

1 **ENROLLED**

2 **H. B. 106**

3  
4 (By Mr. Speaker, (Mr. Miley) and Delegate Armstead)

5 [By Request of the Executive]

6  
7 [Passed March 14, 2014; in effect from passage.]

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9  
10 AN ACT 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:*

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

1 adding thereto a new section, designated §29-22-18f; that  
2 §31-15-16b of said code be amended and reenacted; and that  
3 §31-15A-17b of said code be amended and reenacted, all to read as  
4 follows:

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

6           **ARTICLE 22. STATE LOTTERY ACT.**

7           **§29-22-18e. Increase in allocation to State Park Improvement Fund**  
8                           **from State Excess Lottery Revenue Fund to permit**  
9                           **the issuance of bonds for improvements to Cacapon**  
10                           **Resort State Park and Beech Fork State Park.**

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

1 into the State Park Improvement Fund, established in subsection  
2 (d), section eighteen-a of this article, to be used in accordance  
3 with the provisions of that section.

4 **§29-22-18f. Backup pledge of bonds supported by the State Lottery**  
5 **Fund and the State Excess Lottery Revenue Fund;**  
6 **payment of bond debt service.**

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

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

22 (c) Notwithstanding the provisions of subsection (h), section  
23 eighteen-a of this article, when bonds are issued for projects  
24 under subsection (d) or (e) of section eighteen-a of this article,

1 or for the School Building Authority, infrastructure pursuant to  
2 section eighteen-d of this article, higher education, or state park  
3 improvements pursuant to section eighteen-e of this article that  
4 are secured by profits from lotteries deposited in the State Excess  
5 Lottery Revenue Fund, the Lottery Director shall allocate first to  
6 the Economic Development Project Fund an amount equal to one tenth  
7 of the projected annual principal, interest and coverage  
8 requirements on any and all revenue bonds issued, or to be issued  
9 as certified to the Lottery Director; and second, to the fund or  
10 funds from which debt service is paid on bonds issued under section  
11 eighteen-a of this article for the School Building Authority,  
12 infrastructure pursuant to section eighteen-d of this article,  
13 higher education, and state park improvements pursuant to section  
14 eighteen-e of this article an amount equal to one tenth of the  
15 projected annual principal, interest and coverage requirements on  
16 any and all revenue bonds issued, or to be issued as certified to  
17 the Lottery Director. In the event there are insufficient funds  
18 available in any month to transfer the amounts required pursuant to  
19 this subsection, the deficiency shall be added to the amount  
20 transferred in the next succeeding month in which revenues are  
21 available to transfer the deficiency.

22

**CHAPTER 31. CORPORATIONS.**23 **ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.**24 **§31-15-16b. Lottery revenue bonds for Cacapon Resort State Park**

1                                   **and Beech Fork State Park.**

2           (a) (1) The economic development authority shall, in accordance  
3 with the provisions of this article, issue revenue bonds, in one or  
4 more series, from time to time, to pay for all or a portion of the  
5 cost of constructing, equipping, improving or maintaining capital  
6 improvement projects under this section or to refund the bonds, at  
7 the discretion of the authority. The principal amount of the bonds  
8 issued under this section shall not exceed, in the aggregate  
9 principal amount of \$52.5 million. Any revenue bonds issued on or  
10 after the effective date of this section which are secured by  
11 lottery proceeds shall mature at a time or times not exceeding  
12 thirty years from their respective dates. The principal of, and the  
13 interest and redemption premium, if any, on the bonds shall be  
14 payable solely from the Cacapon and Beech Fork State Parks Lottery  
15 Revenue Debt Service Fund established 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 Lottery  
18 Revenue Service Fund" into which shall be deposited those amounts  
19 specified in section eighteen-e, article twenty-two, chapter  
20 twenty-nine of this code. All amounts deposited in the fund shall  
21 be pledged to the repayment of the principal, interest and  
22 redemption premium, if any, on any revenue bonds or refunding  
23 revenue bonds authorized by this section. The authority may further  
24 provide in the trust agreement for priorities on the revenues paid

1 into the Cacapon and Beech Fork State Parks Lottery Revenue Debt  
2 Service Fund as may be necessary for the protection of the prior  
3 rights of the holders of bonds issued at different times under the  
4 provisions of this section. The Cacapon and Beech Fork State Parks  
5 Lottery Revenue Debt Service Fund shall be pledged solely for the  
6 repayment of bonds issued pursuant to this section. On or prior to  
7 May 1 of each year, commencing, upon issuance of the bonds, the  
8 authority shall certify to the state lottery director the principal  
9 and interest and coverage ratio requirements for the following  
10 fiscal year on any revenue bonds or refunding revenue bonds issued  
11 pursuant to this section, and for which moneys deposited in the  
12 Cacapon and Beech Fork State Parks Lottery Revenue Debt Service  
13 Fund have been pledged, or will be pledged, for repayment pursuant  
14 to this section.

15       (3) After the authority has issued bonds authorized by this  
16 section, and after the requirements of all funds have been  
17 satisfied, including coverage and reserve funds established in  
18 connection with the bonds issued pursuant to this section, any  
19 balance remaining in the Cacapon and Beech Fork State Parks Lottery  
20 Revenue Debt Service Fund may be used for the redemption of any of  
21 the outstanding bonds issued under this section which, by their  
22 terms, are then redeemable or for the purchase of the outstanding  
23 bonds at the market price, but not to exceed the price, if any, at  
24 which redeemable, and all bonds redeemed or purchased shall be

1 immediately canceled and shall not again be issued.

2       (b) The authority shall expend the bond proceeds, net of  
3 issuance costs, reserve funds and refunding costs, for certified  
4 capital improvement projects at Cacapon Resort State Park and Beech  
5 Fork State Park. The Division of Natural Resources shall submit a  
6 proposed list of capital improvement projects to the Governor on or  
7 before January 1, 2013. Thereafter, the Governor shall certify to  
8 the authority on or before February 1, 2013, a list of those  
9 capital improvement projects at Cacapon Resort State Park and Beech  
10 Fork State Park that will receive funds from the proceeds of bonds  
11 issued pursuant to this section. At any time prior to the issuance  
12 of bonds under this section, the Governor may certify to the  
13 authority a revised list of capital improvement projects at Cacapon  
14 Resort State Park and Beech Fork State Park that will receive funds  
15 from the proceeds of bonds issued pursuant to this section. The  
16 Governor shall consult with the Division of Natural Resources prior  
17 to certifying a revised list of capital improvement projects to the  
18 authority.

19       (c) Except as may otherwise be expressly provided by the  
20 authority, every issue of its notes or bonds shall be special  
21 obligations of the authority, payable solely from the property,  
22 revenues or other sources of or available to the authority pledged  
23 therefor.

24       (d) The bonds and the notes shall be authorized by the

1 authority pursuant to this section, and shall be secured, be in  
2 such denominations, may bear interest at such rate or rates,  
3 taxable or tax-exempt, be in such form, either coupon or  
4 registered, carry such registration privileges, be payable in such  
5 medium of payment and at such place or places and such time or  
6 times and be subject to such terms of redemption as the authority  
7 may authorize. The bonds and notes of the authority may be sold by  
8 the authority, at public or private sale, at or not less than the  
9 price the authority determines. The bonds and notes shall be  
10 executed by manual or facsimile signature by the chairman of the  
11 board, and the official seal of the authority or a facsimile  
12 thereof shall be affixed to or printed on each bond and note and  
13 attested, manually or by facsimile signature, by the secretary of  
14 the board, and any coupons attached to any bond or note shall bear  
15 the manual or facsimile signature of the chairman of the board. In  
16 case any officer whose signature, or a facsimile of whose  
17 signature, appears on any bonds, notes or coupons ceases to be such  
18 officer before delivery of such bonds or notes, such signature or  
19 facsimile is nevertheless sufficient for all purposes the same as  
20 if he or she had remained in office until such delivery; and, in  
21 case the seal of the authority has been changed after a facsimile  
22 has been imprinted on such bonds or notes, such facsimile seal will  
23 continue to be sufficient for all purposes.

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

1                   **COUNCIL.**

2 **§31-15A-17b. Infrastructure lottery revenue bonds for watershed**  
3                   **compliance projects.**

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

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

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

1 pledged for such purposes other than the West Virginia  
2 Infrastructure Revenue Debt Service Fund created by section  
3 seventeen of this article.

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

1 2011, and further provided that such Chesapeake Bay watershed  
2 compliance project shall receive no further grant funding under  
3 this section after receipt of the \$6 million grant.

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

21 (e) Upon approval, each proposed Chesapeake Bay watershed  
22 compliance project or Greenbrier River watershed compliance  
23 project, or portion of a larger project, which portion is dedicated  
24 to compliance with nutrient standards, or fecal coliform and

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

9 (f) No later than December 1, 2012, the Water Development  
10 Authority shall report to the Joint Committee on Government and  
11 Finance the total cost of Chesapeake Bay watershed compliance  
12 projects and the Greenbrier River watershed compliance projects and  
13 the proposed grant awards for each eligible project. From the  
14 proceeds of bonds issued under subsection (b) of this section, the  
15 council shall direct the Water Development Authority to make grants  
16 to eligible projects ready to proceed to construction and those  
17 grant awards shall be pro rated to an equal percentage of total  
18 eligible costs among all applicants for each eligible project as  
19 certified by the Water Development Authority in its report to the  
20 Joint Committee on Government and Finance dated November 26, 2012:  
21 *Provided*, That the final project, and its financing, is consistent  
22 with the scope of the eligible project included in the council's  
23 approval on December 5, 2012.

24 (g) Eligible projects that have obtained project financing

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