forward.

In short, if you are content with Andrew Cuomo remaining in control of NYRA for the indefinite future, the money is the primary issue. If you think NYRA should return to private control, however, both the Cuomo bill and the one put forward by the Legislature are dismal failures.

That's because the process for appointing the future NYRA Board of Directors - in each proposal - would be controlled by political appointees of the Governor. The key to understanding why this is so is understanding the composition of the NYRA Board's current Executive Committee. Three members are Cuomo appointees. One was appointed by the Senate and one was named by the NYRA Board members who actually are private members. The sixth member, Michael Del Giudice, - who is Chair of both the Committee and the full Board - was appointed by former Assembly Speaker Sheldon Silver, but has been quoted as saying that "Andrew is like a younger brother to me." In short, Cuomo controls four of the six members.

In the Governor's legislation, the Executive Committee would select 8 of the 15 Board members. The Governor would directly appoint four additional members and the NYRA CEO (appointed by the current Board) would also be a member. The Governor would control 13 of 15 members.

Under the Legislature's bill, the Executive Committee would appoint 8 members, the Governor directly makes 2 appointments and the CEO would also be on the Board. The Governor would control 11 of 15 members.

While the Legislature's bill would allot one voting position to a representative of the New York Thoroughbred Horsemen's Association and another to the New York Thoroughbred Breeders, Del Giudice rejected this notion, stating that it would present a "possible conflict-of-interest." That's right. The representatives of owners and breeders who spend hundreds of millions of dollars on the horses running at NYRA tracks should not have a say - we are talking about two votes out of fifteen - because it might conflict with the NYRA as defined by the Governor. NYTHA and the NYTB also represent the horsemen and horsewomen who literally are 24/7 caretakers of the horses and also deserve a voice.

The effort to return NYRA to private control is an opportunity to take a major step in returning NYRA to a leadership position in the sport. That will not happen if the Board continues to be a patronage dumping ground instead of knowledgeable people committed to a thriving New York environment for racing.

Prepared by Tom Noonan who writes at tenoonan.com.