

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2959**

4 (By Delegates Doyle, Swartzmiller, Guthrie and Morgan)

5
6 (Originating in the Committee on Finance)

7 [February 25, 2011]

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9
10 A BILL to amend and reenact §19-23-13b of the Code of West
11 Virginia, 1931, as amended, relating to providing additional
12 funds to the West Virginia Racing Commission for its
13 Administration and Promotion Account.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §19-23-13b of the Code of West Virginia, 1931, as
16 amended, be amended and reenacted, to read as follows:

17 **ARTICLE 23. HORSE AND DOG RACING.**

18 **§19-23-13b. West Virginia Thoroughbred Development Fund;**
19 **distribution; restricted races; nonrestricted**
20 **purse supplements; preference for West Virginia**
21 **accredited thoroughbreds.**

22 (a) The Racing Commission shall deposit moneys required to be
23 withheld by an association or licensee in subsection (b), section
24 nine of this article in a banking institution of its choice in a
25 special account to be known as "West Virginia Racing Commission

1 Special Account -- West Virginia Thoroughbred Development Fund":
2 *Provided*, That after the West Virginia Lottery Commission has
3 divided moneys between the West Virginia Thoroughbred Development
4 Fund and the West Virginia Greyhound Breeding Development Fund
5 pursuant to the provisions of sections ten and ten-b, article
6 twenty-two-a, chapter twenty-nine of this code, the Racing
7 Commission shall, beginning October 1, 2005, deposit the remaining
8 moneys required to be withheld from an association or licensee
9 designated to the Thoroughbred Development Fund under the
10 provisions of subsection (b), section nine of this article,
11 subdivision (3), subsection (e), section twelve-b of this article,
12 subsection (b), section twelve-c of this article, paragraph (B),
13 subdivision (3), subsection (b), section thirteen-c of this article
14 and sections ten and ten-b, article twenty-two-a, chapter
15 twenty-nine of this code into accounts for each thoroughbred
16 racetrack licensee with a banking institution of its choice with a
17 separate account for each association or licensee. Each separate
18 account shall be a special account to be known as "West Virginia
19 Racing Commission Special Account - West Virginia Thoroughbred
20 Development Fund" and shall name the licensee for which the special
21 account has been established: *Provided, however*, That the Racing
22 Commission shall deposit all moneys paid into the Thoroughbred
23 Development Fund by a thoroughbred racetrack licensee that did not
24 participate in the Thoroughbred Development Fund for at least four
25 consecutive calendar years prior to December 31, 1992 from July 8,
26 2005 until the effective date of the amendment to this section

1 passed during the fourth extraordinary session of the
2 seventy-seventh Legislature shall be paid into the purse fund of
3 that thoroughbred racetrack licensee: *Provided further*, That the
4 moneys paid into the Thoroughbred Development Fund by a
5 thoroughbred racetrack licensee that did not participate in the
6 Thoroughbred Development Fund for at least four consecutive
7 calendar years prior to December 31, 1992, shall be transferred
8 into that licensee's purse fund until April 1, 2006. Notice of the
9 amount, date and place of the deposits shall be given by the Racing
10 Commission, in writing, to the state Treasurer. The purpose of the
11 funds is to promote better breeding and racing of thoroughbred
12 horses in the state through awards and purses for accredited
13 breeders/raisers, sire owners and thoroughbred race horse owners:
14 ~~And provided further~~ *Provided*, That five percent of the deposits
15 required to be withheld by an association or licensee in subsection
16 (b), section nine of this article shall be placed in a special
17 revenue account hereby ~~created~~ continued in the state Treasury
18 called the "Administration and Promotion Account": *Provided*,
19 *however*, That four and one-half percent of the deposits into the
20 thoroughbred development fund shall be placed in the Administration
21 and Promotion Account, except that of this percentage, no more than
22 \$305,000 shall be placed in the account in any year.

23 (b) The Racing Commission is authorized to expend the moneys
24 deposited in the administration and promotion account at times and
25 in amounts as the Commission determines to be necessary for
26 purposes of administering and promoting the thoroughbred

1 development program: *Provided*, That during any fiscal year in
2 which the Commission anticipates spending any money from the
3 account, the Commission shall submit to the executive department
4 during the budget preparation period prior to the Legislature
5 convening before that fiscal year for inclusion in the executive
6 budget document and budget bill the recommended expenditures, as
7 well as requests of appropriations for the purpose of
8 administration and promotion of the program. The Commission shall
9 make an annual report to the Legislature on the status of the
10 administration and promotion account, including the previous year's
11 expenditures and projected expenditures for the next year.

12 (c) The fund or funds and the account or accounts established
13 in subsection (a) of this section shall operate on an annual basis.

14 (d) Funds in the Thoroughbred Development Fund or funds in the
15 separate accounts for each association or licensee as provided in
16 subsection (a) of this section shall be expended for awards and
17 purses except as otherwise provided in this section. Annually, the
18 first \$800,000 shall be available for distribution for a minimum of
19 fourteen accredited stakes races at a racetrack which has
20 participated in the West Virginia Thoroughbred Development Fund for
21 a period of more than four consecutive calendar years prior to
22 December 31, 1992. The weights for all accredited stakes races
23 shall be weight for age. One of the stakes races shall be the West
24 Virginia Futurity and the second shall be the Frank Gall Memorial
25 Stakes. For the purpose of participating in the West Virginia
26 Futurity only, all mares, starting with the breeding season

1 beginning February 1 through July 31, 2004, and each successive
2 breeding season thereafter shall be bred back that year to an
3 accredited West Virginia stallion only which is registered with the
4 West Virginia Thoroughbred Breeders Association. The accredited
5 stake races shall be chosen by the committee set forth in
6 subsection (f) of this section.

7 (e) Awards and purses shall be distributed as follows:

8 (1) The breeders/raisers of accredited thoroughbred horses
9 that earn a purse at a participating West Virginia meet shall
10 receive a bonus award calculated at the end of the year as a
11 percentage of the fund dedicated to the breeders/raisers, which
12 shall be sixty percent of the fund available for distribution in
13 any one year. The total amount available for the
14 breeders'/raisers' awards shall be distributed according to the
15 ratio of purses earned by an accredited race horse to the total
16 amount earned in the participating races by all accredited race
17 horses for that year as a percentage of the fund dedicated to the
18 breeders/raisers. However, no breeder/raiser may receive from the
19 fund dedicated to breeders'/raisers' awards an amount in excess of
20 the earnings of the accredited horse at West Virginia meets. In
21 addition, should a horse's breeder and raiser qualify for the same
22 award on the same horse, they will each be awarded one half of the
23 proceeds. The bonus referred to in this subdivision may only be
24 paid on the first \$100,000 of any purse and not on any amounts in
25 excess of the first \$100,000.

26 (2) The owner of an accredited West Virginia sire of an

1 accredited thoroughbred horse that earns a purse in any race at a
2 participating West Virginia meet shall receive a bonus award
3 calculated at the end of the year as a percentage of the fund
4 dedicated to sire owners, which shall be fifteen percent of the
5 fund available for distribution in any one year. The total amount
6 available for the sire owners' awards shall be distributed
7 according to the ratio of purses earned by the progeny of
8 accredited West Virginia stallions in the participating races for
9 a particular stallion to the total purses earned by the progeny of
10 all accredited West Virginia stallions in the participating races.
11 However, no sire owner may receive from the fund dedicated to sire
12 owners an amount in excess of thirty-five percent of the accredited
13 earnings for each sire. The bonus referred to in this subdivision
14 shall only be paid on the first \$100,000 of any purse and not on
15 any amounts in excess of the first \$100,000.

16 (3) The owner of an accredited thoroughbred horse that earns
17 a purse in any participating race at a West Virginia meet shall
18 receive a restricted purse supplement award calculated at the end
19 of the year, which shall be twenty-five percent of the fund
20 available for distribution in any one year, based on the ratio of
21 the earnings in the races of a particular race horse to the total
22 amount earned by all accredited race horses in the participating
23 races during that year as a percentage of the fund dedicated to
24 purse supplements. However, the owners may not receive from the
25 fund dedicated to purse supplements an amount in excess of
26 thirty-five percent of the total accredited earnings for each

1 accredited race horse. The bonus referred to in this subdivision
2 shall only be paid on the first \$100,000 of any purse and not on
3 any amounts in excess of the first \$100,000.

4 (4) In no event may purses earned at a meet held at a track
5 which did not make a contribution to the Thoroughbred Development
6 Fund out of the daily pool on the day the meet was held qualify or
7 count toward eligibility for an award under this subsection.

8 (5) Any balance in the breeders/raisers, sire owners and purse
9 supplement funds after yearly distributions shall first be used to
10 fund the races established in subsection (f) of this section. Any
11 amount not so used shall revert into the general account of the
12 Thoroughbred Development Fund for each racing association or
13 licensee for distribution in the next year.

14 Distribution shall be made on the fifteenth day of each
15 February for the preceding year's achievements.

16 (f) (1) Each pari-mutuel thoroughbred horse track shall provide
17 at least one restricted race per racing day: *Provided*, That
18 sufficient horses and funds are available. For purposes of this
19 subsection, there are sufficient horses if there are at least seven
20 single betting interests received for the race: *Provided further*
21 That, if sufficient horses and funds are available, any
22 thoroughbred horse racetrack whose licensee participated in the
23 Thoroughbred Development Fund for at least four consecutive
24 calendar years prior to December 31, 1992, shall provide two
25 restricted races per racing day, at least one of which may be split
26 at the discretion of the racing secretary. The restricted race

1 required by this section must be included in the first nine races
2 written in the condition book for that racing day.

3 (2) The restricted races established in this subsection shall
4 be administered by a three-member committee at each track
5 consisting of:

6 (A) The racing secretary at each track;

7 (B) A member appointed by the authorized representative of a
8 majority of the owners and trainers at the thoroughbred track; and

9 (C) A member appointed by the West Virginia Thoroughbred
10 Breeders Association.

11 (3) Restricted races shall be funded by each racing
12 association from:

13 (A) Moneys placed in the general purse fund: *Provided, That*
14 a thoroughbred horse racetrack which did not participate in the
15 West Virginia Thoroughbred Development fund for a period of more
16 than four consecutive years prior to December 31, 1992, may fund
17 restricted races in an amount not to exceed \$1,000,000 per year.

18 (B) Moneys as provided in subdivision (5), subsection (e) of
19 this section, which shall be placed in a special fund called the
20 "West Virginia Accredited Race Fund".

21 (4) The racing schedules, purse amounts and types of races are
22 subject to the approval of the West Virginia Racing Commission.

23 (5) If less than seventy-five percent of the restricted races
24 required by this subsection fail to receive enough entries to race,
25 the Racing Commission shall, on a quarterly basis, dedicate funds
26 in each fund back to the general purse fund of the racing

1 association or licensee: *Provided*, That no moneys may be dedicated
2 back to a general purse fund if the dedication would leave less
3 than \$250,000 in the fund.

4 (g) As used in this section, "West Virginia bred-foal" means
5 a horse that was born in the State of West Virginia.

6 (h) To qualify for the West Virginia Accredited Race Fund, the
7 breeder must qualify under one of the following:

8 (1) The breeder of the West Virginia bred-foal is a West
9 Virginia resident;

10 (2) The breeder of the West Virginia bred-foal is not a West
11 Virginia resident, but keeps his or her breeding stock in West
12 Virginia year round; or

13 (3) The breeder of the West Virginia bred-foal is not a West
14 Virginia resident and does not qualify under subdivision (2) of
15 this subsection, but either the sire of the West Virginia bred-foal
16 is a West Virginia stallion, or the mare is covered only by a West
17 Virginia accredited stallion or stallions before December 31 of the
18 calendar year following the birth of that West Virginia bred-foal.

19 (i) From July 1, 2001, West Virginia accredited thoroughbred
20 horses have preference for entry in all accredited races at a
21 thoroughbred race track at which the licensee participates in the
22 West Virginia Thoroughbred Development Fund.

23 (j) Beginning July 1, 2006, any racing association licensed by
24 the Racing Commission to conduct thoroughbred racing and permitting
25 and conducting pari-mutuel wagering under the provisions of this
26 article must have a West Virginia Thoroughbred Racing Breeders

1 Program.