

E N G R O S S E D  
COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 103**

(By Senators Snyder, Miller and Beach)

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

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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 a 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.

**§29-18A-2. Definitions.**

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

- 4 (a) "Commuter rail" means a transit mode that is an
- 5 electric or diesel propelled railway for urban passenger train
- 6 service consisting of local short distance travel operating
- 7 between a central city and adjacent suburbs. Service must be
- 8 operated on a regular basis by or under contract with a transit
- 9 operator for the purpose of transporting passengers within
- 10 urbanized areas or between urbanized areas and outlying

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

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

30 (c) “Light rail” means a transit mode that typically is an  
31 electric railway with a light volume traffic capacity compared  
32 to heavy rail. It is characterized by passenger rail cars  
33 operating singly or in short, usually two-car, trains, on fixed  
34 rails in shared or exclusive rights-of-way, low or high  
35 platform loading and vehicle power drawn from an overhead  
36 electric line via a trolley or a pantograph.

37 (d) “Predominantly commuter services” means that for  
38 any given trip segment (i.e., distance between two stations),  
39 more than fifty percent of the average daily ridership travels  
40 on the train at least three times a week.

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

1 Commencing July 1, 2014, the State of West Virginia  
2 shall negotiate agreements with other states to provide  
3 commuter rail operation in West Virginia when there are  
4 other states involved in providing the commuter rail  
5 operation.

**§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  
4 Virginia shall submit an unpaid invoice for the track access  
5 fees for the commuter rail operation in West Virginia to the  
6 West Virginia State Rail Authority.

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

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

20 take a corporate tax credit in lieu of payment of the West  
21 Virginia portion of the track access fees.

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

1 (a) Commencing July 1, 2014, a railroad that provides  
2 track access to a commuter rail operation in West Virginia,  
3 as verified pursuant to the provisions of this article, may be  
4 given a corporate tax credit against the corporate net income  
5 tax imposed by the provisions of article twenty-four, chapter  
6 eleven of this code, in an amount equal to the amount of the  
7 unpaid track access fees charged to the commuter rail  
8 operation in West Virginia.

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