



COMMONWEALTH OF MASSACHUSETTS
THE GENERAL COURT

STATE HOUSE, BOSTON 02133-1053

July 30, 2019

Mr. Mark Pruhenski, Town Manager
Town of Great Barrington
334 Main Street
Great Barrington, MA 01230

Dear Mr. Pruhenski:

We are in receipt of your email correspondence, dated July 24, 2019, on behalf of the Great Barrington Select Board with the subject line "GB Fairgrounds – S. 101 and H. 13" and together offer the following response.

- 1. We'd like to confirm that local control will stay intact and the special permits required to operate at this location will still be required.**

S. 101 is a statewide proposal on how the Commonwealth *could* regulate the horse racing industry. The question of whether there will be licensed horse racing in Great Barrington is and always will be a local decision under the jurisdiction of local permitting authorities. It does not change local control – any and all special permits required by the host municipality would still be valid and necessary if this legislation was enacted and implemented.

H. 13 is also a statewide proposal, filed by the Massachusetts Gaming Commission, outlining how it would like to regulate the horse racing industry. This bill provides broad authority to the Commission.

- 2. We'd like to get clarification on section 12 of S. 101 and existing 128A repealing the need for a referendum. Further, if a repeal of the referendum requirement was intended, we're curious why?**

S. 101 repeals MGL Chapter 128A, which governs Horse and Dog Racing Meetings in Massachusetts, and replaces it with a new Chapter, 128D, to govern Horse Racing and Wagering. As currently drafted, 128D gives the Massachusetts Gaming Commission authority to oversee and regulate horse racing in the Commonwealth. It provides that non-fair licenses may not be granted in any city or town unless the location of the race track had once been approved locally by officials (the mayor and city council or the town council or selectmen). It further provides that a new local approval is not required for horse race tracks that were licensed by the commission or by its predecessor state racing commission for commercial racing under chapter 128A.

We believe the intention is to grandfather previous racing locations for potential future licenses. This language covers any municipality that has already met the local approvals for a commercial racing license, including, but not limited to, Boston, Revere, Brockton, Plainville, and Great

Barrington. However, we do not believe the intention of S. 101 was to remove a municipal approval process, as any new commercial horse racing license will require select board approval, after a public hearing, and additional special permits from various local boards, which require public meetings.

If residents do not like the Select Board decision, 12% of voters of the town can submit a petition to require reconsideration. If the Select Board continues to support its decision the matter is put before the town for a vote.

On the state level, the legislative review process is open, engagement and public testimony is encouraged and accepted at every step. If S. 101 is advanced by the Committee there are many opportunities to amend it to address concerns. Further, in addition to the process outlined above, local government also has clear avenues available for town residents to bring matters forth for discussion at Select Board meetings, local permitting hearings with public comment periods, and, of course, methods to add warrants to Town Meeting Agendas.

- 3. We'd like to know more about the expected timeline of these bills. If we request a delay or to hold the bill in committee, what are the consequences? How does this change the timeline?**

The Legislature follows a two-year legislative session. We are currently in year one of the 2019-2020 session. While we will take a summer break in August and resume formal sessions after Labor Day, there is no immediate deadline looming on this matter. Formal session will recess on July 31, 2020. As both S. 101 and H. 13 are "timely filed bills", under the Joint Rules they were guaranteed a public hearing (held on July 1, 2019) and the Committee must issue its recommendations by Joint Rule 10 day, which is February 5, 2020. Any request to "hold" the bills in Committee will be considered by the Chairs, as is all testimony received on any pending matter, but it may or may not influence the final recommendation of the Committee.

- 4. We'd like to know about the communication process, specifically why town residents were not notified of S.101 and the joint committee hearing on July 1st?**

S. 101 is a bill that proposes changes to the regulation of horse racing industry in Massachusetts, it is not a bill that is specific to Great Barrington – and would only be impactful to Great Barrington if an agreement was struck locally to host a racing venue. Also, while the hearing occurred earlier this month, there is no deadline to submit public testimony to the Committee. Testimony can be submitted at any time, during every stage of the legislative review process.

- 5. Do we know at this time if the EPA would allow for a commercial race track at this location due to guideline/regulation changes since the last fair/race was held?**

We defer to the EPA (a federal agency) on this matter and suggest reaching out to Congressman Neal's Pittsfield office or the Western Mass. Regional Offices of US Senator Warren and Markey in Springfield for assistance in connecting with regional EPA officials for guidance.

- 6. What information has Sterling Suffolk provided to you in regards to the placement of this track in our community and the impact on the town? Does a proposed site-plan exist and if so, have you seen it?**

Sterling Suffolk has not provided any such information to our offices.

7. **Lastly, would you be willing to attend a future meeting to discuss this proposal if the SB requested one? It's likely that more questions will arise as we proceed.**

Yes, we would be happy to meet with the Select Board on this or any other matter of concern.

We hope that we have provided the Board with clarity on the legislative review process, the status of S 101 and H. 13 and existing state law. Please do not hesitate to contact either of our offices if we can provide additional information or assistance.

Sincerely,



ADAM G. HINDS

State Senator

Berkshire, Hampshire, Franklin & Hampden



SMITTY PIGNATELLI

State Representative

Fourth Berkshire District