WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5508

By Delegates Cannon, Foster, Steele, and C. Pritt

[Introduced February 07, 2024; Referred to the Committee on Finance]

A BILL to amend and reenact §16-4C-24 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-23-10 of said code; and to amend and reenact §33-3-33 of said code, all relating to requiring certain transfers and disbursements of funds; and providing that the West Virginia Racing Commission annually transfer $8,000,000 from the West Virginia Greyhound Breeding Development Fund to the Fire Protection Fund and the Emergency Medical Services Equipment and Training Fund.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

**§16-4C-24. Emergency Medical Services Equipment and Training Fund; establishment of grant program for equipment and training of emergency medical service providers and personnel.**

(a) There is hereby created in the State Treasury a special revenue fund to be known as the Emergency Medical Services Equipment and Training Fund. Expenditures from the fund by the Office of Emergency Medical Services, Bureau for Public Health, ~~Department of Health and Human Resources~~ West Virginia Department of Health, West Virginia Department of Human Services, and West Virginia Department of Health Facilities are authorized from collections. The fund may only be used for the purpose of providing grants to equip emergency medical services providers and train emergency medical services personnel, as defined in §16-4C-3 of this code. Any balance remaining in the fund at the end of any fiscal year does not revert to the General Revenue Fund but remains in the special revenue fund.

(b) The Commissioner of the Bureau for Public Health shall establish a grant program for equipment and training of emergency medical services providers and personnel. Such grant program shall be open to all emergency medical services personnel and providers, but priority shall be given to rural and volunteer emergency medical services providers.

(c) The Commissioner of the Bureau for Public Health shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement the grant program established pursuant to this section.

(d) On July 1, 2024, and each July 1 thereafter, the State Racing Commission shall transfer to the Emergency Medical Services Equipment and Training Fund $4,000,000 from the balance of funds in the West Virginia Greyhound Breeding Development Fund, as created in §19-23-10 of this code.

chapter 19. agriculture.

article 23. horse and dog racing.

PART VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL WAGERING; DISPOSITION OF REVENUES.

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

(a) Any racing association conducting thoroughbred racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of $250. Any racing association conducting harness racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of $150. Any racing association conducting dog races shall pay each day upon which dog races are run a daily license tax of $150. In the event thoroughbred racing, harness racing, dog racing or any combination of the foregoing are conducted on the same day at the same racetrack by the same racing association, only one daily license tax in the amount of $250 shall be paid for that day. Any daily license tax shall not apply to any local, county or state fair, horse show or agricultural or livestock exposition at which horse racing is conducted for not more than six days.

(b) Any racing association licensed by the Racing Commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax set forth in subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on thoroughbred racing a tax calculated on the total daily contribution of all pari-mutuel pools conducted or made at any and every thoroughbred race meeting of the licensee licensed under the provisions of this article. The tax, on the pari-mutuel pools conducted or made each day during the months of January, February, March, October, November and December, shall be calculated at four- tenths of one percent of the pool; and, on the pari-mutuel pools conducted or made each day during all other months, shall be calculated at one and four-tenths percent of the pool: *Provided,* That out of the amount realized from the three tenths of one percent decrease in the tax effective for fiscal year 1991 and thereafter, which decrease correspondingly increases the amount of commission retained by the licensee, the licensee shall annually expend or dedicate: (i) One half of the realized amount for capital improvements in its barn area at the track, subject to the Racing Commission's prior approval of the plans for the improvements; and (ii) the remaining one half of the realized amount for capital improvements as the licensee may determine appropriate at the track. The term "capital improvement" shall be as defined by the Internal Revenue Code: *Provided, however,* That any racing association operating a horse racetrack in this state having an average daily pari-mutuel pool on horse racing of $280,000 or less per day for the race meetings of the preceding calendar year shall, in lieu of payment of the pari-mutuel pool tax, calculated as in this subsection, be permitted to conduct pari-mutuel wagering at the horse racetrack on the basis of a daily pari-mutuel pool tax fixed as follows: On the daily pari-mutuel pool not exceeding $300,000 the daily pari-mutuel pool tax shall be $1,000 plus the otherwise applicable percentage rate imposed by this subsection of the daily pari-mutuel pool, if any, in excess of $300,000: *Provided further,* That upon the effective date of the reduction of the daily pari-mutuel pool tax to $1,000 from the former $2,000, the association or licensee shall daily deposit $500 into the special fund for regular purses established by subdivision (1), subsection (b), section nine of this article: *And provided further,* That if an association or licensee qualifying for the foregoing alternate tax conducts more than one racing performance, each consisting of up to thirteen races in a calendar day, the association or licensee shall pay both the daily license tax imposed in subsection (a) of this section and the alternate tax in this subsection for each performance: *And provided further,* That a licensee qualifying for the foregoing alternate tax is excluded from participation in the fund established by section thirteen-b of this article: *And provided further,* That this exclusion shall not apply to any thoroughbred racetrack at which the licensee has participated in the West Virginia Thoroughbred Development Fund for more than four consecutive years prior to December 31, 1992.(c) Any racing association licensed by the Racing Commission to conduct harness racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on harness racing, as a tax, three percent of the first $100,000 wagered, or any part thereof; four percent of the next $150,000; and five and three-fourths percent of all over that amount wagered each day in all pari-mutuel pools conducted or made at any and every harness race meeting of the licensee licensed under the provisions of this article.

(d) Any racing association licensed by the Racing Commission to conduct dog racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on dog racing, as a tax, four percent of the first $50,000 or any part thereof of the pari-mutuel pools, five percent of the next $50,000 of the pari-mutuel pools, six percent of the next $100,000 of the pari-mutuel pools, seven percent of the next $150,000 of the pari-mutuel pools, and eight percent of all over $350,000 wagered each day: *Provided,* That the licensee shall deduct daily from the pari-mutuel tax an amount equal to one tenth of one percent of the daily pari-mutuel pools in dog racing in fiscal year 1990; fifteen hundredths of one percent in fiscal year 1991; two tenths of one percent in fiscal year 1992; one quarter of one percent in fiscal year 1993; and three tenths of one percent in fiscal year 1994 and every fiscal year thereafter. The amounts deducted shall be paid to the Racing Commission to be deposited by the Racing Commission in a banking institution of its choice in a special account to be known as "West Virginia Racing Commission-Special Account-West Virginia Greyhound Breeding Development Fund". The purpose of the fund is to promote better breeding, training track facilities and racing of greyhounds in the state through awards and purses to bona fide resident registered greyhound owners of accredited West Virginia whelped greyhounds. In order to participate and be eligible to receive an award or purse through the fund, the registered greyhound owner must have an appropriate license from the Racing Commission to race in West Virginia. The registered greyhound dam at the time of breeding must be wholly or solely owned or leased by a bona fide resident or residents of West Virginia. The accredited West Virginia whelped greyhound must be wholly or solely owned by a bona fide resident or residents of this state. To qualify as a bona fide resident of West Virginia, a registered greyhound owner may not claim residency in any other state. A registered greyhound owner must prove bona fide residency by providing to the commission personal income tax returns filed in the State of West Virginia for the most recent tax year and the three previous tax years, has real or personal property in this state on which the owner has paid real or personal property taxes during the most recent tax year and the previous three tax years and an affidavit stating that the owner claims no other state of residency. The Racing Commission shall maintain a registry for West Virginia bred greyhounds. The moneys shall be expended by the Racing Commission for purses for stake races, training track facilities, supplemental purse awards, administration, promotion, education and greyhound adoption programs involving West Virginia whelped dogs, owned by residents of this state under rules promulgated by the Racing Commission. The Racing Commission shall pay out of the greyhound breeding development fund to each of the licensed dog racing tracks the sum of $75,000 for the fiscal year ending June 30, 1994. The licensee shall deposit the sum into the special fund for regular purses established under the provisions of section nine of this article. The funds shall be expended solely for the purpose of supplementing regular purses under rules promulgated by the Racing Commission.

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

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

The total amount of the fund available for the owners' awards shall be distributed according to the ratio of points earned by an accredited greyhound to the total amount earned in races by all accredited West Virginia whelped greyhounds for that month as a percentage of the funds dedicated to the owners' purse supplements. The point value at all greyhound tracks shall be the same as approved by the Racing Commission to be effective April 1, 2007. The West Virginia Greyhound Owners and Breeders Association shall submit a list of any additions or deletions to the registry of accredited West Virginia whelped greyhounds on the first of each month. The Racing Commission shall not require anyone to be a member of a particular association in order to participate in the West Virginia Greyhound Breeding Development Fund.

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

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

Any balance in the purse supplement funds after all distributions have been made for the year revert to the general account of the fund for distribution in the following year: *Provided,* That not more than $2 million from the balance in the purse supplemental fund shall be used for the construction and maintenance of two dog training track facilities if such be approved by the Racing Commission: *Provided, however,* That not more than $1 million may be allocated for the construction and maintenance of each training track: *Provided further,* That both training track facilities must be located in West Virginia. The West Virginia Racing Commission shall be authorized to promulgate rules governing dog training tracks: *And provided further,* That the Racing Commission shall: (1) Provide a process in its rules for competitive bidding of the construction or maintenance, or both, of the training tracks; and (2) set standards to assure that only the actual costs of construction and maintenance shall be paid out of the foregoing fund.

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

Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia whelped greyhounds: *Provided,* That each pari-mutuel track shall have one juvenile and one open stake race annually. Each pari-mutuel dog track shall provide at least three restricted races for accredited West Virginia whelped greyhounds per race card: *Provided, however,* That sufficient dogs are available. To assure breeders of accredited West Virginia whelped greyhounds an opportunity to participate in the West Virginia Greyhound Breeding Development Fund the West Virginia Racing Commission by July 1, each year shall establish and announce the minimum number of accredited West Virginia whelped greyhounds that greyhound racing kennels at West Virginia dog tracks must have on their racing active list during the calendar year following such action. The minimum number may vary from dog track to dog track. The minimum number shall be established after consultation with the West Virginia Greyhound Owners and Breeders Association and kennel owners and operators. Factors to be considered in establishing this minimum number shall be the number of individually registered accredited West Virginia whelped greyhounds whelped in the previous two years. The number of all greyhounds seeking qualification at each West Virginia dog track, the ratio of active running greyhounds to housed number of greyhounds at each West Virginia dog track, and the size and number of racing kennels at each West Virginia dog track. Any greyhound racing kennel not having the minimum number of accredited West Virginia whelped greyhounds determined by the West Virginia Racing Commission on their active list shall only be permitted to race the maximum allowable number on the active list less the number of accredited West Virginia whelped greyhounds below the established minimum number. Consistent violations of this minimum requirement may be reviewed by the Racing Commission and may constitute cause for denial or revocation of a kennel's racing license. The Racing Commission shall oversee and approve racing schedules and purse amounts.

Ten percent of the deposits into the greyhound breeding development fund beginning July 1, 1993 and continuing each year thereafter, shall be withheld by the Racing Commission and placed in a special revenue account hereby created in the State Treasury called the "administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account". The Racing Commission is authorized to expend the moneys deposited in the administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account at such times and in such amounts as the commission determines to be necessary for purposes of administering and promoting the greyhound development program: *Provided,* That beginning with fiscal year 1995 and in each fiscal year thereafter in which the commission anticipates spending any money from the account, the commission shall submit to the executive department during the budget preparation period prior to the Legislature convening before that fiscal year for inclusion in the executive budget document and budget bill, the recommended expenditures, as well as requests of appropriations for the purpose of administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering. The commission shall make an annual report to the Legislature on the status of the administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account, including the previous year's expenditures and projected expenditures for the next year.

The Racing Commission, for the fiscal year 1994 only, may expend up to $35,000 from the West Virginia Greyhound Breeding Development Fund to accomplish the purposes of this section without strictly following the requirements in the previous paragraph.

For fiscal years beginning on and after July 1, 2024, the Racing Commission shall transfer equal annual amounts of $4,000,000 from the balance of funds in the West Virginia Greyhound Breeding Development Fund to both the Fire Protection Fund, as created in §33-3-33 of this code, and the Emergency Medical Services Equipment and Training Fund, as created in §16-4c-24 of this code.

(e) All daily license and pari-mutuel pools tax payments required under the provisions of this section shall be made to the Racing Commission or its agent after the last race of each day of each horse or dog race meeting, and the pari-mutuel pools tax payments shall be made from all contributions to all pari-mutuel pools to each and every race of the day.

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

chapter 33. insurance.

ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.

§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments; Public Employees Insurance Agency and municipal pension plans; special fund created; allocation of proceeds; effective date.

(a)(1) For the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and certain retired teachers and the Teachers Retirement Reserve Fund, there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions (2) and (3) of this subsection.

(2) After June 30, 2005, through December 31, 2005, for the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and to provide additional revenue to the Public Employees Insurance Agency and municipal pension plans, there is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy.

(3) After December 31, 2005, for the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to fifty-five one hundredths of one percent of the taxable premium for each such policy.

(4) For purposes of this section, casualty insurance may not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharge may not be subject to premium taxes, agent commissions, or any other assessment against premiums.

(b) The policy surcharge shall be collected and remitted to the commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the commissioner on a quarterly basis on or before the twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year.

(c) Any person failing or refusing to collect and remit to the commissioner any policy surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing is liable for a civil penalty of up to $100 for each day of delinquency, to be assessed by the commissioner. The commissioner may suspend the insurer, broker, or risk retention group until all surcharge payments and penalties are remitted in full to the commissioner.

(d)(1) All money from the policy surcharge shall be collected by the Commissioner who shall disburse the money received from the surcharge into a special account in the State Treasury, designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the months of January, April, July, and October to each volunteer fire company or department on an equal share basis by the State Treasurer. After June 30, 2005, the money received from the surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.

(2)(A) After June 30, 2005, through December 31, 2005, all money from the policy surcharge shall be collected by the commissioner who shall disburse one half of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.

(B) The remaining portion of moneys collected shall be transferred into the fund in the State Treasury of the Public Employees Insurance Agency into which are deposited the proportionate shares made by agencies of this state of the Public Employees Insurance Agency costs of those agencies, until November 1, 2005. After October 31, 2005, through December 31, 2005, the remain portion shall be transferred to the special account in the state Treasury, known as the Municipal Pensions and Protection Fund.

(3) After December 31, 2005, all money from the policy surcharge shall be collected by the commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.

(4) Before each distribution date to volunteer fire companies or departments, the State Fire Marshal shall report to the state Treasurer:

(A) The names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in §8-15-8a of this code during the preceding quarter;

(B) The number of volunteer firefighters and the number of full-time paid members providing services to each volunteer and part-volunteer fire company and department during the preceding quarter;

(C) A full accounting of each volunteer and part-volunteer fire company and department eligible to receive a distribution under this section’s revenues and expenditures for the last two calendar years; and

(D) A list of each volunteer and part-volunteer fire company and department has implemented the State Auditor’s West Virginia Checkbook fiscal reporting system on or before January 1, 2026.

(e) Notwithstanding any other provision of this subsection, each volunteer and part-volunteer fire company and department shall implement the State Auditor’s West Virginia Checkbook fiscal reporting system on or before January 1, 2026, in order to remain eligible to receive any funds pursuant to this section.

(f) The allocation, distribution, and use of revenues provided in the Fire Protection Fund are subject to the provisions of §8-15-8a and §8-15-8b of this code.

(g) On July 1, 2024, and each July 1 thereafter, the State Racing Commission shall transfer to the Fire Protection Fund $4,000,000 from the balance of funds in the West Virginia Greyhound Breeding Development Fund, as created in §19-23-10 of this code.

NOTE: The purpose of this bill is to provide that the West Virginia Racing Commission annually transfer $8,000,000 from the West Virginia Greyhound Breeding Development Fund to the Fire Protection Fund and the Emergency Medical Services Equipment and Training Fund.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.