

Veto-1773

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

— ● —

## ENROLLED

Committee Substitute for  
HOUSE BILL No. 1773

(By ~~MR~~ 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)

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[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-hundreths percent of all money wagered  
27 plus an additional amount equal to one and seventy-five  
28 one-hundreths 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 hundreths 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; investigations; 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 riate 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 per-  
 mit; 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 appropri-  
8 ate, 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 Fulber*

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

*Mass. Tontarini*

President of the Senate

*Joseph P. Allright*

Speaker of the House of Delegates

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

*Andrew Thompson*

Governor

PRESENTED TO THE  
GOVERNOR

Date 3/20/86

Time 3:00 p.m.

LEADERSHIP OFFICE OF  
THE PEOPLE'S STATE OF  
MISSISSIPPI

THIS DATE 3/26/86

RECEIVED  
1986 MAR 26 AM 10:09  
SECRETARY OF STATE