

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 571**

4 (By Senators Stollings and Snyder)

5 _____
6 [Originating in the Committee on the Judiciary;
7 reported February 19, 2014.]
8 _____

**FISCAL
NOTE**

9
10 A BILL to amend and reenact §19-23-10 of the Code of West Virginia,
11 1931, as amended, relating to distributing money that was set
12 aside from the West Virginia Greyhound Breeder Development
13 Fund for two dog training track facilities during the period
14 of 1996 through 2001 to the Secondary Road Maintenance Fund.

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

16 That §19-23-10 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

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

19 **§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes**
20 **paid; alternate tax; credits.**

21 (a) Any racing association conducting thoroughbred racing at
22 any horse racetrack in this state shall pay each day upon which
23 horse races are run a daily license tax of \$250. Any racing
24 association conducting harness racing at any horse racetrack in
25 this state shall pay each day upon which horse races are run a
26 daily license tax of \$150. Any racing association conducting dog
27 races shall pay each day upon which dog races are run a daily
28 license tax of \$150. In the event thoroughbred racing, harness

1 racing, dog racing, or any combination of the foregoing are
2 conducted on the same day at the same racetrack by the same racing
3 association, only one daily license tax in the amount of \$250 shall
4 be paid for that day. ~~Any~~ The daily license tax ~~shall~~ does not
5 apply to any local, county or state fair, horse show or
6 agricultural or livestock exposition at which horse racing is
7 conducted for not more than six days.

8 (b) Any racing association licensed by the Racing Commission
9 to conduct thoroughbred racing and permitting and conducting pari-
10 mutuel wagering under the provisions of this article shall, in
11 addition to the daily license tax set forth in subsection (a) of
12 this section, pay to the Racing Commission, from the commission
13 deducted each day by the licensee from the pari-mutuel pools on
14 thoroughbred racing a tax calculated on the total daily
15 contribution of all pari-mutuel pools conducted or made at any and
16 every thoroughbred race meeting of the licensee licensed under the
17 provisions of this article. The tax, on the pari-mutuel pools
18 conducted or made each day during the months of January, February,
19 March, October, November and December, shall be calculated at four
20 tenths of one percent of the pool; and, on the pari-mutuel pools
21 conducted or made each day during all other months, shall be
22 calculated at one and four-tenths percent of the pool: *Provided,*
23 That out of the amount realized from the three tenths of one
24 percent decrease in the tax effective for fiscal year 1991 and
25 thereafter, which decrease correspondingly increases the amount of
26 commission retained by the licensee, the licensee shall annually
27 expend or dedicate: (I) One half of the realized amount for
28 capital improvements in its barn area at the track, subject to the

1 Racing Commission's prior approval of the plans for the
2 improvements; and (ii) the remaining one half of the realized
3 amount for capital improvements as the licensee may determine
4 appropriate at the track. The term "capital improvement" shall be
5 as defined by the Internal Revenue Code: *Provided, however,* That
6 any racing association operating a horse racetrack in this state
7 having an average daily pari-mutuel pool on horse racing of
8 \$280,000 or less per day for the race meetings of the preceding
9 calendar year shall, in lieu of payment of the pari-mutuel pool
10 tax, calculated as in this subsection, be permitted to conduct
11 pari-mutuel wagering at the horse racetrack on the basis of a daily
12 pari-mutuel pool tax fixed as follows: On the daily pari-mutuel
13 pool not exceeding \$300,000 the daily pari-mutuel pool tax shall be
14 \$1,000 plus the otherwise applicable percentage rate imposed by
15 this subsection of the daily pari-mutuel pool, if any, in excess of
16 \$300,000: *Provided further,* That upon the effective date of the
17 reduction of the daily pari-mutuel pool tax to \$1,000 from the
18 former \$2,000, the association or licensee shall daily deposit \$500
19 into the special fund for regular purses established by subdivision
20 (1), subsection (b), section nine of this article: *And provided*
21 *further,* That if an association or licensee qualifying for the
22 foregoing alternate tax conducts more than one racing performance,
23 each consisting of up to thirteen races in a calendar day, the
24 association or licensee shall pay both the daily license tax
25 imposed in subsection (a) of this section and the alternate tax in
26 this subsection for each performance: *And provided further,* That
27 a licensee qualifying for the foregoing alternate tax is excluded
28 from participation in the fund established by section thirteen-b of

1 this article: *And provided further,* That this exclusion ~~shall~~ does
2 not apply to any thoroughbred racetrack at which the licensee has
3 participated in the West Virginia Thoroughbred Development Fund for
4 more than four consecutive years prior to December 31, 1992.

5 (c) Any racing association licensed by the Racing Commission
6 to conduct harness racing and permitting and conducting pari-mutuel
7 wagering under the provisions of this article shall, in addition to
8 the daily license tax required under subsection (a) of this
9 section, pay to the Racing Commission, from the commission deducted
10 each day by the licensee from the pari-mutuel pools on harness
11 racing, as a tax, three percent of the first \$100,000 wagered, or
12 any part thereof; four percent of the next \$150,000; and five and
13 three-fourths percent of all over that amount wagered each day in
14 all pari-mutuel pools conducted or made at any and every harness
15 race meeting of the licensee licensed under the provisions of this
16 article.

17 (d) Any racing association licensed by the Racing Commission
18 to conduct dog racing and permitting and conducting pari-mutuel
19 wagering under the provisions of this article shall, in addition to
20 the daily license tax required under subsection (a) of this
21 section, pay to the Racing Commission, from the commission deducted
22 each day by the licensee from the pari-mutuel pools on dog racing,
23 as a tax, four percent of the first \$50,000 or any part thereof of
24 the pari-mutuel pools, five percent of the next \$50,000 of the
25 pari-mutuel pools, six percent of the next \$100,000 of the pari-
26 mutuel pools, seven percent of the next \$150,000 of the pari-mutuel
27 pools, and eight percent of all over \$350,000 wagered each day:
28 *Provided,* That the licensee shall deduct daily from the pari-mutuel

1 tax an amount equal to ~~one tenth of one percent of the daily pari-~~
2 ~~mutuel pools in dog racing in fiscal year 1990; fifteen hundredths~~
3 ~~of one percent in fiscal year 1991; two tenths of one percent in~~
4 ~~fiscal year one 1992; one quarter of one percent in fiscal year~~
5 ~~1993; and three tenths of one percent in fiscal year 1994 and every~~
6 fiscal year ~~thereafter~~ after. The amounts deducted shall be paid
7 to the Racing Commission to be deposited by the Racing Commission
8 in a banking institution of its choice in a special account to be
9 known as "West Virginia Racing Commission-Special Account-West
10 Virginia Greyhound Breeding Development Fund". The purpose of the
11 fund is to promote better breeding, training track facilities and
12 racing of greyhounds in the state through awards and purses to bona
13 fide resident registered greyhound owners of accredited West
14 Virginia whelped greyhounds. In order to participate and be
15 eligible to receive an award or purse through the fund, the
16 registered greyhound owner must have an appropriate license from
17 the Racing Commission to race in West Virginia. The registered
18 greyhound dam at the time of breeding must be wholly or solely
19 owned or leased by a bona fide resident or residents of West
20 Virginia. The accredited West Virginia whelped greyhound must be
21 wholly or solely owned by a bona fide resident or residents of this
22 state. To qualify as a bona fide resident of West Virginia, a
23 registered greyhound owner may not claim residency in any other
24 state. A registered greyhound owner must prove bona fide residency
25 by providing to the commission personal income tax returns filed in
26 the State of West Virginia for the most recent tax year and the
27 three previous tax years, has real or personal property in this
28 state on which the owner has paid real or personal property taxes

1 during the most recent tax year and the previous three tax years
2 and an affidavit stating that the owner claims no other state of
3 residency. The Racing Commission shall maintain a registry for
4 West Virginia bred greyhounds. The moneys shall be expended by the
5 Racing Commission for purses for stake races, training track
6 facilities, supplemental purse awards, administration, promotion
7 and educational programs involving West Virginia whelped dogs,
8 owned by residents of this state under rules promulgated by the
9 Racing Commission. The Racing Commission shall pay out of the
10 Greyhound Breeding Development Fund to each of the licensed dog
11 racing tracks the sum of \$75,000 for the fiscal year ending June
12 30, 1994. The licensee shall deposit the sum into the special fund
13 for regular purses established under the provisions of section nine
14 of this article. The funds shall be expended solely for the
15 purpose of supplementing regular purses under rules promulgated by
16 the Racing Commission.

17 Supplemental purse awards will be distributed as follows:
18 Supplemental purses shall be paid directly to the registered
19 greyhound owner of an accredited greyhound.

20 The registered greyhound owner of accredited West Virginia
21 whelped greyhounds that earn points at any West Virginia meet will
22 receive a bonus award calculated at the end of each month as a
23 percentage of the fund dedicated to the owners as purse
24 supplements, which shall be a minimum of fifty percent of the total
25 moneys deposited into the West Virginia Greyhound Breeding
26 Development Fund monthly.

27 The total amount of the fund available for the owners' awards
28 shall be distributed according to the ratio of points earned by an

1 accredited greyhound to the total amount earned in races by all
2 accredited West Virginia whelped greyhounds for that month as a
3 percentage of the funds dedicated to the owners' purse supplements.
4 The point value at all greyhound tracks shall be the same as
5 approved by the Racing Commission to be effective April 1, 2007.
6 The West Virginia Greyhound Owners and Breeders Association shall
7 submit a list of any additions or deletions to the registry of
8 accredited West Virginia whelped greyhounds on the first of each
9 month. The Racing Commission ~~shall~~ may not require anyone to be a
10 member of a particular association in order to participate in the
11 West Virginia Greyhound Breeding Development Fund.

12 The registered greyhound owner of an accredited West Virginia
13 whelped greyhound shall file a purse distribution form with the
14 Racing Commission for a percentage of his or her dog's earnings to
15 be paid directly to the registered greyhound owner or owners of the
16 greyhound. Distribution shall be made on the fifteenth day of each
17 month for the preceding month's achievements.

18 In no event ~~shall~~ may points earned at a meet held at a track
19 which did not make contributions to the West Virginia Greyhound
20 Breeding Development Fund out of the daily pool on the day the meet
21 was held qualify or count toward eligibility for supplemental purse
22 awards.

23 Any balance in the purse supplement funds after all
24 distributions have been made for the year revert to the general
25 account of the fund for distribution in the following year:
26 ~~Provided, That not more than \$2,000,000 from the balance in the~~
27 ~~purse supplemental fund shall be used for the construction and~~
28 ~~maintenance of two dog training track facilities if such be~~

1 ~~approved by the Racing Commission: *Provided, however,* That not~~
2 ~~more than \$1,000,000 may be allocated for the construction and~~
3 ~~maintenance of each training track: *Provided further,* That both~~
4 ~~training track facilities must be located in West Virginia. The~~
5 ~~West Virginia Racing Commission shall be authorized to promulgate~~
6 ~~rules governing dog training tracks: *And provided further,* That~~
7 ~~the Racing Commission shall (1) provide a process in its rules for~~
8 ~~competitive bidding of the construction or maintenance, or both, of~~
9 ~~the training tracks, and (2) set standards to assure that only the~~
10 ~~actual costs of construction and maintenance shall be paid out of~~
11 ~~the foregoing fund. All money set aside under this paragraph for~~
12 ~~two dog training facilities shall be distributed by the West~~
13 ~~Virginia Racing Commission to the Secondary Road Maintenance Fund.~~
14 ~~All money shall be distributed by June 30, 2014.~~

15 In an effort to further promote the breeding of quality West
16 Virginia whelped greyhounds, a bonus purse supplement shall be
17 established in the amount of \$50,000 per annum, to be paid in equal
18 quarterly installments of \$12,500 per quarter using the same method
19 to calculate and distribute these funds as the regular supplemental
20 purse awards. This bonus purse supplement is for three years only,
21 commencing on July 1, 1993, and ending June 30, 1996. This money
22 would come from the current existing balance in the Greyhound
23 Development Fund.

24 Each pari-mutuel greyhound track shall provide stakes races
25 for accredited West Virginia whelped greyhounds: *Provided,* That
26 each pari-mutuel track shall have one juvenile and one open stake
27 race annually. Each pari-mutuel dog track shall provide at least
28 three restricted races for accredited West Virginia whelped

1 greyhounds per race card: *Provided, however,* That sufficient dogs
2 are available. To assure breeders of accredited West Virginia
3 whelped greyhounds an opportunity to participate in the West
4 Virginia Greyhound Breeding Development Fund the West Virginia
5 Racing Commission by July 1, each year shall establish and announce
6 the minimum number of accredited West Virginia whelped greyhounds
7 that greyhound racing kennels at West Virginia dog tracks must have
8 on their racing active list during the calendar year following such
9 action. The minimum number may vary from dog track to dog track.
10 The minimum number shall be established after consultation with the
11 West Virginia Greyhound Owners and Breeders Association and kennel
12 owners and operators. Factors to be considered in establishing this
13 minimum number ~~shall be~~ are the number of individually registered
14 accredited West Virginia whelped greyhounds whelped in the previous
15 two years, the number of all greyhounds seeking qualification at
16 each West Virginia dog track, the ratio of active running
17 greyhounds to housed number of greyhounds at each West Virginia dog
18 track and the size and number of racing kennels at each West
19 Virginia dog track. Any greyhound racing kennel not having the
20 minimum number of accredited West Virginia whelped greyhounds
21 determined by the West Virginia Racing Commission on their active
22 list ~~shall~~ is only ~~be~~ permitted to race the maximum allowable
23 number on the active list less the number of accredited West
24 Virginia whelped greyhounds below the established minimum number.
25 Consistent violations of this minimum requirement may be reviewed
26 by the Racing Commission and may ~~constitute~~ be cause for denial or
27 revocation of a kennel's racing license. The Racing Commission
28 shall oversee and approve racing schedules and purse amounts.

1 Ten percent of the deposits into the Greyhound Breeding
2 Development Fund beginning July 1, 1993 and continuing each year
3 ~~thereafter,~~ after, shall be withheld by the Racing Commission and
4 placed in a special revenue account hereby created in the State
5 Treasury called the "Administration, Promotion and Educational and
6 Capital Improvement Account". The Racing Commission is authorized
7 to expend the moneys deposited in the Administration, Promotion and
8 Educational and Capital Improvement Account at ~~such~~ times and in
9 ~~such~~ amounts ~~as~~ the commission determines to be necessary for
10 purposes of administering and promoting the greyhound development
11 program: *Provided,* That beginning with fiscal year 1995 and in
12 each fiscal year ~~thereafter~~ after in which the commission
13 anticipates spending any money from the account, the commission
14 shall submit to the executive department during the budget
15 preparation period prior to the Legislature convening before that
16 fiscal year for inclusion in the executive budget document and
17 budget bill, the recommended expenditures, as well as requests of
18 appropriations for the purpose of administration, promotion and
19 education. The commission shall make an annual report to the
20 Legislature on the status of the administration, promotion and
21 education account, including the previous year's expenditures and
22 projected expenditures for the next year.

23 ~~The Racing Commission, for the fiscal year 1994 only, may~~
24 ~~expend up to \$35,000 from the West Virginia greyhound breeding~~
25 ~~development fund to accomplish the purposes of this section without~~
26 ~~strictly following the requirements in the previous paragraph.~~

27 (e) All daily license and pari-mutuel pools tax payments
28 required under the provisions of this section shall be made to the

1 Racing Commission or its agent after the last race of each day of
2 each horse or dog race meeting, and the pari-mutuel pools tax
3 payments shall be made from all contributions to all pari-mutuel
4 pools to each and every race of the day.

5 (f) Every association or licensee subject to the provisions of
6 this article, including the changed provisions of sections nine and
7 ten of this article, shall annually submit to the Racing Commission
8 and the Legislature financial statements, including a balance
9 sheet, income statement, statement of change in financial position
10 and an audit of any electronic data system used for pari-mutuel
11 tickets and betting, prepared in accordance with generally accepted
12 auditing standards, as certified by an experienced public
13 accountant or a certified public accountant.