

HB 4402

FILED

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OFFICE OF THE
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4402

(By Delegates Morgan, Hutchins and Palumbo)



Passed March 8, 2008

In Effect Ninety Days from Passage

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H. B. 4402

(BY DELEGATES MORGAN, HUTCHINS AND PALUMBO)

[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §29-22A-19 of the Code of West Virginia, 1931, as amended, relating to compulsive gambling; authorizing the Department of Health and Human Resources to bid and award contracts for treatment programs; requiring development of procedures; establishing contract requirements; requiring post award conferences; providing for performance monitoring; prohibiting interference with operation of program; prohibiting use of Lottery Commission logo on advertising media; and requiring annual report.

Be it enacted by the Legislature of West Virginia:

That §29-22A-19 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-19. Compulsive gambling treatment fund; contract requirements for compulsive gamblers treatment program.

1 (a) There is hereby created and established a separate
2 special account to be known as the "Compulsive Gambling
3 Treatment Fund". The fund shall be appropriated from the
4 Commission's administrative expense account and shall be
5 not less than one hundred fifty thousand dollars nor more
6 than five hundred thousand dollars per fiscal year, as
7 determined by the Commission, as well as other amounts
8 designated for in this chapter to provide funds for compulsive
9 gambling treatment programs in the state.

10 (b) The Department of Health and Human Resources
11 shall administer the grants and funds issued from the
12 "Compulsive Gambling Treatment Fund".

13 (c) The Department of Health and Human Resources
14 shall develop criteria consistent with this section which a
15 treatment program for compulsive gamblers must meet in
16 order to become eligible for a grant from the funds made
17 available for treatment programs pursuant to this provision.
18

19 (d) The Department of Health and Human Resources is
20 not subject to the purchasing requirements as set forth in the
21 legislative rule of the Purchasing Division of the Department
22 of Administration: *Provided*, That the Department of Health
23 and Human Resources shall comply with all contract
24 requirements set forth in this section.

25 (e) The Department of Health and Human Resources
26 shall develop procedures for bidding and awarding the
27 contract, which must include:

28 (1) The procedures to be followed for submitting bids and
29 the procedures for making awards;

30 (2) The proposed general terms and conditions for the
31 contract;

32 (3) The description of the commodities and services
33 required for the contract, with sufficient clarity to assure that
34 there is a comprehensive understanding of the project's scope
35 and requirements, including, but not limited to, the following
36 elements:

37 (A) Services to be provided, including education,
38 prevention, crisis intervention, outreach, assessment, referral
39 and treatment for problem gamblers, and protocols for
40 emergency treatment;

41 (B) Requirements for the business and professional
42 licensing of providers, parameters for media-related
43 advertising and public service announcements;

44 (C) Training, licensing, monitoring, evaluation and
45 reporting requirements;

46 (D) Requirements for maintaining the confidentiality of
47 the client population; and

48 (E) Rights to conduct financial and performance audits;

49 (4) A proposed time schedule commencement and
50 completion of the contract;

51 (5) A budget for the contract;

52 (6) Requirements or restrictions for the subletting of
53 specific portions of the contract, if any; and

54 (7) Requirements for professional liability and other
55 insurance coverage.

56 (f) The Department of Health and Human Resources may
57 award the contract based on low bid, best value, sole source
58 or other basis, or may choose to reject all bids and reissue an
59 invitation for bids: *Provided*, That the Department of Health
60 and Human Resources shall document the basis of its
61 decisions under this subsection and shall report its decisions
62 in the annual report required in subsection (j) of this section.

63 (g) The Department of Health and Human Resources
64 shall hold a post award conference with the contractor to
65 ensure a clear and mutual understanding of all contract terms
66 and conditions, and the respective responsibilities of all
67 parties. The agenda for the conference shall include, at a
68 minimum, the introduction of all participants and
69 identification of department and contractor key personnel,
70 and discussion of the following items:

71 (1) The scope of the contract, including specifications of
72 requirements set forth in the bid request;

73 (2) The contract terms and conditions, particularly any
74 special contract provisions;

75 (3) The technical and reporting requirements of the
76 contract;

77 (4) The contract administration procedures, including
78 contract monitoring and progress measurement;

79 (5) The rights and obligations of both parties and the
80 contractor performance evaluation procedures;

81 (6) An explanation that the contractor will be evaluated
82 on its performance both during and at the conclusion of the
83 contract and that such information may be considered in the
84 selection of future contracts;

85 (7) Potential contract problem areas and possible
86 solutions;

87 (8) Invoicing requirements and payment procedures, with
88 particular attention to whether payment will be made
89 according to outcomes achieved by the contractor; and

90 (9) An explanation of the limits of authority of the
91 personnel of both the department and the contractor.

92 (h) The Department of Health and Human Resources
93 shall develop a comprehensive and objective monitoring
94 checklist which:

95 (1) Measures treatment outcomes;

96 (2) Monitors compliance with contract requirements; and

97 (3) Assesses contractor performance on a quarterly and
98 annual basis.

99 (i) The Commission may not influence or interfere with
100 the operation of the program or the advertising and marketing
101 decisions of the contractor.

102 (j) The Department of Health and Human Resources may
103 monitor contract performance, review compliance with the
104 contract's terms and conditions, request and review pertinent
105 information in support of tendered invoices and conduct other
106 investigation so as to enable it to properly assess whether the
107 project's objectives and the contract's terms and conditions

108 are being met. However, the Department of Health and
109 Human Resources may not unduly influence or interfere with
110 the operation of the program or the advertising and marketing
111 decisions of the contractor.

112 (k) Once any contract to render services under a
113 compulsive gambling treatment program is awarded pursuant
114 to this section, the contract shall be administrated by the
115 Department of Health and Human Resources, and the
116 department shall maintain all records pertaining to each
117 request for reimbursement and disbursement for under said
118 contract for a minimum of five (5) years.

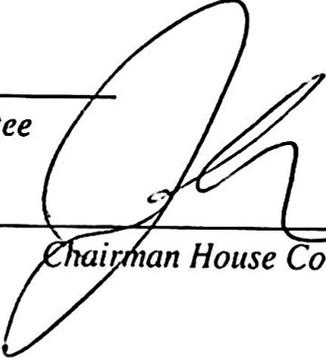
119 (l) The contractor may prominently promote, display or
120 advertise the Compulsive Gambler's Treatment Program, its
121 purpose, its hotline or its program events in any location in
122 which the Lottery Commission promotes, displays, advertises
123 or conducts operations or in any other location: *Provided,*
124 That the Lottery Commission's name, logo or other indicia
125 may not appear on any advertising, marketing or promotional
126 material of the contractor.

127 (m) The Department of Health and Human Resources
128 shall report annually to the Joint Committee on Government
129 and Finance on the amount of program funds distributed, the
130 amount of administrative fee retained by the department and
131 its use of the fee, the number of persons served by the
132 program, and on each requirement set forth in this section.

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



Chairman Senate Committee



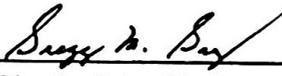
Chairman House Committee

Originating in the House.

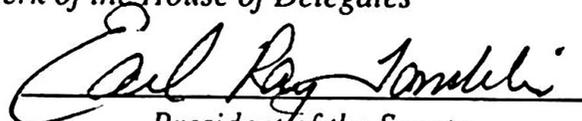
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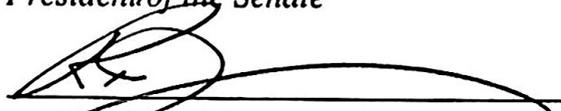
Clerk of the Senate



Clerk of the House of Delegates

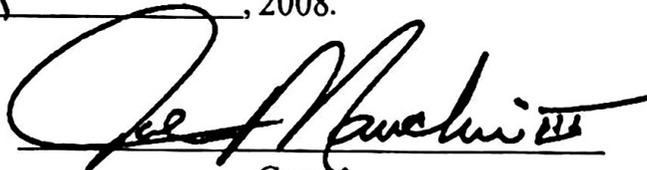


President of the Senate



Speaker of the House of Delegates

The within is approved this the 28th
day of March, 2008.



Governor

PRESENTED TO THE
GOVERNOR

MAR 25 2008

Time 10:20am