

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 190**

*SENATOR WELD, original sponsor*

[Originating in the Committee on Finance; reported on

January 31, 2020]



1 A BILL to amend and reenact §29-22A-10b of the Code of West Virginia, 1931, as amended,  
2 relating to modifying the requirement that a racetrack must have participated in the West  
3 Virginia Thoroughbred Development Fund since, on, or before January 1, 1999, in order  
4 for counties to receive two percent of the net terminal income where the video lottery  
5 terminals are located.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 22A. RACETRACK VIDEO LOTTERY.**

**§29-22A-10b. Distribution of excess net terminal income.**

1 (a) For all years beginning on or after July 1, 2001, any amount of net terminal income  
2 generated annually by a licensed racetrack in excess of the amount of net terminal income  
3 generated by that licensed racetrack during the fiscal year ending on June 30, 2001, shall be  
4 divided as follows:

5 (1) The commission shall receive 41 percent of net terminal income, which the commission  
6 shall deposit in the state Excess Lottery Revenue Fund created in §29-22-18a of this code;

7 (2) Until July 1, 2005, eight percent of net terminal income at a licensed racetrack shall be  
8 deposited in the special fund established by the licensee and used for payment of regular purses  
9 in addition to other amounts provided in §19-23-1 *et seq.* of this code; on and after July 1, 2005,  
10 the rate shall be four percent of net terminal income;

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

13 (A) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this  
14 code is in excess of the two percent received during fiscal year 1999 by a county in which a  
15 racetrack that offers thoroughbred horse racing is located ~~that has participated in the West~~  
16 ~~Virginia thoroughbred development fund since on or before January 1, 1999~~ shall be divided as  
17 follows:

18 (i) The county shall receive 50 percent of the excess amount; and

19 (ii) The municipalities of the county shall receive 50 percent of the excess amount, the 50  
20 percent to be divided among the municipalities on a per capita basis as determined by the most  
21 recent decennial United States census of population; and

22 (B) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this  
23 code is in excess of the two percent received during fiscal year 1999 by a county in which a  
24 racetrack other than a racetrack described in paragraph (A) ~~of this proviso~~ of this subdivision is  
25 located and where the racetrack has been located in a municipality within the county since on or  
26 before January 1, 1999, shall be divided, if applicable, as follows:

27 (i) The county shall receive 50 percent of the excess amount; and

28 (ii) The municipality shall receive 50 percent of the excess amount; and

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

31 (4) One half of one percent of net terminal income shall be paid for and on behalf of all  
32 employees of the licensed racing association by making a deposit into a special fund to be  
33 established by the Racing Commission to be used for payment into the pension plan for all  
34 employees of the licensed racing association;

35 (5) The West Virginia Thoroughbred Development Fund created under §19-23-13b of this  
36 code and the West Virginia Greyhound Breeding Development Fund created under §19-23-10 of  
37 this code shall receive an equal share of a total of not less than one and one-half percent of the  
38 net terminal income;

39 (6) The West Virginia Racing Commission shall receive one percent of the net terminal  
40 income which shall be deposited and used as provided in §19-23-13c of this code;

41 (7) A licensee shall receive 42 percent of net terminal income;

42 (8) The Tourism Promotion Fund established in ~~§5B-2-12~~ §5B-21-6 of this code shall  
43 receive three percent of the net terminal income: *Provided*, That for each fiscal year beginning

44 after June 30, 2004, this three percent of net terminal income shall be distributed pursuant to the  
45 provisions of §29-22A-10(c)(8)(B) of this code;

46 (9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited  
47 into the Workers' Compensation Debt Reduction Fund created in §23-2D-5 of this code: *Provided,*  
48 That in any fiscal year when the amount of money generated by this subdivision together with the  
49 total allocation transferred by the operation of §29-22A-10(c)(9) of this code totals \$11 million, all  
50 subsequent distributions under this subdivision ~~(9)~~ during that fiscal year shall be deposited in the  
51 special fund established by the licensee and used for payment of regular purses in addition to  
52 other amounts provided in §19-23-1 *et seq.* of this code.

53 (B) The deposit of the four percent of net terminal income into the Workers' Compensation  
54 Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to  
55 these funds, which shall be deposited in the special fund established by the licensee and used  
56 for payment of regular purses in addition to the other amounts provided in §19-23-1 *et seq.* of this  
57 code on and after the first day of the month following the month in which the Governor certifies to  
58 the Legislature that: (i) The revenue bonds issued pursuant to §23-2D-1 *et seq.* of this code have  
59 been retired or payment of the debt service is provided for; and (ii) that an independent certified  
60 actuary has determined that the unfunded liability of the Old Fund, as defined in chapter 23 of this  
61 code, has been paid or provided in its entirety; and

62 (10) (A) One percent of the net terminal income shall be deposited in equal amounts in  
63 the Capitol Dome and Improvements Fund created under §5A-4-2 of this code and Cultural  
64 Facilities and ~~capitol~~ Capital Resources Matching Grant Program Fund created under §29-1-3 of  
65 this code; and

66 (B) Notwithstanding any provision of §29-22A-10b(a)(10)(A) of this code to the contrary,  
67 for each fiscal year beginning after June 30, 2004, this one percent of net terminal income shall  
68 be distributed pursuant to the provisions of §29-22A-10(c)(9)(B)(ii) of this code.

69           (b) The commission may establish orderly and effective procedures for the collection and  
70 distribution of funds under this section in accordance with the provisions of this section and §29-  
71 22A-10 of this code.

NOTE: The purpose of this bill concerns the requirement that a racetrack must have participated in the West Virginia Thoroughbred Development Fund since on or before January 1, 1999, in order for counties to receive two percent of the net terminal income where the video lottery terminals are located.

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