

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







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 any other 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.~~

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.~~

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

2 A. The Horsemen's Benevolent and Protective Association is encouraged to  
3 immediately and diligently seek to secure and provide workers' compensation  
4 insurance coverage and related benefits from an insurance company authorized to do  
5 business in this state, for the benefit of trainers and others licensed by the Louisiana  
6 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:~~

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

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



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

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  
24 Benevolent and Protective Association, racing associations shall promptly transfer  
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 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

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.

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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)]

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Pearson

HB No. 779

**Abstract:** Retains pari-mutuel monies payable to the HBPA but redirects OTB, video poker, and slot monies from 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. Proposed law retains this provision of present law.

**Section 1. Public policy**

Present law 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. Proposed law retains present law 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. Proposed law 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**

Present law 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. Proposed law retains present law with respect to pari-mutuel and offtrack monies directed to the permittees as purses. Proposed law retains the 4% of the pari-mutuel monies directed to the HBPA. Proposed law 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.**

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

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

Present law authorizes such worker's compensation and pension programs and funds such programs out of the 2% of offtrack monies directed to the HBPA. Present law 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. Proposed law 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.**

Present law 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 may also be an additional 2% of the 20% of the net video draw poker device revenue being paid to the HBPA. Proposed law redirects that 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.

**Section 6. Slot machines at racing facilities.**

Present law, 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. Proposed law 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. Present law, 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. Proposed law 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.

**Section 7. Financial disclosure.**

Present law 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. Proposed law specifically subjects each member of the HBPA to this disclosure requirement.

Additionally, proposed law 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; proposed law reduces from 30% to 12% the amount of revenue that can be used to pay administrative and other expenses; and, proposed law 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))