Regular Session, 2010

HOUSE BILL NO. 779

BY REPRESENTATIVE PEARSON

RACING: Provides relative to the Horsemen's Benevolent Program Association

1	AN ACT
2	To amend and reenact R.S. 4:141(A)(introductory paragraph) and (B), 183(A), 185(B) and
3	(C), 217(D)(1)(d), 251(B)(2) and (C), 251.1(B), and 252 and R.S. 27:318(B)(4) and
4	(C) and 361(B)(4)(a) and to enact R.S. 42:1124.2.1(A)(4), relative to horsemen; to
5	transfer payment of certain racing and gaming proceeds from the Horsemen's
6	Benevolent and Protective Association to the state general fund; to eliminate certain
7	requirements regarding the horsemen's workers' compensation and pension
8	programs; to provide for administration and utilization of funds in the Horsemen's
9	Bookkeeper Account; to clarify the public nature of funds and the authority of the
10	legislative auditor relative to those funds received and expended by the association;
11	to provide certain financial disclosure of members of the Horsemen's Benevolent and
12	Protective Association; and to provide for related matters.
13	Be it enacted by the Legislature of Louisiana:
14	Section 1. R.S. 4:141(A)(introductory paragraph) and (B) are hereby amended and
15	reenacted to read as follows:
16	§141. Legislative intent and policy
17	A. It is the policy of the state of Louisiana in furtherance of its responsibility
18	to provide revenues for the operation of state government for its people, to
19	acknowledge and declare that the providing of funds and financial assistance to
20	licensed horse racing tracks, jockeys, pony persons, owners, trainers, and others in

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1	the racing industry in the state of Louisiana constitutes an authorized public function
2	and purpose of the state of Louisiana, to encourage forceful and honest statewide
3	control of horse racing for the public health, safety, and welfare by safeguarding the
4	people of this state against corrupt, incompetent, dishonest, and unprincipled horse
5	racing practices:
6	* * *
7	B. This Chapter is an exercise of the police powers of the state to promote
8	the public health, safety, and welfare and, as such, the funds and financial assistance
9	provided by any provision of this Chapter are deemed to be public for purposes of
10	regulation, use, auditing standards, review, and oversight.
11	Section 2. R.S. 4:183(A) and 185(B) and (C) are hereby amended and reenacted to
12	read as follows:
13	§183. Contracts between licensees and permittees licensed to race horses at race
14	meetings conducted in the state
15	A.(1) The monies to be distributed by a licensee as purses to permittees
16	licensed to race horses in Louisiana and the monies to be distributed by a licensee
17	to the Horsemen's Benevolent and Protective Association for the use and benefit of
18	such permittees, their employees, and others, for hospital, and medical, worker's
19	compensation, and pension benefits and for the administrative expenses in providing
20	these benefits shall be and include:
21	(1) An an amount to be not less than fifty percent of a licensee's commission
22	of the gross pari-mutuel handle retained by it from each race at a licensed race
23	meeting in this state as provided by this Chapter, after all fees required by law have
24	been deducted , plus
25	(2) The Monies to be distributed by a licensee as purses to permittees
26	licensed to race horses in Louisiana shall be and include the total amount earned by
27	a licensee for purse supplements under R.S. 4:217 since the completion of its
28	previous meeting as of the first day of the race meeting covered by this Subsection,
29	plus

1	(3) The the total amount earned by a licensee for purse supplements under
2	R.S. 4:217 during the race meeting covered by this Subsection.
3	(4)(3) The total of Paragraphs (1), (2), and (3) Paragraph (1) shall be
4	allocated by the licensee in not less than the following percentages thereof:
5	(a) Ninety-six percent thereof to such permittees as purses.
6	(b) Four percent thereof to the Horsemen's Benevolent and Protective
7	Association for the use and benefit of such permittees, their employees, and others
8	as medical and hospital hospital, medical, worker's compensation, and pension
9	benefits with an amount not to exceed thirty twelve percent aforesaid of the
10	commissions and amounts received by the Horsemen's Benevolent and Protective
11	Association to be used for administrative expenses and other costs necessary to
12	provide the <u>these</u> benefits.
13	(c) The total of the revenues received by the Horsemen's Benevolent and
14	Protective Association under the provisions of Subparagraph (b) of this Paragraph,
15	together with all expenditures made therefrom, shall be published and reported
16	quarterly by it to horsemen actively racing in the state.
17	* * *
18	§185. Horsemen's bookkeeper
19	* * *
20	B.(1) Each association conducting a race meeting shall provide a separate
21	office for the Horsemen's Bookkeeper who shall keep a separate bank account for the
22	horsemen's monies to be known as the "Horsemen's Bookkeeper Account".
23	(2) At all times the Horsemen's Bookkeeper Account shall have on deposit
24	funds sufficient to cover all monies due to horsemen with regard to daily purses,
25	jockey fees, stakes, handicaps, rewards, claims, deposits, monies, if any, for
26	horsemen's medical and hospital hospital, medical, worker's compensation, and
27	pension benefit programs, National Thoroughbred Racing Association, Inc., dues,
28	and pony lead fees.

1	(3) Except for interest earned on the investment of monies in the Horsemen's
2	Bookkeeper Account and that portion of a pony lead fee as hereby authorized and
3	assessed by the representative of horsemen in the state to provide retirement benefits
4	to horsemen and to pay its administrative and operating costs, withdrawals from the
5	account shall be only for those purposes provided in Paragraph (2) of this
6	Subsection.
7	(4) The interest earned on the investment of monies in the Horsemen's
8	Bookkeeper Account and that portion of a pony lead fee as provided for in Paragraph
9	(3) of this Subsection shall be collected by the Horsemen's Bookkeeper and paid, in
10	due course, to the authorized representative of horsemen.
11	(5) After first paying the expenses and other charges necessary to operate the
12	offices of the Horsemen's Bookkeeper, the interest earned on the investment of
13	monies in the Horsemen's Bookkeeper Account by the authorized representative of
14	horsemen shall be used by it for the benefit of horsemen racing in the state.
15	C. All monies in the possession of or payable to or from the Horsemen's
16	Benevolent and Protective Association or any fund, trust, or other account of this
17	association, including hospital, medical, workers' compensation, pension,
18	administrative, and reserve accounts The account shall at all times be in the
19	Horsemen's Bookkeeper Account and subject to audit by the legislative auditor or
20	by a certified public accountant approved by the legislative auditor, the expenses of
21	such audit to be paid by the Horsemen's Benevolent and Protective Association.
22	Section 3. R.S. 4:217(D)(1)(d) is hereby amended and reenacted to read as follows:
23	§217. Purse supplements; designation and distribution
24	* * *
25	D.(1) Notwithstanding any other provision of law to the contrary, the monies
26	designated for purses under the provisions of R.S. 4:216(C) from wagers placed at
27	offtrack wagering facilities on special accredited Louisiana bred maiden races as
28	defined in R.S. 4:184 shall be accounted for separately and shall be distributed as
29	follows:

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1	(a) Fifteen and ten hundredths percent shall be distributed to the Louisiana
2	Thoroughbred Breeders Association for breeder awards in accordance with a
3	distribution formula established by the executive committee of that organization.
4	(b) Forty-one and forty-five hundredths percent shall be distributed to the
5	host track for purse supplements for the special accredited Louisiana maiden
6	thoroughbred races held at that track.
7	(c) Forty-one and forty-five hundredths percent shall be distributed to the
8	tracks owned by the licensee(s) of the offtrack wagering facility where the wagers
9	are made for purse supplements for the special accredited Louisiana bred maiden
10	thoroughbred races held at their respective tracks.
11	(d) Two percent shall be distributed to the Horsemen's Benevolent and
12	Protective Association for the use and benefit of such persons and other horsemen
13	as medical and hospital benefits with an amount not to exceed thirty percent thereof
14	to be used for administrative expenses and other costs necessary to provide the
15	benefits deposited to the credit of the state general fund.
16	* * *
17	Section 4. R.S. 4:251(B)(2) and (C), 251.1(B), and 252 are hereby amended and
18	reenacted to read as follows:
19	§251. Horsemen's Workers' Compensation Insurance Program; legislative findings;
20	authority
21	* * *
22	B. Notwithstanding anyother law, the Horsemen's Benevolent and Protective
23	Association, pursuant to R.S. 4:179.1, a statutorily authorized representative of
24	horsemen, is hereby authorized and empowered, in addition to any and all other
25	existing powers it may have, to do the following:
26	* * *
27	(2) To administer the insurance program as a part of its corporate activity or
28	to carry out the insurance program through one or more other entities which may
29	include a trust established under the law of Louisiana, all activities of which shall

1	take place in the state of Louisiana and all financial activities associated therewith
2	shall be handled exclusively through the Horsemen's Bookkeeper Account
3	established pursuant to R.S. 4:185.
4	* * *
5	C. The insurance program authorized in this Part shall be subject to Part IV
6	of Chapter 7, Chapter 8, and Chapter 12 of Title 22 of the Louisiana Revised Statutes
7	of 1950. An annual audited financial statement shall be filed with the commissioner
8	of insurance. The In addition to the Legislative Auditor, the commissioner of
9	insurance shall also have the authority to examine the books, records, and affairs of
10	the Horsemen's Workers' Compensation Insurance Program.
11	§251.1. Horsemen's Self-Help Pension Program; legislative findings; authority
12	* * *
13	B. Notwithstanding any other law to the contrary, the Horsemen's
14	Benevolent and Protective Association, pursuant to R.S. 4:179.1, may perform the
15	following activities:
16	(1) Of the purses and purse supplements authorized for use by the
17	Horsemen's Benevolent and Protective Association in this Part for the Horsemen's
18	Benevolent and Protective Association's workers compensation insurance program,
19	pursuant to R.S. 4:252(C)(5), the Horsemen's Benevolent and Protective Association
20	may utilize up to one-half of that authorized two percent of the total amount of
21	purses and purse supplements available for purses for any race meet establish,
22	operate, and administer a pension program for the purpose of providing pensions and
23	related benefits to members of the Horsemen's Benevolent and Protective
24	Association and to utilize funds in the Horsemen's Bookkeeper Account for the
25	improvement and administration of the Horsemen's Self-Help Pension Program
26	without the limitations and conditions established for the Horsemen's Benevolent and
27	Protective Association's workers compensation insurance program but with the
28	limitations expressly established in Paragraphs (2) and (3) of this Subsection for the
29	Horsemen's Self-Help Pension Program.

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1	(2) In utilizing the monies authorized hereby for improving and
2	administering the Horsemen's Self-Help Pension Program, not more than seventy-
3	five percent shall be used to directly improve pension benefits and the remainder
4	shall be placed for investment in the pension program's trust fund for the purpose of
5	helping to ensure the long-term integrity of said pension trust fund and to help
6	provide that the said trust fund becomes self-sustaining.
7	(3) Notwithstanding any provision of law to the contrary, the total amount
8	of purses and purse supplements that may be used by the Horsemen's Benevolent and
9	Protective Association for the Horsemen's Benevolent and Protective Association's
10	workers compensation insurance program and the Horsemen's Self-Help Pension
11	Program combined may not exceed two percent of the total amount of purses and
12	purse supplements available for purses for any race meet.
13	(4) If the two percent revenue from purses and purse supplements presently
14	being utilized by the Horsemen's Benevolent and Protective Association's workers
15	compensation insurance program cease or is interrupted for any reason whatsoever,
16	then the authority for the Horsemen's Benevolent and Protective Association to
17	utilize up to one percent of purses and purse supplements for improvement and
18	administration of the Horsemen's Self-Help Pension Program shall continue until
19	such time as the two percent revenue from purses and purse supplements is again
20	utilized by such workers compensation program.
21	(5) All funds derived from the two percent revenue from purses and purse
22	supplements presently being utilized by the Horsemen's Benevolent and Protective
23	Association for the Horsemen's Self-Help Pension Program and the Horsemen's
24	Benevolent and Protective Association's workers compensation insurance program
25	following August 15, 2008, shall be utilized without the limitations and conditions
26	previously established which are related to limits and repayments of such fund to
27	purses, however, same are specifically limited to no more than two percent of the
28	total amount of purses and purse supplements available for purses for any race meet.

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§252. Implementation of the insurance program; certificate of coverage

A. The Horsemen's Benevolent and Protective Association is encouraged to immediately and diligently seek to secure and provide workers' compensation insurance coverage and related benefits from an insurance company authorized to do business in this state, for the benefit of trainers and others licensed by the Louisiana State Racing Commission.

7 B. For the purpose of securing and providing workers' compensation 8 insurance coverage and related benefits at reasonable rates, the Horsemen's 9 Benevolent and Protective Association may utilize assets, revenues and revenue 10 sources received by or due to it for the benefit of horsemen by creating a reserve 11 fund, the proceeds of which must be deposited in an account in the state of Louisiana 12 and subject to audit by the Legislative Auditor. These assets, revenues and revenue 13 sources may be used or pledged as security for use in creating the fund. However; 14 however, the total sum of such revenues used shall not exceed six million dollars. 15 Use of monies in and expenditures from the reserve fund shall be solely for the 16 purposes of establishing, operating and administering the insurance program 17 authorized in this Part.

18 C. At the time that the workers' compensation insurance coverage and related
19 benefits program as authorized in this Part is available through the Horsemen's
20 Benevolent and Protective Association for the benefit of trainers, owners, and others
21 licensed by the Louisiana State Racing Commission, the following conditions shall
22 apply:

(1) In addition to all other requirements for a trainer's license, each applicant
for a trainer's license shall furnish to the Louisiana State Racing Commission, prior
to being licensed, a certificate of workers' compensation insurance coverage issued
by the Horsemen's Benevolent and Protective Association or its authorized insurer
indicating the following:

28 (a) That workers' compensation insurance coverage is in full force and effect
29 for the employees of the applicant; or

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2 but was declined for good cause.

3 (2) If the certificate of workers' compensation insurance coverage indicates
4 that the trainer applied for the coverage under the insurance program authorized in
5 this Part, but was declined for good cause, then that trainer shall provide a certificate
6 of workers' compensation insurance coverage and related benefits from another
7 insurance company authorized to do business in this state or otherwise acceptable to
8 the Louisiana State Racing Commission.

(b) That the applicant applied for workers' compensation insurance coverage

9 (3) No racing association in this state shall admit any trainer into its racing 10 facilities prior to obtaining from the trainer a certificate of workers' compensation 11 insurance coverage issued by the Horsemen's Benevolent and Protective Association 12 or its authorized insurer. This certificate shall indicate that workers' compensation 13 insurance coverage is in full force and effect for the employees of the trainer. If the 14 certificate of workers' compensation insurance coverage indicates that the trainer 15 applied for coverage under the insurance program authorized in this Part but was 16 declined for good cause, then that trainer shall provide a certificate of workers' 17 compensation insurance coverage and related benefits from another insurance 18 company authorized to do business in this state or otherwise acceptable to the racing 19 association, which acceptance shall not be unreasonably withheld by the racing 20 association.

21 (4) All racing associations in this state are encouraged to cooperate with the 22 Horsemen's Benevolent and Protective Association in the implementation of the 23 insurance program authorized in this Part. Upon written request by the Horsemen's Benevolent and Protective Association, racing associations shall promptly transfer 24 25 to the Horsemen's Benevolent and Protective Association those monies, including 26 purses and purse supplements, held by the racing associations for the benefit of the 27 horsemen and the Horsemen's Benevolent and Protective Association. This written 28 request shall indicate that the purposes of the requested transfer are the

1	establishment, operation or administration of the insurance program authorized in
2	this Part.
3	(5) The total amount of purses and purse supplements authorized for use by
4	the Horsemen's Benevolent and Protective Association for establishment, operation
5	or administration of the insurance program authorized in this Part shall not exceed
6	two percent of the total amount of purses and purse supplements available for purses
7	for any race meet.
8	Section 5. R.S. 27:318(B)(4) and (C) is hereby amended and reenacted to read as
9	follows:
10	§318. Distribution of device revenues; particular licensed establishments; pari-
11	mutuel wagering facilities
12	* * *
13	B. Revenues earned for purse supplements under Subsection A shall be
14	disbursed, accounted for, and used as follows:
15	* * *
16	(4) Four percent of all monies earned or authorized in accordance with the
17	provisions of this Section for purse supplements shall be paid the authorized
18	representative of the horsemen for the use and benefit of such persons and other
19	horsemen as medical and hospital benefits shall be deposited to the credit of the state
20	general fund. However, provisions of this Paragraph shall not apply if provisions of
21	R.S. 4:183 as currently in effect require such a deduction from monies earned for
22	purse supplements under this Section, and provisions of this Paragraph would result
23	in duplication of designated funds for hospitalization for Horsemen.
24	C. The division shall require all contracts between licensed device owners,
25	operators, or service entities and owners of licensed establishments offering pari-
26	mutuel wagering to be in writing and submitted to the division within ten days of
27	signing. The division shall promulgate rules and regulations necessary to require

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1	correct reporting and timely use of those funds designated for use as horsemen's
2	purses.
3	* * *
4	Section 6. R.S. $27:361(B)(4)(a)$ is hereby amended and reenacted to read as follows:
5	§361. Conduct of slot machine gaming; temporary conduct
6	* * *
7	B. As a condition of licensing and to maintain continued authority for the
8	conduct of slot machine gaming at the licensed eligible facility, the owner of the
9	licensed eligible facility shall:
10	* * *
11	(4) Contribute to the support of pari-mutuel wagering facilities in the state
12	at large and the horse breeding industry by paying annually from the annual net slot
13	machine proceeds received from slot machine gaming operations at the licensed
14	eligible facility as provided in this Paragraph:
15	(a) The licensed eligible facility shall pay a fixed percentage of fifteen
16	percent of the annual net slot machine proceeds received from slot machine gaming
17	operations at the licensed eligible facility to supplement purses as follows:
18	(i) Seventy percent to supplement purses for thoroughbred races at that
19	facility or any facility licensed by the Louisiana State Racing Commission to conduct
20	additional or substitute races or race days as authorized by R.S. 4:147.1, thirty
21	percent of which shall be for Louisiana-bred thoroughbred horses. Four percent of
22	this amount shall go to the Horsemen's Benevolent and Protective Association in
23	accordance with law be deposited to the credit of the state general fund.
24	(ii) Thirty percent to supplement purses for quarter horse races at that facility
25	or any facility licensed by the Louisiana State Racing Commission to conduct
26	additional or substitute races or race days as authorized by R.S. 4:147.1, sixty
27	percent of which shall be for Louisiana-bred quarter horses. Four percent of this

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1	amount shall go to the Horsemen's Benevolent and Protective Association in
2	accordance with law be deposited to the credit of the state general fund.
3	* * *
4	Section 7. R.S. 42:1124.2.1(A)(4) is hereby enacted to read as follows:
5	§1124.2.1. Financial disclosure; members of boards and commissions
6	A. Each of the following, except a person who is required to file a financial
7	statement pursuant to R.S. 42:1124 or 1124.2, shall annually file a financial
8	statement as provided in this Section:
9	* * *
10	(4) Each member of the Horsemen's Benevolent and Protective Association.
11	* * *
12	Section 8. This Act shall become effective on July 1, 2010; if vetoed by the governor
13	and subsequently approved by the legislature, this Act shall become effective on July 1,
14	2010, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Pearson

HB No. 779

Abstract: Retains pari-mutuel monies payable to the HBPA but redirects OTB, video poker, and slot monies <u>from</u> the HBPA to the state general fund, and provides numerous administrative and regulatory changes.

The Horsemen's Benevolent and Protective Association (HBPA) is the statutorily designated and recognized representative of horsemen racing on Louisiana tracks, and the HBPA is charged with the duty of negotiating contracts for the horsemen relative to purses, hospitalization, medical benefits, conditions, and all other matters of interest and concern to horsemen. <u>Proposed law</u> retains this provision of <u>present law</u>.

Section 1. Public policy

<u>Present law</u> provides that it is the policy of the state, in furtherance of its responsibility to provide revenues for the operation of state government for its people, to provide funds and financial assistance to licensed horse racing tracks. <u>Proposed law</u> retains <u>present law</u> and formalizes that financial assistance currently being provided to jockeys, pony persons, owners, trainers, and others in the racing industry also serves a public purpose. <u>Proposed law</u> further provides that such funds and financial assistance are deemed to be public funds for purposes of regulation, use, auditing standards, review, and oversight.

Section 2. Pari-mutuel horse racing

<u>Present law</u> requires a minimum of 50% of a licensee's commission of the gross pari-mutuel handle retained by the licensee from each race (and a portion of purse supplements from offtrack wagering, which portion will be further discussed in Section 3) be distributed as follows: 96% to the permittees as purses and 4% to the HBPA for medical and hospital benefits. <u>Proposed law</u> retains <u>present law</u> with respect to pari-mutuel and offtrack monies directed to the permittees as purses. <u>Proposed law</u> retains the 4% of the pari-mutuel monies directed to the HBPA. <u>Proposed law</u> further provides that out of that 4%, the HBPA can provide workers' compensation and pension benefits in addition to medical and hospital benefits.

Section 3. Offtrack wagering.

<u>Proposed law</u> retains <u>present law</u> with the exception of the 2% of offtrack monies designated for purses. Instead of that 2% going to the HBPA, <u>proposed law</u> redirects that money to the state general fund.

Section 4. Horsemen's Workers' Compensation Insurance Program and the Horsemen's Self-Help Pension Program.

<u>Present law</u> authorizes such worker's compensation and pension programs and funds such programs out of the 2% of offtrack monies directed to the HBPA. <u>Present law</u> further details how the funds are to be divided between these programs and administered and requires each horseman and trainer to produce a certificate of workers' compensation insurance coverage issued by the HBPA prior to licensure or admittance into a racing facility. <u>Proposed law</u> retains the authorization of the HBPA to provide workers' compensation and pension programs without regard to the 2% and repeals all the other provisions and requirements.

Section 5. Video draw poker devices at pari-mutuel wagering facilities.

<u>Present law</u> requires that, out of 20% of the net video draw poker device revenue derived from operation of such devices at pari-mutuel wagering facilities, 4% shall be paid to horsemen for medical and hospital benefits. Furthermore, there <u>may</u> also be an additional 2% of the 20% of the net video draw poker device revenue being paid to the HBPA. <u>Proposed law</u> redirects that 4% to the state general fund and <u>if</u> there is an additional 2% being paid to the HBPA, this amount is also redirected to the state general fund.

Section 6. Slot machines at racing facilities.

<u>Present law</u>, with respect to thoroughbred races, requires that out of 15% of the net slot machine proceeds derived from operation of such devices at racing facilities that 4% of 70% of purse supplements be paid to the HBPA. Furthermore, there may also be an additional 2% of the 70% of thoroughbred purse supplements being paid to the HBPA. <u>Proposed law</u> redirects this 4% to the state general fund and if there is an additional 2% being paid to the HBPA, this amount is also redirected to the state general fund. <u>Present law</u>, with respect to quarter horse races, requires that out of 15% of the net slot machine proceeds derived from operation of such devices at racing facilities that 4% of 30% of purse supplements be paid to the HBPA. Furthermore, there may also be an additional 2% of the 30% of quarter horse purse supplements being paid to the HBPA. <u>Proposed law</u> redirects this 4% to the state general fund and if there is an additional 2% of the state general fund and if there is an additional 2% of the state general fund and if there is an additional 2% of the state general fund and if there is an additional 2% of the state general fund and if there is an additional 2% being paid to the HBPA. <u>Proposed law</u> redirects this 4% to the state general fund and if there is an additional 2% being paid to the HBPA.

Section 7. Financial disclosure.

<u>Present law</u> requires, among others, that every member of a board or commission that has the authority to expend, disburse, or invest \$10,000 or more of funds in a fiscal year file an

annual financial statement with the Board of Ethics. <u>Proposed law</u> specifically subjects each member of the HBPA to this disclosure requirement.

Additionally, <u>proposed law</u> eliminates all requirements and restrictions relative to the amount of proceeds that must be dedicated to and the administration of each of the benefit programs: health, hospital, workers' compensation, and pension; <u>proposed law</u> reduces from 30% to 12% the amount of revenue that can be used to pay administrative and other expenses; and, <u>proposed law</u> clarifies that all monies in the possession of or payable to or from the HBPA must be accounted for in the Horsemen's Bookkeeper Account which is subject to legislative audit.

Effective July 1, 2010.

(Amends R.S. 4:141(A)(intro. para.) and (B), 183(A), 185(B) and (C), 217(D)(1)(d), 251(B)(2) and (C), 251.1(B), and 252 and R.S. 27:318(B)(4) and (C) and 361(B)(4)(a); Adds R.S. 42:1124.2.1(A)(4))