

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 103**

4 (By Senators Snyder, Miller and Beach)

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

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

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

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

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

23 **§29-18A-1. Short title.**

24 This article may be known and cited as the West Virginia

1 Commuter Rail Access Act.

2 **§29-18A-2. Definitions.**

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

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

24 (b) "Heavy rail" means a transit mode that is an electric

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

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

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

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

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

23 **§29-18A-4. Verification of track access fees.**

24 (a) For a railroad to be eligible to receive a corporate tax

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

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

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

20 **§29-18A-5. Tax credit for track access fees.**

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

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

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

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(NOTE: The purpose of this bill is to create the West Virginia  
Commuter Rail Access Act.

This bill is new; therefore, strike-throughs and underscoring  
have been omitted.)

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FINANCE COMMITTEE AMENDMENT

On page four, section four, line seventeen, by striking out  
the word "to" and inserting in lieu thereof the word "by".