

Department of Planning and Budget

2011 Fiscal Impact Statement

1. Bill Number: SB1333

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Herring

3. Committee: General Laws and Technology

4. Title: Virginia Racing Commission; powers and duties; allocation of retainage.

5. Summary: This bill authorizes the Virginia Racing Commission to establish by regulation the allocation of sums to be paid out of the retainage generated by pari-mutuel wagering and revenue from advance deposit wagering. The bill contains technical amendments.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary.

Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2011	\$0	n/a
2012	\$50,000	Nongeneral
2013	\$100,000	Nongeneral
2014	\$150,000	Nongeneral
2015	\$200,000	Nongeneral
2016	\$250,000	Nongeneral
2017	\$250,000	Nongeneral

8. Fiscal Implications: This bill would authorize the Virginia Racing Commission (VRC) to establish, by regulation, (1) the allocation of revenue from advance deposit account wagering, and (2) the allocation of sums to be paid out of the "retainage," or the portion of the total amount wagered remaining after winning wagers have been paid. Overall, it is uncertain what allocation will be set and how that allocation will impact the racing industry.

(1) Currently, racing customers may open an account and deposit funds with the racetrack and use the deposited funds for wagers. Advance deposit wagers, a new method of wagering, are those placed over the phone or through the internet, as opposed to those made at traditional wagering facilities such as the race track or satellite wagering facilities. The allocation of advance deposit wagering revenue is currently set-out in § 59.1-369.5., Code of Virginia. This bill would authorize VRC to override this allocation and set, by regulation, a revised allocation of revenue from advance deposit wagering. Note that these changes to the agency's regulations

are specifically exempted from the standard regulatory process and may be implemented upon approval from VRC's Board.

In addition, according to § 59.1-369.5, Code of Virginia, there is to be a license fee from advance deposit wagering that is paid to the Commonwealth, effectively VRC. VRC's current regulations set that fee at 0.5 percent. Wagers placed at traditional wagering facilities generate more revenue for VRC at an average of 1.5 percent on the gross amounts wagered. However, there is only one racetrack currently operating in Virginia and a codified limit of 10 on the number of satellite wagering facilities allowed in the state, so there are few opportunities for revenue growth from traditional wagering. Accordingly, VRC states that the current fee for advance deposit wagering is inadequate to keep pace with the growing responsibilities on the agency associated with regulation of all wagering. As this bill would authorize, VRC revenue could be increased in the growing advance deposit wagering market if the agency chooses to raise the fee from the current 0.5 percent to a rate aligned with the current average of 1.5 percent from traditional wagering.

(2) This bill also expands VRC's authority by including language that allows VRC to establish, again by regulation, an allocation of sums paid out of the retainage (or percentage held) that is different from that which is currently set-out in § 59.1-392 B. through N., Code of Virginia. Specifically, this bill would increase the cap on the retainage from the current limits of 18 percent of pari-mutuel wagering on live racing on win, place and show wagers, and 22 percent of pari-mutuel wagering on live racing for all other wagers, to 25 percent overall. VRC would not be impacted as a result of the increase because this change only impacts live racing that occurs in Virginia, which makes up approximately four percent of all wagers placed.

Note that the bill specifies that the percentage allocations are to remain at January 1, 2011 levels for: (i) the localities in which the wagering facilities are located, (ii) the Virginia Breeders Fund, (iii) the Virginia-Maryland College of Veterinary Medicine, (iv) the Virginia Horse Center, and (v) the Virginia Horse Industry Board. Effectively, the percentages going to these entities would remain the same as what is currently listed in the Code of Virginia.

There is uncertainty about whether a retainage increase would negatively impact the rate of bettor participation. According to VRC, the current national trend is to decrease the retainage to the track to incentivize more betting, so increasing the retainage at this time may adversely affect bettor participation.

The revenue estimates listed in Item 7 of this statement include the following assumptions: an effective date of July 1, 2011, for revised fee regulations, an increase to the advance deposit wagering fee that is phased-in at 0.1 additional percent per year, over five years, up to a total of one percent retainage, and the current rate of bettor participation and wagering. With the advance deposit wagering fee currently set at 0.5 percent, VRC receives approximately \$250,000 per year from the five advance deposit wagering sites currently licensed by VRC. The revenue estimates do not assume any additional change in revenues from increasing the retainage. Any nongeneral fund budget amendment to VRC as a result of the bill may be made administratively.

9. Specific Agency or Political Subdivisions Affected: Virginia Racing Commission.

10. Technical Amendment Necessary:

- Line 64 strikes current notwithstanding language that clarifies that the allocations of § 59.1-369 5., Code of Virginia, supersede those of § 59.1-392. This notwithstanding language is still needed to clarify that the revenue allocations of § 59.1-392 do not apply to advance deposit wagering wagers.
- Notwithstanding language may be needed to clarify that the new language created by this proposal supersedes the current allocation language in § 59.1-392 B. through N.
- Line 137, delete “received” and insert “receive”.

11. Other Comments: VRC already has the regulatory authority to revise the advance deposit wagering percentage withheld for its agency's operations; as such, changes to the Code that would result from this bill are not necessary.

Date: January 21, 2011

c: Secretary of Commerce and Trade