

H. B. 2879

(By Delegates Skinner, Lawrence, Barrett,
Swartzmiller, Staggers and Boggs)

[Introduced March 8, 2013; referred to the
Committee on Roads and Transportation then Finance.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 18A. WEST VIRGINIA COMMUTER RAIL ACCESS ACT.

§29-18A-1. Short title.

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

1 **§29-18A-2. Definitions.**

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

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

22 (b) "Heavy rail" means a transit mode that is an electric
23 railway with the capacity for a heavy volume of traffic. It is
24 characterized by high speed and rapid acceleration passenger rail

1 cars operating singly or in multi car trains on fixed rails,
2 separate rights-of-way from which all other vehicular and foot
3 traffic are excluded, sophisticated signaling and high platform
4 loading.

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

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

16 **§29-18A-3. Agreements with other states.**

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

21 **§29-18A-4. Verification of track access fees.**

22 (a) For a railroad to be eligible to receive a corporate tax
23 credit under the provisions of this article, a railroad that
24 provides track access to a commuter rail operation in West Virginia

1 shall submit an unpaid invoice for the track access fees for the
2 commuter rail operation in West Virginia to the West Virginia State
3 Rail Authority.

4 (b) Upon receipt by the West Virginia State Rail Authority of
5 the unpaid invoice for the track access fees for the commuter rail
6 operation in West Virginia from a railroad and verification by the
7 provider of the commuter rail operation of the track access fees
8 charged to a railroad, the railroad may take a corporate tax credit
9 in lieu of payment of the track access fees.

10 **§29-18A-5. Tax credit for track access fees.**

11 (a) Commencing July 1, 2014, a railroad that provides track
12 access to a commuter rail operation in West Virginia, as verified
13 pursuant to the provisions of this article, may be given a
14 corporate tax credit against the corporate net income tax imposed
15 by the provisions of article twenty-four, chapter eleven of this
16 code, in an amount equal to the amount of the unpaid track access
17 fees charged to the commuter rail operation in West Virginia.

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

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

This bill is new; therefore, it has been completely
underscored.