

**Senate Bill No. 1006**

(By Senators Kessler (Mr. President) and M. Hall,

By Request of the Executive)

\_\_\_\_\_  
[Introduced March 14, 2014; referred to the Committee on  
Finance.]  
\_\_\_\_\_

10 A BILL to amend and reenact §29-22-18e of the Code of West  
11 Virginia, 1931, as amended; to amend said code by adding  
12 thereto a new section, designated §29-22-18f; to amend and  
13 reenact §31-15-16b of said code; and to amend and reenact  
14 §31-15A-17b of said code, all relating to debt service on  
15 bonds secured by the State Excess Lottery Revenue Fund;  
16 clarifying the timing of debt service payments to the Cacapon  
17 and Beech Fork State Park Lottery Revenue Debt Service Fund;  
18 providing a backup pledge of bonds supported by the State  
19 Lottery Fund and State Excess Lottery Revenue Fund; clarifying  
20 priority and method of payment of debt service; and making  
21 technical corrections.

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

1 That §29-22-18e of the Code of West Virginia, 1931, as  
2 amended, be amended and reenacted; that said code be amended by  
3 adding thereto a new section, designated §29-22-18f; that  
4 §31-15-16b of said code be amended and reenacted; and that  
5 §31-15A-17b of said code be amended and reenacted, all to read as  
6 follows:

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

8 **ARTICLE 22. STATE LOTTERY ACT.**

9 **§29-22-18e. Increase in allocation to State Park Improvement Fund**  
10 **from State Excess Lottery Revenue Fund to permit**  
11 **the issuance of bonds for improvements to Cacapon**  
12 **Resort State Park and Beech Fork State Park.**

13 Notwithstanding any provision of subsection (d), section  
14 eighteen-a of this article to the contrary, the deposit of \$5  
15 million into the State Park Improvement Fund set forth in section  
16 eighteen-a of this article is for the fiscal year beginning July 1,  
17 2012, only. For the fiscal year beginning July 1, 2013, and each  
18 fiscal year thereafter, in lieu of the deposits required under  
19 subdivision (7), subsection (d), section eighteen-a of this  
20 article, the commission shall first deposit an amount equal to the  
21 certified debt service requirement ~~for the following fiscal year,~~  
22 not to exceed \$3 million in any one fiscal year, into the Cacapon

1 and Beech Fork State Park Lottery Revenue Debt Service Fund created  
2 in section sixteen-b, article fifteen, chapter thirty-one of this  
3 code, to be used in accordance with the provisions of that section  
4 and, second, deposit \$5 million into the State Park Improvement  
5 Fund, established in subsection (d), section eighteen-a of this  
6 article, to be used in accordance with the provisions of that  
7 section.

8 **§29-22-18f. Backup pledge of bonds supported by the State Lottery**  
9 **Fund and the State Excess Lottery Revenue Fund;**  
10 **payment of bond debt service.**

11 (a) Any and all remaining funds in the State Excess Lottery  
12 Revenue Fund after payment of debt service pursuant to sections  
13 eighteen-a, eighteen-d and eighteen-e of this article shall be made  
14 available to pay debt service in connection with any revenue bonds  
15 issued pursuant to section eighteen of this article, if and to the  
16 extent needed for such purpose from time to time.

17 (b) Notwithstanding any other provision of this code to the  
18 contrary, after first satisfying the requirements for funds  
19 dedicated to pay debt service in accordance with bonds payable from  
20 the State Lottery Fund pursuant to section eighteen of this  
21 article, any and all remaining funds in the State Lottery Fund  
22 shall be made available to pay debt service in connection with

1 revenue bonds issued pursuant to sections eighteen-a, eighteen-d  
2 and eighteen-e of this article, if and to the extent needed for  
3 such purpose from time to time.

4 (c) Notwithstanding the provisions of subsection (h), section  
5 eighteen-a of this article, when bonds are issued for projects  
6 under subsection (d) or (e) of section eighteen-a of this article,  
7 or for the School Building Authority, infrastructure pursuant to  
8 section eighteen-d of this article, higher education or state park  
9 improvements pursuant to section eighteen-e of this article that  
10 are secured by profits from lotteries deposited in the State Excess  
11 Lottery Revenue Fund, the Lottery Director shall allocate first to  
12 the Economic Development Project Fund an amount equal to one tenth  
13 of the projected annual principal, interest and coverage  
14 requirements on any and all revenue bonds issued, or to be issued  
15 as certified to the Lottery Director; and, second, to the fund or  
16 funds from which debt service is paid on bonds issued under section  
17 eighteen-a of this article for the School Building Authority,  
18 infrastructure pursuant to section eighteen-d of this article,  
19 higher education and state park improvements pursuant to section  
20 eighteen-e of this article an amount equal to one tenth of the  
21 projected annual principal, interest and coverage requirements on  
22 any and all revenue bonds issued, or to be issued as certified to

1 the Lottery Director. In the event there are insufficient funds  
2 available in any month to transfer the amounts required pursuant to  
3 this subsection, the deficiency shall be added to the amount  
4 transferred in the next succeeding month in which revenues are  
5 available to transfer the deficiency.

6 **CHAPTER 31. CORPORATIONS.**

7 **ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.**

8 **§31-15-16b. Lottery revenue bonds for Cacapon Resort State Park**  
9 **and Beech Fork State Park.**

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

1 Revenue Debt Service Fund established in this section.

2       (2) There is hereby created in the State Treasury a special  
3 revenue fund named the Cacapon and Beech Fork State Parks Lottery  
4 Revenue Service Fund into which shall be deposited those amounts  
5 specified in section eighteen-e, article twenty-two, chapter  
6 twenty-nine of this code. All amounts deposited in the fund shall  
7 be pledged to the repayment of the principal, interest and  
8 redemption premium, if any, on any revenue bonds or refunding  
9 revenue bonds authorized by this section. The authority may further  
10 provide in the trust agreement for priorities on the revenues paid  
11 into the Cacapon and Beech Fork State Parks Lottery Revenue Debt  
12 Service Fund as may be necessary for the protection of the prior  
13 rights of the holders of bonds issued at different times under the  
14 provisions of this section. The Cacapon and Beech Fork State Parks  
15 Lottery Revenue Debt Service Fund shall be pledged solely for the  
16 repayment of bonds issued pursuant to this section. On or prior to  
17 May 1 of each year, commencing ~~May 1, 2014~~, upon issuance of the  
18 bonds, the authority shall certify to the State Lottery Director  
19 the principal and interest and coverage ratio requirements for the  
20 following fiscal year on any revenue bonds or refunding revenue  
21 bonds issued pursuant to this section, and for which moneys  
22 deposited in the Cacapon and Beech Fork State Parks Lottery Revenue

1 Debt Service Fund have been pledged, or will be pledged, for  
2 repayment pursuant to this section.

3       (3) After the authority has issued bonds authorized by this  
4 section, and after the requirements of all funds have been  
5 satisfied, including coverage and reserve funds established in  
6 connection with the bonds issued pursuant to this section, any  
7 balance remaining in the Cacapon and Beech Fork State Parks Lottery  
8 Revenue Debt Service Fund may be used for the redemption of any of  
9 the outstanding bonds issued under this section which, by their  
10 terms, are then redeemable or for the purchase of the outstanding  
11 bonds at the market price, but not to exceed the price, if any, at  
12 which redeemable, and all bonds redeemed or purchased shall be  
13 immediately canceled and shall not again be issued.

14       (b) The authority shall expend the bond proceeds, net of  
15 issuance costs, reserve funds and refunding costs, for certified  
16 capital improvement projects at Cacapon Resort State Park and Beech  
17 Fork State Park. The Division of Natural Resources shall submit a  
18 proposed list of capital improvement projects to the Governor on or  
19 before January 1, 2013. Thereafter, the Governor shall certify to  
20 the authority on or before February 1, 2013, a list of those  
21 capital improvement projects at Cacapon Resort State Park and Beech  
22 Fork State Park that will receive funds from the proceeds of bonds

1 issued pursuant to this section. At any time prior to the issuance  
2 of bonds under this section, the Governor may certify to the  
3 authority a revised list of capital improvement projects at Cacapon  
4 Resort State Park and Beech Fork State Park that will receive funds  
5 from the proceeds of bonds issued pursuant to this section. The  
6 Governor shall consult with the Division of Natural Resources prior  
7 to certifying a revised list of capital improvement projects to the  
8 authority.

9 (c) Except as may otherwise be expressly provided by the  
10 authority, every issue of its notes or bonds shall be special  
11 obligations of the authority, payable solely from the property,  
12 revenues or other sources of or available to the authority pledged  
13 therefor.

14 (d) The bonds and the notes shall be authorized by the  
15 authority pursuant to this section, and shall be secured, be in  
16 such denominations, may bear interest at such rate or rates,  
17 taxable or tax-exempt, be in such form, either coupon or  
18 registered, carry such registration privileges, be payable in such  
19 medium of payment and at such place or places and such time or  
20 times and be subject to such terms of redemption as the authority  
21 may authorize. The bonds and notes of the authority may be sold by  
22 the authority, at public or private sale, at or not less than the

1 price the authority determines. The bonds and notes shall be  
2 executed by manual or facsimile signature by the chairman of the  
3 board, and the official seal of the authority or a facsimile  
4 thereof shall be affixed to or printed on each bond and note and  
5 attested, manually or by facsimile signature, by the secretary of  
6 the board, and any coupons attached to any bond or note shall bear  
7 the manual or facsimile signature of the chairman of the board. In  
8 case any officer whose signature, or a facsimile of whose  
9 signature, appears on any bonds, notes or coupons ceases to be such  
10 officer before delivery of such bonds or notes, such signature or  
11 facsimile is nevertheless sufficient for all purposes the same as  
12 if he or she had remained in office until such delivery; and, in  
13 case the seal of the authority has been changed after a facsimile  
14 has been imprinted on such bonds or notes, such facsimile seal will  
15 continue to be sufficient for all purposes.

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

17 **COUNCIL.**

18 **§31-15A-17b. Infrastructure lottery revenue bonds for watershed**  
19 **compliance projects.**

20 (a) (1) The Chesapeake Bay has been identified as an impaired  
21 water body due to excessive nutrients entering the bay from various  
22 sources in six states, including wastewater facilities in West

1 Virginia. To restore the Chesapeake Bay, the states have agreed to  
2 reduce their respective nutrient contributions to the Chesapeake  
3 Bay.

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

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

1           (c) The council shall direct the Water Development Authority  
2 to issue bonds in one or more series when it has approved  
3 Chesapeake Bay watershed compliance projects and Greenbrier River  
4 watershed compliance projects with an authorized permitted flow of  
5 four hundred thousand gallons per day or more. The proceeds of the  
6 bonds shall be used solely to pay costs of issuance, fund a debt  
7 service reserve account, capitalize interest, pay for security  
8 instruments necessary to market the bonds and to make grants to  
9 governmental instrumentalities of the state for the construction of  
10 approved Chesapeake Bay watershed compliance projects and  
11 Greenbrier River watershed compliance projects. To the extent funds  
12 are available in the West Virginia Infrastructure Lottery Revenue  
13 Debt Service Fund that are not needed for debt service, the council  
14 may direct the Water Development Authority to make grants to  
15 project sponsors for the design or construction of approved  
16 Chesapeake Bay watershed compliance projects and Greenbrier River  
17 watershed compliance projects: *Provided*, That the council shall  
18 direct the Water Development Authority to provide from moneys in  
19 the Lottery Revenue Debt Service Fund not needed to pay debt  
20 service in fiscal year 2013 a grant of \$6 million to a Chesapeake  
21 Bay watershed compliance project which opened bids on December 28,  
22 2011, and further provided that such Chesapeake Bay watershed

1 compliance project shall receive no further grant funding under  
2 this section after receipt of the \$6 million grant.

3       (d) No later than June 30, 2012, each publicly owned facility  
4 with an authorized permitted flow of four hundred thousand gallons  
5 per day or more that is subject to meeting Chesapeake Bay  
6 compliance standards or Greenbrier River watershed compliance  
7 standards shall submit to the council a ten-year projected capital  
8 funding plan for Chesapeake Bay watershed compliance projects or  
9 Greenbrier River watershed compliance projects, as the case may be,  
10 including a general project description, cost estimate and  
11 estimated or actual project start date and project completion date,  
12 if any. The council shall timely review the submitted capital  
13 funding plans and forward approved plans to the Water Development  
14 Authority for further processing and implementation pursuant to  
15 this article. If the council finds a plan to be incomplete,  
16 inadequate or otherwise problematic, it shall return the plan to  
17 the applicant with comment on the plan shortcomings. The applicant  
18 may then resubmit to council an amended capital funding plan for  
19 further consideration pursuant to the terms of this subsection.

20       (e) Upon approval, each proposed Chesapeake Bay watershed  
21 compliance project or Greenbrier River watershed compliance  
22 project, or portion of a larger project, which portion is dedicated

1 to compliance with nutrient standards, or fecal coliform and  
2 phosphorus standards, established for the protection and  
3 restoration of the Chesapeake Bay or the Greenbrier River  
4 watershed, as the case may be, shall be eligible for grant funding  
5 by funds generated by the infrastructure lottery revenue bonds  
6 described in subsection (b) of this section. At the request of the  
7 applicant, the remaining percentage of project funding not  
8 otherwise funded by grant under the provisions of this article may  
9 be reviewed as a standard project funding application.

10 (f) No later than December 1, 2012, the Water Development  
11 Authority shall report to the Joint Committee on Government and  
12 Finance the total cost of Chesapeake Bay watershed compliance  
13 projects and the Greenbrier River watershed compliance projects and  
14 the proposed grant awards for each eligible project. From the  
15 proceeds of bonds issued under subsection (b) of this section, the  
16 council shall direct the Water Development Authority to make grants  
17 to eligible projects ready to proceed to construction and those  
18 grant awards shall be pro rated to an equal percentage of total  
19 eligible costs among all applicants for each eligible project as  
20 certified by the Water Development Authority in its report to the  
21 Joint Committee on Government and Finance dated November ~~28~~26,  
22 2012: *Provided*, That the final project, and its financing, is

1 consistent with the scope of the eligible project included in the  
2 council's approval on December 5, 2012.

3 (g) Eligible projects that have obtained project financing  
4 prior to December 31, 2012, may apply to the council for funding  
5 under the provisions of this section. These applications shall be  
6 processed and considered as all other eligible projects, and a  
7 grant funding awarded shall, to the extent allowed by law, be  
8 dedicated to prepay all or a portion of debt previously incurred by  
9 governmental instrumentalities of the state for required Chesapeake  
10 Bay nutrient removal projects or Greenbrier River watershed fecal  
11 coliform and phosphorus removal projects, subject to the bond  
12 covenants and contractual obligations of the borrowing governmental  
13 entity. However, any private portion of funding provided by  
14 agreement between a political subdivision and one or more private  
15 entities, either by direct capital investment or debt service  
16 obligation, shall not be eligible for grant funding under the  
17 provisions of this article.

NOTE: The purpose of this bill is the clarify the priority and timing of debt service payment and to make technical corrections to the statutes authorizing the issuance of Lottery revenue bonds for Cacapon Resort State Park and Beech Fork State Park and for watershed compliance projects.

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.

§29-22-18f is new; therefore, strike-throughs and underscoring has been omitted.