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.
ENROLLED

H. B. 106

(By Mr. Speaker, Mr. Miley
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[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
there to 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.

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

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

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

(c) Notwithstanding the provisions of subsection (h), section eighteen-a of this article, when bonds are issued for projects under subsection (d) or (e) of section eighteen-a of this article, or for the School Building Authority, infrastructure pursuant to section eighteen-d of this article, higher education, or state park improvements pursuant to section eighteen-e of this article that are secured by profits from lotteries deposited in the State Excess Lottery Revenue Fund, the Lottery Director shall allocate first to the Economic Development Project Fund an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery Director; and second, to the fund or funds from which debt service is paid on bonds issued under section eighteen-a of this article for the School Building Authority, infrastructure pursuant to section eighteen-d of this article, higher education, and state park improvements pursuant to section eighteen-e of this article an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery Director. In the event there are insufficient funds available in any month to transfer the amounts required pursuant to this subsection, the deficiency shall be
added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.


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

(2) There is hereby created in the State Treasury a special revenue fund named the “Cacapon and Beech Fork State Parks Lottery Revenue Service Fund” into which shall be deposited those amounts specified in section eighteen-e, article twenty-two, chapter twenty-nine of this code. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section. The authority may further provide in the trust agreement for priorities on the revenues paid into the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund as may be necessary for the protection of the prior rights of the holders of
bonds issued at different times under the provisions of this section. The Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund shall be pledged solely for the repayment of bonds issued pursuant to this section. On or prior to May 1 of each year, commencing, upon issuance of the bonds, the authority shall certify to the state lottery director the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section.

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

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

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

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

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

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

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

(c) The council shall direct the Water Development Authority to issue bonds in one or more series when it has approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects with an authorized permitted flow of four hundred thousand gallons per
day or more. The proceeds of the bonds shall be used solely to
pay costs of issuance, fund a debt service reserve account,
capitalize interest, pay for security instruments necessary to
market the bonds and to make grants to governmental
instrumentalities of the state for the construction of approved
Chesapeake Bay watershed compliance projects and Greenbrier
River watershed compliance projects. To the extent funds are
available in the West Virginia Infrastructure Lottery Revenue
Debt Service Fund that are not needed for debt service, the
council may direct the Water Development Authority to make
grants to project sponsors for the design or construction of
approved Chesapeake Bay watershed compliance projects and
Greenbrier River watershed compliance projects: Provided, That
the council shall direct the Water Development Authority to
provide from moneys in the Lottery Revenue Debt Service Fund
not needed to pay debt service in fiscal year 2013 a grant of $6
million to a Chesapeake Bay watershed compliance project
which opened bids on December 28, 2011, and further provided
that such Chesapeake Bay watershed compliance project shall
receive no further grant funding under this section after receipt
of the $6 million grant.

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

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

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

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

Chairman, House Committee

Member, Chairman, Senate Committee

Originating in the House.

In effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

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

Governor
PRESENTED TO THE GOVERNOR

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Time 10.45