

HB 102
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FILED

2009 JUN 17 PM 4: 32

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2009



ENROLLED

House Bill No. 102

(By Mr. Speaker, Mr. Thompson)
[By Request of the Executive]



Passed June 2, 2009

In Effect Ninety Days from Passage

ENROLLED

FILED

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H. B. 102

OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY MR. SPEAKER, MR. THOMPSON)
[BY REQUEST OF THE EXECUTIVE]

[Passed June 2, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §29-22C-27 of the Code of West Virginia, 1931, as amended, relating to the allocation of adjusted gross receipts from pari-mutuel racetracks with West Virginia Lottery racetrack table games; increasing the share allocated to certain municipalities and counties after each pari-mutuel racetrack in the state is licensed to offer West Virginia Lottery racetrack table games; providing a corresponding adjustment of funds transferred to the state; providing for the allocation of funds in growth counties that have enacted the Local Powers Act; and increasing for two fiscal years the share allocated to the Lottery Commission for administration and enforcement upon the occurrence of certain conditions.

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 Fund; distribution of funds.

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

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

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

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

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

29 thoroughbred racetrack table games licensees for the payment
30 of regular racetrack purses, the amount being divided equally
31 between the special funds of each thoroughbred racetrack
32 table games licensee and transfer two and one-half percent of
33 adjusted gross receipts from all greyhound racetracks with
34 West Virginia Lottery table games to the special funds
35 established by each greyhound racetrack table games
36 licensees for the payment of regular racetrack purses, the
37 amount being divided equally between the special funds of
38 each greyhound racetrack table games licensee;

39 (3) Transfer two percent of the adjusted gross receipts
40 from all licensed racetracks to the West Virginia
41 Thoroughbred Development Fund created under section
42 thirteen-b, article twenty-three, chapter nineteen of this code
43 and the West Virginia Greyhound Breeding Development
44 Fund created under section ten, article twenty-three, chapter
45 nineteen of this code. The total amount transferred under this
46 subdivision shall be divided pro rata among the development
47 funds for each racetrack table games licensee based on
48 relative adjusted receipts from each racetrack. The amounts
49 transferred to these funds may not be used for the benefit of
50 any person or activity other than at or associated with a
51 racetrack table games licensee;

52 (4) Transfer one percent of the adjusted gross receipts
53 from each licensed racetrack to the county commissions of
54 the counties where racetracks with West Virginia Lottery
55 table games are located. The one percent transferred under
56 this subdivision shall be divided pro rata among the counties
57 with a racetrack with West Virginia Lottery table games
58 based on relative adjusted gross receipts from each county's
59 racetrack: *Provided*, That the county board of education of
60 a growth county, as that term is defined in section three,
61 article twenty, chapter seven of this code, which has enacted
62 the Local Powers Act, and in which county a racetrack is

63 located that has participated in the West Virginia
64 Thoroughbred Development Fund since on or before January
65 1, 1991, shall receive the one percent of adjusted gross
66 receipts as provided in this subdivision for the purpose of
67 capital improvements;

68 (5) Transfer two percent of the adjusted gross receipts
69 from each licensed racetrack to the governing bodies of
70 municipalities within counties where racetracks with West
71 Virginia Lottery table games are located, which shall be
72 allocated as follows:

73 (A) One half of the amounts transferred under this
74 subdivision shall be allocated to the municipalities within
75 each county having a racetrack table games licensee, based
76 on relative adjusted gross receipts from West Virginia
77 Lottery table games from those racetracks and the total
78 amount allocated to the municipalities within a county shall
79 be divided pro rata among the municipalities based on each
80 municipality's population determined at the most recent
81 United States decennial census of population: *Provided,*
82 That: (i) For each allocation, when a municipality is
83 physically located in two or more counties, only that portion
84 of its population residing in the county where the authorized
85 table games are located shall be considered; (ii) a single
86 municipality in a county where West Virginia Lottery
87 racetrack table games are played may not receive a total share
88 under this paragraph that is in excess of seventy-five percent
89 of the total distribution under this paragraph for the county in
90 which the municipality is located; and (iii) a municipality
91 receiving moneys under this paragraph may not receive an
92 amount which is less than that received by a municipality
93 under provisions of subdivision (4), subsection (d) of this
94 section; and

95 (B) One half of the amounts transferred under this
96 subdivision shall be allocated pro rata to the municipalities

97 within all the counties, having a racetrack table games
98 licensee based on each municipality's population determined
99 at the most recent United States decennial census of
100 population: *Provided, That:* (i) A municipality which
101 received funds above its pro rata share pursuant to subpart
102 (iii), paragraph (A) of this subdivision may not receive an
103 allocation under this paragraph; (ii) for each allocation, when
104 a municipality is physically located in two or more counties,
105 only that portion of its population residing in the county
106 where the authorized table games are located shall be
107 considered; and (iii) a single municipality in a county where
108 West Virginia Lottery racetrack games are played may not
109 receive a total share under this paragraph that is in excess of
110 twenty-five percent of the total transfers under this
111 paragraph: *Provided, however,* That the county board of
112 education of a growth county, as that term is defined in
113 section three, article twenty, chapter seven of this code,
114 which has enacted the Local Powers Act, and in which
115 county a racetrack is located that has participated in the West
116 Virginia Thoroughbred Development Fund since on or before
117 January 1, 1991, shall receive the two percent of adjusted
118 gross receipts as provided in this subdivision for the purpose
119 of capital improvements;

120 (6) Transfer one half of one percent of the adjusted gross
121 receipts to the governing bodies of municipalities in which a
122 racetrack table games licensee is located. The municipalities
123 shall each receive an equal share of the total amount allocated
124 under this subdivision: *Provided, That* distribution under this
125 subdivision may not be made to any municipality which did
126 not have a licensed racetrack within its municipal boundaries
127 as they existed on January 1, 2007: *Provided, however,* That
128 if no racetrack table games licensee is located within a
129 municipality, a transfer may not be made under this
130 subdivision; and

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

134 (c) Beginning with the fiscal year following the licensing
135 of every licensed racetrack to offer West Virginia lottery
136 racetrack table games under this article, subsection (b) of this
137 section shall be superseded and replaced by this subsection
138 for distribution of the balances in the fund established by
139 subsection (a) of this section. From the gross amounts
140 deposited into the fund, the commission shall:

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

144 (2) Transfer two and one-half percent of adjusted gross
145 receipts from all thoroughbred racetracks with West Virginia
146 Lottery table games to the special funds established by each
147 thoroughbred racetrack table games licensee for the payment
148 of regular racetrack purses, the amount being divided equally
149 between the special funds of each thoroughbred racetrack
150 table games licensee and transfer two and one-half percent of
151 adjusted gross receipts from all greyhound racetracks with
152 West Virginia Lottery table games to the special funds
153 established by each greyhound racetrack table games licensee
154 for the payment of regular racetrack purses, the amount being
155 divided equally between the special funds of each greyhound
156 racetrack table games licensee;

157 (3) Transfer two percent of the adjusted gross receipts
158 from all licensed racetracks to the West Virginia
159 Thoroughbred Development Fund created under section
160 thirteen-b, article twenty-three, chapter nineteen of this code
161 and the West Virginia Greyhound Breeding Development
162 Fund created under section ten, article twenty-three, chapter

163 nineteen of this code. The total amount transferred under this
164 subdivision shall be divided pro rata among the development
165 funds for each racetrack table games licensee based on
166 relative adjusted receipts from each racetrack. The amounts
167 transferred to these funds may not be used for the benefit of
168 any person or activity other than at or associated with a
169 racetrack table games licensee;

170 (4) Transfer two percent of the adjusted gross receipts
171 from each licensed racetrack to the county commissions of
172 the counties where racetracks with West Virginia Lottery
173 table games are located. The money transferred under this
174 subdivision shall be divided pro rata among the counties with
175 a racetrack with West Virginia Lottery table games based on
176 relative adjusted gross receipts from each county's racetrack:
177 *Provided*, That the county board of education of a growth
178 county, as that term is defined in section three, article twenty,
179 chapter seven of this code, which has enacted the Local
180 Powers Act, and in which a racetrack is located that has
181 participated in the West Virginia Thoroughbred Development
182 Fund since on or before January 1, 1991, shall receive one
183 half of that county's share of adjusted gross receipts as
184 provided in this subdivision for the purpose of capital
185 improvements;

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

191 (A) One half of the money transferred by this subdivision
192 shall be allocated to the municipalities within each county,
193 other than a county described in paragraph (C) of this
194 subdivision, having a racetrack table games licensee based on
195 relative adjusted gross receipts from West Virginia Lottery
196 table games from those racetracks and the total amount

197 allocated to the municipalities within a county shall be
198 divided pro rata among the municipalities based on each
199 municipality's population determined at the most recent
200 United States decennial census of population: *Provided*,
201 That: (i) For each allocation, when a municipality is
202 physically located in two or more counties, only that portion
203 of its population residing in the county where the authorized
204 table games are located shall be considered; (ii) a single
205 municipality in a county where West Virginia Lottery
206 racetrack table games are played may not receive a total share
207 under this paragraph that is in excess of seventy-five percent
208 of the total distribution under this paragraph for the county in
209 which the municipality is located; and (iii) a municipality
210 receiving moneys under this paragraph may not receive an
211 amount which is less than that received by a municipality
212 under provisions of subdivision (4), subsection (d) of this
213 section.

214 (B) One half of the money transferred under this
215 subdivision shall be allocated pro rata to the municipalities
216 within all the counties, other than a county described in
217 paragraph (C) of this subdivision, having a racetrack table
218 games licensee based on each municipality's population
219 determined at the most recent United States decennial census
220 of population: *Provided*, That: (i) A municipality which
221 received funds above its pro rata share pursuant to
222 subparagraph (iii), paragraph (A) of this subdivision shall not
223 receive an allocation under this paragraph; (ii) for each
224 allocation, when a municipality is physically located in two or
225 more counties, only that portion of its population residing in
226 the county where the authorized table games are located shall
227 be considered; and (iii) a single municipality in a county where
228 West Virginia Lottery racetrack games are played may not
229 receive a total share under this paragraph that is in excess of
230 twenty-five percent of the total transfers under this paragraph.

231 (C) Notwithstanding the provisions of paragraphs (A) and
232 (B) of this subdivision, when a racetrack is located in a
233 growth county, as that term is defined in section three, article
234 twenty, chapter seven of this code, which has enacted the
235 Local Powers Act, and in which county a racetrack is located
236 that has participated in the West Virginia Thoroughbred
237 Development Fund since on or before January 1, 1991, the
238 county board of education shall receive two thirds of the
239 share of adjusted gross receipts from West Virginia Lottery
240 table games from the racetrack in the county as provided in
241 this subdivision and the municipalities within the county shall
242 share the remaining one third of the total amount allocated
243 as provided in this paragraph. The municipal one-third share
244 shall be divided pro rata among the municipalities based on
245 each municipality's population determined at the most recent
246 United States decennial census of population. All money
247 transferred under this paragraph shall be used by the county
248 board of education and by the municipalities for the purpose
249 of capital improvements;

250 (6) Transfer one half of one percent of the adjusted gross
251 receipts to the governing bodies of municipalities in which a
252 racetrack table games licensee is located. The municipalities
253 shall each receive an equal share of the total amount allocated
254 under this subdivision: *Provided*, That distribution under this
255 subdivision may not be made to any municipality that did not
256 have a licensed racetrack within its municipal boundaries as
257 they existed on January 1, 2007: *Provided, however*, That if
258 no racetrack table games licensee is located within a
259 municipality, a transfer may not be made under this
260 subdivision; and

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

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

267 (1) Transfer seventy-six percent to the state Debt
268 Reduction Fund which is hereby continued in the State
269 Treasury. Moneys of the fund shall be expended solely for
270 the purpose of accelerating the reduction of existing
271 unfunded liabilities and existing bond indebtedness of the
272 state and shall be expended or transferred only upon
273 appropriation of the Legislature;

274 (2) Transfer four percent, divided pro rata based on
275 relative adjusted gross receipts from the individual licensed
276 racetracks for and on behalf of all employees of each licensed
277 racing association, into a special fund to be established by the
278 Racing Commission to be used for payment into the pension
279 plan for all employees of each licensed racing association;

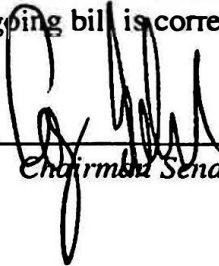
280 (3) Transfer ten percent, to be divided and paid in equal
281 shares, to each county commission in the state that is not
282 eligible to receive a distribution under subdivision (4),
283 subsection (b) of this section: *Provided*, That funds transferred
284 to county commissions under this subdivision shall be used only
285 to pay regional jail expenses and the costs of infrastructure
286 improvements and other capital improvements; and

287 (4) Transfer ten percent, to be divided and paid in equal
288 shares, to the governing bodies of each municipality in the
289 state that is not eligible to receive a distribution under
290 subdivisions (5) and (6), subsection (b) of this section:
291 *Provided*, That funds transferred to municipalities under this
292 subdivision shall be used only to pay for debt reduction in
293 municipal police and fire pension funds and the costs of
294 infrastructure improvements and other capital improvements.

295 (e) All expenses of the commission incurred in the
296 administration and enforcement of this article shall be paid

297 from the Racetrack Table Games Fund, including
298 reimbursement of state law-enforcement agencies for services
299 performed at the request of the commission pursuant to this
300 article. The commission's expenses associated with a
301 particular racetrack with authorized table games under this
302 article may not exceed three percent of the total annual
303 adjusted gross receipts received from that licensee's operation
304 of table games under this article, including, but not limited to,
305 all license fees or other amounts attributable to the licensee's
306 operation of table games under this article, except as provided
307 in subdivision (2), subsection (a) of this section. However, for
308 the fiscal year following the licensing of every licensed
309 racetrack to offer West Virginia lottery racetrack table games
310 under this article and for the fiscal year thereafter, the
311 commission's expenses associated with a particular racetrack
312 with authorized table games under this article may not exceed
313 four percent of the total annual adjusted gross receipts received
314 from that licensee's operation of table games under this article,
315 including, but not limited to, all license fees or other amounts
316 attributable to the licensee's operation of table games under
317 this article, except as provided in subdivision (2), subsection
318 (a) of this section. These expenses shall either be allocated to
319 the racetrack with West Virginia Lottery table games for which
320 the expense is incurred, if practicable, or be treated as general
321 expenses related to all racetrack table games facilities and be
322 allocated pro rata among the racetrack table games facilities
323 based on the ratio that annual adjusted gross receipts from
324 operation of table games at each racetrack with West Virginia
325 Lottery table games bears to total annual adjusted gross
326 receipts from operation of table games at all racetracks with
327 West Virginia Lottery table games during the fiscal year of the
328 state. From this allowance, the commission shall transfer at
329 least \$100,000 but not more than \$500,000 into the
330 Compulsive Gambling Treatment Fund created in section
331 nineteen, article twenty-two-a of this chapter.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

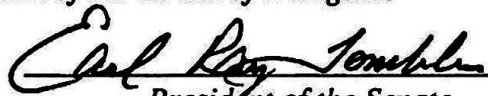
In effect ninety days from passage.




Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 17th
day of June, 2009.



Governor

PRESENTED TO THE
GOVERNOR

JUN 16 2009

Time 9:10am