

1 **Senate Bill No. 413**

2 (By Senators Snyder, Klempa, Yost, McCabe, Unger and D. Facemire)

3 \_\_\_\_\_  
4 [Introduced February 3, 2011; referred to the Committee on  
5 Government Organization.]  
6 \_\_\_\_\_

7  
8  
9  
10 A BILL to amend and reenact §19-23-5 and §19-23-6 of the Code of  
11 West Virginia, 1931, as amended, all relating to changing the  
12 title of the West Virginia Racing Commission's racing  
13 secretary to executive director.

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

15 That §19-23-5 and §19-23-6 of the Code of West Virginia, 1931,  
16 as amended, be amended and reenacted, all to read as follows:

17 **ARTICLE 19. HORSE AND DOG RACING.**

18 **§19-23-5. Executive director and other personnel; qualifications;  
19 terms; powers and duties; compensation and expenses.**

20 (a) The Racing Commission shall appoint ~~a racing secretary~~ an  
21 executive director to represent the Racing Commission ~~and such~~  
22 ~~racing secretary shall possess such~~ who shall have the powers and  
23 authority and perform such duties as the Racing Commission ~~may~~

1 ~~direct or prescribe.~~ directs. The ~~racing secretary~~ executive  
2 director shall preserve at the Racing Commission's principal office  
3 all books, maps, records, documents and other papers of the Racing  
4 Commission. The ~~racing secretary~~ executive director shall, in  
5 addition to all other duties imposed upon him or her by the Racing  
6 Commission, serve in a liaison capacity between licensees and the  
7 Racing Commission. The Racing Commission may also employ, direct  
8 and define the duties of an assistant ~~racing secretary~~ executive  
9 director and such stenographers, clerks and other office personnel  
10 as it ~~may deem~~ deems necessary to carry out the duties imposed upon  
11 it under the provisions of this article.

12 (b) In addition to the employees referred to above, the Racing  
13 Commission shall employ, direct and define the duties of a chief  
14 clerk, director of security, director of audit, chief chemist,  
15 stewards to represent the Racing Commission, supervisors of the  
16 pari-mutuel wagering conducted under the provisions of this  
17 article, veterinarians, inspectors, accountants, guards and all  
18 other employees deemed by the Racing Commission to be essential in  
19 connection with any horse or dog race meeting. The director of  
20 audit shall be a certified public accountant or experienced public  
21 accountant.

22 (c) No individual shall knowingly be employed or be continued  
23 in employment by the Racing Commission in any capacity whatever:

24 (1) Who directly or indirectly, or in any capacity, owns or

1 has any interest, in any manner, ~~whatever,~~ in any racetrack where  
2 horse or dog race meetings may be held, including, but not limited  
3 to, an interest as owner, lessor, lessee, stockholder or employee;

4 (2) Who at the time is or has been within one year prior,  
5 ~~thereto~~ a member of the Legislature or an elective officer of this  
6 state unless he or she is experienced and qualified as a racing  
7 official; or

8 (3) Who has been or shall be convicted of an offense which,  
9 under the law of this state or any other state or of the United  
10 States of America, constitutes a felony or is a violation of  
11 article four, chapter sixty-one of this code. Any steward employed  
12 by the Racing Commission or by a licensee shall be a person of  
13 integrity and experienced and qualified for such position by the  
14 generally accepted practices and customs of horse or dog racing in  
15 the United States.

16 (d) The ~~racing secretary~~ executive director and all other  
17 employees of the Racing Commission shall serve at the will and  
18 pleasure of the Racing Commission. The ~~racing secretary~~ executive  
19 director and the other employees referred to in this section as  
20 employees of the Racing Commission shall receive such compensation  
21 as may be fixed by the Racing Commission within the limit of  
22 available funds and shall be reimbursed for all reasonable and  
23 necessary expenses actually incurred in the performance of their  
24 official duties.

1 (e) All compensation and reimbursement for expenses of the  
2 members of the Racing Commission, the ~~racing secretary~~ executive  
3 director and all other employees of the Racing Commission shall be  
4 paid from the funds in the hands of the State Treasurer collected  
5 under the provisions of this article and shall be itemized in the  
6 budget in the same manner as all other departments of state  
7 government. ~~but~~ No reimbursement for expenses incurred shall be  
8 paid unless an itemized account, ~~thereof,~~ under oath, ~~be~~ is first  
9 filed with the State Auditor.

10 **§19-23-6. Powers and authority of Racing Commission.**

11 The Racing Commission has full jurisdiction over and shall  
12 supervise all horse race meetings, all dog race meetings and all  
13 persons involved in the holding or conducting of horse or dog race  
14 meetings and, in this regard, it has plenary power and authority:

15 (1) To investigate applicants and determine the eligibility of  
16 the applicants for a license or permit or construction permit under  
17 the provisions of this article;

18 (2) To fix, from time to time, the annual fee to be paid to  
19 the Racing Commission for any permit required under the provisions  
20 of section two of this article;

21 (3) To promulgate reasonable rules ~~and regulations~~  
22 implementing and making effective the provisions of this article  
23 and the powers and authority conferred and the duties imposed upon  
24 the Racing Commission under the provisions of this article,

1 including, but not limited to, reasonable rules ~~and regulations~~  
2 under which all horse races, dog races, horse race meetings and dog  
3 race meetings shall be held and conducted, all of which reasonable  
4 rules ~~and regulations~~ shall be promulgated in accordance with the  
5 provisions of article three, chapter twenty-nine-a of this code  
6 ~~Provided, That~~~~Provided, That~~ ~~in accordance with article three,~~  
7 ~~chapter twenty-nine-a,~~ except that the Racing Commission shall  
8 promulgate separate rules, in accordance with article three,  
9 chapter twenty-nine-a, pertaining to the kinds of legal combination  
10 wagers which may be placed in connection with the pari-mutuel  
11 system of wagering authorized by this article;

12 (4) To register colors and assumed names and to fix, from time  
13 to time, the annual fee to be paid to the Racing Commission for any  
14 such registration;

15 (5) To fix and regulate the minimum purse to be offered during  
16 any horse or dog race meeting;

17 (6) To fix a minimum and a maximum number of horse races or  
18 dog races to be held on any respective racing day;

19 (7) To enter the office, horse racetrack, dog racetrack,  
20 kennel, facilities and other places of business of any licensee to  
21 determine whether the provisions of this article and its reasonable  
22 rules ~~and regulations~~ are being complied with, and for this  
23 purpose, the Racing Commission, its ~~racing secretary~~ executive  
24 director, representatives and employees may visit, investigate and

1 have free access to any such office, horse racetrack, dog  
2 racetrack, kennel, facilities and other places of business;

3 (8) To investigate alleged violations of the provisions of  
4 this article, its reasonable rules ~~and regulations~~, orders and  
5 final decisions and to take appropriate disciplinary action against  
6 any licensee or permit holder or construction permit holder for ~~the~~  
7 ~~violation thereof~~ a violation or institute appropriate legal action  
8 for ~~the enforcement thereof~~ enforcement or take ~~such~~ disciplinary  
9 action and institute ~~such~~ legal action;

10 (9) By reasonable rules ~~and regulations~~, to authorize  
11 stewards, starters and other racing officials to impose reasonable  
12 fines or other sanctions upon ~~any~~ a person connected with or  
13 involved in any horse or dog racing or any horse or dog race  
14 meeting and to authorize stewards to rule off the grounds of any  
15 horse or dog racetrack any tout, bookmaker or other undesirable  
16 individual determined inimical to the best interests of horse and  
17 dog racing or the pari-mutuel system of wagering in connection  
18 therewith;

19 (10) To require at any time the removal of any racing official  
20 or racing employee of any licensee for the violation of any  
21 provision of this article, any reasonable rule ~~and regulation~~ of  
22 the Racing Commission or for any fraudulent practice;

23 (11) To acquire, establish, maintain and operate, or to  
24 provide by contract for the maintenance and operation of, a testing

1 laboratory and related facilities for the purpose of conducting  
2 saliva, urine and other tests on the horse or dog or horses or dogs  
3 run or to be run in any horse or dog race meeting and to purchase  
4 all equipment and supplies considered necessary or desirable in  
5 connection with the acquisition, establishment, maintenance and  
6 operation of any testing laboratory and related facilities and all  
7 such tests;

8       (12) To hold up, in any disputed horse or dog race, the  
9 payment of any purse pending a final determination of the results  
10 thereof;

11       (13) To require each licensee to file an annual balance sheet  
12 and profit and loss statement pertaining to the licensee's horse or  
13 dog racing activities in this state together with a list of each  
14 licensee's stockholders or other persons having any beneficial  
15 interest in the horse or dog racing activities of the licensee;

16       (14) To issue subpoenas for the attendance of witnesses and  
17 subpoenas duces tecum for the production of any books, records and  
18 other pertinent documents and to administer oaths and affirmations  
19 to such witnesses, whenever, in the judgment of the Racing  
20 Commission, it is necessary to do so for the effective discharge of  
21 its duties under the provisions of this article;

22       (15) To keep accurate and complete records of its proceedings  
23 and to certify the same as may be appropriate;

24       (16) To take any other action that may be reasonable or

1 appropriate to effectuate the provisions of this article and its  
2 reasonable rules ~~and regulations~~;

3 (17) To provide breeders' awards, purse supplements and moneys  
4 for capital improvements at racetracks in compliance with section  
5 thirteen-b of this article; and

6 (18) To mediate on site, upon request of a party, all disputes  
7 existing between the racetrack licensees located in this state and  
8 representatives of a majority of the horse owners and trainers  
9 licensed at the track which threaten to disrupt any scheduled  
10 racing event or events. The Racing Commission shall, upon the  
11 request of a party, mediate on site all disputes existing between  
12 racetrack licensees and representatives of pari-mutuel clerks which  
13 threaten to disrupt any scheduled racing event or events. When a  
14 request for mediation is made, the commission shall designate from  
15 among its members one person to act as mediator in each dispute  
16 that arises. Each opposing party involved in any dispute shall  
17 negotiate in good faith with the goal of reaching a fair and mutual  
18 resolution. The mediator may issue recommendations designed to  
19 assist each side toward reaching a fair compromise. ~~Provided, That~~  
20 No owner or operator or any horse owner or trainer or any pari-  
21 mutuel clerk licensed at the track ~~may be~~ is required to abide by  
22 any recommendation made by any mediator acting pursuant to this  
23 subsection.

24 The Racing Commission shall not interfere in the internal



1 business or internal affairs of any licensee.

---

(NOTE: The purpose of this bill is to change the title of the Racing Commission's racing secretary to executive director.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)