

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 947

(Delegate F. Turner, *et al.*)

Ways and Means

Rules

Horse Racing - Purse Dedication Account - Use of Funds for Operating Assistance

This bill extends through calendar 2015 a distribution of up to \$1.2 million annually from the Purse Dedication Account (PDA) to Ocean Downs Race Course and Rosecroft Raceway for operating assistance that was first enacted by Chapter 412 of 2011 for calendar 2012 only. The bill also prohibits funds received by Ocean Downs Race Course or Rosecroft Raceway from being used to contribute to a specified campaign finance entity or make a specified election-related independent expenditure.

Fiscal Summary

State Effect: No overall impact on State finances. Distributions of up to \$2.4 million to Ocean Downs Race Course and to Rosecroft Raceway from PDA for racetrack operating assistance will continue through calendar 2015.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 412 of 2011 altered the distributions and uses of PDA and the Racetrack Facility Renewal Account (RFRA), which receive revenues from the State's video lottery terminal (VLT) program, for the purpose of providing operating assistance to the State's thoroughbred and standardbred racetracks, subject to specified requirements.

Chapter 412 specified that up to \$1.2 million from PDA may be provided to Ocean Downs Race Course for operating assistance to support a minimum of 40 live racing days for calendar 2012 only 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 PDA may be provided to Rosecroft Raceway to provide operating assistance to support a minimum of 40 live racing days for calendar 2012 only unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control.

In order to obtain operating assistance, Rosecroft Raceway must (1) agree to hire back workers employed at the facility prior to the end of live racing on June 27, 2008; and (2) recognize collective bargaining agreements that were in place as of June 1, 2008.

Upon completion of review by a certified public accountant, the Department of Labor, Licensing, and Regulation (DLLR) may authorize the reimbursement of expenditures by the racing licensee that are necessary to conduct the 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.

Expenditures eligible for reimbursement must include the ordinary and reasonable costs of conducting the race meetings, pari-mutuel wagering, and stabling activities of the racing licensee, net of ordinary income and receipts. The reimbursement calculation may not include (1) extraordinary income and expense-related items, including extraordinary litigation expenses; (2) lobbying fees; (3) capital investments, including predevelopment costs; or (4) prior year adjustments and claims.

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

Background: Two VLT gambling bills passed during the 2007 special session – House Bill 4 (Chapter 5) and Senate Bill 3 (Chapter 4). Chapter 5 was a constitutional amendment 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, established 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 VLTs and the central monitor and control system. A maximum of 15,000 VLTs are allowed, 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 1,000 VLTs in Allegany County. In addition, geographic parameters for each jurisdiction within which a VLT facility may be located are provided.

Under current law, except for the Allegany County location, gross VLT proceeds are distributed as follows:

- Business Investment – 1.5% to a small, minority, and woman-owned business investment account;
- Lottery Operations – 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 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 ETF (48.5%-51.0%).

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, the Maryland Economic Development Corporation (MEDCO) provided \$3.6 million and the breeders/horsemen associations contributed \$1.7 million for operating expenses. Chapter 397 of 2011 (Budget Reconciliation and Financing Act) required that up to \$3.6 million in fiscal 2011 VLT proceeds from RFRA be used to repay the advance from MEDCO (plus \$400,000 in fiscal 2012 to cover MEDCO expenses). In addition, Chapter 412 of 2011 allowed the racetracks to use a portion of their PDA allocations for operations in calendar 2012 only (which includes a portion of fiscal 2012 and 2013).

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

Rosecroft Raceway reopened for live racing on August 24, 2011, and held 20 live racing days over the remainder of calendar 2011. Rosecroft has applied to the State Racing Commission for 94 days of live racing in calendar 2012. Ocean Downs held 40 days of live racing in 2011 and will do so again for 2012.

As a condition of operating assistance, Chapter 412 also specified that an agreement must be reached on or by July 1, 2011, between the various tracks and other stakeholders through at least December 31, 2013, as applicable, regarding the sharing of revenues derived from wagering on simulcast races as such issues relate to (1) the Interstate Horseracing Act of 1978, 15 U.S.C. §§ 3001 through 3007; (2) pari-mutuel betting on out-of-state races; and (3) intertrack betting.

If an agreement was not reached by July 1, 2011, a potential party to an agreement would be eligible for funding if the party indicated to the Secretary of Labor, Licensing, and Regulation, in writing, its consent to participate in a mediation and arbitration process. The Secretary of Labor, Licensing, and Regulation was required to conduct a mediation between the parties to reach a fair and equitable simulcasting agreement. If by October 1, 2011, the parties had not reached an agreement through the mediation process, the parties must consent to *de novo* binding arbitration before (1) the American Arbitration Association; or (2) an independent arbitrator, selected by the Secretary with the consent of the parties, conducted in a manner consistent with the American Arbitration Association's commercial dispute resolution rules and procedures. As of April 2, 2012, arbitration is still ongoing.

Unless otherwise expressly authorized by law, all campaign finance activity for an election conducted under State law must be conducted through a campaign finance entity. An individual may not file a certificate of candidacy until the individual establishes, or causes to be established, an authorized political committee (campaign finance entity).

An independent expenditure as defined by the Election Article is an expenditure by a person expressly advocating the success or defeat of a clearly identified candidate or ballot issue if the expenditure is not made in coordination with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee. "Clearly identified" means (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate or ballot issue is apparent by unambiguous reference.

State Fiscal Effect: The bill has no overall impact on State finances. The bill authorizes an annual distribution of up to \$1.2 million from PDA to each of Ocean Downs Race Course and Rosecroft Raceway for operating assistance for calendar 2013, 2014, and 2015, in addition to calendar 2012 under current law. However, the bill does not alter the overall amount of revenue distributed to each of the funds. **Exhibit 1** shows the estimated VLT revenues for fiscal 2013 through 2017 and the various fund distributions.

Exhibit 1
Distribution of Estimated VLT Revenues in Maryland
(\$ in Millions)

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
Education Trust Fund	\$254.4	\$386.2	\$483.4	\$513.3	\$523.6
Licensees	173.1	265.0	333.5	353.9	361.0
Local Impact Grants	28.9	43.6	54.4	57.8	58.9
Business Investment	7.9	11.9	14.8	15.8	16.1
Purse Dedication Account	36.7	55.4	69.0	73.3	74.8
Racetrack Renewal	13.1	19.7	24.5	26.0	26.5
Lottery Operations	10.5	16.0	20.0	21.2	21.7
Total Annual Gross	\$524.6	\$797.8	\$999.6	\$1,061.3	\$1,082.6

Source: Department of Legislative Services

Additional Information

Prior Introductions: None.

Cross File: SB 794 (Senator Garagiola, *et al.*) - Budget and Taxation and Finance.

Information Source(s): Maryland State Lottery Agency; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2012
ncs/rhh Revised - House Third Reader - May 22, 2012

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510