

## Department of Planning and Budget 2011 Fiscal Impact Statement

**1. Bill Number:** SB1429

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Norment

**3. Committee:** General Laws and Technology

**4. Title:** Virginia Racing Commission; net pool wagering; retainage.

**5. Summary:** This bill makes the following changes:

- 1.) Authorizes net pool wagering on simulcast horse racing transmitted from outside of Virginia. According to the bill, net pool wagering is defined as “a method of pari-mutuel wagering whereby amounts are awarded to winning wagers relative to the contribution, net of takeouts, to a pool by each participating jurisdiction or, if applicable, site;”
- 2.) Revises the definition of pari-mutuel wagering to include other aspects of horse races than the finish positions of the horses;
- 3.) Renames the Executive Secretary of the Virginia Racing Commission (VRC) as the Executive Director;
- 4.) Increases the number of permissible satellite facilities from 10 to 20;
- 5.) Authorizes VRC to appoint judges and assign them similar responsibilities as those that are currently assigned to stewards;
- 6.) Adds the operational costs of the Virginia Thoroughbred Association as a valid disbursement from the Virginia Breeders Fund;
- 7.) Suspends the requirement for a local referendum to allow wagering thoroughbred or harness races if certain criteria are met, specifically that the owner or operator of a thoroughbred or harness racing facility is a fair member of the Virginia Association of Fairs, Inc., or its successor nonprofit association;
- 8.) Allows the officers, directors, partners, spouses, and immediate family members thereof of a tax-exempt entity granted a limited duration license for thoroughbred or harness racing with pari-mutuel wagering to make contributions to any candidate for public office or public office holder at the state or local level;

- 9.) Allows the determination of population for the purposes of the referendum on the establishment of a racetrack or satellite facilities to be based on the U.S. Census or the National Planning Data Corporation or other similar recognized source;
- 10.) Removes the specific retainage percentage (the total amount deducted from the pari-mutuel wagering pool) on pari-mutuel pools by the licensee and allows VRC to approve the amount retained as jointly requested by a recognized majority horseman's group and an unlimited licensee; and
- 11.) Requires VRC to adopt emergency regulations.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Preliminary.

**8. Fiscal Implications:**

- 1.) Authorizes net pool wagering: It is not anticipated that this change will result in a fiscal impact to the state as it is a practice already regulated by VRC.
- 2.) Allows wagering on other aspects of the horse race: This change will increase the overall opportunities for wagering. It is unknown how overall amounts wagered will be impacted. This change may increase the overall wagering, or wagering levels may remain static and be redistributed among all available options.
- 3.) Renames Executive Secretary: Any fiscal impact resulting from this change can be absorbed by the agency within existing resources.
- 4.) Increases satellite facilities from 10 to 20: Increasing the limit on the number of satellite facilities in operation is likely to significantly increase the amount of revenue generated from wagering. These revenues would be distributed to the various recipients that receive monies from wagering; for the state this includes VRC, the Virginia Breeders Fund, and several state-affiliated organizations. As there are currently only 10 satellite facilities in operation, it is assumed that an increase in the number of satellite facilities from 10, to 20 could increase significantly. In FY 2010, 63 percent of all wagers were placed at satellite wagering facilities. However, the amount of revenue generated depends on the facilities' location throughout the state, the location of the next-closest satellite wagering facility, the ability of the market to absorb additional wagering facilities, and the economic climate's impact on horse racing.

An increase in the number of satellite wagering facilities would also result in additional costs to VRC to regulate and monitor these new sites. It is assumed that any costs to VRC associated with the regulation of additional satellite facilities could be supported by revenues generated by those sites.

- 5.) Adds judges as employees that VRC is authorized to appoint: It is not anticipated that this change will result in a fiscal impact to the state as it is a practice already incorporated by VRC.
- 6.) Adds the operational costs of the Virginia Thoroughbred Association as a valid reason for disbursement from the Virginia Breeders Fund: Adding an additional designation for monies from the Breeders Fund (the Fund) would decrease the percentage of distributions to entities that are currently authorized to receive monies from the Fund. This change is not anticipated to result in a net fiscal impact to the state however, as the only monies in the Fund used for state purposes are those used to reimburse the cost of administering and promoting the Fund; all other current disbursements from the Fund are to private individuals or entities.
- 7.) Suspends the requirement for a local referendum to allow wagering thoroughbred or harness races if certain criteria are met: Current law requires a referendum for VRC to grant a limited license to operate a racetrack and only allows an exception to the referendum for steeplechase race meets less than 14 days in any calendar year, and only when an owner or operator has 501 (c) (3) or (4) tax-exempt status and has a facility that has been sanctioned by the Virginia Steeplechase Association or National Steeplechase Association. This bill would expand the exception to include thoroughbred and harness racing when the owner or operator of a facility is a fair member of the Virginia Association of Fairs, Inc., or its successor nonprofit association.

This exception would allow additional races in new venues throughout the Commonwealth. Note that, at this point in time, VRC does not foresee any venues in the state outside of Colonial Downs, the state's only operating racetrack, as qualified to host horse races. Should any new sites be authorized by this exception, potential revenues resulting would be based on an average blended rate of return to VRC of 1.5 percent on the gross amounts wagered at potential additional live racing facilities. However, costs would also result from new sites being authorized, due to the remote location of VRC staff at any new racing venues that this bill would authorize. VRC staff would need to be on-site in order to provide necessary regulatory and operational oversight before, during, and after the race meet. The maximum estimated cost to VRC for sending up to 12 staff members to a remote location, requiring full reimbursement of travel, meals and lodging for a full 14 day meet would be approximately \$21,000.

Overall, as both costs and revenues resulting from this exception are highly speculative, a budget amendment is not necessary at this time. Any required adjustments to the agency's nongeneral fund appropriation needed in the future may be made administratively.

- 8.) Allows political contributions by holders of licenses: Under current law, political contributions are prohibited from any officer, director, partner, or spouse or immediate family member of a holder of a limited horserace meeting license issued by VRC. This bill would create an exception that would allow holders of limited licenses to make contributions to a candidate for public office at the state or local level if the limited

licensee is an officer, director, partner, or spouse or immediate family member of a tax-exempt entity. Although it is uncertain how this change will impact campaign finance laws, it is mostly anticipated that any impact will not result in a fiscal impact to the state.

9.) Allows the determination of population for the purposes of the referendum on the establishment of a racetrack or satellite facilities: It is not anticipated that this change will result in a direct fiscal impact to the state. However, the use of different tools to determine populations may in turn affect the outcome of a referendum which may authorize the establishment of additional racetrack or satellite facilities. Any new facilities would result in additional revenues and costs to the state.

10.) Allows the retainage set by VRC as jointly requested by a majority horseman's group and an unlimited licensee: This bill expands VRC's authority to allow the agency to set the percentage allocation of sums paid out of the retainage based on a joint request by a recognized majority horseman's group and an unlimited licensee (of which there is currently only one, Colonial Downs in New Kent County). Currently, the retainage percentages are set-out in § 59.1-392 B. through N., Code of Virginia. This bill stipulates that the distributions tied to the retainage and listed in § 59.1-392 D and G are to be adjusted by the proportion that any new percentage amount bears to the current percentage amount.

It is not anticipated that VRC will be significantly impacted as a result of this change since it pertains only to live racing that occurs in Virginia, which makes up approximately four percent of all wagers placed. Note however that any changes to the retainage that subsequently require a proportional change to the distribution amounts in § 59.1-392 D and G could result in a change of retainage going to the Virginia Breeders Fund, which is slated to receive one percent based on current retainage percentages.

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. Overall, it is uncertain what allocation will be set and how that allocation will impact the racing industry.

11.) Requires VRC to adopt emergency regulations: Any fiscal impact resulting from this change can be absorbed by the agency within existing resources.

**9. Specific Agency or Political Subdivisions Affected:** Virginia Racing Commission, localities hosting a racetrack or satellite facility.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.

**Date:** February 4, 2011

**c:** Secretary of Commerce and Trade