

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 103**

5 (By Senators Snyder, Miller and Beach)

6 \_\_\_\_\_  
7 [Originating in the Committee on Transportation and  
8 Infrastructure; reported March 7, 2013.]  
9 \_\_\_\_\_

10  
11  
12 A BILL to amend the Code of West Virginia, 1931, as amended, by  
13 adding thereto a new article, designated §29-18A-1, §29-18A-2,  
14 §29-18A-3, §29-18A-4 and §29-18A-5, all relating to creating  
15 the West Virginia Commuter Rail Access Act; definitions;  
16 agreement with other states requirement; verifications; and  
17 authorizing a tax credit to a railroad in lieu of payment of  
18 track access fees commencing July 1, 2014.

19 *Be it enacted by the Legislature of West Virginia:*

20 That the Code of West Virginia, 1931, as amended, be amended  
21 by adding thereto a new article, designated §29-18A-1, §29-18A-2,  
22 §29-18A-3, §29-18A-4 and §29-18A-5, all to read as follows:

23 **ARTICLE 18A. WEST VIRGINIA COMMUTER RAIL ACCESS ACT.**

24 **§29-18A-1. Short title.**

1 This article may be known and cited as the West Virginia  
2 Commuter Rail Access Act.

3 **§29-18A-2. Definitions.**

4 As used in this article, the following words and terms have  
5 the following meanings unless the context clearly indicates  
6 otherwise:

7 (a) "Commuter rail" means a transit mode that is an electric  
8 or diesel propelled railway for urban passenger train service  
9 consisting of local short distance travel operating between a  
10 central city and adjacent suburbs. Service must be operated on a  
11 regular basis by or under contract with a transit operator for the  
12 purpose of transporting passengers within urbanized areas or  
13 between urbanized areas and outlying areas. The rail service,  
14 using either locomotive hauled or self-propelled railroad passenger  
15 cars, is generally characterized by multitrip tickets, specific  
16 station to station fares or railroad employment practices and  
17 usually has only one or two stations in the central business  
18 district. It does not include heavy rail rapid transit or light  
19 rail/streetcar transit service. Intercity rail service is excluded  
20 except for that portion of service operated by or under contract  
21 with a public transit agency for predominantly commuter services.  
22 Only the predominantly commuter service portion of an intercity  
23 route is eligible for inclusion when determining commuter rail  
24 route miles.

1 (b) "Heavy rail" means a transit mode that is an electric  
2 railway with the capacity for a heavy volume of traffic. It is  
3 characterized by high speed and rapid acceleration passenger rail  
4 cars operating singly or in multicar trains on fixed rails,  
5 separate rights-of-way from which all other vehicular and foot  
6 traffic are excluded, sophisticated signaling and high platform  
7 loading.

8 (c) "Light rail" means a transit mode that typically is an  
9 electric railway with a light volume traffic capacity compared to  
10 heavy rail. It is characterized by passenger rail cars operating  
11 singly or in short, usually two-car, trains, on fixed rails in  
12 shared or exclusive rights-of-way, low or high platform loading and  
13 vehicle power drawn from an overhead electric line via a trolley or  
14 a pantograph.

15 (d) "Predominantly commuter services" means that for any given  
16 trip segment (i.e., distance between two stations), more than fifty  
17 percent of the average daily ridership travels on the train at  
18 least three times a week.

19 **§29-18A-3. Agreements with other states.**

20 Commencing July 1, 2014, the State of West Virginia shall  
21 negotiate agreements with other states to provide commuter rail  
22 operation in West Virginia when there are other states involved in  
23 providing the commuter rail operation.

24 **§29-18A-4. Verification of track access fees.**

1 (a) For a railroad to be eligible to receive a corporate tax  
2 credit under the provisions of this article, a railroad that  
3 provides track access to a commuter rail operation in West Virginia  
4 shall submit an unpaid invoice for the track access fees for the  
5 commuter rail operation in West Virginia to the West Virginia State  
6 Rail Authority.

7 (b) If there is another state involved in providing the  
8 commuter rail operation, a railroad may not receive a corporate tax  
9 credit under the provisions of this article unless all other states  
10 involved in providing the commuter rail operation have entered into  
11 an interstate agreement that includes operating and capital  
12 expenditure provisions with the State of West Virginia.

13 (c) Upon receipt by the West Virginia State Rail Authority of  
14 the unpaid invoice for the track access fees for the commuter rail  
15 operation in West Virginia from a railroad, verification of any  
16 interstate agreement if applicable, and verification by the  
17 provider of the commuter rail operation of the track access fees  
18 charged by the railroad, the railroad may take a corporate tax  
19 credit in lieu of payment of the West Virginia portion of the track  
20 access fees.

21 **§29-18A-5. Tax credit for track access fees.**

22 (a) Commencing July 1, 2014, a railroad that provides track  
23 access to a commuter rail operation in West Virginia, as verified  
24 pursuant to the provisions of this article, may be given a

1 corporate tax credit against the corporate net income tax imposed  
2 by the provisions of article twenty-four, chapter eleven of this  
3 code, in an amount equal to the amount of the unpaid track access  
4 fees charged to the commuter rail operation in West Virginia.

5 (b) If a railroad accepts the corporate tax credit under the  
6 provisions of this article, the railroad is prohibited from  
7 accepting other payment for the track access fees for commuter rail  
8 operation in West Virginia.