

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 848 (The President)(By Request - Administration)
Budget and Taxation and Finance

Horse Racing - Distribution of Video Lottery Revenues

This Administration bill alters the distributions and uses of the Purse Dedication Account (PDA) and the Racetrack Facility Renewal Account (RFRA), which receive revenues from the State's Video Lottery Terminal (VLT) program.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: No overall impact on State finances. The bill authorizes the distribution of \$1.2 million each to Ocean Downs and to Rosecroft Raceway annually from the PDA for operating assistance and an unspecified amount from RFRA to Laurel Park and Pimlico Race Course for operating assistance in calendar 2012, 2013, and 2014. The bill does not alter the overall amount of VLT revenue distributed to the funds.

Local Effect: None.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Bill Summary:

Ocean Downs and Rosecroft Raceway

The bill specifies that \$1.2 million from the PDA may be provided to Ocean Downs Race Course for operating assistance to support a minimum of 40 annual live racing days

unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control.

An additional \$1.2 million from the PDA may be provided to Rosecroft Raceway to (1) provide operating assistance to support a minimum of 40 annual live racing days unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control; and (2) for the purpose of providing funding to support the resumption of live racing at Rosecroft Raceway, repay a loan, of up to \$4.0 million obtained by the Maryland Economic Development Corporation (MEDCO), to make an advance to the owners of Rosecroft Raceway, plus reasonable interest, fees, and administrative costs of MEDCO related to the loan; or an advance from MEDCO, up to \$4.0 million of MEDCO's own funds, to the owners of Rosecroft Raceway, plus reasonable interest, fees, and administrative costs of MEDCO related to the advance.

If MEDCO provides a loan or advance, the Comptroller must, on a properly approved transmittal prepared by the Secretary of Labor, Licensing, and Regulation issue a warrant to pay out money from the account directly to MEDCO on a schedule agreed to by MEDCO and the Department of Labor, Licensing, and Regulation (DLLR). Payments to MEDCO under this subsection shall be paid prior to any payments to Rosecroft Raceway and without regard to the number of live racing days conducted by Rosecroft Raceway.

In order to qualify for an advance from MEDCO, Rosecroft Raceway must (1) agree to hire back workers employed at the facility prior to the end of live racing on June 27, 2008; (2) recognize collective bargaining agreements that were in place as of June 1, 2008; (3) reinvest all forms of revenue earned by the track into operating and capital expenditures for the benefit of Rosecroft Raceway; and (4) not pay any dividends or similar types of payments to the owners of Rosecroft Raceway while any amounts due to MEDCO remain unpaid.

Laurel Park, Pimlico, and Timonium

The bill specifies that funds from the RFRA may be used by Laurel Park and Pimlico Race Course for operating assistance to support a minimum of 146 annual live racing days in calendar 2012, 2013, and 2014, unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control.

For fiscal 2012, the amount of funds made available from the RFRA must be allocated as follows:

- 80% to Pimlico Race Course, Laurel Park, and the Racecourse at Timonium, minus 20% of the amount credited to the account in fiscal 2011 and minus the

amount necessary to repay funds to MEDCO in accordance with Chapter __ (SB 87/HB 72) of 2011 (Section 16 of the Governor's proposed Budget Reconciliation and Financing Act (BRFA)); and

- 20% to Rosecroft Raceway and Ocean Downs Race Course, plus 20% of the amount credited to the account in fiscal 2011.

The bill specifies that, of the amount provided from the RFRA, the following amount must be provided to Timonium for racetrack facility capital construction and improvements:

- \$1.125 million for fiscal 2012 and 2014;
- \$1.25 million for fiscal 2013; and
- \$1.0 million for fiscal 2015 and 2016.

In order to obtain operating assistance or to obtain an advance from MEDCO, a holder of a racing license to race at Laurel Park or Pimlico may apply to DLLR for the reimbursement of expenditures made by the racing licensee to conduct the annual live racing schedule.

A racing licensee's application for reimbursement of expenditures must (1) include a 12-month business plan that sets forth the income- and expense-related items that are necessary to conduct a live racing schedule of at least the number of live racing days that was stated in the application; and (2) be subject to review by a certified public accountant. Upon completion of review by a certified public accountant, DLLR may authorize the reimbursement of expenditures by the racing licensee that are necessary to conduct the annual live racing schedule. All costs associated with the racing licensee's application must be paid by the racing licensee. In support of the racing licensee's application and request for reimbursement, the racing licensee must provide monthly financial information and an annual audited financial statement to DLLR.

Racing licensees may not receive assistance or an advance from MEDCO while the racing licensee is a party to a proceeding challenging the issuance or denial of a video lottery operation license.

Current Law: Two video lottery terminal (VLT) gambling bills passed during the 2007 special session – House Bill 4 (Chapter 5) and Senate Bill 3 (Chapter 4). Chapter 5 is a constitutional amendment that was approved by Maryland voters at the November 2008 general election authorizing 15,000 VLTs at five locations in the State. Chapter 4, which was contingent on ratification of Chapter 5, establishes the operational and regulatory framework for the authorized VLT program.

Under Chapter 4, VLT facility operation licenses are awarded by the Video Lottery Facility Location Commission (Location Commission). The State Lottery Commission oversees VLT operations and owns/leases the VLTs and the central monitor and control system. Chapter 4 allows for a maximum of 15,000 VLTs, distributed as follows: 4,750 VLTs in Anne Arundel County; 3,750 VLTs in Baltimore City; 2,500 VLTs in Worcester County; 2,500 VLTs in Cecil County; and 1,500 VLTs in Allegany County. In addition, geographic parameters for each jurisdiction within which a VLT facility may be located are provided.

Under current law, gross VLT proceeds are distributed as follows:

- Business Investment – 1.5% to a small, minority, and woman-owned business investment account;
- Lottery – 2% to the State lottery for administrative costs, with other costs provided for in the State budget;
- Local Impact Grants – 5.5% to local governments in which a video lottery facility is operating, 18% of which would go for 15 years (starting in fiscal 2012 and ending in fiscal 2027) to Baltimore City through the Pimlico Community Development Authority and \$1 million annually to Prince George’s County for the community surrounding Rosecroft;
- Purse Dedication Account – 7% to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually;
- Racetrack Facility Renewal Account – 2.5% for an eight-year period to the RFRA, not to exceed \$40 million annually;
- Licensee (Operator) – no more than 33% to video lottery operation licensees; and
- Education Trust Fund (ETF) – remainder to Education Trust Fund (48.5%-51.0%).

Pursuant to Chapter 684 of 2010, contingent upon the purchase of the Rocky Gap Lodge and Golf Resort by the video lottery operation licensee, for the first five years of operations the 2.5% of VLT proceeds from the Allegany County facility that would otherwise be distributed to the RFRA will instead be distributed to the licensee for the Allegany County facility.

Maryland Economic Development Corporation

MEDCO is a body corporate and politic and a public instrumentality of the State. MEDCO was created in 1984 for the purpose of attracting new business and expanding existing businesses in Maryland through the development, expansion, and/or modernization of facilities. In fulfilling this purpose, MEDCO owns and leases certain

properties and makes loans to organizations that require financing to acquire or develop properties. MEDCO also serves as a consultant or development manager on certain projects. MEDCO transactions are structured with no recourse to MEDCO or the State from either bondholders or lenders.

MEDCO may pledge or assign any of its revenues or rights to receive revenues, monies, to secure bonds. MEDCO is authorized to acquire, improve, develop, manage, market, maintain, lease as a lessor or as lessee, and operate a development project in the State. MEDCO can make loans to finance all or part of the acquisition or improvement of a project and may enter into financing agreements, mortgages, and other instruments that it determines are necessary or desirable to evidence or secure the loan. The lease for a project may require or authorize the lessee or another person to purchase or otherwise acquire the property in an amount that MEDCO establishes once the principal and interest of bonds are paid off.

Background: As noted, Chapters 4 and 5 of the 2007 special session authorized up to 15,000 VLTs in five locations across the State, contingent on passage of a voter referendum at the November 2008 general election. The referendum was approved by the voters, and the Location Commission has awarded three video lottery operation licenses to date. VLT facilities in Cecil County (1,500 VLTs) and Worcester County (800 VLTs at Ocean Downs) are currently operating, and a facility in Anne Arundel County (2,000 VLTs in temporary facility and 4,750 in permanent facility) is under construction. Licenses for VLT facilities in Baltimore City and Allegany County have yet to be awarded.

Chapter 4 created the RFRA and required that 2.5% of VLT revenues be deposited in the account up to \$40 million annually for fiscal 2011 through 2018 to be used for matching capital improvement grants at horse racing tracks. Of the total, 80% is allocated to Pimlico Race Course, Laurel Park, and the Racecourse at Timonium and 20% to Rosecroft Raceway and Ocean Downs Race Course. Timonium's share of the 80% is specified as \$5 million over five years with no matching requirement.

Chapter 4 also created the PDA and required that 7% of VLT revenues be deposited in the account to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually. Of the amount in the fund, 80% is distributed to the thoroughbred industry and 20% is distributed to the standardbred industry. Of the amount distributed to the thoroughbred industry, 11% is dedicated to the Maryland-Bred Race Fund, and 11% of the amount distributed to the standardbred industry is dedicated to the Maryland Standardbred Race Fund.

Recent Industry Developments

In February 2009, the Location Commission rejected a proposal from the Laurel Racing Association (LRA) for a VLT facility at Laurel Park in Anne Arundel County due to a failure to pay the required initial license fee. The Location Commission eventually awarded the Anne Arundel County video lottery operation license for a proposed VLT facility adjacent to the Arundel Mills Mall in December 2009. After a local referendum on the proposed Arundel Mills VLT facility passed in November 2010, thus allowing construction on that facility to go forward, Maryland Racing Inc., which encompasses Laurel Park, Pimlico Race Course, and other horse racing interests in the State, submitted a significantly reduced calendar 2011 racing schedule to the Maryland Racing Commission. The racetrack owners claimed that ongoing operating deficits at the tracks made it impossible to maintain the same level of live racing days at Laurel Park and Pimlico Race Course as in past years, and therefore asked the Racing Commission to approve a 2011 schedule of 77 total live racing days at the two tracks, down from 146 days in 2010.

In December 2010, the Racing Commission rejected the proposal to significantly reduce the number of scheduled racing days in 2011. As a result, the racetrack owners announced that hundreds of employees might be laid off and that the closure of Laurel Park and the Bowie Training Center were on the table. In order to prevent the closure of Laurel Park and Bowie Training Center, an agreement was reached between the O'Malley Administration, the racetrack owners, the Maryland Horse Breeders' Association, and the Maryland Thoroughbred Horsemen's Association. As part of this agreement to subsidize racetrack operations for 2011, MEDCO will provide \$3.6 million and the breeders/horsemen associations will contribute \$1.7 million for operating expenses.

Section 16 of the BRFA of 2011 requires that up to \$3.6 million in fiscal 2011 VLT proceeds from the RFRA are be used to repay the advance from MEDCO. The proposed fiscal 2012 State budget for the RFRA for racetrack facility capital construction and improvements includes \$9.9 million. Because two VLT facilities are operational in fiscal 2011, the fiscal 2011 working appropriation also contains funds for this purpose (\$3.1 million). Revised revenue estimates project \$3.3 million for the RFRA in fiscal 2011.

The agreement described above will allow the racetracks to operate a 2011 live racing schedule similar to the 2010 racing schedule, including a 146 day live racing schedule that includes the 136th running of the Preakness Stakes at Pimlico. The agreement also provides for the continued year-round operation of the Bowie Training Center in 2011.

LRA appealed the Location Commission’s rejection of its application for a video lottery operation license to the State Board of Contract Appeals in December 2009. LRA also filed a petition for judicial review with the Anne Arundel County Circuit Court. On February 25, 2011, the Location Commission, the State Lottery Commission, and LRA entered into a settlement agreement under which LRA agreed to dismiss all pending appeals.

State Fiscal Effect: The bill has no overall effect on State finances. The bill authorizes the distribution of \$1.2 million annually from the PDA to each of Ocean Downs and Rosecroft Raceway for operating assistance, and an unspecified amount from the RFRA to Laurel Park and Pimlico Race Course in fiscal 2012 through 2014 for operating assistance, provided that certain conditions are met. However, the bill does not alter the overall amount of revenue distributed to each of the funds.

Exhibit 1 shows the most recent estimate of VLT revenues and the distribution of these revenues for fiscal 2011 through 2016.

Exhibit 1
Distribution of Estimated VLT Revenues
Fiscal 2011-2016
(\$ in Millions)

	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
-						
Education Trust Fund (48.5-51.0%)	\$64.1	\$192.3	\$286.6	\$471.3	\$512.3	\$549.4
Licensees (33%)	43.6	130.8	195.0	320.7	348.6	373.9
Local Impact Grants (5.5%)	7.3	21.8	32.5	53.4	58.1	62.3
Business Investment (1.5%)	2.0	5.9	8.9	14.6	15.8	17.0
Purse Dedication Account (7%) ¹	9.2	27.8	41.4	68.0	73.9	79.3
Racetrack Renewal (2.5%) ²	3.3	9.9	14.8	24.3	26.4	28.3
Lottery Operations (2%)	2.6	7.9	11.8	19.4	21.1	22.7
Total (100%)	\$132.1	\$396.5	\$590.9	\$971.8	\$1,056.4	\$1,132.9

¹Up to \$100 million annually

²Up to \$40 million annually for eight years, after which the monies accrue to the Education Trust Fund. Chapter 624 of 2010 altered provisions regarding the authorized VLT facility in Allegany County. Contingent upon the purchase of the Rocky Gap Lodge and Golf Resort by the licensee, the 2.5% of VLT proceeds from the Allegany County facility for the first five years of operations that would otherwise be distributed to the Racetrack Facility Renewal Account would instead be distributed to the Allegany County facility licensee.

Source: Department of Legislative Services

Exhibit 2 shows the distribution of RFRA funds pursuant to the bill. As previously noted, the BRFA proposes the transfer of \$3.6 million from the RFRA to MEDCO in fiscal 2011. To the extent that the BRFA proposal is enacted and the total amount of funds required for this transfer are not yet accrued in the account in fiscal 2011, the remainder must be transferred in fiscal 2012. An additional amount of up to \$400,000 must also be transferred in fiscal 2012 for MEDCO fees. As such, the distribution of funds shown in Exhibit 2 assumes \$700,000 in repayment to MEDCO from the thoroughbred portion of RFRA, which represents the difference of the \$3.3 million in estimated fiscal 2011 revenue for RFRA and the \$3.6 million grant in fiscal 2011 that is required to be paid back to MEDCO and the \$400,000 to cover MEDCO's fees.

Exhibit 2
Distribution of RFRA Funds
Fiscal 2012

	<u>Thoroughbred</u>	<u>Standardbred</u>
Distribution Percentage	80.0%	20.0%
Funds Available – FY 2012	\$7,929,083	\$1,982,271
20% Credit for FY 2011	(660,453)	660,453
MEDCO Repayment for FY 2011	<u>(700,000)</u>	<u>0</u>
Net Available Funds – FY 2012	\$6,568,630	\$2,642,724

As a result, it is estimated that there will be approximately \$5.4 million (\$6.6 million minus \$1.125 million for Timonium), available to Pimlico and Laurel for operating assistance and \$2.6 million available to Oceans Down and Rosecroft for capital improvements in fiscal 2012. However, it is not known how much any of these racetracks may seek from the fund for operating assistance. An estimated \$10.6 million will be available for operating assistance to Pimlico and Laurel in fiscal 2013, and \$18.3 million in fiscal 2014. From fiscal 2012 through 2016, Timonium will receive a total of \$5.5 million for capital improvements.

Additional Information

Prior Introductions: None.

Cross File: HB 1039 (The Speaker)(By Request - Administration) - Ways and Means.

Information Source(s): Department of Business and Economic Development; Comptroller's Office; Maryland State Lottery Agency; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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