

Assembly Bill No. 2011

CHAPTER 562

An act to amend Sections 19607, 19607.1, 19607.2, and 19607.3 of the Business and Professions Code, relating to horse racing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2016. Filed with
Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2011, Cooper. Thoroughbred racing: northern, central, and southern zones: auxiliary offsite stabling, training, and vanning.

(1) The Horse Racing Law requires, when satellite wagering is conducted on thoroughbred races at associations or fairs in the northern, central, or southern zone, that an amount not to exceed 1.25% of the total amount handled by all of those satellite wagering facilities be deducted from the funds otherwise allocated for distribution as commissions, purses, and owners' premiums and instead be distributed to an organization formed and operated by thoroughbred racing associations, fairs conducting thoroughbred racing, and the organization representing thoroughbred horsemen and horsewomen, to administer a fund to provide reimbursement for offsite stabling at California Horse Racing Board-approved auxiliary training facilities for additional stalls beyond the number of usable stalls the association or fair is required to make available and maintain, and for the vanning of starters from these additional stalls on racing days for thoroughbred horses.

This bill would increase the amount that is required to be deducted to an amount not to exceed 2% in the northern, central, and southern zones, and would provide that this amount in the northern zone, if adjusted by the board, may be a different percentage of the handle for different associations and fairs, but only if all the associations and fairs agree to the differing percentages. The bill would establish an auxiliary offsite stabling and training facility and vanning program for thoroughbred races in the northern, central, and southern zones. The bill would revise and recast the provisions governing the organization formed and operated to administer the fund to include, among other things, a 50-50 percentage allocation of specified voting interests on the board of the organization, the use of funds to pay the organization's expenses and compensate the provider of a board-approved auxiliary facility for offsite stabling and training of thoroughbred horses in the northern, central, and southern zones, and the requirement that the organization submit its proposed financial and operational plans for the upcoming calendar year to the board for review no later than November 1 of the preceding year. The bill would require, at the request of the board,

the organization to submit a report detailing all of its receipts and expenditures over the prior 2 fiscal years and, upon request of any party within the organization, that those receipts and expenditures be audited by an independent 3rd party selected by the board at the organization's expense.

The bill would also require that the funds be used to cover all or part of the cost of vanning thoroughbred horses in the northern, central, or southern zone from a board-approved auxiliary offsite stabling and training facility and would authorize the organization to enter into multiyear contracts for auxiliary facilities in the northern, central, or southern zone subject to specified conditions. The bill would authorize the organization to use the funds to pay back commissions, purses, and owners' premiums to the extent that the deductions made exceed in any year the amount of the funds necessary to achieve the objectives of the organization. The bill would also authorize a thoroughbred racing association or fair in the northern zone to opt out of the auxiliary offsite stabling and training facility and vanning program, as specified. The bill would provide that the board shall reserve the right to adjudicate any disputes that arise regarding costs, or other matters, relating to the furnishing of offsite stabling or vanning, as specified.

(2) By expanding the provisions of the Horse Racing Law, a violation of which is a crime, the bill would create new crimes and would thereby impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 19607 of the Business and Professions Code is amended to read:

19607. (a) Notwithstanding Sections 19605.8 and 19605.9, when satellite wagering is conducted on thoroughbred races at associations or fairs in the central or southern zone, an amount not to exceed 2 percent of the total amount handled by all of those satellite wagering facilities shall be deducted from the funds otherwise allocated for distribution as commissions, purses, and owners' premiums and instead distributed to an organization formed and operated by one licensed association from each facility in the central and southern zones at which a thoroughbred or fair racing meeting is conducted, and the organization representing thoroughbred horsemen and horsewomen, for use in accordance with Section 19607.1.

(b) A vote of the organization representing thoroughbred horsemen and horsewomen shall constitute 50 percent of all voting interests on the board of the organization formed and operated to administer the fund. The other

50 percent of all voting interests shall be allocated equally among the other members of the organization. Any use of funds by the organization shall be approved by the affirmative vote of both (1) the organization representing thoroughbred horsemen and horsewomen, and (2) at least two of the licensed thoroughbred racing associations that are part of the organization formed pursuant to this section, provided, however, that, if there are only two licensed thoroughbred racing associations that are part of the organization formed pursuant to this section, the vote of at least one of those two licensed thoroughbred racing associations shall be sufficient.

SEC. 2. Section 19607.1 of the Business and Professions Code is amended to read:

19607.1. (a) Notwithstanding Section 19535, the funds distributed to the organization formed pursuant to Section 19607 shall be used to pay the expenses of the organization and compensate the provider of a board-approved auxiliary facility for offsite stabling and training of thoroughbred horses in the central or southern zone. The organization administering the offsite stabling and vanning program shall submit its proposed financial and operational plans for the upcoming calendar year to the board for review no later than November 1 of the preceding year. Neither the organization administering the offsite stabling and vanning program nor any of the entities forming and operating the organization, except an entity operating the auxiliary offsite stabling facility where the injury occurred, shall be liable for any injury to any jockey, exercise person, owner, trainer, or any employee or agent thereof, or any horse occurring at any offsite stabling facility.

(b) The funds shall also be used to cover all or part of the cost of vanning thoroughbred horses from a board-approved auxiliary offsite stabling and training facility to start in a thoroughbred race at a thoroughbred or fair racing meeting in the central or southern zone. The organization shall determine the extent of and manner in which compensation will be paid for thoroughbred horses that are vanned from the auxiliary facility to the track conducting the thoroughbred or fair racing meeting, but the vanning shall be made available on a consistent and uniform basis for all thoroughbred and fair racing meetings in a given year. Neither the organization administering the offsite stabling and vanning program nor any of the entities that form and operate the organization, except an entity actually engaged in vanning horses, is liable for any injury occurring to any individual or horse during vanning from an offsite stabling facility.

(c) The auxiliary offsite stabling facilities and amenities provided for offsite stabling and training purposes shall be substantially equivalent in character to those provided by the thoroughbred racing association or fair conducting the racing meeting.

(d) In order to ensure the long-term availability of facilities for offsite stabling and training, the organization may enter into multiyear contracts for auxiliary facilities in either the central or southern zone. The organization shall submit to the board for its approval multiyear contracts it enters into with providers of auxiliary facilities for the offsite stabling and training.

Contracts not disapproved by the board within 60 days of submittal to the board shall be deemed to have been approved by the board. Once a multiyear contract has been approved by the board, it shall be considered to have been approved for its duration.

(e) At the request of the board, the organization shall submit a report detailing all of its receipts and expenditures over the prior two fiscal years and, upon request of any party within the organization, those receipts and expenditures shall be audited by an independent third party selected by the board at the expense of the organization.

(f) In addition to the uses of funds described in subdivisions (a) and (b), the organization may use those funds to do both of the following:

(1) Maintain a reserve fund of up to 10 percent of the total estimated annual vanning and auxiliary offsite stabling costs. In addition to the reserve fund, if the funds generated for the auxiliary offsite stabling facilities and vanning are insufficient to fully cover the expenses incurred, the organization may, in the future, accumulate sufficient funds to fully cover those expenses.

(2) Pay back commissions, purses, and owners' premiums to the extent the deductions made pursuant to Section 19607 exceed in any year the amount of funds necessary to achieve the objectives of the organization.

(g) The amount initially deducted and distributed to the organization shall be 2 percent of the total amount handled by satellite wagering facilities authorized under this article in the central or southern zone on thoroughbred racing, but that allocation may be adjusted by the board, in its discretion. However, the adjusted amount may not exceed 2 percent of the total amount handled by satellite wagering facilities.

(h) The board shall reserve the right to adjudicate any disputes that arise regarding costs or other matters relating to the furnishing of offsite stabling or vanning. Notwithstanding any other law, the board shall maintain all powers necessary and proper to ensure that offsite stabling and vanning, as provided for in this chapter, is conducted in a manner that protects the public and serves the best interests of horse racing.

SEC. 3. Section 19607.2 of the Business and Professions Code is amended to read:

19607.2. Notwithstanding Section 19605.8, when satellite wagering is conducted on thoroughbred races at associations or fairs in the northern zone, an amount not to exceed 2 percent of the total amount handled by all of those satellite wagering facilities shall be deducted from the funds otherwise allocated for distribution as commissions, purses, and owners' premiums and instead be distributed to an organization formed and operated by thoroughbred racing associations, fairs conducting thoroughbred racing, and the organization representing thoroughbred horsemen and horsewomen, for use pursuant to Section 19607.3. A vote of the organization representing thoroughbred horsemen and horsewomen shall constitute 50 percent of all voting interests on the board of the organization formed and operated to administer the fund. The other 50 percent of all voting interests shall be allocated among thoroughbred racing associations and fairs conducting thoroughbred racing in a manner that provides meaningful representation

on the governing board of the organization for thoroughbred racing associations and fairs conducting thoroughbred racing, except as provided in subdivision (h) of Section 19607.3.

SEC. 4. Section 19607.3 of the Business and Professions Code is amended to read:

19607.3. (a) Notwithstanding Section 19535, the funds distributed to the organization formed pursuant to Section 19607.2 shall be used to pay the expenses of the organization and compensate the provider of a board-approved auxiliary facility for offsite stabling and training of thoroughbred horses in the northern zone. The organization administering the offsite stabling and vanning program shall submit its proposed financial and operational plans for the upcoming calendar year to the board for review no later than November 1 of the preceding year. Neither the organization administering the offsite stabling and vanning program nor any of the entities forming and operating the organization, except an entity operating the auxiliary offsite stabling facility where the injury occurred, shall be liable for any injury to any jockey, exercise person, owner, trainer, or any employee or agent thereof, or any horse occurring at any offsite stabling facility.

(b) The funds shall also be used to cover all or part of the cost of vanning thoroughbred horses from a board-approved auxiliary offsite stabling and training facility to start in a thoroughbred race at a thoroughbred or fair racing meeting in the northern zone. The organization shall determine the extent of and manner in which compensation will be paid for thoroughbred horses that are vanned from the auxiliary facility to the track or fair conducting the thoroughbred or fair racing meeting. Neither the organization administering the offsite stabling and vanning program nor any of the entities that form and operate the organization, except an entity actually engaged in vanning horses, is liable for any injury occurring to any individual or horse during vanning from an offsite stabling facility.

(c) The auxiliary offsite stabling facilities and amenities provided for offsite stabling and training purposes shall be substantially equivalent in character to those provided by the thoroughbred racing association or fair conducting the racing meeting.

(d) In order to ensure the long-term availability of facilities for offsite stabling and training, the organization may enter into multiyear contracts for auxiliary facilities in the northern zone. The organization shall submit to the board for its approval multiyear contracts it enters into with providers of auxiliary facilities for the offsite stabling and training. Contracts not disapproved by the board within 60 days of submittal to the board shall be deemed to have been approved by the board. Once a multiyear contract has been approved by the board, it shall be considered to have been approved for its duration.

(e) At the request of the board, the organization shall submit a report detailing all of its receipts and expenditures over the prior two fiscal years and, upon request of any party within the organization, those receipts and expenditures shall be audited by an independent third party selected by the board at the expense of the organization.

(f) In addition to the uses of the funds described in subdivisions (a) and (b), the organization may use those funds to do both of the following:

(1) Maintain a reserve fund of up to 10 percent of the total estimated annual vanning and auxiliary offsite stabling costs. In addition to the reserve fund, if the funds generated for the auxiliary offsite stabling facilities and vanning are insufficient to fully cover the expenses incurred, the organization may, in the future, accumulate sufficient funds to fully cover those expenses.

(2) Pay back commissions, purses, and owners' premiums to the extent the deductions made pursuant to Section 19607.2 exceed in any year the amount of funds necessary to achieve the objectives of the organization.

(g) The amount initially deducted and distributed to the organization pursuant to Section 19607.2 may be adjusted by the board, in its discretion. However, the adjusted amount shall not exceed 2 percent of the total amount handled by satellite wagering facilities. The amount deducted and distributed to the organization as adjusted by the board may be a different percentage of the handle for different associations and fairs conducting thoroughbred racing meetings in the northern zone, but only if all the associations and fairs agree to the differing percentages.

(h) A thoroughbred racing association or fair in the northern zone that the board determines is able to provide the minimum number of stalls required by its racing meeting license without the use of any auxiliary offsite stabling and training facility and vanning program may opt out of that program, in which case the deduction described in Section 19607.2 shall not apply during the live racing meeting conducted by the association or fair until such time as the association or fair opts back into the auxiliary offsite stabling and training facility and vanning program. Any thoroughbred racing association or fair in the northern zone that opts out of the auxiliary offsite stabling and training facility and vanning program shall not have any voting interest therein until such time as the association or fair opts back into the program. The organization shall establish reasonable procedures and timelines for the giving of notice to the organization by a thoroughbred racing association or fair that elects to opt out of the auxiliary offsite stabling and training facility and vanning program.

(i) The board shall reserve the right to adjudicate any disputes that arise regarding costs, or other matters, relating to the furnishing of offsite stabling or vanning. Notwithstanding any other law, the board shall maintain all powers necessary and proper to ensure that offsite stabling and vanning, as provided for in this chapter is conducted in a manner that protects the public and serves the best interests of horse racing.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the horse racing industry may continue, uninterrupted, to provide offsite stabling and vanning in an effective manner that protects the public safety, it is necessary that this act take effect immediately.

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