

1 ENGROSSED

2 **Senate Bill No. 137**

3 (By Senators Snyder and Unger)

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5 [Introduced January 11, 2012; referred to the Committee on the
6 Judiciary; and then to the Committee on Finance.]
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11 A BILL to amend and reenact §29-22C-27 of the Code of West
12 Virginia, 1931, as amended, relating to use of lottery funds
13 by certain county boards of education.

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

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

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

18 **§29-22C-27. West Virginia Lottery Racetrack Table Games Fund;**
19 **Community-Based Service Fund; State Debt Reduction**
20 **Fund; distribution of funds.**

21 (a) (1) The special fund in the State Treasury known as the
22 West Virginia Lottery Racetrack Table Games Fund is continued and

1 all tax collected under this article shall be deposited with the
2 State Treasurer and placed in the West Virginia Lottery Racetrack
3 Table Games Fund. The fund ~~shall be~~ is an interest-bearing account
4 with all interest or other return earned on the money of the fund
5 credited to and deposited in the fund.

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

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

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

21 (2) Transfer two and one-half percent of adjusted gross
22 receipts from all thoroughbred racetracks with West Virginia
23 Lottery table games to the special funds established by each

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

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

22 (4) Transfer one percent of the adjusted gross receipts from
23 each licensed racetrack to the county commissions of the counties

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

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

1 follows:

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

22 (B) One half of the amounts transferred under this subdivision
23 shall be allocated pro rata to the municipalities within all the

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

1 (6) Transfer one half of one percent of the adjusted gross
2 receipts to the governing bodies of municipalities in which a
3 racetrack table games licensee is located. The municipalities
4 shall each receive an equal share of the total amount allocated
5 under this subdivision ~~Provided,~~ except that distribution under
6 this subdivision may not be made to any municipality which did not
7 have a licensed racetrack within its municipal boundaries as they
8 existed on January 1, 2007. ~~Provided, however, That~~ If no
9 racetrack table games licensee is located within a municipality, a
10 transfer may not be made under this subdivision. The municipality
11 may pledge this money to make payments on lottery revenue bonds
12 issued pursuant to article two-h, chapter thirteen of this code;
13 and

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

17 (c) Beginning with the fiscal year following the licensing of
18 every licensed racetrack to offer West Virginia Lottery racetrack
19 table games under this article, subsection (b) of this section
20 ~~shall be~~ is superseded and replaced by this subsection for
21 distribution of the balances in the fund established by subsection
22 (a) of this section. From the gross amounts deposited into the
23 fund, the commission shall:

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

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

16 (3) Transfer two percent of the adjusted gross receipts from
17 all licensed racetracks to the West Virginia Thoroughbred
18 Development Fund created under section thirteen-b, article twenty-
19 three, chapter nineteen of this code and the West Virginia
20 Greyhound Breeding Development Fund created under section ten,
21 article twenty-three, chapter nineteen of this code. The total
22 amount transferred under this subdivision shall be divided pro rata
23 among the development funds for each racetrack table games licensee

1 based on relative adjusted receipts from each racetrack. The
2 amounts transferred to these funds may not be used for the benefit
3 of any person or activity other than at or associated with a
4 racetrack table games licensee;

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

23 (5) Transfer three percent of the adjusted gross receipts from

1 each licensed racetrack to the governing bodies of municipalities
2 within counties where racetracks with West Virginia Lottery table
3 games are located, which shall be allocated as follows:

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

1 this section.

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

18 (C) Notwithstanding the provisions of paragraphs (A) and (B)
19 of this subdivision, when a racetrack is located in a growth
20 county, as that term is defined in section three, article twenty,
21 chapter seven of this code, which has enacted the Local Powers Act,
22 and in which county a racetrack is located that has participated in
23 the West Virginia Thoroughbred Development Fund since on or before

1 January 1, 1991, the county board of education shall receive two
2 thirds of the share of adjusted gross receipts from West Virginia
3 Lottery table games from the racetrack in the county as provided in
4 this subdivision and the municipalities within the county shall
5 share the remaining one third of the total amount allocated as
6 provided in this paragraph. The municipal one-third share shall be
7 divided pro rata among the municipalities based on each
8 municipality's population determined at the most recent United
9 States decennial census of population. All money transferred under
10 this paragraph shall be used by the county board of education and
11 by the municipalities for the purpose of ~~capital improvements,~~
12 public projects, as defined in section two, article two-h, chapter
13 thirteen of this code, or to make payments on lottery revenue bonds
14 issued pursuant to article two-h, chapter thirteen of this code to
15 finance public projects.

16 (6) Transfer one half of one percent of the adjusted gross
17 receipts to the governing bodies of municipalities in which a
18 racetrack table games licensee is located. The municipalities
19 shall each receive an equal share of the total amount allocated
20 under this subdivision ~~Provided,~~ except that distribution under
21 this subdivision may not be made to any municipality that did not
22 have a licensed racetrack within its municipal boundaries as they
23 existed on January 1, 2007, ~~Provided, however, That~~ and if no

1 racetrack table games licensee is located within a municipality, a
2 transfer may not be made under this subdivision; and

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

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

8 (1) Transfer seventy-six percent to the State Debt Reduction
9 Fund which is hereby continued in the State Treasury. Moneys of
10 the fund shall be expended solely for the purpose of accelerating
11 the reduction of existing unfunded liabilities and existing bond
12 indebtedness of the state and shall be expended or transferred only
13 upon appropriation of the Legislature;

14 (2) Transfer four percent, divided pro rata based on relative
15 adjusted gross receipts from the individual licensed racetracks for
16 and on behalf of all employees of each licensed racing association,
17 into a special fund to be established by the Racing Commission to
18 be used for payment into the pension plan for all employees of each
19 licensed racing association;

20 (3) Transfer ten percent, to be divided and paid in equal
21 shares, to each county commission in the state that is not eligible
22 to receive a distribution under subdivision (4), subsection (b) of
23 this section ~~Provided, That funds transferred to county commissions~~

1 ~~under this subdivision shall~~ to be used only to pay regional jail
2 expenses and the costs of infrastructure improvements and other
3 capital improvements ~~Provided, however,~~ except that up to fifty
4 percent of these funds may be pledged to make payments on lottery
5 revenue bonds issued pursuant to article two-h, chapter thirteen of
6 this code; and

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

18 (e) All expenses of the commission incurred in the
19 administration and enforcement of this article shall be paid from
20 the Racetrack Table Games Fund, including reimbursement of state
21 law-enforcement agencies for services performed at the request of
22 the commission pursuant to this article. The commission's expenses
23 associated with a particular racetrack with authorized table games

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