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Senate Bill No. 530

(By Senator Unger)

[Introduced February 16, 2011; referred to the Committee on
Finance.]

A BILL to amend and reenact §29-22C-27 of the Code of West Virginia, 1931, as amended, relating to clarifying that a certain portion of revenues of racetracks that have lottery table games be used for public projects in that county or to make payments on lottery revenue bonds; and clarifying that a certain portion of those revenues be used for public projects in a county's municipalities or to make payments on lottery revenue bonds.

Be it enacted by the Legislature of West Virginia:

That §29-22C-27 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES ACT.

§29-22C-27. West Virginia Lottery Racetrack Table Games Fund; Community-Based Service Fund; State Debt Reduction

1 **Fund; distribution of funds.**

2 (a) (1) The special fund in the State Treasury known as the
3 West Virginia Lottery Racetrack Table Games Fund is continued and
4 all tax collected under this article shall be deposited with the
5 State Treasurer and placed in the West Virginia Lottery Racetrack
6 Table Games Fund. The fund shall be an interest-bearing account
7 with all interest or other return earned on the money of the fund
8 credited to and deposited in the fund.

9 (2) Notwithstanding any provision of this article to the
10 contrary, all racetrack table games license fees received by the
11 commission pursuant to section eight of this article shall be
12 deposited into the Community-Based Service Fund which is continued
13 in the State Treasury. Moneys of the fund shall be expended by the
14 Bureau of Senior Services upon appropriation of the Legislature
15 solely for the purpose of enabling the aged and disabled citizens
16 of this state to maintain their residency in the community-based
17 setting through the provision of home and community-based services.

18 (b) From the gross amounts deposited into the Racetrack Table
19 Games Fund pursuant to subsection (a) of this section, the
20 commission shall:

21 (1) Retain an amount for the administrative expenses of the
22 commission as determined by the commission in accordance with
23 subsection (e) of this section;

24 (2) Transfer two and one-half percent of adjusted gross
25 receipts from all thoroughbred racetracks with West Virginia

1 Lottery table games to the special funds established by each
2 thoroughbred racetrack table games licensees for the payment of
3 regular racetrack purses, the amount being divided on a pro rata
4 basis between the special funds of each thoroughbred racetrack
5 table games licensee and transfer two and one-half percent of
6 adjusted gross receipts from all greyhound racetracks with West
7 Virginia Lottery table games to the special funds established by
8 each greyhound racetrack table games licensees for the payment of
9 regular racetrack purses, the amount being divided equally between
10 the special funds of each greyhound racetrack table games licensee;

11 (3) Transfer two percent of the adjusted gross receipts from
12 all licensed racetracks to the West Virginia Thoroughbred
13 Development Fund created under section thirteen-b, article twenty-
14 three, chapter nineteen of this code and the West Virginia
15 Greyhound Breeding Development Fund created under section ten,
16 article twenty-three, chapter nineteen of this code. The total
17 amount transferred under this subdivision shall be divided pro rata
18 among the development funds for each racetrack table games licensee
19 based on relative adjusted receipts from each racetrack. The
20 amounts transferred to these funds may not be used for the benefit
21 of any person or activity other than at or associated with a
22 racetrack table games licensee;

23 (4) Transfer one percent of the adjusted gross receipts from
24 each licensed racetrack to the county commissions of the counties
25 where racetracks with West Virginia Lottery table games are

1 located. County commissions may pledge this money to make payments
2 on lottery revenue bonds issued pursuant to article two-h, chapter
3 thirteen of this code. The one percent transferred under this
4 subdivision shall be divided pro rata among the counties with a
5 racetrack with West Virginia Lottery table games based on relative
6 adjusted gross receipts from each county's racetrack: *Provided,*
7 That the county board of education of a growth county, as that term
8 is defined in section three, article twenty, chapter seven of this
9 code, which has enacted the Local Powers Act, and in which county
10 a racetrack is located that has participated in the West Virginia
11 Thoroughbred Development Fund since on or before January 1, 1991,
12 shall receive the one percent of adjusted gross receipts as
13 provided in this subdivision for the purpose of public projects, as
14 defined in section two, article two-h, chapter thirteen of this
15 code or to make payments on lottery revenue bonds issued to finance
16 public projects;

17 (5) Transfer two percent of the adjusted gross receipts from
18 each licensed racetrack to the governing bodies of municipalities
19 within counties where racetracks with West Virginia Lottery table
20 games are located. Municipalities may pledge the money to make
21 payments on lottery revenue bonds issued pursuant to article two-h,
22 chapter thirteen of this code. This money shall be allocated as
23 follows:

24 (A) One half of the amounts transferred under this subdivision
25 shall be allocated to the municipalities within each county having

1 a racetrack table games licensee, based on relative adjusted gross
2 receipts from West Virginia Lottery table games from those
3 racetracks and the total amount allocated to the municipalities
4 within a county shall be divided pro rata among the municipalities
5 based on each municipality's population determined at the most
6 recent United States decennial census of population: *Provided,*
7 That: (i) For each allocation, when a municipality is physically
8 located in two or more counties, only that portion of its
9 population residing in the county where the authorized table games
10 are located shall be considered; (ii) a single municipality in a
11 county where West Virginia Lottery racetrack table games are played
12 may not receive a total share under this paragraph that is in
13 excess of seventy-five percent of the total distribution under this
14 paragraph for the county in which the municipality is located; and
15 (iii) a municipality receiving moneys under this paragraph may not
16 receive an amount which is less than that received by a
17 municipality under provisions of subdivision (4), subsection (d) of
18 this section; and

19 (B) One half of the amounts transferred under this subdivision
20 shall be allocated pro rata to the municipalities within all the
21 counties, having a racetrack table games licensee based on each
22 municipality's population determined at the most recent United
23 States decennial census of population: *Provided,* That: (i) A
24 municipality which received funds above its pro rata share pursuant
25 to subpart (iii), paragraph (A) of this subdivision may not receive

1 an allocation under this paragraph; (ii) for each allocation, when
2 a municipality is physically located in two or more counties, only
3 that portion of its population residing in the county where the
4 authorized table games are located shall be considered; and (iii)
5 a single municipality in a county where West Virginia Lottery
6 racetrack games are played may not receive a total share under this
7 paragraph that is in excess of twenty-five percent of the total
8 transfers under this paragraph: *Provided, however,* That the county
9 board of education of a growth county, as that term is defined in
10 section three, article twenty, chapter seven of this code, which
11 has enacted the Local Powers Act, and in which county a racetrack
12 is located that has participated in the West Virginia Thoroughbred
13 Development Fund since on or before January 1, 1991, shall receive
14 the two percent of adjusted gross receipts as provided in this
15 subdivision for the purpose of public projects, as defined in
16 section two, article two-h, chapter thirteen of this code, or to
17 make payments on lottery revenue bonds issued to finance the public
18 projects;

19 (6) Transfer one half of one percent of the adjusted gross
20 receipts to the governing bodies of municipalities in which a
21 racetrack table games licensee is located. The municipalities
22 shall each receive an equal share of the total amount allocated
23 under this subdivision: *Provided,* That distribution under this
24 subdivision may not be made to any municipality which did not have
25 a licensed racetrack within its municipal boundaries as they

1 existed on January 1, 2007: *Provided, however,* That if no
2 racetrack table games licensee is located within a municipality, a
3 transfer may not be made under this subdivision. The municipality
4 may pledge this money to make payments on lottery revenue bonds
5 issued pursuant to article two-h, chapter thirteen of this code;
6 and

7 (7) Distribute the remaining amounts, hereinafter referred to
8 as the net amounts in the Racetrack Table Games Funds, in
9 accordance with the provisions of subsection (d) of this section.

10 (c) Beginning with the fiscal year following the licensing of
11 every licensed racetrack to offer West Virginia Lottery racetrack
12 table games under this article, subsection (b) of this section
13 shall be superseded and replaced by this subsection for
14 distribution of the balances in the fund established by subsection
15 (a) of this section. From the gross amounts deposited into the
16 fund, the commission shall:

17 (1) Retain an amount for the administrative expenses of the
18 commission as determined by the commission in accordance with
19 subsection(e) of this section;

20 (2) Transfer two and one-half percent of adjusted gross
21 receipts from all thoroughbred racetracks with West Virginia
22 Lottery table games to the special funds established by each
23 thoroughbred racetrack table games licensee for the payment of
24 regular racetrack purses, the amount being divided on a pro rata
25 basis between the special funds of each thoroughbred racetrack

1 table games licensee and transfer two and one-half percent of
2 adjusted gross receipts from all greyhound racetracks with West
3 Virginia Lottery table games to the special funds established by
4 each greyhound racetrack table games licensee for the payment of
5 regular racetrack purses, the amount being divided equally between
6 the special funds of each greyhound racetrack table games licensee;

7 (3) Transfer two percent of the adjusted gross receipts from
8 all licensed racetracks to the West Virginia Thoroughbred
9 Development Fund created under section thirteen-b, article twenty-
10 three, chapter nineteen of this code and the West Virginia
11 Greyhound Breeding Development Fund created under section ten,
12 article twenty-three, chapter nineteen of this code. The total
13 amount transferred under this subdivision shall be divided pro rata
14 among the development funds for each racetrack table games licensee
15 based on relative adjusted receipts from each racetrack. The
16 amounts transferred to these funds may not be used for the benefit
17 of any person or activity other than at or associated with a
18 racetrack table games licensee;

19 (4) Transfer two percent of the adjusted gross receipts from
20 each licensed racetrack to the county commissions of the counties
21 where racetracks with West Virginia Lottery table games are
22 located. The money transferred under this subdivision shall be
23 divided pro rata among the counties with a racetrack with West
24 Virginia Lottery table games based on relative adjusted gross
25 receipts from each county's racetrack: *Provided, That the county*

1 board of education of a growth county, as that term is defined in
2 section three, article twenty, chapter seven of this code, which
3 has enacted the Local Powers Act, and in which a racetrack is
4 located that has participated in the West Virginia Thoroughbred
5 Development Fund since on or before January 1, 1991, shall receive
6 one half of that county's share of adjusted gross receipts as
7 provided in this subdivision for the purpose of ~~capital~~
8 ~~improvements~~ public projects as defined in section two, article
9 two-h, chapter thirteen of this code or to make payments on lottery
10 revenue bonds issued pursuant to article two-h, chapter of this
11 code to finance public projects;

12 (5) Transfer three percent of the adjusted gross receipts from
13 each licensed racetrack to the governing bodies of municipalities
14 within counties where racetracks with West Virginia Lottery table
15 games are located, which shall be allocated as follows:

16 (A) One half of the money transferred by this subdivision
17 shall be allocated to the municipalities within each county, other
18 than a county described in paragraph (C) of this subdivision,
19 having a racetrack table games licensee based on relative adjusted
20 gross receipts from West Virginia Lottery table games from those
21 racetracks and the total amount allocated to the municipalities
22 within a county shall be divided pro rata among the municipalities
23 based on each municipality's population determined at the most
24 recent United States decennial census of population: *Provided,*
25 That: (i) For each allocation, when a municipality is physically

1 located in two or more counties, only that portion of its
2 population residing in the county where the authorized table games
3 are located shall be considered; (ii) a single municipality in a
4 county where West Virginia Lottery racetrack table games are played
5 may not receive a total share under this paragraph that is in
6 excess of seventy-five percent of the total distribution under this
7 paragraph for the county in which the municipality is located; and
8 (iii) a municipality receiving moneys under this paragraph may not
9 receive an amount which is less than that received by a
10 municipality under provisions of subdivision (4), subsection (d) of
11 this section.

12 (B) One half of the money transferred under this subdivision
13 shall be allocated pro rata to the municipalities within all the
14 counties, other than a county described in paragraph (C) of this
15 subdivision, having a racetrack table games licensee based on each
16 municipality's population determined at the most recent United
17 States decennial census of population: *Provided, That:* (i) A
18 municipality which received funds above its pro rata share pursuant
19 to subparagraph (iii), paragraph (A) of this subdivision shall not
20 receive an allocation under this paragraph; (ii) for each
21 allocation, when a municipality is physically located in two or
22 more counties, only that portion of its population residing in the
23 county where the authorized table games are located shall be
24 considered; and (iii) a single municipality in a county where West
25 Virginia Lottery racetrack games are played may not receive a total

1 share under this paragraph that is in excess of twenty-five percent
2 of the total transfers under this paragraph.

3 (C) Notwithstanding the provisions of paragraphs (A) and (B)
4 of this subdivision, when a racetrack is located in a growth
5 county, as that term is defined in section three, article twenty,
6 chapter seven of this code, which has enacted the Local Powers Act,
7 and in which county a racetrack is located that has participated in
8 the West Virginia Thoroughbred Development Fund since on or before
9 January 1, 1991, the county board of education shall receive two
10 thirds of the share of adjusted gross receipts from West Virginia
11 Lottery table games from the racetrack in the county as provided in
12 this subdivision and the municipalities within the county shall
13 share the remaining one third of the total amount allocated as
14 provided in this paragraph. The municipal one-third share shall be
15 divided pro rata among the municipalities based on each
16 municipality's population determined at the most recent United
17 States decennial census of population. All money transferred under
18 this paragraph shall be used by the county board of education and
19 by the municipalities for the purpose of ~~capital improvements~~
20 public projects as defined in section two, article two-h, chapter
21 thirteen of this code or to make payments on lottery revenue bonds
22 issued pursuant to article two-h, chapter of this code to finance
23 public projects;

24 (6) Transfer one half of one percent of the adjusted gross
25 receipts to the governing bodies of municipalities in which a

1 racetrack table games licensee is located. The municipalities
2 shall each receive an equal share of the total amount allocated
3 under this subdivision: *Provided*, That distribution under this
4 subdivision may not be made to any municipality that did not have
5 a licensed racetrack within its municipal boundaries as they
6 existed on January 1, 2007: *Provided, however*, That if no
7 racetrack table games licensee is located within a municipality, a
8 transfer may not be made under this subdivision; and

9 (7) Distribute the remaining amounts, hereinafter referred to
10 as the net amounts in the Racetrack Table Games Funds, in
11 accordance with the provisions of subsection (d) of this section.

12 (d) From the net amounts in the Racetrack Table Games Fund,
13 the commission shall:

14 (1) Transfer seventy-six percent to the State Debt Reduction
15 Fund which is hereby continued in the State Treasury. Moneys of
16 the fund shall be expended solely for the purpose of accelerating
17 the reduction of existing unfunded liabilities and existing bond
18 indebtedness of the state and shall be expended or transferred only
19 upon appropriation of the Legislature;

20 (2) Transfer four percent, divided pro rata based on relative
21 adjusted gross receipts from the individual licensed racetracks for
22 and on behalf of all employees of each licensed racing association,
23 into a special fund to be established by the Racing Commission to
24 be used for payment into the pension plan for all employees of each
25 licensed racing association;

1 (3) Transfer ten percent, to be divided and paid in equal
2 shares, to each county commission in the state that is not eligible
3 to receive a distribution under subdivision (4), subsection (b) of
4 this section: *Provided*, That funds transferred to county
5 commissions under this subdivision shall be used only to pay
6 regional jail expenses and the costs of infrastructure improvements
7 and other capital improvements: *Provided, however*, That up to
8 fifty percent of these funds may be pledged to make payments on
9 lottery revenue bonds issued pursuant to article two-h, chapter
10 thirteen of this code; and

11 (4) Transfer ten percent, to be divided and paid in equal
12 shares, to the governing bodies of each municipality in the state
13 that is not eligible to receive a distribution under subdivisions
14 (5) and (6), subsection (b) of this section: *Provided*, That funds
15 transferred to municipalities under this subdivision shall be used
16 only to pay for debt reduction in municipal police and fire pension
17 funds and the costs of infrastructure improvements and other
18 capital improvements: *Provided, however*, That up to fifty percent
19 of these funds may be pledged to make payments on lottery revenue
20 bonds issued pursuant to article two-h, chapter thirteen of this
21 code.

22 (e) All expenses of the commission incurred in the
23 administration and enforcement of this article shall be paid from
24 the Racetrack Table Games Fund, including reimbursement of state
25 law-enforcement agencies for services performed at the request of

1 the commission pursuant to this article. The commission's expenses
2 associated with a particular racetrack with authorized table games
3 under this article may not exceed three percent of the total annual
4 adjusted gross receipts received from that licensee's operation of
5 table games under this article, including, but not limited to, all
6 license fees or other amounts attributable to the licensee's
7 operation of table games under this article, except as provided in
8 subdivision (2), subsection (a) of this section. However, for the
9 fiscal year following the licensing of every licensed racetrack to
10 offer West Virginia lottery racetrack table games under this
11 article and for the fiscal year thereafter, the commission's
12 expenses associated with a particular racetrack with authorized
13 table games under this article may not exceed four percent of the
14 total annual adjusted gross receipts received from that licensee's
15 operation of table games under this article, including, but not
16 limited to, all license fees or other amounts attributable to the
17 licensee's operation of table games under this article, except as
18 provided in subdivision (2), subsection (a) of this section. These
19 expenses shall either be allocated to the racetrack with West
20 Virginia Lottery table games for which the expense is incurred, if
21 practicable, or be treated as general expenses related to all
22 racetrack table games facilities and be allocated pro rata among
23 the racetrack table games facilities based on the ratio that annual
24 adjusted gross receipts from operation of table games at each
25 racetrack with West Virginia Lottery table games bears to total

1 annual adjusted gross receipts from operation of table games at all
2 racetracks with West Virginia Lottery table games during the fiscal
3 year of the state. From this allowance, the commission shall
4 transfer at least \$100,000 but not more than \$500,000 into the
5 Compulsive Gambling Treatment Fund created in section nineteen,
6 article twenty-two-a of this chapter.

(NOTE: The purpose of this bill is to clarify that a certain portion of revenues of racetracks that have lottery table games be used for public projects in that county or make payments on lottery revenue bonds. The bill also clarifies that a certain portion of those revenues be used for public projects in a county's municipalities or make payments on lottery revenue bonds.

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