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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014



ENROLLED

House Bill No. 106

(By Mr. Speaker, (Mr. Miley)
and Delegate Armstead)
(By Request of the Executive)



Passed March 14, 2014

In effect from passage.

HB106

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E N R O L L E D

H. B. 106

(BY MR. SPEAKER. (MR. MILEY)
AND DELEGATE ARMSTEAD)
[By Request of the Executive]

[Passed March 14, 2014; in effect from passage.]

AN ACT to amend and reenact §29-22-18e of the Code of West Virginia, 1931, as amended: to amend said code by adding thereto a new section, designated §29-22-18f; to amend and reenact §31-15-16b of said code; and to amend and reenact §31-15A-17b of said code, all relating to debt service on bonds secured by the State Excess Lottery Revenue Fund; clarifying the timing of debt service payments to the Cacapon and Beech Fork State Park Lottery Revenue Debt Service Fund; providing a backup pledge of bonds supported by the State Lottery Fund and State Excess Lottery Revenue Fund; clarifying priority and method of payment of debt service; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §29-22-18e of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding

thereto a new section, designated §29-22-18f; that §31-15-16b of said code be amended and reenacted; and that §31-15A-17b of said code be amended and reenacted, all to read as follows:

**CHAPTER 29. MISCELLANEOUS BOARDS
AND COMMISSIONS.**

ARTICLE 22. STATE LOTTERY ACT.

§29-22-18e. Increase in allocation to State Park Improvement Fund from State Excess Lottery Revenue Fund to permit the issuance of bonds for improvements to Cacapon Resort State Park and Beech Fork State Park.

1 Notwithstanding any provision of subsection (d), section
2 eighteen-a of this article to the contrary, the deposit of \$5 million
3 into the State Park Improvement Fund set forth in section
4 eighteen-a of this article is for the fiscal year beginning July 1,
5 2012, only. For the fiscal year beginning July 1, 2013, and each
6 fiscal year thereafter, in lieu of the deposits required under
7 subdivision (7), subsection (d), section eighteen-a of this article,
8 the commission shall first deposit an amount equal to the
9 certified debt service requirement, not to exceed \$3 million in
10 any one fiscal year, into the Cacapon and Beech Fork State Park
11 Lottery Revenue Debt Service Fund created in section sixteen-b,
12 article fifteen, chapter thirty-one of this code, to be used in
13 accordance with the provisions of that section, and second,
14 deposit \$5 million into the State Park Improvement Fund,
15 established in subsection (d), section eighteen-a of this article, to
16 be used in accordance with the provisions of that section.

§29-22-18f. Backup pledge of bonds supported by the State Lottery Fund and the State Excess Lottery Revenue Fund; payment of bond debt service.

1 (a) Any and all remaining funds in the State Excess Lottery
2 Revenue Fund after payment of debt service pursuant to sections

3 eighteen-a, eighteen-d, and eighteen-e of this article shall be
4 made available to pay debt service in connection with any
5 revenue bonds issued pursuant to section eighteen of this article,
6 if and to the extent needed for such purpose from time to time.

7 (b) Notwithstanding any other provision of this code to the
8 contrary, after first satisfying the requirements for funds
9 dedicated to pay debt service in accordance with bonds payable
10 from the State Lottery Fund pursuant to section eighteen of this
11 article, any and all remaining funds in the State Lottery Fund
12 shall be made available to pay debt service in connection with
13 revenue bonds issued pursuant to sections eighteen-a, eighteen-d,
14 and eighteen-e, of this article, if and to the extent needed for
15 such purpose from time to time.

16 (c) Notwithstanding the provisions of subsection (h), section
17 eighteen-a of this article, when bonds are issued for projects
18 under subsection (d) or (e) of section eighteen-a of this article,
19 or for the School Building Authority, infrastructure pursuant to
20 section eighteen-d of this article, higher education, or state park
21 improvements pursuant to section eighteen-e of this article that
22 are secured by profits from lotteries deposited in the State
23 Excess Lottery Revenue Fund, the Lottery Director shall allocate
24 first to the Economic Development Project Fund an amount
25 equal to one tenth of the projected annual principal, interest and
26 coverage requirements on any and all revenue bonds issued, or
27 to be issued as certified to the Lottery Director; and second, to
28 the fund or funds from which debt service is paid on bonds
29 issued under section eighteen-a of this article for the School
30 Building Authority, infrastructure pursuant to section eighteen-d
31 of this article, higher education, and state park improvements
32 pursuant to section eighteen-e of this article an amount equal to
33 one tenth of the projected annual principal, interest and coverage
34 requirements on any and all revenue bonds issued, or to be
35 issued as certified to the Lottery Director. In the event there are
36 insufficient funds available in any month to transfer the amounts
37 required pursuant to this subsection, the deficiency shall be

38 added to the amount transferred in the next succeeding month in
39 which revenues are available to transfer the deficiency.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

**§31-15-16b. Lottery revenue bonds for Cacapon Resort State Park
and Beech Fork State Park.**

1 (a)(1) The economic development authority shall, in
2 accordance with the provisions of this article, issue revenue
3 bonds, in one or more series, from time to time, to pay for all or
4 a portion of the cost of constructing, equipping, improving or
5 maintaining capital improvement projects under this section or
6 to refund the bonds, at the discretion of the authority. The
7 principal amount of the bonds issued under this section shall not
8 exceed, in the aggregate principal amount of \$52.5 million. Any
9 revenue bonds issued on or after the effective date of this section
10 which are secured by lottery proceeds shall mature at a time or
11 times not exceeding thirty years from their respective dates. The
12 principal of, and the interest and redemption premium, if any, on
13 the bonds shall be payable solely from the Cacapon and Beech
14 Fork State Parks Lottery Revenue Debt Service Fund established
15 in this section.

16 (2) There is hereby created in the State Treasury a special
17 revenue fund named the "Cacapon and Beech Fork State Parks
18 Lottery Revenue Service Fund" into which shall be deposited
19 those amounts specified in section eighteen-e, article
20 twenty-two, chapter twenty-nine of this code. All amounts
21 deposited in the fund shall be pledged to the repayment of the
22 principal, interest and redemption premium, if any, on any
23 revenue bonds or refunding revenue bonds authorized by this
24 section. The authority may further provide in the trust agreement
25 for priorities on the revenues paid into the Cacapon and Beech
26 Fork State Parks Lottery Revenue Debt Service Fund as may be
27 necessary for the protection of the prior rights of the holders of

28 bonds issued at different times under the provisions of this
29 section. The Cacapon and Beech Fork State Parks Lottery
30 Revenue Debt Service Fund shall be pledged solely for the
31 repayment of bonds issued pursuant to this section. On or prior
32 to May 1 of each year, commencing, upon issuance of the bonds,
33 the authority shall certify to the state lottery director the
34 principal and interest and coverage ratio requirements for the
35 following fiscal year on any revenue bonds or refunding revenue
36 bonds issued pursuant to this section, and for which moneys
37 deposited in the Cacapon and Beech Fork State Parks Lottery
38 Revenue Debt Service Fund have been pledged, or will be
39 pledged, for repayment pursuant to this section.

40 (3) After the authority has issued bonds authorized by this
41 section, and after the requirements of all funds have been
42 satisfied, including coverage and reserve funds established in
43 connection with the bonds issued pursuant to this section, any
44 balance remaining in the Cacapon and Beech Fork State Parks
45 Lottery Revenue Debt Service Fund may be used for the
46 redemption of any of the outstanding bonds issued under this
47 section which, by their terms, are then redeemable or for the
48 purchase of the outstanding bonds at the market price, but not to
49 exceed the price, if any, at which redeemable, and all bonds
50 redeemed or purchased shall be immediately canceled and shall
51 not again be issued.

52 (b) The authority shall expend the bond proceeds, net of
53 issuance costs, reserve funds and refunding costs, for certified
54 capital improvement projects at Cacapon Resort State Park and
55 Beech Fork State Park. The Division of Natural Resources shall
56 submit a proposed list of capital improvement projects to the
57 Governor on or before January 1, 2013. Thereafter, the Governor
58 shall certify to the authority on or before February 1, 2013, a list
59 of those capital improvement projects at Cacapon Resort State
60 Park and Beech Fork State Park that will receive funds from the
61 proceeds of bonds issued pursuant to this section. At any time
62 prior to the issuance of bonds under this section, the Governor

63 may certify to the authority a revised list of capital improvement
64 projects at Cacapon Resort State Park and Beech Fork State Park
65 that will receive funds from the proceeds of bonds issued
66 pursuant to this section. The Governor shall consult with the
67 Division of Natural Resources prior to certifying a revised list of
68 capital improvement projects to the authority.

69 (c) Except as may otherwise be expressly provided by the
70 authority, every issue of its notes or bonds shall be special
71 obligations of the authority, payable solely from the property,
72 revenues or other sources of or available to the authority pledged
73 therefor.

74 (d) The bonds and the notes shall be authorized by the
75 authority pursuant to this section, and shall be secured, be in
76 such denominations, may bear interest at such rate or rates,
77 taxable or tax-exempt, be in such form, either coupon or
78 registered, carry such registration privileges, be payable in such
79 medium of payment and at such place or places and such time or
80 times and be subject to such terms of redemption as the authority
81 may authorize. The bonds and notes of the authority may be sold
82 by the authority, at public or private sale, at or not less than the
83 price the authority determines. The bonds and notes shall be
84 executed by manual or facsimile signature by the chairman of
85 the board, and the official seal of the authority or a facsimile
86 thereof shall be affixed to or printed on each bond and note and
87 attested, manually or by facsimile signature, by the secretary of
88 the board, and any coupons attached to any bond or note shall
89 bear the manual or facsimile signature of the chairman of the
90 board. In case any officer whose signature, or a facsimile of
91 whose signature, appears on any bonds, notes or coupons ceases
92 to be such officer before delivery of such bonds or notes, such
93 signature or facsimile is nevertheless sufficient for all purposes
94 the same as if he or she had remained in office until such
95 delivery; and, in case the seal of the authority has been changed
96 after a facsimile has been imprinted on such bonds or notes, such
97 facsimile seal will continue to be sufficient for all purposes.

**ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS
DEVELOPMENT COUNCIL.**

**§31-15A-17b. Infrastructure lottery revenue bonds for watershed
compliance projects.**

1 (a)(1) The Chesapeake Bay has been identified as an
2 impaired water body due to excessive nutrients entering the bay
3 from various sources in six states, including wastewater facilities
4 in West Virginia. To restore the Chesapeake Bay, the states have
5 agreed to reduce their respective nutrient contributions to the
6 Chesapeake Bay.

7 (2) The Greenbrier River Watershed in southeastern West
8 Virginia which encompasses approximately 1,646 square miles,
9 the majority of which lies within Pocahontas, Greenbrier,
10 Monroe and Summers counties, has been identified as an
11 impaired water body due to excessive levels of fecal coliform
12 and phosphorus entering the watershed from various sources,
13 including wastewater facilities in West Virginia. To restore the
14 Greenbrier River Watershed, the state agrees to reduce the fecal
15 coliform and phosphorus contributions to the Greenbrier River
16 Watershed.

17 (b) Notwithstanding any other provision of this code to the
18 contrary, the Water Development Authority may issue, in
19 accordance with the provisions of section seventeen of this
20 article, infrastructure lottery revenue bonds payable from the
21 West Virginia Infrastructure Lottery Revenue Debt Service Fund
22 created by section nine of this article and such other sources as
23 may be legally pledged for such purposes other than the West
24 Virginia Infrastructure Revenue Debt Service Fund created by
25 section seventeen of this article.

26 (c) The council shall direct the Water Development
27 Authority to issue bonds in one or more series when it has
28 approved Chesapeake Bay watershed compliance projects and
29 Greenbrier River watershed compliance projects with an
30 authorized permitted flow of four hundred thousand gallons per

31 day or more. The proceeds of the bonds shall be used solely to
32 pay costs of issuance, fund a debt service reserve account,
33 capitalize interest, pay for security instruments necessary to
34 market the bonds and to make grants to governmental
35 instrumentalities of the state for the construction of approved
36 Chesapeake Bay watershed compliance projects and Greenbrier
37 River watershed compliance projects. To the extent funds are
38 available in the West Virginia Infrastructure Lottery Revenue
39 Debt Service Fund that are not needed for debt service, the
40 council may direct the Water Development Authority to make
41 grants to project sponsors for the design or construction of
42 approved Chesapeake Bay watershed compliance projects and
43 Greenbrier River watershed compliance projects: *Provided*, That
44 the council shall direct the Water Development Authority to
45 provide from moneys in the Lottery Revenue Debt Service Fund
46 not needed to pay debt service in fiscal year 2013 a grant of \$6
47 million to a Chesapeake Bay watershed compliance project
48 which opened bids on December 28, 2011, and further provided
49 that such Chesapeake Bay watershed compliance project shall
50 receive no further grant funding under this section after receipt
51 of the \$6 million grant.

52 (d) No later than June 30, 2012, each publicly owned facility
53 with an authorized permitted flow of four hundred thousand
54 gallons per day or more that is subject to meeting Chesapeake
55 Bay compliance standards or Greenbrier River watershed
56 compliance standards shall submit to the council a ten-year
57 projected capital funding plan for Chesapeake Bay watershed
58 compliance projects or Greenbrier River watershed compliance
59 projects, as the case may be, including a general project
60 description, cost estimate and estimated or actual project start
61 date and project completion date, if any. The council shall timely
62 review the submitted capital funding plans and forward approved
63 plans to the Water Development Authority for further processing
64 and implementation pursuant to this article. If the council finds
65 a plan to be incomplete, inadequate or otherwise problematic, it
66 shall return the plan to the applicant with comment on the plan

67 shortcomings. The applicant may then resubmit to council an
68 amended capital funding plan for further consideration pursuant
69 to the terms of this subsection.

70 (e) Upon approval, each proposed Chesapeake Bay
71 watershed compliance project or Greenbrier River watershed
72 compliance project, or portion of a larger project, which portion
73 is dedicated to compliance with nutrient standards, or fecal
74 coliform and phosphorus standards, established for the
75 protection and restoration of the Chesapeake Bay or the
76 Greenbrier River watershed, as the case may be, shall be eligible
77 for grant funding by funds generated by the infrastructure lottery
78 revenue bonds described in subsection (b) of this section. At the
79 request of the applicant, the remaining percentage of project
80 funding not otherwise funded by grant under the provisions of
81 this article may be reviewed as a standard project funding
82 application.

83 (f) No later than December 1, 2012, the Water Development
84 Authority shall report to the Joint Committee on Government
85 and Finance the total cost of Chesapeake Bay watershed
86 compliance projects and the Greenbrier River watershed
87 compliance projects and the proposed grant awards for each
88 eligible project. From the proceeds of bonds issued under
89 subsection (b) of this section, the council shall direct the Water
90 Development Authority to make grants to eligible projects ready
91 to proceed to construction and those grant awards shall be pro
92 rated to an equal percentage of total eligible costs among all
93 applicants for each eligible project as certified by the Water
94 Development Authority in its report to the Joint Committee on
95 Government and Finance dated November 26, 2012: *Provided*,
96 That the final project, and its financing, is consistent with the
97 scope of the eligible project included in the council's approval
98 on December 5, 2012.

99 (g) Eligible projects that have obtained project financing
100 prior to December 31, 2012, may apply to the council for

101 funding under the provisions of this section. These applications
102 shall be processed and considered as all other eligible projects,
103 and a grant funding awarded shall, to the extent allowed by law,
104 be dedicated to prepay all or a portion of debt previously
105 incurred by governmental instrumentalities of the state for
106 required Chesapeake Bay nutrient removal projects or
107 Greenbrier River watershed fecal coliform and phosphorus
108 removal projects, subject to the bond covenants and contractual
109 obligations of the borrowing governmental entity. However, any
110 private portion of funding provided by agreement between a
111 political subdivision and one or more private entities, either by
112 direct capital investment or debt service obligation, shall not be
113 eligible for grant funding under the provisions of this article.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Sammy Wall

Chairman, House Committee

[Handwritten signature]

Member ~~Chairman~~, Senate Committee

Originating in the House.

In effect from passage.

Sammy A. Lee

Clerk of the House of Delegates

Joseph M. Minard

Clerk of the Senate

[Handwritten signature]

Speaker of the House of Delegates

[Handwritten signature]

President of the Senate

The within is approved this the 31st day of March, 2014.

Carl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

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Time 10:45 AM