

**Senate Bill No. 594**

(By Senator Sypolt)

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[Introduced February 21, 2011; referred to the Committee on  
Transportation and Infrastructure; and then to the Committee on  
the Judiciary.]

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A BILL to amend and reenact §36-3-5a of the Code of West Virginia,  
1931, as amended, relating to descriptions of easements and  
rights-of-way in deeds and similar instruments.

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

That §36-3-5a of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 3. FORM AND EFFECT OF DEEDS AND CONTRACTS.**

**§36-3-5a. Easement and right-of-way; description of property;  
exception for certain public utility facilities and  
mineral leases.**

(a) Any deed or instrument that initially grants or reserves  
an easement or right-of-way shall describe the easement or right-  
of-way by any of the following:

- (1) Metes and bounds; ~~or by~~
- (2) Specification of the centerline and width; ~~of the easement~~  
~~or right-of-way, or by~~

1        (3) Station and offset; or  
2        (4) Reference to an attached drawing or plat which may not  
3 require a survey or instrument based on the use of the global  
4 positioning system which may not require a survey. ~~Provided, That~~  
5        (b) Oil and gas, gas storage and mineral leases ~~shall not be~~  
6 are not required to describe the easement but ~~shall~~ are required to  
7 describe the land on which the easement or right-of-way will be  
8 situate by source of title or reference to a tax map and parcel,  
9 recorded deed, recorded lease, plat or survey sufficient to  
10 reasonably identify and locate the property on which the easement  
11 or right-of-way is situate ~~Provided, however, That the easement or~~  
12 ~~right-of-way is not invalid because of the failure of the easement~~  
13 ~~or right-of-way to meet~~ so long as the easement or right-of-way  
14 meets the requirements of ~~this~~ subsection (a) of this section.  
15        ~~(b)~~ (c) This section does not apply to the construction of a  
16 service extension from a main distribution system of a public  
17 utility when such service extension is located entirely on, below  
18 or above the property to which the utility service is to be  
19 provided.  
20        ~~(c)~~ (d) The clerk of the county commission of any county in  
21 which an easement or right-of-way is recorded pursuant to this  
22 section ~~shall~~ may only accept for recordation ~~any~~ a document that  
23 complies with this section and that otherwise complies with the  
24 requirements of article one, chapter thirty-nine of this code,  
25 without need for a survey or certification under section twelve,  
26 article thirteen-a, chapter thirty of this code.

NOTE: The purpose of this bill is to require that descriptions of right-of-ways and easements include width in addition to identification of center line when this method of description is used.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.