

Veto-1773

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

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ENROLLED

Committee Substitute for
HOUSE BILL No. 1773

(By ~~THE~~ *Delegate Love & Delegate W. Martin*)

— ● —

Passed *March 8,* 1986

In Effect *Ninety days from* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1773

(By DELEGATE LOVE and DELEGATE W. MARTIN)

[Passed March 8, 1986; in effect ninety days from passage.]

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-four, relating to off-track pari-mutuel wagering on horse races; providing a short title; legislative intent and purposes with respect thereto; the definition of terms used; general jurisdiction; license required for off-track wagering facility and pari-mutuel wagering in connection therewith; permits required for off-track wagering facility; rights of preemptions with respect to such permits by existing tracks within certain distances of the proposed off-track wagering facility; employment positions; residency requirements for employees of licensees; construction permit for off-track wagering facility; licensing and approval of plans of operation; granting construction permits; amendments thereto; suspension of approval of such permits and hearings with respect thereto; reports, accounts and investigations of and by such facilities; pari-mutuel system of wagering authorized; authorization to deduct commissions from pari-mutuel pools; retention of breakage; auditing of such facilities; prohibiting minors from wagering; food and beverage service at such facilities; daily license tax; pari-mutuel pools tax;

deductions in lieu of all other licenses and taxes; pari-mutuel wagering and interstate and intrastate horse races; issuance of revenue bonds; dedication of admission fees and balance to licensee; employment of management agent by applicant or licensee; investigations of such agent; bonds; local referendum election required; when and where such elections required; local referendum election procedure; form of ballots or ballot labels; issuance or nonissuance of construction permit; duration of construction permit; transfer and assignment of construction permit; creation of an economic development commission to be funded from a portion of commissions withheld; appointment of board; powers and authority of commission; receipt and disbursement of funds; additional reports required; additional authority of the racing commission and rules and regulations.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-four, to read as follows:

ARTICLE 24. OFF-TRACK PARI-MUTUEL WAGERING.

§19-24-1. Short title.

1 This article shall be known and cited as the "West
2 Virginia State Off-Track Pari-Mutuel Wagering Law."

§19-24-2. Legislative intent and purposes.

1 (a) The Legislature hereby declares that off-track
2 pari-mutuel wagering on horse races, conducted under
3 the administration of the West Virginia racing commis-
4 sion in the manner and subject to the conditions
5 provided in this article, shall be lawful. This method of
6 off-track wagering is intended to derive reasonable
7 revenue for the support of government, and to prevent
8 and curb unlawful bookmaking and illegal wagering on
9 horse races in this state. It is also the intention of the
10 Legislature to ensure that off-track wagering is
11 conducted in a manner compatible with the well-being
12 of the horse and dog racing and breeding industries in

13 this state.

14 (b) The purpose of this article is to authorize, enable,
15 license and regulate a facility wherein the public may
16 participate in off-track pari-mutuel wagering. Simul-
17 taneously with the running of horse racing events in this
18 state or in other states, as the West Virginia racing
19 commission may permit as hereinafter provided in this
20 article, these racing events will be simultaneously
21 telecommunicated from the place of origin to and
22 simultaneously received and displayed by the facility so
23 that patrons may wager on the outcome of such racing
24 events in the same manner as if they were actually and
25 personally in attendance at the racing events. The
26 wagering odds posted at each such local facility shall for
27 telecommunications from in-state racing tracks be based
28 upon and integrated with the track pool. For interstate
29 telecommunications of racing events, each local facility
30 shall post its own wagering odds based upon money
31 wagered at the facility. In the event more than one local
32 off-track wagering facility is accepting wagers on the
33 same event from an out-of-state track, they may combine
34 the pool or pools and pay the same winning prices at
35 all off-track facilities.

36 (c) A licensee is hereby expressly authorized to deduct
37 a commission from the pari-mutuel pools as provided for
38 in subsection (b), section eight of this article.

39 Except as otherwise provided in this article, the
40 provisions of the "Federal Interstate Horse Racing Act
41 of 1978" also known as Public Law 95-515, Section 3001
42 -3007 of Title 15, U.S. Code, shall be instructive as to
43 the intent of this article.

§19-24-3. Definitions.

1 Unless the context in which used clearly requires a
2 different meaning, as used in this article:

3 (1) "Applicant" means any racing association or
4 person making application for a license under the
5 provisions of this article, or any person making appli-
6 cation for a permit under the provisions of this article,
7 or any person making application for a construction

8 permit under the provisions of this article, as the case
9 may be;

10 (2) "Code" means the code of West Virginia, one
11 thousand nine hundred thirty-one, as heretofore and
12 hereinafter amended;

13 (3) "Construction or construct" as used in this article,
14 means the construction of a new facility, the purchasing,
15 leasing or acquisition by other means of an existing
16 building or portion thereof;

17 (4) "Construction permit" means the construction
18 permit required by the provisions of section four of this
19 article;

20 (5) "Construction permit holder" means any person
21 holding a construction permit required by the provisions
22 of section four of this article and issued under the
23 provisions of this article;

24 (6) "Dog racing" means any type of dog racing,
25 including, but not limited to, greyhound racing, and, for
26 the purposes of this article means dog racing at those
27 tracks possessing the license required by section one,
28 article twenty-three of this chapter;

29 (7) "Hold or conduct" includes "assist, aid or abet in
30 holding or conducting";

31 (8) "Horse racing" means any type of horse racing,
32 including thoroughbred racing and harness racing;

33 (9) "Legitimate breakage" means the percentage left
34 over in the division of a pool;

35 (10) "License" means the license required by the
36 provisions of section four of this article;

37 (11) "Licensee" means any person, racing association,
38 corporation, or other entity holding a license required
39 by the provisions of section four of this article;

40 (12) "Off-track wagering facility" means any new or
41 existing physical facility which shall have the means of
42 simultaneously receiving the transmissions of live
43 telecast pictures and simultaneously telecommunicated
44 racing events so that patrons wager on the outcome of

45 such racing events in the same manner as if they were
46 in attendance at the racing events. All buildings and/or
47 other facilities owned by the licensee and on land which
48 adjoins or is contiguous to other properties used for the
49 racetrack, shall be considered to be within the confines
50 of the licensee's horse or dog racetrack and shall not be
51 deemed to be an off-track wagering facility.

52 (13) "Pari-mutuel" means a mutuel or collective pool
53 that can be divided among those who have contributed
54 their wagers to one central agency, the odds to be
55 reckoned in accordance to the collective amounts
56 wagered upon each contestant running in a horse race
57 upon which the pool is made, but the total to be divided
58 among the first three contestants on the basis of the
59 number of wagers on these;

60 (14) "Permit" means the permit required by the
61 provisions of section four of this article;

62 (15) "Permit holder" means any person holding a
63 permit required by the provisions of section four of this
64 article and issued under the provisions of this article;

65 (16) "Pool" means a combination of interests in a joint
66 wagering enterprise, or stake in such enterprise;

67 (17) "Purse" means any purse, stake or award for
68 which a horse race is run;

69 (18) "Racing association" or "person" means any
70 individual, partnership, firm, association, corporation or
71 other entity or organization of whatever character or
72 description;

73 (19) "Racing commission" means the West Virginia
74 racing commission.

75 (20) "Thoroughbred association" means any horse
76 racing association licensed by the racing commission
77 under the provisions of article twenty-three of this
78 chapter; and

79 (21) "To the dime" means that wagers shall be figured
80 and paid to the dime.

§19-24-4. General jurisdiction; license required for off-

**track wagering facility and pari-mutuel
wagering in connection therewith; permits
required for off-track wagering facility
employment positions; residency require-
ments for employees of licensees; construc-
tion permit for off-track wagering facility.**

1 (a) The West Virginia racing commission has general
2 jurisdiction over the operation of all off-track wagering
3 facilities in the state. The racing commission shall issue
4 rules and regulations in accordance with the provisions
5 of chapter twenty-nine-a of this code in order to ensure
6 the accomplishment of the purposes of this article and
7 to protect the thoroughbred racing and breeding
8 industry within this state.

9 (b) No racing association or person shall hold, tele-
10 cast, broadcast or otherwise conduct any off-track
11 wagering enterprise of any kind whatsoever unless such
12 association possesses a license therefor from the West
13 Virginia racing commission and complies with the
14 provisions of this article and all reasonable rules and
15 regulations of such racing commission.

16 (c) No person not required to be licensed under the
17 provisions of subsection (b) of this section shall be
18 permitted to be employed by the licensee, or the
19 licensee's management agent, if any, or act as a pari-
20 mutuel employee, or in any other capacity at an
21 establishment conducting off-track wagering licensed
22 under the provisions of subsection (b) of this section or
23 in any other capacity specified in reasonable rules and
24 regulations of the racing commission, unless such person
25 possesses a permit therefor from the West Virginia
26 racing commission and complies with the provisions of
27 this article and all reasonable rules and regulations of
28 such racing commission.

29 (d) At least eighty percent of the individuals em-
30 ployed by a licensee at any off-track wagering enter-
31 prise operated by a licensee pursuant to subsection (b)
32 of this section must be citizens and residents of this state
33 and must have been such citizens and residents for at
34 least one year immediately prior to the date of their

35 employment. For the purpose of this subsection, citizens
36 and residents of this state shall be construed to mean
37 individuals who maintain a permanent place of resi-
38 dence in this state, and have been bona fide residents
39 and citizens of this state for a period of one year prior
40 to the filing of their applications for employment.

41 (e) In order to ensure the well-being of the horse and
42 dog racing and breeding industries in this state, the
43 racing commission shall give first and prior consider-
44 ation to the application filed by existing thoroughbred
45 racing associations to the proposed off-track betting
46 facility. For the purpose of this section "existing
47 thoroughbred racing associations" means those tho-
48 roughbred associations operating under the provisions of
49 section one, article twenty-three of this chapter prior to
50 the effective date of this article.

51 The governing body of any municipality or county in
52 this state desiring that an off-track wagering facility, as
53 set forth in section four of this article, be established in
54 their city or county, may forward to the racing commis-
55 sion a copy of the ordinance or order enacted by the
56 council or commission, as the case may be. The racing
57 commission shall forthwith notify all existing tho-
58 roughbred racing associations of the receipt of such
59 ordinance or order. The existing thoroughbred racing
60 associations may jointly file a notice of intent to file an
61 application for the license herein required within forty-
62 five days of the date of such notification. Any existing
63 thoroughbred racing association may opt not to partic-
64 ipate in such joint application for a license and in this
65 event the notice of intent may be filed by the remaining
66 thoroughbred racing association. The application for
67 license as herein required shall then be filed within
68 ninety days of the original notice by the racing commis-
69 sion. The racing commission shall proceed to consider
70 the application, and if such application is in compliance
71 with the requirements of this article, shall approve such
72 application. If no such notice of intent to file an
73 application is received within the forty-five day period,
74 or if a written waiver of such option to file such notice
75 of intent is executed by existing thoroughbred racing

76 associations prior to the expiration of the forty-five day
77 period or if the application for license is not received by
78 the racing commission within the required ninety day
79 period the racing commission shall forthwith consider
80 applications filed by any other racing association or
81 person.

82 (f) No racing association or person shall construct or
83 cause to be constructed a facility at which an off-track
84 wagering enterprise is to be conducted and the pari-
85 mutuel system of wagering is to be conducted without
86 a construction permit issued by the racing commission
87 in conjunction with its approval of the applicant's plan
88 of operation as set forth in section five of this article.
89 Any person desiring to obtain a construction permit, and
90 who shall submit such a plan of operation shall file with
91 the racing commission an application therefor. The
92 racing commission shall prescribe blank forms to be
93 used in making such application; however, the racing
94 commission shall be permitted to accept the required
95 information in any other form or format it may deem
96 acceptable. Such application shall disclose, but not be
97 necessarily limited to, the following:

98 (1) If the applicant be an individual, the full name
99 and address of the applicant;

100 (2) If the applicant be a partnership, firm or associ-
101 ation, the full name and address of each partner or
102 member thereof, the name of the partnership, firm or
103 association and its post office address;

104 (3) If the applicant be a corporation, its name, the
105 state of its incorporation, its post office address, the full
106 name and address of each officer and director thereof,
107 and if a foreign corporation, whether it is qualified to
108 do business in this state;

109 (4) Whether the applicant, any partner, member, or
110 officer or director has previously applied for a construc-
111 tion permit under the provisions of this article or for a
112 similar construction permit in this or any other state,
113 and if so, whether such construction permit was issued
114 or refused;

115 (5) A description of the sources of financing, if any,
116 for use in connection with such proposed off-track
117 wagering enterprise facility, including the name and
118 address of any person enterprise agreeing to provide
119 such financing;

120 (6) If the applicant be a partnership or corporation
121 then the application shall include the names and
122 addresses of all partners or share-holders, as the case
123 may be, owning ten percent or more interest or of the
124 stock in such partnership or corporation. If the
125 applicant be a partnership in which one or more
126 corporations owns ten percent or more interest therein,
127 then the application shall also include the names and
128 addresses of all persons owning ten percent or more of
129 the outstanding shares in such corporations;

130 (7) The name and address of any other person who
131 holds a financial interest in the proposed off-track
132 wagering enterprise facility;

133 (8) The municipality and county where the proposed
134 off-track wagering enterprise facility is to be con-
135 structed, and if such proposed facility is to be con-
136 structed and established across municipal or county
137 boundary lines, the identification of each such
138 municipality or county;

139 (9) Plans showing, in such detail as the racing
140 commission may require, the proposed off-track wager-
141 ing enterprise facility and all buildings and improve-
142 ments to be used in connection therewith; and

143 (10) Such other information as the racing commission
144 may reasonably require which may include information
145 relating to any criminal record of the applicant, if an
146 individual, or of each partner or member, if a partner-
147 ship, firm or association, or of each officer and director,
148 if a corporation.

149 (g) Such application shall be verified by the oath or
150 affirmation of the applicant for such construction
151 permit, if an individual, or if the applicant is a
152 partnership, firm, association or corporation, by a
153 partner, member or officer thereof as the case may be.

154 Such application shall be submitted as a part of the
155 applicant's proposed plan of operation set forth in
156 section five of this article and shall be evaluated,
157 approved, amended, modified, or disapproved, as a part
158 thereof, by the racing commission.

159 (h) Nothing in this section exempts any municipality
160 or county from the referendum election provisions of
161 this article.

162 (i) No application for a construction permit for the
163 construction and establishment of an off-track wagering
164 facility described in this article shall be acted upon by,
165 or a construction permit issued by, the racing commis-
166 sion for the construction or establishment of an off-track
167 wagering facility which is to be located within fifty-five
168 air miles of an existing horse track or within thirty air
169 miles of an existing off-track wagering facility or an
170 existing dog racetrack: *Provided*, That existing tho-
171 roughbred racing associations shall have the sole right,
172 subject to the provisions of this article and the approval
173 of the racing commission, to apply for a construction
174 permit and establish and operate an off-track wagering
175 facility within fifty-five air miles of their on-track
176 thoroughbred racing facility and that existing dog
177 racing associations shall have the sole right, subject to
178 the provisions of this article and the approval of the
179 racing commission, to apply for a construction permit
180 and establish and operate an off-track wagering facility
181 within thirty air miles of their on-track dog racing
182 facility. An existing thoroughbred racing association, an
183 existing dog racing association, or an existing off-track
184 wagering facility may waive their rights under this
185 paragraph by submitting a written waiver of such
186 rights to the racing commission.

187 For the purpose of this subsection an existing horse
188 or dog racetrack shall mean any licensed horse or dog
189 racing association licensed under the provisions of
190 article twenty-three of this chapter in operation, that is,
191 running a daily program of horse or dog races.

**§19-24-5. Approval of plans of operation; granting
construction permits; amendments.**

1 (a) In order to accomplish the objectives of this
2 article, the state racing commission shall have the
3 power, subject to the provisions of this article, to
4 approve a plan of operation submitted by any applicant
5 or licensee. Before approval of the plan of operation and
6 any construction permit application pertinent thereto,
7 the racing commission must review and approve a
8 feasibility study submitted by the applicant or licensee,
9 including, but not limited to, the following:

10 (1) The potential market;

11 (2) The estimated costs of operation;

12 (3) The probable types of wagering and number of
13 opportunities required for successful operation;

14 (4) The probable impact of the proposed operation
15 upon on-track attendance and pari-mutuel wagering
16 within the region;

17 (5) The probable impact of the proposed operation
18 upon the community in which it is to be located,
19 including but not limited to such factors as hours of
20 operation, traffic patterns and the creation of nuisances
21 created by noise or light or both, within the community.

22 The racing commission may, within the time provided
23 for approval, request additional information from the
24 applicant or licensee. Disapproval of the feasibility
25 study shall be accompanied by a statement of the
26 reasons therefor and shall be treated as disapproval
27 under subsection (c) of this section.

28 (b) The plan of operation shall include the following:

29 (1) A narrative description of the system;

30 (2) The types and approximate cost of data processing
31 communication and transmission facilities that will be
32 utilized, including back-up systems;

33 (3) Security measures;

34 (4) The type and number of wagering opportunities to
35 be offered;

36 (5) The race tracks and races that will be telecom-
37 municated to the proposed facility for which bets will
38 be taken;

39 (6) The proposed system of accounts; and

40 (7) The amount and proposed sources of financing.

41 (c) Within thirty days of receipt of the feasibility
42 study and plan, the racing commission shall issue an
43 order tentatively approving the plan, tentatively
44 approving it with modifications, or denying approval
45 and stating its reasons therefor. Within such period the
46 applicant may request additional information, make
47 reasonable inquiries of the racing commissions as to any
48 portions of the feasibility study or plan of operation
49 which the racing commission does or may find objection-
50 able, or suggest amendments. The applicant may submit
51 an amended application no later than thirty days after
52 a denial. An applicant whose application or amended
53 application for a license or whose proposed plan or
54 amended proposal plan of operation and attendant
55 construction permit application has been denied, shall
56 be granted a hearing before the racing commission.
57 Such a hearing shall be governed by the standards set
58 forth in section six of this article governing suspensions
59 of previously approved plans.

60 (d) Upon tentative approval of the license application,
61 the feasibility study, the proposed plan of operation and
62 its attendant construction permit application, if any, the
63 racing commission shall cause to be published a Class
64 II legal advertisement, in compliance with the provi-
65 sions of article three, chapter fifty-nine of this code, in
66 a newspaper of general circulation in the municipality
67 or county wherein the proposed facility is to be
68 constructed giving notice of the commission's action.
69 Such notice shall state the name of the applicant, a
70 description of the proposed operation, the location of the
71 proposed facility, the name of any management agent
72 retained or to be retained by the applicant, if any,
73 together with the names of all officers and directors of
74 such management agent, if any, and the applicant, and
75 that final approval will be granted upon the approval

76 of the proposed establishment by voters in a referendum
77 election as set forth in sections fourteen and fifteen of
78 this article. No applicant or licensee may exercise the
79 authority granted in the approved application until the
80 certification of the results of the election to the racing
81 commission is made as provided in section fifteen of this
82 article. A denial by the voters shall cancel the
83 application.

84 (e) A plan of operation may be amended from time to
85 time at the request of either the applicant or licensee,
86 or the racing commission. The applicant or licensee shall
87 have the right to be heard concerning any amendment
88 to the plan proposed after implementation and the
89 racing commission shall dispose of such proposed
90 amendments as expeditiously as practicable, but no
91 later than thirty days following submission of such
92 amendment or amendments by the applicant or licensee
93 or in the case of amendments proposed by the racing
94 commission, objection by the applicant or licensee. An
95 applicant or licensee whose amendment is denied or who
96 submits a written objection to an amendment proposed
97 by the racing commission, shall be granted a hearing
98 before the racing commission. Such hearing shall be
99 governed by the standards set forth in subsection (c) of
100 this section.

§19-24-6. Suspension of approval.

1 (a) The racing commission may suspend its approval
2 of any plan of operation if the applicant or licensee
3 whose plan of operation has been approved or its
4 retained management agent or representative fail to
5 conduct off-track pari-mutuel wagering on horse races
6 in accordance with the provisions of the plan of
7 operation, with the applicable rules of the racing
8 commission or with the provisions of this article or if
9 such applicant, licensee, its retained management agent
10 or representative, or its officers or directors shall
11 knowingly permit on any of its premises illegal lotteries,
12 pool selling or bookmaking or any other kind of illegal
13 gambling. Suspension shall continue for the period
14 necessary to remedy the situation or condition requiring
15 such suspension.

16 (b) If the racing commission shall determine to
17 suspend approval of any plan of operation it shall give
18 the applicant or licensee involved notice of a time and
19 place for a hearing before the racing commission, at
20 which the racing commission will hear such applicant
21 in reference thereto. The racing commission may
22 continue such hearing from time to time for the
23 convenience of all parties. Any of the parties affected by
24 such hearing may be represented by counsel. In the
25 conduct of such hearing, the racing commission shall
26 apply the rules of evidence as set forth in chapter
27 twenty-nine-a, article five, section two of the code. A
28 written record shall be made of all proceedings and all
29 evidence offered before the racing commission, and such
30 evidence together with the exhibits, if any, and the
31 findings of the racing commission shall be permanently
32 preserved and shall constitute the record of the racing
33 commission in such case. The racing commission may,
34 if occasion shall require, by order, refer to one or more
35 of its members, the duty of taking testimony in such
36 matter and to report thereon to the racing commission,
37 but no determination shall be made therein except by
38 the racing commission. Within thirty days after such
39 hearing, the racing commission shall make a final
40 determination. Such a determination shall be based
41 solely upon the evidence presented at the hearing. An
42 order of the racing commission shall be based solely
43 upon the evidence presented at the hearing. An order
44 of the racing commission shall be based upon substantial
45 evidence. If it determines that such approval be
46 suspended, it shall make an order accordingly and shall
47 cause such order to be entered on its minutes and a copy
48 thereof served on such local application. Such an order
49 of suspension shall be construed as a final order and
50 shall be subject to judicial review under the provisions
51 of the State Administrative Procedures Act, as set forth
52 in chapter twenty-nine-a, article five, section two
53 thereof.

§19-24-7. Reports, accounts, investigations.

1 The racing commission shall have power in its
2 discretion, to prescribe uniform methods of keeping

3 accounts, records and books to be observed by applicants
4 and licensees. The racing commission may also, in its
5 discretion, prescribe by order forms of accounts, records
6 and memoranda to be kept by such applicants and
7 licensees and shall have power to visit, investigate and
8 place in lieu thereof racing commission accountants or
9 such other employees of the racing commission as it may
10 deem necessary, in the office, or other places of business
11 of any such applicant or licensee for the purpose of
12 seeing that the provisions of this article and the rules
13 and regulations issued by the racing commission
14 thereunder are strictly complied with.

15 Each applicant or licensee approved by the racing
16 commission to conduct off-track pari-mutuel wagering
17 shall submit daily accounting reports to the racing
18 commission, within forty-eight hours after each racing
19 day, accounting for all tickets sold and winning tickets
20 cashed or refunds and such other information as the
21 racing commission may require.

22 Every applicant or licensee subject to the provisions
23 of this article shall annually submit to the racing
24 commission and to the Legislature financial statements,
25 including a balance sheet, income statement, statement
26 of change in financial position and any other requested
27 financial data as well as the results of an audit of any
28 electronic data system used for pari-mutuel tickets and
29 wagering, all of which are to be audited in accordance
30 with generally accepted auditing standards as recog-
31 nized by the American institute of certified public
32 accountants, and certified by a certified public
33 accountant.

34 The reports required under this section shall be in
35 such form and contain such other matters as the racing
36 commission may determine from time to time to be
37 necessary to disclose accurately the financial condition
38 and operation of such applicant or licensees. The racing
39 commission may for good cause shown grant a reasona-
40 ble extension of time for the filing of any such report.

**§19-24-8. Pari-mutuel system of wagering authorized;
authorization to deduct commission from**

**pari-mutuel pools; retention of breakage;
auditing; minors; food and beverage service.**

1 (a) The pari-mutuel system of wagering upon the
2 simultaneously telecommunicated results of any horse
3 race at any horse race meeting, whether within the state
4 or without the state, conducted by an applicant or
5 licensee created under the provisions of this article is
6 hereby authorized, if, and only if, pari-mutuel wagering
7 is conducted by such applicant or licensee within the
8 confines of such applicant's or licensee's approved off-
9 track wagering facility: *Provided*, That pari-mutuel
10 wagering may not be conducted on any out of state event
11 at the same time of day, that is afternoon against
12 afternoon, or evening against evening, that tho-
13 roughbred racing is being conducted at a licensed
14 thoroughbred track in West Virginia without the
15 written consent of all existing thoroughbred racing
16 associations and the legitimate horsemen's groups that
17 represent the owners and trainers at all thoroughbred
18 tracks in West Virginia. The provision of section one,
19 article ten, chapter sixty-one of the code, relating to
20 gaming shall not apply to the pari-mutuel system of
21 wagering herein authorized.

22 (b) An applicant or licensee authorized to construct or
23 operate an off-track wagering facility, under the
24 provisions of this article is hereby expressly authorized
25 to retain a basic commission not to exceed eighteen and
26 twenty-five one-hundredths percent of all money wagered
27 plus an additional amount equal to one and seventy-five
28 one-hundredths percent of the amount wagered each day
29 on all multiple wagers determined by a combination of
30 two winning horses, including, but not limited to, the
31 daily double, perfecta, exacta, quinella or plus an
32 additional amount equal to seven and seventy-five one-
33 hundredths percent of the amount wagered each day on
34 all trifecta wagers or any other multiple wager which
35 involves a single wagering interest on three or more
36 horses.

37 In addition to any such commission, an applicant or
38 licensee authorized to construct or operate on off-track
39 wagering facility under the provisions of this article

40 shall also be entitled to retain the legitimate breakage
41 which shall be made and calculated to the dime and
42 from such breakage the applicant or licensee shall remit
43 daily fifty percent of the total of such breakage retained
44 by the applicant or licensee to the existing thoroughbred
45 associations in equal amounts and fifty percent of such
46 amount received by the thoroughbred associations shall
47 be placed in the purse fund established by section nine,
48 article twenty-three, chapter nineteen of this code.

49 That part of chapter nineteen, article twenty-three,
50 section nine, subsection (b), subdivision (2), concerning
51 commission deductions shall be applicable to telecom-
52 municated harness races.

53 (c)(1) All moneys held by the applicant or licensee for
54 the payment of outstanding and unredeemed pari-
55 mutuel tickets, if not claimed within ninety days after
56 the close of the last business day of the calendar quarter
57 in connection with which the tickets were issued shall
58 be turned over by the applicant or licensee to the racing
59 commission within fifteen days after the expiration of
60 such ninety-day period and the applicant or licensee
61 shall give such information as the racing commission
62 may require concerning such outstanding and unre-
63 deemed tickets. All such moneys shall be deposited by
64 the racing commission in a banking institution of its
65 choice in a special account to be known as "West
66 Virginia Racing Commission Special Account-Unre-
67 deemed Pari-Mutuel Tickets." Notice of the amount,
68 date and place of such deposit shall be given by the
69 racing commission, in writing, to the state treasurer.
70 The racing commission shall then cause to be published
71 a notice to the holders of such outstanding and unre-
72 deemed pari-mutuel tickets, notifying them to present
73 such tickets for payment at the principal office of the
74 racing commission within ninety days from the date of
75 the publication of such notice. Such notice shall be
76 published within fifteen days following the receipt of
77 said moneys by the racing commission from the licensee
78 as a Class I advertisement in compliance with the
79 provisions of article three, chapter fifty-nine of the code,
80 and the publication area for such publication shall be

81 the county in which such off-track wagering facility is
82 located.

83 (2) Further disposition of any such pari-mutuel
84 tickets that shall not be presented for payment within
85 ninety days from the date of the publication shall be as
86 specified and detailed in subparagraphs one, two, three
87 and four, subsection (b), section thirteen, article twenty-
88 three, chapter nineteen of this code.

89 (d) The director of audit, and any other auditors
90 employed by the racing commission who shall also be
91 certified public accountants or experienced public
92 accountants, shall have free access to the space or
93 enclosure where the pari-mutuel system of wagering is
94 conducted or calculated at any off-track wagering
95 facility for the purpose of ascertaining whether or not
96 the licensee is complying with the provisions of this
97 section. They shall also, for the same purpose only, have
98 full and free access to all records and papers pertaining
99 to such pari-mutuel system of wagering, and shall
100 report to the racing commission in writing, under oath,
101 whether or not the licensee has complied with the
102 provisions of this section or has failed to comply with
103 the provisions of this section.

104 (e) No licensee shall permit or allow any individual
105 under the age of eighteen years to wager at any off-track
106 wagering facility, knowing or having reason to believe
107 that such individual is under the age of eighteen years.

108 (f) Any licensee authorized to construct or operate on
109 off-track wagering facility under the provisions of this
110 article shall also have authority in conjunction therewith
111 to maintain parking facilities and facilities for the sale
112 of food and beverages, including beer and alcoholic
113 beverages if proper licensing is obtained under article
114 sixteen, chapter eleven, and article seven, chapter sixty
115 of this code.

116 (g) When an entire afternoon and/or evening racing
117 program from a West Virginia thoroughbred association
118 track is being shown at an off-track betting facility,
119 such facility may, with the prior written approval of the
120 racing commission, the written approval of the tho-

121 roughbred racing association and the written approval
122 of the authorized representative of a majority of the
123 owners and trainers who hold the permit required by
124 section two, article twenty-three of this chapter, at each
125 of the thoroughbred horse tracks in this state, show
126 additional races originating from outside the state on
127 that particular occasion.

§19-24-9. Daily license tax; pari-mutuel pools tax.

1 (a) Any off-track wagering facility offering horse
2 races shall pay each day upon which horse races are run
3 a daily license tax of one hundred and fifty dollars or
4 three dollars per wagering terminal, whichever is less.

5 (b) Any off-track wagering facility licensed by the
6 racing commission to receive simultaneously telecom-
7 municate horse races and permitting and conducting
8 pari-mutuel wagering shall, in addition to be aforemen-
9 tioned daily license tax, pay to the racing commission
10 from the commission deducted each day by such licenses
11 from the pari-mutuel pools on thoroughbred racing a
12 tax calculated on the total daily contribution of all such
13 pari-mutuel pools conducted or made at any and every
14 off-track wagering facility licensed under the provisions
15 of this article which tax shall be calculated at one
16 percent of such pari-mutuel pools. Three percent of such
17 pari-mutuel pools shall be paid to the economic devel-
18 opment commission, if any, established by the jurisdic-
19 tion in which the facility is located pursuant to section
20 seventeen of this article. If no economic development
21 commission is established then the three percent shall
22 be paid into the general fund of the county commission
23 of the county in which the off-track wagering facility is
24 located, except if it is located within a municipality,
25 then such amount shall be paid into the general fund
26 of the municipality. Further, from the deducted
27 commission a total of one percent shall be paid to each
28 nonoff-track wagering thoroughbred association li-
29 censed and operating in this state, and from the
30 deducted commission, a total of one percent shall be paid
31 for regular purses offered at each thoroughbred horse
32 track licensed and operating in this state.

33 Any dog racing association which is within seventy-
34 five air miles of an off-track betting facility or within
35 seventy-five air miles of a separate facility for which the
36 license required by article twenty-three, chapter
37 nineteen of this code, to conduct dog-race meetings has
38 been approved by the racing commission, shall in lieu
39 of the commissions authorized to be deducted by the
40 licensee under the provisions of subsection (b), section
41 three of article twenty-three of this chapter is hereby
42 authorized to retain a basic commission not to exceed
43 seventeen percent of all money wagered plus an
44 additional amount equal to two percent of the amount
45 wagered each day on all multiple wagers determined by
46 a combination of two winning dogs, including but not
47 limited to the daily double, perfecta, exacta, quinella
48 and plus an additional amount equal to three percent of
49 the amount wagered each day on all trifecta wagers or
50 any other multiple wager which involves a single
51 wagering interest on three or more dogs. A dog racing
52 association electing to deduct the revised commissions
53 authorized by this paragraph, shall give written
54 notification to the racing commission not less than thirty
55 days prior to such change. The racing commission shall
56 prescribe blank forms for filing such notification. Such
57 notification shall disclose the following: (1) the revised
58 commissions to be deducted from the pari-mutuel pools
59 each day on win, place and show betting and on
60 different forms of multiple bettings; (2) the dates to be
61 included in such revised betting, which shall not be less
62 than one race meet; (3) such other information as may
63 be required by the racing commission.

64 The commissions authorized to be deducted prior to
65 the effective date of this act shall remain in force and
66 effect until changed under the provisions of this section.

67 After deducting the pari-mutuel pool tax, the amount
68 to be paid to the economic development commission or
69 the county or city, the amounts to be paid to the non-
70 off-track wagering associations and regular purses, the
71 amount required to be paid under the terms of the
72 contract with the legal wagering entity of this or
73 another state and the cost of transmission the remainder

74 of the commission, except as hereinafter provided in this
 75 paragraph, shall be retained by the licensee. In the
 76 event the off-track wagering facility is operated by an
 77 existing West Virginia thoroughbred association or
 78 combination of such associations, in addition to the
 79 foregoing deductions the licensee shall deduct the cost
 80 of debt amortization, if any, and all other operating costs
 81 and pay fifty percent of the remainder into the purse
 82 fund at the participating thoroughbred tracks. Subsec-
 83 tion (a), section ten, article twenty-three, chapter
 84 nineteen of this code concerning daily license taxes, shall
 85 be applicable to telecommunicated harness races.

86 Subsection (c), section ten, article twenty-three,
 87 chapter nineteen of this code, concerning pari-mutuel
 88 taxes paid to the state shall be applicable to telecom-
 89 municated harness races.

**§19-24-10. Deductions from pari-mutuel pools in lieu of
 all other licenses and taxes.**

1 The deductions from pari-mutuel pools provided for
 2 in section nine of this article shall be in lieu of all other
 3 license, income, excise, special franchise, special or
 4 franchise taxes of this state or of any county or
 5 municipality within this state.

**§19-24-11. Pari-mutuel wagering on interstate and
 intrastate horse races.**

1 An applicant or licensee authorized to construct or
 2 operate an off-track wagering facility under the
 3 provisions of this article may, with written approval of
 4 the racing commission, contract with any legal wager-
 5 ing entity in this or any other state to simultaneously
 6 receive from such entity telecommunications of the
 7 simultaneous running of any horse race or races
 8 conducted by such entity. "Legal wagering entity" as
 9 used herein means any person, partnership, corporation,
 10 board, commission, or association engaged in horse
 11 racing pursuant to a licensee or other permission
 12 granted by the state in which such person, partnership,
 13 board, commission or association maintains a racetrack
 14 and conducts race meetings with a pari-mutuel wager-
 15 ing system permitted under that state's law and in

16 which the participants are wagering with each other
17 and not with the operator.

§19-24-12. Issuance of revenue bonds; dedication of admission fees; balance to licensee.

1 A county or municipality within which authorization
2 has been granted by the racing commission to an
3 applicant to construct or operate a facility for off-track
4 wagering, may, upon proper resolution, ordinance or
5 order, issue revenue bonds for the purpose of paying all
6 or any part of the initial cost of organization and
7 acquiring, constructing, equipping and putting into
8 operation a facility for the conducting of off-track pari-
9 mutuel wagering on horse races. The bonds shall be
10 dated and shall bear interest at such rate as are
11 approved by the racing commission, payable semiannu-
12 ally, and shall mature at such time or times, not
13 exceeding thirty years, as may be determined by the
14 respective county commission or governing municipal
15 council may be made redeemable before maturity as the
16 respective county commission or governing municipal
17 council may determine at such price or prices and under
18 such terms and conditions as may be fixed by the
19 respective county commission or governing municipal
20 council prior to the issuance of such bonds. The
21 respective county commission or governing municipal
22 council shall determine the form of the bonds, including
23 any interest coupons to be attached thereto, and shall fix
24 the denomination of the bonds and the place of payment
25 of the principal and interest, which may be at any
26 banking institution or trust company within the county
27 or municipality. The bonds shall be signed and the seal
28 of the political subdivision shall be affixed thereto in
29 accordance with the provisions of section nineteen,
30 article one, chapter thirteen of this code.

31 All admission fees established by the licensee for
32 public admittance to the off-track wagering facility
33 constructed and operated by a licensee under the
34 provisions of this article shall be dedicated, without any
35 deductions being made therefrom, to the payment of the
36 principal and interest due on any bonds issued by the
37 respective county commission or governing municipal

38 council under the authority of this section. Such
39 admission fees shall be deposited in a sinking fund in
40 a banking institution or trust company designated by
41 the licensee, subject to the approval of the racing
42 commission as a part of a plan of operation or an
43 amended plan of operation, as paying agent for the
44 principal and interest due on such bonds; and the funds
45 so deposited shall be used for such purpose, less the fees
46 of the paying agent.

47 After all of the bonds are paid and redeemed and all
48 of the interest due thereupon is paid, the sinking fund
49 shall be terminated and all public admission fees
50 received thereafter shall be retained by the licensee.

**§19-24-13. Employment of management agent; investiga-
tions; bonds.**

1 An applicant or licensee authorized to construct or
2 operate an off-track wagering facility under the
3 provisions of this article may agree by written contract
4 with any person, firm or organization, whereby such
5 person, firm or organization will act as management
6 agent over all or any part of the operations of such off-
7 track wagering facility, if such written contract is
8 submitted to the racing commission for its approval
9 either before the racing commission gives its final
10 approval to the construction of such facility or
11 thereafter.

12 If such a management agreement is presented to the
13 racing commission, the racing commission shall make a
14 complete and exhaustive investigation into the stability
15 and standing of such management agent, its principals,
16 officers, directors and stockholders within sixty days of
17 the time when the agreement is presented to the racing
18 commission. In making this investigation the racing
19 commission may require the applicant or licensee, or
20 such prospective management agent to produce wha-
21 tever information the racing commission deems neces-
22 sary to complete the investigation.

23 In investigating the management agent, applicant,
24 licensee, or all of them, the racing commission, where
25 applicable, shall examine the following:

26 (1) The identities of the principals and of all persons
27 who are intended to be placed in supervisory capacities
28 in management of the facility;

29 (2) Their experience, former business activities and
30 past performance in business management of the
31 facility;

32 (3) The identities of all stockholders of the manage-
33 ment agent, applicant, licensee, or any or all of them,
34 holding more than five percent of the respective stock,
35 or more than five percent interest in any other noncor-
36 porate capacity in the management agent, applicant,
37 licensee, or any or all of them;

38 (4) Whether and to what extent any principal, officer,
39 director, stockholder of the management agent, appli-
40 cant, licensee, or any or all of them, own any interest
41 in any horse racing facility or in any off-track wagering
42 facility;

43 (5) The performance of the management agent,
44 applicant, licensee, or any or all of them, under any
45 similar management agreement, or authorized wager-
46 ing enterprise in this or any other state;

47 (6) Whether any principal, officer, director, stock-
48 holder or supervisory or management personnel of the
49 management agent, applicant, licensee, or any or all of
50 them, has been convicted of a felony or is under
51 indictment for the commission of a felony; and

52 (7) Any other area of investigation that the racing
53 commission deems worthwhile in determining the
54 fitness of the management agent, applicant, licensee, or
55 any or all of them.

56 In addition, in approving or disapproving such
57 management agreement the racing commission may
58 consider the terms of the agreement to determine if they
59 are fair and equitable and are in keeping with similar
60 agreements employed in the industry. At any time that
61 there is a change in the management or ownership of
62 a management agent, applicant, licensee, or any or all
63 of them, that the racing commission deems significant,
64 and the racing commission may conduct such further

65 investigation as it may direct.

66 All employees of a management agent, applicant,
67 licensee, or any or all of them, who handle or are in the
68 proximity of moneys evolving from the operation of an
69 off-track wagering facility shall place a fidelity bond
70 with the licensee in amounts to be specified by the
71 racing commission and conditioned upon the honesty,
72 integrity and faithful performance of the management
73 agent and its employees.

§19-24-14. Local referendum election.

1 Approval by the qualified voters of the municipality
2 or county in which the proposed facility is to be
3 established under this article, by referendum shall be
4 required. If the proposed facility receiving tentative
5 approval by the racing commission is proposed for a
6 location within a Class I or II municipality or a Class
7 III municipality having a population of five thousand or
8 more, such an election shall be held within the affected
9 municipality. If the proposed facility receiving tentative
10 approval by the commission is proposed for a location
11 outside any municipality's boundaries, or inside a Class
12 IV municipality, or a Class III municipality having a
13 population of less than five thousand and within a
14 county, such an election shall be held within the entire
15 affected county. Such a referendum may be held at the
16 same time as a primary, general or special election
17 within the affected municipality or county; however, in
18 no event shall such an election be held less than thirty
19 days following the first publication of tentative approval
20 of the license and construction permit application by the
21 racing commission as set forth in section five of this
article.

**§19-24-15. Local referendum election procedure; form of
ballots or ballot labels.**

1 (a) Upon the publication of notice of tentative appro-
2 val of the license and construction permit by the racing
3 commission in accordance with the provisions of section
4 five of this article, the county commission of the county
5 or the clerk of the municipality, whichever is approp-
6 priate under the provisions of section thirteen of this

7 article, in which all or any integral part of a proposed
8 off-track facility for wagering on horse races is to be
9 constructed or established is hereby required to call a
10 local referendum election for the purpose of determining
11 the will of the qualified voters within said county or
12 municipality as to the construction or establishment of
13 all or any integral part of such off-track facility for
14 wagering on horse races within said county or munic-
15 ipality. Upon such notice of tentative approval of the
16 license application and construction permit, the county
17 commission or municipal clerk shall enter an order
18 calling for a local referendum election and providing
19 that the same shall be held at not less than thirty days
20 from the date of the initial publication of the notice of
21 tentative approval. A copy of the order so entered by the
22 county commission or municipal clerk shall be served
23 upon the racing commission and the racing commission
24 shall take no further action in connection with the
25 issuance of such construction permit until said local
26 referendum election shall be held. Said county commis-
27 sion or municipal clerk shall give notice of such local
28 referendum election by publication of such notice as a
29 Class II-0 legal advertisement in compliance with the
30 provisions of article three, chapter fifty-nine of this code;
31 and the publication area for such publication shall be
32 the county or municipality as is appropriate. Such notice
33 shall be so published within fourteen consecutive days
34 next preceding the date of said election.

35 (b) The local referendum election ballots, or ballot
36 labels where voting machines are used, shall have
37 printed thereon substantially the following:

38 "Shall the West Virginia Racing Commission issue a
39 permit authorizing the construction or establishment of
40 an off-track facility for wagering on horse races, and the
41 pari-mutuel system of wagering permitted and con-
42 ducted in (City or County)?

43 Yes

44 No

45 (Place a cross mark in the square opposite your
46 choice)"

47 (c) Each individual qualified to vote in said county or
 48 municipality at a primary, general or special election
 49 shall likewise be qualified to vote at the local referen-
 50 dum election. Election officers shall be appointed and
 51 qualified to conduct said local referendum election. The
 52 votes in said local referendum election shall be counted
 53 and returns made by the election officers, the results
 54 certified by the commissioners of election to said county
 55 commission or municipal clerk who shall canvass the
 56 ballots, all in accordance with the laws of this state
 57 relating to primary, general and special elections
 58 insofar as the same are applicable. The county commis-
 59 sion or the municipal clerk as is appropriate, shall,
 60 without delay, canvass the votes cast at such local option
 61 election and certify the results thereof to the racing
 62 commission.

§19-24-16. Issuance or nonissuance of construction permit; duration of construction permit; transfer and assignment of construction permit.

1 (a) The racing commission shall, after the certifica-
 2 tion of the results of such local referendum election,
 3 issue such construction permit if a majority of the legal
 4 votes cast at such election were in favor of the issuance
 5 of a construction permit. If a majority of the legal votes
 6 cast at such election were opposed to the issuance of a
 7 construction permit, the racing commission shall not
 8 issue a construction permit.

9 (b) A construction permit issued as aforesaid shall
 10 remain valid only for a three-month period, except that
 11 if the racing commission is satisfied that the construc-
 12 tion permit holder has in good faith started and is
 13 continuing construction of the proposed off-track
 14 wagering facility the racing commission may extend the
 15 construction permit for additional successive three-
 16 month periods, but in no event shall the aggregate time
 17 of such construction permit exceed a period of twenty-
 18 four months from the date of issuance of the construc-
 19 tion permit.

20 (c) No construction permit which may be or has been

21 issued under provisions of this article shall be trans-
22 ferred or assigned in any manner whatsoever without
23 the written consent of the racing commission.

§19-24-17. Economic development commission.

1 Any county or municipality within which an applicant
2 receives authority from the state racing commission to
3 construct and operate a facility for off-track wagering
4 on horse races is hereby authorized to establish an
5 economic development commission, hereinafter referred
6 to as the "commission" in this section. Such commission
7 shall be formed by an ordinance or order, as approp-
8 riate, by the governmental body establishing the same.
9 Each commission, when created, shall be a public
10 corporation and shall have perpetual existence.

11 All property, powers and duties and the management
12 and control of each commission shall be vested in a
13 board consisting of representatives appointed by the
14 governmental body creating and establishing such
15 commission. Such board shall consist of not less than
16 five members to be appointed by the county commission
17 or municipal council as is appropriate. All members of
18 any board shall be appointed for terms of four years.
19 Prior to making the initial appointments to the board,
20 the governmental body shall make such initial appoint-
21 ments so that one of the members of the board shall be
22 appointed for a term of one year, one of the members
23 of the board shall be appointed for a term of two years,
24 one of the members of the board shall be appointed for
25 a term of three years, two of the members of the board
26 shall be appointed for a term of four years. As the term
27 of each such initial appointee expires the successor to
28 fill the vacancy created by such expired term may be
29 appointed for one additional four-year term.

30 The ordinance or order creating an economic devel-
31 opment commission may provide for the manner of
32 appointments to the membership of such commission by
33 the governmental body creating such commission,
34 which, in the case of a county, shall be the county
35 commission or other tribunal in lieu thereof and, in the
36 case of a municipality, shall be the governing body

37 thereof.

38 If any member of any board die, resign or for any
39 reason cease to be a member of the board, the govern-
40 mental body which such member represented shall
41 appoint another individual to fill the unexpired portion
42 of the term of such member. No more than two thirds
43 of the total number of members of the board of each
44 commission shall be from the same political party and
45 no member of any such board shall hold any office, other
46 than the office of notary public, or employment from the
47 state of West Virginia, any county political subdivision
48 thereof, or any political party. All members of any board
49 shall be residents of the municipality or county for
50 which appointed. No member of any board shall receive
51 any compensation for his services as such, but each
52 member shall be reimbursed by the commission for any
53 reasonable and necessary expenses actually incurred in
54 the discharge of his duties as a member of the board.

55 Each such commission shall have plenary power and
56 authority to:

57 (a) Sue and be sued;

58 (b) Contract and be contracted with;

59 (c) Adopt, use and alter common seal;

60 (d) Make and adopt all necessary, appropriate and
61 lawful bylaws and rules and regulations pertaining to
62 its affairs;

63 (e) Elect such officers, appoint such committees and
64 agents and employ and fix the compensation of such
65 employees and contractors as may be necessary for the
66 conduct of the affairs and operations of the commission;

67 (f) (1) Acquire, purchase, own and hold any property
68 real or personal, and (2) acquire, construct, equip,
69 maintain, and operate public buildings, structures,
70 projects and appurtenant facilities, of any type or types
71 for which the governmental body creating such
72 commission are permitted by law to expend public funds
73 (all hereinafter in this article referred to as facilities);

74 (g) Apply for, receive and use grants-in-aid, donations

75 and contributions from any source or sources, including,
76 but not limited to, the United States of America, or any
77 department or agency thereof, and accept and use
78 bequests, devises, gifts and donations from any source
79 whatsoever;

80 (h) Sell, encumber or dispose of any property, real or
81 personal;

82 (i) Issue negotiable bonds, notes, debentures or other
83 evidences of indebtedness and provide for the rights of
84 the holders thereof, incur any proper indebtedness and
85 issue any obligations and give any security therefor
86 which it may deem necessary or advisable in connection
87 with exercising powers as provided herein;

88 (j) Accept funds from the operation of an off-track
89 wagering facility;

90 (k) Expend funds for the construction of any facility
91 or enterprise that such commission deems will contrib-
92 ute to the economic development of the municipality or
93 county by way of stimulating commerce, creating
94 employment or inuring to economic development and
95 property;

96 (l) Lease its property or any part thereof, for public
97 purposes, to such persons and upon such terms as such
98 commission deems proper, but when any municipality
99 or county commission is a lessee under any such lease,
100 such lease must contain a provision granting to such
101 municipality or county commission the option to
102 terminate such lease during any fiscal year covered
103 thereby; and

104 (m) Do all things reasonable and necessary to carry
105 out the foregoing powers.

106 No constitutional or statutory limitation with respect
107 to the nature or amount of or rate of interest on
108 indebtedness which may be incurred by municipalities,
109 counties or other public or governmental bodies shall
110 apply to the indebtedness of a commission. No
111 indebtedness of any nature of a commission shall
112 constitute an indebtedness of any municipality or county
113 creating and establishing such commission or a charge

114 against any property of said municipalities or counties.
115 No indebtedness or obligation incurred by any commis-
116 sion shall give any right against any member of the
117 governing body of any municipality or any member of
118 the county commission of any county or any member of
119 the board of any commission. The rights of creditors of
120 any commission shall be solely against the commission
121 as a corporate body and shall be satisfied only out of
122 property held by it in its corporate capacity.

123 If a commission should realize a surplus over and
124 above the amount required for the improvement,
125 maintenance and operation of its facilities and for
126 meeting all required payments on its obligations, it shall
127 set aside such reserve for future improvements, main-
128 tenance, operations and contingencies as it shall deem
129 proper and may then apply the residue of such surplus,
130 if any, to the payment of any recognized and established
131 obligations not then due, and after all such recognized
132 and established obligations have been paid and
133 discharged in full, the commission shall, at the end of
134 each fiscal year, set aside the reserve for future
135 improvements, maintenance, operations and contingen-
136 cies, as foresaid, and then pay the residue of such
137 surplus, if any, to the governmental bodies creating and
138 establishing such commission.

139 Each such commission shall be exempt from the
140 payment of any taxes or fees to the state or any
141 subdivisions thereof or any municipalities or to any
142 officer or employee of the state or of any subdivision
143 thereof or of any municipality. The property of each
144 commission shall be exempt from all municipal and
145 county taxes and bonds, notes, debentures and other
146 evidences of indebtedness, together with the interest
147 thereon, of each commission are declared to be issued
148 for a public purpose and to be public instrumentalities,
149 and, together with interest thereon.

150 All funds received by each such commission shall be
151 deposited in a banking institution or banking institu-
152 tions as the board may direct and shall be withdrawn
153 therefrom in such manner as the board may direct.
154 Each commission shall keep strict account of all of its

155 receipts and expenditures and shall each quarter make
156 a quarterly report thereon to the municipalities,
157 counties and persons which have made contributions to
158 it, and such report shall contain an itemized account of
159 its receipts and disbursements during the preceding
160 quarter. Such report shall be made within sixty days
161 after the termination of the quarter. Within sixty days
162 after the end of each fiscal year, each such commission
163 shall make an annual report containing an itemized
164 statement of its receipts and disbursements for the
165 preceding fiscal year and publish the same as a Class
166 II-0 legal advertisement in compliance with the provi-
167 sions of article three, chapter fifty-nine of this code, and
168 the publication area for such publication shall be each
169 county in which the commission's facilities are located.
170 The books, records and accounts of each such
171 commission shall be subject to audit and examination by
172 the state tax commissioner and by other proper public
173 official or body in the manner provided by law.

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

Bruce O. Williams

Chairman Senate Committee

Floyd Fulbe

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Fred C. Melhi

Clerk of the Senate

Donald T. Vapp

Clerk of the House of Delegates

Sam Tomlin

President of the Senate

Joseph P. Allright

Speaker of the House of Delegates

The within *enrolled* this the *26th*
third
day of _____, 1986.

Archie Alesh

Governor

PRESENTED TO THE
GOVERNOR

Date 3/20/86

Time 3:00 p.m.

LEGISLATIVE OFFICE OF
THE GOVERNOR OF THE STATE OF
MISSISSIPPI

THIS DATE 3/26/86

RECEIVED

1986 MAR 26 AM 10:09

SECRETARY OF STATE