

SB 657

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

SENATE BILL NO. 657
(Originating in the Committee
~~on~~ on Finance)



PASSED March 11, 2000
In Effect ninety days from Passage

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Senate Bill No. 657

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AN ACT to amend and reenact section three, article one, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section ten, article twenty-two-a of said chapter, all relating to the grants for competitive arts program fund; establishing the cultural facilities and capital resources grant matching program; and dedicating moneys from the state lottery to the fund.

Be it enacted by the Legislature of West Virginia:

That section three, article one, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section ten, article twenty-two-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

§29-1-3. Commission on the arts.

1 (a) The commission on the arts is continued and shall be
2 composed of fifteen appointed members.

3 (b)(1) The governor shall appoint, by and with the advice
4 and consent of the Senate, the members of the commission
5 for staggered terms of three years. A person appointed to
6 fill a vacancy shall be appointed only for the remainder of
7 that term.

8 (2) No more than eight members may be of the same
9 political party. Members of the commission shall be
10 appointed so as to fairly represent both sexes, the ethnic
11 and cultural diversity of the state and the geographic
12 regions of the state.

13 (3) The commission shall elect one of its members as
14 chair. It shall meet at the times specified by the chair.
15 Notice of each meeting shall be given to each member by
16 the chair in compliance with the open meetings laws of the
17 state. A majority of the members constitute a quorum for
18 the transaction of business. The director of the arts
19 section shall be an ex officio nonvoting member of the
20 commission and shall serve as secretary. The director or
21 a majority of the members may also call a meeting upon
22 notice as provided in this section.

23 (4) Each member or ex officio member of the commission
24 shall serve without compensation, but shall be reimbursed
25 for all reasonable and necessary expenses actually in-
26 curred in the performance of the duties of the office;
27 except that in the event the expenses are paid, or are to be
28 paid, by a third party, the member or ex officio member,
29 as the case may be, shall not be reimbursed by the state.

30 (5) Upon recommendation of the commissioner, the
31 governor may also appoint those officers of the state that

32 are appropriate to serve on the commission as ex officio
33 nonvoting members.

34 (c) The commission has the following powers:

35 (1) To advise the commissioner and the director of the
36 arts section concerning the accomplishment of the pur-
37 poses of that section and to establish a state plan with
38 respect to the arts section;

39 (2) To approve and distribute grants-in-aid and awards
40 from federal and state funds relating to the purposes of the
41 arts section;

42 (3) To request, accept or expend federal funds to accom-
43 plish the purposes of the arts section when federal law or
44 regulations would prohibit the same by the commissioner
45 or section director, but would permit the same to be done
46 by the commission on the arts;

47 (4) To otherwise encourage and promote the purposes of
48 the arts section;

49 (5) To approve rules concerning the professional policies
50 and functions of the section as promulgated by the director
51 of the arts section; and

52 (6) To advise and consent to the appointment of the
53 director by the commissioner.

54 (d) There is created in the state treasury a special
55 revenue account created by the amendment to this section
56 in one thousand nine hundred ninety-nine and hereby
57 continued and redesignated as the "cultural facilities and
58 capital resources matching grant program fund". The
59 fund shall consist of moneys received under section ten,
60 article twenty-two-a of this chapter and funds from any
61 other source. Moneys in the fund shall be expended for
62 capital improvements: *Provided*, That the commission
63 shall make a women's veterans memorial statue a priority

64 statue a priority when expending the funds: *Provided,*
65 *however,* That the commission shall submit the plans for
66 the statue to the secretary of administration for his or her
67 approval. The commission on the arts shall propose rules
68 for legislative approval in accordance with the provisions
69 of article three, chapter twenty-nine-a of this code, to
70 create a matching grant program for cultural facilities and
71 capital resources;

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-10. Accounting and reporting; commission to provide communications protocol data; distribution of net terminal income; remittance through electronic transfer of funds; establishment of accounts and nonpayment penalties; commission control of accounting for net terminal income; settlement of accounts; manual reporting and payment may be required; request for reports; examination of accounts and records.

1 (a) The commission shall provide to manufacturers, or
2 applicants applying for a manufacturer's permit, the
3 protocol documentation data necessary to enable the
4 respective manufacturer's video lottery terminals to
5 communicate with the commission's central computer for
6 transmitting auditing program information and for
7 activation and disabling of video lottery terminals.

8 (b) The gross terminal income of a licensed racetrack
9 shall be remitted to the commission through the electronic
10 transfer of funds. Licensed racetracks shall furnish to the
11 commission all information and bank authorizations
12 required to facilitate the timely transfer of moneys to the
13 commission. Licensed racetracks must provide the com-
14 mission thirty days' advance notice of any proposed
15 account changes in order to assure the uninterrupted
16 electronic transfer of funds. From the gross terminal
17 income remitted by the licensee to the commission, the

18 commission shall deduct an amount sufficient to reimburse
19 the commission for its actual costs and expenses incurred
20 in administering racetrack video lottery at the licensed
21 racetrack and the resulting amount after such deduction
22 shall be the net terminal income. The amount deducted for
23 administrative costs and expenses of the commission may
24 not exceed four percent of gross terminal income.

25 (c) Net terminal income shall be divided as set out in this
26 subsection. The licensed racetrack's share shall be in lieu
27 of all lottery agent commissions and is considered to cover
28 all costs and expenses required to be expended by the
29 licensed racetrack in connection with video lottery opera-
30 tions. The division shall be made as follows:

31 (1) The commission shall receive thirty percent of net
32 terminal income, which shall be paid into the general
33 revenue fund of the state to be appropriated by the
34 Legislature;

35 (2) Fourteen percent of net terminal income at a licensed
36 racetrack shall be deposited in the special fund established
37 by the licensee, and used for payment of regular purses in
38 addition to other amounts provided for in article
39 twenty-three, chapter nineteen of this code;

40 (3) The county where the video lottery terminals are
41 located shall receive two percent of the net terminal
42 income: *Provided, That:*

43 (A) Beginning the first day of July, one thousand nine
44 hundred ninety-nine, and thereafter, any amount in excess
45 of the two percent received during fiscal year one thou-
46 sand nine hundred ninety-nine by a county in which a
47 racetrack is located that has participated in the West
48 Virginia thoroughbred development fund since on or
49 before the first day of January, one thousand nine hundred
50 ninety-nine, shall be divided as follows:

51 (i) The county shall receive fifty percent of the excess
52 amount; and

53 (ii) The municipalities of the county shall receive fifty
54 percent of the excess amount, said fifty percent to be
55 divided among the municipalities on a per capita basis as
56 determined by the most recent decennial United States
57 census of population; and

58 (B) Beginning the first day of July, one thousand nine
59 hundred ninety-nine, and thereafter, any amount in excess
60 of the two percent received during fiscal year one thou-
61 sand nine hundred ninety-nine by a county in which a
62 racetrack other than a racetrack described in paragraph
63 (A) of this proviso is located and where the racetrack has
64 been located in a municipality within the county since on
65 or before the first day of January, one thousand nine
66 hundred ninety-nine, shall be divided, if applicable, as
67 follows:

68 (i) The county shall receive fifty percent of the excess
69 amount; and

70 (ii) The municipality shall receive fifty percent of the
71 excess amount; and

72 (C) This proviso shall not affect the amount to be
73 received under this subdivision by any county other than
74 a county described in paragraph (A) or (B) of this proviso;

75 (4) One half of one percent of net terminal income shall
76 be paid for and on behalf of all employees of the licensed
77 racing association by making a deposit into a special fund
78 to be established by the racing commission to be used for
79 payment into the pension plan for all employees of the
80 licensed racing association;

81 (5) The West Virginia thoroughbred development fund
82 created under section thirteen-b, article twenty-three,

83 chapter nineteen of this code and the West Virginia
84 greyhound breeding development fund created under
85 section ten, article twenty-three, chapter nineteen of this
86 code shall receive an equal share of a total of not less than
87 one and one-half percent of the net terminal income:
88 *Provided*, That for any racetrack which does not have a
89 breeder's program supported by the thoroughbred devel-
90 opment fund or the greyhound breeding development fund,
91 the one and one-half percent provided for in this subdivi-
92 sion shall be deposited in the special fund established by
93 the licensee and used for payment of regular purses, in
94 addition to other amounts provided for in subdivision (2)
95 of this subsection and article twenty-three, chapter
96 nineteen of this code;

97 (6) The West Virginia thoroughbred breeders classic shall
98 receive one percent of the net terminal income which shall
99 be used for purses. The moneys shall be deposited in the
100 separate account established for the classic under section
101 thirteen, article twenty-three, chapter nineteen of this
102 code;

103 (7) A licensee shall receive forty-seven percent of net
104 terminal income;

105 (8) The tourism promotion fund established in section
106 twelve, article two, chapter five-b of this code shall receive
107 three percent of the net terminal income; and

108 (9) The veterans memorial program shall receive one
109 percent of the net terminal income until sufficient moneys
110 have been received to complete the veterans memorial on
111 the grounds of the state capitol complex in Charleston,
112 West Virginia. The moneys shall be deposited in the state
113 treasury in the division of culture and history special fund
114 created under section three, article one-i of this chapter:
115 *Provided*, That only after sufficient moneys have been
116 deposited in the fund to complete the veterans memorial

117 and to pay in full the annual bonded indebtedness on the
118 veterans memorial, not more than twenty thousand dollars
119 of the one percent of net terminal income provided for in
120 this subdivision shall be deposited into a special revenue
121 fund in the state treasury, to be known as the "John F.
122 'Jack' Bennett fund". The moneys in this fund shall be
123 expended by the division of veterans affairs to provide for
124 the placement of markers for the graves of veterans in
125 perpetual cemeteries in this state. The division of veterans
126 affairs shall promulgate legislative rules pursuant to the
127 provisions of article three, chapter twenty-nine-a of this
128 code specifying the manner in which the funds are spent,
129 determine the ability of the surviving spouse to pay for the
130 placement of the marker and setting forth the standards to
131 be used to determine the priority in which the veterans
132 grave markers will be placed in the event that there are
133 not sufficient funds to complete the placement of veterans
134 grave markers in any one year, or at all. Upon payment in
135 full of the bonded indebtedness on the veterans memorial,
136 one hundred thousand dollars of the one percent of net
137 terminal income provided for in this subdivision shall be
138 deposited in the special fund in the division of culture and
139 history created under section three, article one-i of this
140 chapter and be expended by the division of culture and
141 history to establish a West Virginia veterans memorial
142 archives within the cultural center to serve as a repository
143 for the documents and records pertaining to the veterans
144 memorial, to restore and maintain the monuments and
145 memorial on the capitol grounds, and not more than
146 twenty thousand dollars be deposited in the "John F.
147 'Jack' Bennett fund": *Provided, however,* That five
148 hundred thousand dollars of the one percent of net termi-
149 nal income shall be deposited in the state treasury in a
150 special fund of the department of administration, created
151 under section five, article four, chapter five-a of this code
152 to be used for construction and maintenance of a parking
153 garage on the state capitol complex: *Provided further,*

154 That the remainder of the one percent of net terminal
155 income shall be deposited in equal amounts in the capitol
156 dome and improvements fund created under section two,
157 article four, chapter five-a of this code and the cultural
158 facilities and capitol resources matching grant program
159 fund created under section three, article one of this
160 chapter.

161 (d) Each licensed racetrack shall maintain in its account
162 an amount equal to or greater than the gross terminal
163 income from its operation of video lottery machines, to be
164 electronically transferred by the commission on dates
165 established by the commission. Upon a licensed race-
166 track's failure to maintain this balance, the commission
167 may disable all of a licensed racetrack's video lottery
168 terminals until full payment of all amounts due is made.
169 Interest shall accrue on any unpaid balance at a rate
170 consistent with the amount charged for state income tax
171 delinquency under chapter eleven of this code, which
172 interest shall begin to accrue on the date payment is due to
173 the commission.

174 (e) The commission's central control computer shall keep
175 accurate records of all income generated by each video
176 lottery terminal. The commission shall prepare and mail
177 to the licensed racetrack a statement reflecting the gross
178 terminal income generated by the licensee's video lottery
179 terminals. Each licensed racetrack must report to the
180 commission any discrepancies between the commission's
181 statement and each terminal's mechanical and electronic
182 meter readings. The licensed racetrack is solely responsi-
183 ble for resolving income discrepancies between actual
184 money collected and the amount shown on the accounting
185 meters or on the commission's billing statement.

186 (f) Until an accounting discrepancy is resolved in favor
187 of the licensed racetrack, the commission may make no
188 credit adjustments. For any video lottery terminal reflect-

189 ing a discrepancy, the licensed racetrack shall submit to
190 the commission the maintenance log which includes
191 current mechanical meter readings and the audit ticket
192 which contains electronic meter readings generated by the
193 terminal's software. If the meter readings and the commis-
194 sion's records cannot be reconciled, final disposition of the
195 matter shall be determined by the commission. Any
196 accounting discrepancies which cannot be otherwise
197 resolved shall be resolved in favor of the commission.

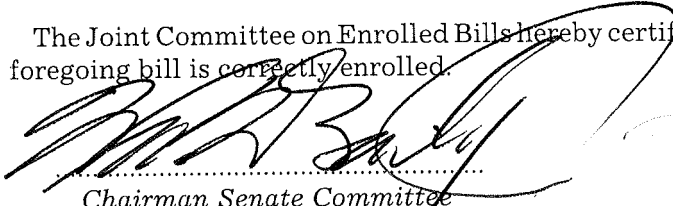
198 (g) Licensed racetracks shall remit payment by mail if
199 the electronic transfer of funds is not operational or the
200 commission notifies licensed racetracks that remittance by
201 this method is required. The licensed racetracks shall
202 report an amount equal to the total amount of cash
203 inserted into each video lottery terminal operated by a
204 licensee, minus the total value of game credits which are
205 cleared from the video lottery terminal in exchange for
206 winning redemption tickets, and remit such amount as
207 generated from its terminals during the reporting period.
208 The remittance shall be sealed in a properly addressed and
209 stamped envelope and deposited in the United States mail
210 no later than noon on the day when the payment would
211 otherwise be completed through electronic funds transfer.

212 (h) Licensed racetracks may, upon request, receive
213 additional reports of play transactions for their respective
214 video lottery terminals and other marketing information
215 not considered confidential by the commission. The
216 commission may charge a reasonable fee for the cost of
217 producing and mailing any report other than the billing
218 statements.

219 (i) The commission has the right to examine all accounts,
220 bank accounts, financial statements and records in a
221 licensed racetrack's possession, under its control or in
222 which it has an interest and the licensed racetrack must
223 authorize all third parties in possession or in control of the

224 accounts or records to allow examination of any of those
225 accounts or records by the commission.

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



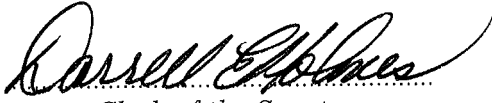
Chairman Senate Committee



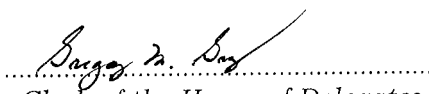
Chairman House Committee

Originated in the Senate.

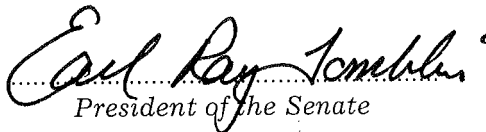
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

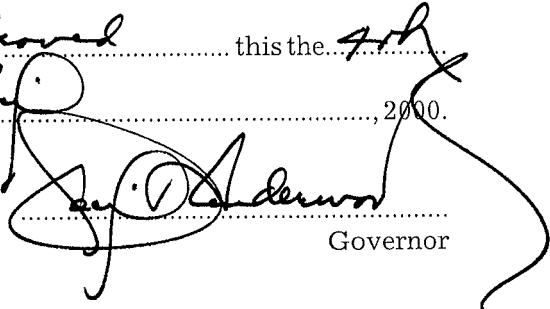


President of the Senate



Speaker House of Delegates

The within... *approved* ... this the... *7th* ...
Day of ... *April* ..., 2000.



Governor

PRESENTED TO THE

GOVERNOR,

Date 3/31/00

Time 4:15 pm