

Senate Bill No. 525

(By Senators Snyder and Unger)

[Introduced February 16, 2011; referred to the Committee on
Government Organization; and then to the Committee on Finance.]

A BILL to amend and reenact §29-22C-27 of the Code of West
Virginia, 1931, as amended, relating to use of lottery funds
for purposes of public projects.

Be it enacted by the Legislature of West Virginia:

That §29-22C-27 of the Code of West Virginia, 1931, as
amended, be amended and reenacted to read as follows:

ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES ACT.

**§29-22C-27. West Virginia Lottery Racetrack Table Games Fund;
Community-Based Service Fund; State Debt Reduction
Fund; distribution of funds.**

(a) (1) The special fund in the State Treasury known as the
West Virginia Lottery Racetrack Table Games Fund is continued and
all tax collected under this article shall be deposited with the
State Treasurer and placed in the West Virginia Lottery Racetrack
Table Games Fund. The fund shall be an interest-bearing account

1 with all interest or other return earned on the money of the fund
2 credited to and deposited in the fund.

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

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

15 (1) Retain an amount for the administrative expenses of the
16 commission as determined by the commission in accordance with
17 subsection (e) of this section;

18 (2) Transfer two and one-half percent of adjusted gross
19 receipts from all thoroughbred racetracks with West Virginia
20 Lottery table games to the special funds established by each
21 thoroughbred racetrack table games licensees for the payment of
22 regular racetrack purses, the amount being divided on a pro rata
23 basis between the special funds of each thoroughbred racetrack
24 table games licensee and transfer two and one-half percent of

1 adjusted gross receipts from all greyhound racetracks with West
2 Virginia Lottery table games to the special funds established by
3 each greyhound racetrack table games licensees for the payment of
4 regular racetrack purses, the amount being divided equally between
5 the special funds of each greyhound racetrack table games licensee;

6 (3) Transfer two percent of the adjusted gross receipts from
7 all licensed racetracks to the West Virginia Thoroughbred
8 Development Fund created under section thirteen-b, article twenty-
9 three, chapter nineteen of this code and the West Virginia
10 Greyhound Breeding Development Fund created under section ten,
11 article twenty-three, chapter nineteen of this code. The total
12 amount transferred under this subdivision shall be divided pro rata
13 among the development funds for each racetrack table games licensee
14 based on relative adjusted receipts from each racetrack. The
15 amounts transferred to these funds may not be used for the benefit
16 of any person or activity other than at or associated with a
17 racetrack table games licensee;

18 (4) Transfer one percent of the adjusted gross receipts from
19 each licensed racetrack to the county commissions of the counties
20 where racetracks with West Virginia Lottery table games are
21 located. County commissions may pledge this money to make payments
22 on lottery revenue bonds issued pursuant to article two-h, chapter
23 thirteen of this code. The one percent transferred under this
24 subdivision shall be divided pro rata among the counties with a

1 racetrack with West Virginia Lottery table games based on relative
2 adjusted gross receipts from each county's racetrack: *Provided,*
3 That the county board of education of a growth county, as that term
4 is defined in section three, article twenty, chapter seven of this
5 code, which has enacted the Local Powers Act, and in which county
6 a racetrack is located that has participated in the West Virginia
7 Thoroughbred Development Fund since on or before January 1, 1991,
8 shall receive the one percent of adjusted gross receipts as
9 provided in this subdivision for the purpose of public projects, as
10 defined in section two, article two-h, chapter thirteen of this
11 code or to make payments on lottery revenue bonds issued to finance
12 public projects;

13 (5) Transfer two percent of the adjusted gross receipts from
14 each licensed racetrack to the governing bodies of municipalities
15 within counties where racetracks with West Virginia Lottery table
16 games are located. Municipalities may pledge the money to make
17 payments on lottery revenue bonds issued pursuant to article two-h,
18 chapter thirteen of this code. This money shall be allocated as
19 follows:

20 (A) One half of the amounts transferred under this subdivision
21 shall be allocated to the municipalities within each county having
22 a racetrack table games licensee, based on relative adjusted gross
23 receipts from West Virginia Lottery table games from those
24 racetracks and the total amount allocated to the municipalities

1 within a county shall be divided pro rata among the municipalities
2 based on each municipality's population determined at the most
3 recent United States decennial census of population: *Provided,*
4 That: (i) For each allocation, when a municipality is physically
5 located in two or more counties, only that portion of its
6 population residing in the county where the authorized table games
7 are located shall be considered; (ii) a single municipality in a
8 county where West Virginia Lottery racetrack table games are played
9 may not receive a total share under this paragraph that is in
10 excess of seventy-five percent of the total distribution under this
11 paragraph for the county in which the municipality is located; and
12 (iii) a municipality receiving moneys under this paragraph may not
13 receive an amount which is less than that received by a
14 municipality under provisions of subdivision (4), subsection (d) of
15 this section; and

16 (B) One half of the amounts transferred under this subdivision
17 shall be allocated pro rata to the municipalities within all the
18 counties, having a racetrack table games licensee based on each
19 municipality's population determined at the most recent United
20 States decennial census of population: *Provided,* That: (i) A
21 municipality which received funds above its pro rata share pursuant
22 to subpart (iii), paragraph (A) of this subdivision may not receive
23 an allocation under this paragraph; (ii) for each allocation, when
24 a municipality is physically located in two or more counties, only

1 that portion of its population residing in the county where the
2 authorized table games are located shall be considered; and (iii)
3 a single municipality in a county where West Virginia Lottery
4 racetrack games are played may not receive a total share under this
5 paragraph that is in excess of twenty-five percent of the total
6 transfers under this paragraph: *Provided, however,* That the county
7 board of education of a growth county, as that term is defined in
8 section three, article twenty, chapter seven of this code, which
9 has enacted the Local Powers Act, and in which county a racetrack
10 is located that has participated in the West Virginia Thoroughbred
11 Development Fund since on or before January 1, 1991, shall receive
12 the two percent of adjusted gross receipts as provided in this
13 subdivision for the purpose of public projects, as defined in
14 section two, article two-h, chapter thirteen of this code, or to
15 make payments on lottery revenue bonds issued to finance the public
16 projects;

17 (6) Transfer one half of one percent of the adjusted gross
18 receipts to the governing bodies of municipalities in which a
19 racetrack table games licensee is located. The municipalities
20 shall each receive an equal share of the total amount allocated
21 under this subdivision ~~*Provided,*~~ except that distribution under
22 this subdivision may not be made to any municipality which did not
23 have a licensed racetrack within its municipal boundaries as they
24 existed on January 1, 2007. ~~*Provided, however,*~~ ~~That~~ If no

1 racetrack table games licensee is located within a municipality, a
2 transfer may not be made under this subdivision. The municipality
3 may pledge this money to make payments on lottery revenue bonds
4 issued pursuant to article two-h, chapter thirteen of this code;
5 and

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

9 (c) Beginning with the fiscal year following the licensing of
10 every licensed racetrack to offer West Virginia Lottery racetrack
11 table games under this article, subsection (b) of this section
12 ~~shall be~~ is superseded and replaced by this subsection for
13 distribution of the balances in the fund established by subsection
14 (a) of this section. From the gross amounts deposited into the
15 fund, the commission shall:

16 (1) Retain an amount for the administrative expenses of the
17 commission as determined by the commission in accordance with
18 subsection(e) of this section;

19 (2) Transfer two and one-half percent of adjusted gross
20 receipts from all thoroughbred racetracks with West Virginia
21 Lottery table games to the special funds established by each
22 thoroughbred racetrack table games licensee for the payment of
23 regular racetrack purses, the amount being divided on a pro rata
24 basis between the special funds of each thoroughbred racetrack

1 table games licensee and transfer two and one-half percent of
2 adjusted gross receipts from all greyhound racetracks with West
3 Virginia Lottery table games to the special funds established by
4 each greyhound racetrack table games licensee for the payment of
5 regular racetrack purses, the amount being divided equally between
6 the special funds of each greyhound racetrack table games licensee;

7 (3) Transfer two percent of the adjusted gross receipts from
8 all licensed racetracks to the West Virginia Thoroughbred
9 Development Fund created under section thirteen-b, article twenty-
10 three, chapter nineteen of this code and the West Virginia
11 Greyhound Breeding Development Fund created under section ten,
12 article twenty-three, chapter nineteen of this code. The total
13 amount transferred under this subdivision shall be divided pro rata
14 among the development funds for each racetrack table games licensee
15 based on relative adjusted receipts from each racetrack. The
16 amounts transferred to these funds may not be used for the benefit
17 of any person or activity other than at or associated with a
18 racetrack table games licensee;

19 (4) Transfer two percent of the adjusted gross receipts from
20 each licensed racetrack to the county commissions of the counties
21 where racetracks with West Virginia Lottery table games are
22 located. The money transferred under this subdivision shall be
23 divided pro rata among the counties with a racetrack with West
24 Virginia Lottery table games based on relative adjusted gross

1 receipts from each county's racetrack: *Provided*, That the county
2 board of education of a growth county, as that term is defined in
3 section three, article twenty, chapter seven of this code, which
4 has enacted the Local Powers Act, and in which a racetrack is
5 located that has participated in the West Virginia Thoroughbred
6 Development Fund since on or before January 1, 1991, shall receive
7 one half of that county's share of adjusted gross receipts as
8 provided in this subdivision for the purpose of ~~capital~~
9 ~~improvements~~, public projects, as defined in section two, article
10 two-h, chapter thirteen of this code, or to make payments on
11 lottery revenue bonds issued pursuant to article two-h, chapter
12 thirteen of this code to finance public projects.

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

17 (A) One half of the money transferred by this subdivision
18 shall be allocated to the municipalities within each county, other
19 than a county described in paragraph (C) of this subdivision,
20 having a racetrack table games licensee based on relative adjusted
21 gross receipts from West Virginia Lottery table games from those
22 racetracks and the total amount allocated to the municipalities
23 within a county shall be divided pro rata among the municipalities
24 based on each municipality's population determined at the most

1 recent United States decennial census of population: *Provided,*
2 That: (i) For each allocation, when a municipality is physically
3 located in two or more counties, only that portion of its
4 population residing in the county where the authorized table games
5 are located shall be considered; (ii) a single municipality in a
6 county where West Virginia Lottery racetrack table games are played
7 may not receive a total share under this paragraph that is in
8 excess of seventy-five percent of the total distribution under this
9 paragraph for the county in which the municipality is located; and
10 (iii) a municipality receiving moneys under this paragraph may not
11 receive an amount which is less than that received by a
12 municipality under provisions of subdivision (4), subsection (d) of
13 this section.

14 (B) One half of the money transferred under this subdivision
15 shall be allocated pro rata to the municipalities within all the
16 counties, other than a county described in paragraph (C) of this
17 subdivision, having a racetrack table games licensee based on each
18 municipality's population determined at the most recent United
19 States decennial census of population: *Provided,* That: (i) A
20 municipality which received funds above its pro rata share pursuant
21 to subparagraph (iii), paragraph (A) of this subdivision shall not
22 receive an allocation under this paragraph; (ii) for each
23 allocation, when a municipality is physically located in two or
24 more counties, only that portion of its population residing in the

1 county where the authorized table games are located shall be
2 considered; and (iii) a single municipality in a county where West
3 Virginia Lottery racetrack games are played may not receive a total
4 share under this paragraph that is in excess of twenty-five percent
5 of the total transfers under this paragraph.

6 (C) Notwithstanding the provisions of paragraphs (A) and (B)
7 of this subdivision, when a racetrack is located in a growth
8 county, as that term is defined in section three, article twenty,
9 chapter seven of this code, which has enacted the Local Powers Act,
10 and in which county a racetrack is located that has participated in
11 the West Virginia Thoroughbred Development Fund since on or before
12 January 1, 1991, the county board of education shall receive two
13 thirds of the share of adjusted gross receipts from West Virginia
14 Lottery table games from the racetrack in the county as provided in
15 this subdivision and the municipalities within the county shall
16 share the remaining one third of the total amount allocated as
17 provided in this paragraph. The municipal one-third share shall be
18 divided pro rata among the municipalities based on each
19 municipality's population determined at the most recent United
20 States decennial census of population. All money transferred under
21 this paragraph shall be used by the county board of education and
22 by the municipalities for the purpose of ~~capital improvements;~~
23 public projects, as defined in section two, article two-h, chapter
24 thirteen of this code, or to make payments on lottery revenue bonds

1 issued pursuant to article two-h, chapter thirteen of this code to
2 finance public projects.

3 (6) Transfer one half of one percent of the adjusted gross
4 receipts to the governing bodies of municipalities in which a
5 racetrack table games licensee is located. The municipalities
6 shall each receive an equal share of the total amount allocated
7 under this subdivision ~~Provided,~~ except that distribution under
8 this subdivision may not be made to any municipality that did not
9 have a licensed racetrack within its municipal boundaries as they
10 existed on January 1, 2007, ~~Provided, however, That~~ and if no
11 racetrack table games licensee is located within a municipality, a
12 transfer may not be made under this subdivision; and

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

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

18 (1) Transfer seventy-six percent to the State Debt Reduction
19 Fund which is hereby continued in the State Treasury. Moneys of
20 the fund shall be expended solely for the purpose of accelerating
21 the reduction of existing unfunded liabilities and existing bond
22 indebtedness of the state and shall be expended or transferred only
23 upon appropriation of the Legislature;

24 (2) Transfer four percent, divided pro rata based on relative

1 adjusted gross receipts from the individual licensed racetracks for
2 and on behalf of all employees of each licensed racing association,
3 into a special fund to be established by the Racing Commission to
4 be used for payment into the pension plan for all employees of each
5 licensed racing association;

6 (3) Transfer ten percent, to be divided and paid in equal
7 shares, to each county commission in the state that is not eligible
8 to receive a distribution under subdivision (4), subsection (b) of
9 this section ~~Provided, That funds transferred to county~~
10 ~~commissions under this subdivision shall~~ to be used only to pay
11 regional jail expenses and the costs of infrastructure improvements
12 and other capital improvements ~~Provided, however,~~ except that up
13 to fifty percent of these funds may be pledged to make payments on
14 lottery revenue bonds issued pursuant to article two-h, chapter
15 thirteen of this code; and

16 (4) Transfer ten percent, to be divided and paid in equal
17 shares, to the governing bodies of each municipality in the state
18 that is not eligible to receive a distribution under subdivisions
19 (5) and (6), subsection (b) of this section ~~Provided, That funds~~
20 ~~transferred to municipalities under this subdivision shall~~ to be
21 used only to pay for debt reduction in municipal police and fire
22 pension funds and the costs of infrastructure improvements and
23 other capital improvements ~~Provided, however,~~ except that up to
24 fifty percent of these funds may be pledged to make payments on

1 lottery revenue bonds issued pursuant to article two-h, chapter
2 thirteen of this code.

3 (e) All expenses of the commission incurred in the
4 administration and enforcement of this article shall be paid from
5 the Racetrack Table Games Fund, including reimbursement of state
6 law-enforcement agencies for services performed at the request of
7 the commission pursuant to this article. The commission's expenses
8 associated with a particular racetrack with authorized table games
9 under this article may not exceed three percent of the total annual
10 adjusted gross receipts received from that licensee's operation of
11 table games under this article, including, but not limited to, all
12 license fees or other amounts attributable to the licensee's
13 operation of table games under this article, except as provided in
14 subdivision (2), subsection (a) of this section. However, for the
15 fiscal year following the licensing of every licensed racetrack to
16 offer West Virginia Lottery racetrack table games under this
17 article and for the fiscal year thereafter, the commission's
18 expenses associated with a particular racetrack with authorized
19 table games under this article may not exceed four percent of the
20 total annual adjusted gross receipts received from that licensee's
21 operation of table games under this article, including, but not
22 limited to, all license fees or other amounts attributable to the
23 licensee's operation of table games under this article, except as
24 provided in subdivision (2), subsection (a) of this section. These

1 expenses shall either be allocated to the racetrack with West
2 Virginia Lottery table games for which the expense is incurred, if
3 practicable, or be treated as general expenses related to all
4 racetrack table games facilities and be allocated pro rata among
5 the racetrack table games facilities based on the ratio that annual
6 adjusted gross receipts from operation of table games at each
7 racetrack with West Virginia Lottery table games bears to total
8 annual adjusted gross receipts from operation of table games at all
9 racetracks with West Virginia Lottery table games during the fiscal
10 year of the state. From this allowance, the commission shall
11 transfer at least \$100,000 but not more than \$500,000 into the
12 Compulsive Gambling Treatment Fund created in section nineteen,
13 article twenty-two-a of this chapter.

NOTE: The purpose of this bill is to provide for use of
lottery funds for public works.

Strike-throughs indicate language that would be stricken from
the present law and underscoring indicates new language that would
be added.