S T A T E O F N E W Y O R K

1408

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT, CYMBROWITZ, MARKEY, P. RIVERA, FIELDS -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, GOTTFRIED, LENTOL, PEOPLES, REILLY, N. RIVERA -- read once and referred to the Committee on Racing and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to funding for a sound basic education

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The state of New York has an obligation under its constitution to provide its children with a sound basic education as recently and explicitly expressed in the Court of Appeals decision in CAMPAIGN FOR FISCAL EQUITY V. STATE. In order to comply with such holding and constitutional duty, the legislature hereby finds that new and continuing funding streams are necessary to meet such duty. The legislature further finds that the existing and primary funding mechanism for education in this state, the real property tax, has historically been imposed by local governments and state support for education should and is intended to rectify uneven revenue yields from that source of revenue due to local prevailing market forces.

Supplementing the local property tax is necessary to assure that children residing in areas of high need for educational services that also have a small tax base can receive the same fiscal resources that more fortunate areas of the state utilize to educate our children. Each child is entitled to substantially similar resources. To achieve this end in a manner that will not unnecessarily displace or reduce the support for other vulnerable populations, the legislature hereby finds that licensees of the newly created video lottery terminals, the division of the lottery and other such beneficiaries will be receiving a substantial new form of revenue due to recently enacted legislation and can absorb a reduction in income from other sources at this time. The reductions and

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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transfers in this act will provide for a continuing and substantial revenue source for the state to partially fund its obligation to adequately educate every child in this state.

S 2. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 912 to read as follows:

S 912. FUNDING FOR SOUND BASIC EDUCATION. 1. NOTWITHSTANDING ANY LAW, REGULATION OR RULE TO THE CONTRARY, ANY PAYMENT UNDER ARTICLES FIVE AND TEN OF THIS CHAPTER REQUIRED TO BE MADE BY AN OFF-TRACK BETTING CORPORATION ESTABLISHED PURSUANT TO SECTIONS FIVE HUNDRED TWO AND SIX HUNDRED THREE OF THIS CHAPTER TO A REGIONAL TRACK, OTHER THAN FEES OR COMPENSATION ARISING FROM RACES CONDUCTED BY A REGIONAL TRACK, SHALL BE MADE PURSUANT TO THE FOLLOWING SCHEDULE AFTER SUCH TRACK HAS BEEN LICENSED AND IS CONDUCTING VIDEO LOTTERY GAMING PURSUANT TO SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THE TAX LAW:

A. TWENTY PER CENTUM OF THE SUM REQUIRED BY THE PROVISIONS OF ARTICLES FIVE AND TEN OF THIS CHAPTER SHALL BE RETAINED BY THE OFF-TRACK BETTING CORPORATION MAKING SUCH PAYMENT FOR ITS NECESSARY AND ORDINARY OPERATING EXPENSES; AND

B. THE REMAINDER SHALL BE TRANSFERRED TO THE REGIONAL TRACK IN ACCORDANCE WITH THE PROVISIONS OF ARTICLES FIVE AND TEN OF THIS CHAPTER AND OF THE SUM RECEIVED BY SUCH TRACK, ONE-THIRD SHALL BE PROMPTLY TRANSFERRED TO THE HORSEMEN'S PURSE ACCOUNT TO BE USED EXCLUSIVELY FOR PURSES AWARDED IN RACES CONDUCTED BY SUCH TRACK AND THE REMAINING AMOUNT OF SUCH SUM SHALL BE PROMPTLY TRANSFERRED TO THE STATE COMPTROLLER FOR DEPOSIT IN THE SOUND BASIC EDUCATION FUND MAINTAINED BY SUCH COMPTROLLER.

2. ANY TRANSFER REQUIRED OF A REGIONAL TRACK PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE MADE WITHIN SEVEN BUSINESS DAYS OF RECEIPT OF ANY SUM FROM AN OFF-TRACK BETTING CORPORATION AND ANY TRACK THAT FAILS TO DO SO ON THREE OR MORE OCCASIONS WITHIN A YEAR OF THE FIRST SUCH FAILURE, SHALL CONSTITUTE PRESUMPTIVE EVIDENCE OF ANY ELEMENT OF INTENT IN A CRIME DEFINED UNDER ARTICLE ONE HUNDRED FIFTY-FIVE OF THE PENAL LAW IN ANY PROSECUTION OF SUCH CRIME AGAINST THE CHIEF OPERATING OFFICER AND/OR THE CHIEF FINANCIAL OFFICER OF SUCH TRACK.

S 3. Paragraph 2 of subdivision c of section 1612 of the tax law, as amended by section 2 of part CC of chapter 61 of the laws of 2005, is amended to read as follows:

2. Of the ten percent retained by the division for administrative purposes, any amounts beyond that which are necessary for the operation and administration of this pilot program shall be deposited in the [lottery education account] SOUND BASIC EDUCATION FUND MAINTAINED BY THE STATE COMPTROLLER.

S 4. Section 1614 of the tax law is amended by adding a new subdivision c to read as follows:

C. THE DIRECTOR SHALL PROVIDE WRITTEN NOTIFICATION TO THE DIRECTOR OF THE BUDGET, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE ON A QUARTERLY BASIS OF THE TOTAL AMOUNT MAINTAINED BY THE DIVISION AS UNCLAIMED OR ABANDONED PRIZE MONEY UNDER THIS SECTION, AND SET FORTH THE JUSTIFICATION FOR THE RETENTION OF ANY SUM BY THE DIVISION IN EXCESS OF FIFTY MILLION FOR ANY PURPOSE OTHER THAN THE TRANSFER OF SUCH EXCESS TO THE SOUND BASIC EDUCATION FUND MAINTAINED BY THE STATE COMPTROLLER ON OR BEFORE THE THIRTIETH DAY AFTER THE COMMENCEMENT OF THE FOLLOWING FISCAL YEAR. UNLESS SUCH JUSTIFICATION FOR RETENTION BY THE DIVISION IS ACCEPTED IN WRITING BY ALL THREE RECIPIENTS OF SUCH NOTICE AS PROVIDED IN THIS SUBDIVISION, TRANSFER OF THE EXCESS TO SUCH FUND SHALL OCCUR NO

LATER THAN THE THIRTIETH DAY AFTER THE COMMENCEMENT OF THE NEXT NEW FISCAL YEAR.

S 5. This act shall take effect on the thirtieth of September next succeeding the date on which it shall have become a law.