

**Senate Bill No. 103**

(By Senators Snyder, Miller and Beach)

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[Introduced February 13, 2013; referred to the Committee on  
Transportation and Infrastructure; and then to the Committee on  
Finance.]  
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**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.**

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, using  
14 either locomotive hauled or self-propelled railroad passenger cars,  
15 is generally characterized by multitrip tickets, specific station  
16 to station fares or railroad employment practices and usually has  
17 only one or two stations in the central business district. It does  
18 not include heavy rail rapid transit or light rail/streetcar  
19 transit service. Intercity rail service is excluded except for  
20 that portion of service operated by or under contract with a public  
21 transit agency for predominantly commuter services. Only the  
22 predominantly commuter service portion of an intercity route is  
23 eligible for inclusion when determining commuter rail 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 enter into 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.

1 **§29-18A-4. Verification of track access fees.**

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

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

14 **§29-18A-5. Tax credit for track access fees.**

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

22 (b) If a railroad accepts the corporate tax credit under the  
23 provisions of this article, the railroad is prohibited from

1 accepting other payment for the track access fees for commuter rail  
2 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, strike-throughs and underscoring  
have been omitted.