

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2688**

BY DELEGATES ANDERSON, DEEM, WESTFALL, C. LANE,

HIGGINBOTHAM, HARSHBARGER AND ZATEZALO

[Introduced February 23, 2017; Referred  
to the Committee on Energy then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §54-1-3b, relating to permitting natural gas companies to enter private property  
 3 without prior consent from the owner for the limited purposes of obtaining data to comply  
 4 with regulatory requirements or to survey land for pipeline or pipeline facility development;  
 5 requiring natural gas companies to request permission to inspect property prior to entry;  
 6 requiring natural gas companies to provide owner notice of intent to enter property prior  
 7 to entry; and preempting entries authorized under this section from being deemed a  
 8 trespass or a taking.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §54-1-3b, to read as follows:

**ARTICLE 1. RIGHT OF EMINENT DOMAIN.**

**§54-1-3b. Entry by natural gas companies to obtain data.**

1 (a) Any firm, corporation, company, or partnership, organized for the bona fide purpose of  
 2 operating as a natural gas company as defined in 15 U.S.C. §717a, as amended, may make such  
 3 examinations, tests, hand auger borings, appraisals and surveys for its proposed line or location  
 4 of its works as are necessary: (i) To satisfy any regulatory requirements; and (ii) for the selection  
 5 of the most advantageous location or route, the improvement or straightening of its line or works,  
 6 changes of location or construction, or providing additional facilities, and for such purposes, by its  
 7 duly authorized officers, agents, or employees, may enter upon any property without the written  
 8 permission of its owner if:

9 (1) The natural gas company has requested the owner’s permission to inspect the property  
 10 as provided by subsection (b);

11 (2) The owner’s written permission is not received prior to the date entry is proposed; and

12 (3) The natural gas company has given the owner notice of intent to enter as provided in  
 13 subsection (c).

14 A natural gas company may use motor vehicles, self-propelled machinery, and power  
15 equipment on property only after receiving the permission of the landowner or his or her agent.

16 (b) A request for permission to inspect shall:

17 (1) Be sent to the owner by certified mail;

18 (2) Set forth the date such inspection is proposed to be made; and

19 (3) Be made not less than fifteen days prior to the date of the proposed inspection.

20 (c) Notice of intent shall:

21 (1) Be sent to the owner by certified mail;

22 (2) Set forth the date of the intended entry; and

23 (3) Be made not less than fifteen days prior to the date of mailing of the notice of intent to  
24 enter.

25 (d) Any entry authorized by and in compliance with this section is neither a trespass nor a  
26 taking. Such entries shall be considered a minimal intrusion. The natural gas company shall make  
27 reimbursement for any actual damages resulting from such entry. Nothing in this section shall  
28 impair or limit any right of a natural gas company obtained by:

29 (1) The power of eminent domain;

30 (2) Any easement granted by the landowner or his or her predecessor in title; or

31 (3) Any right-of-way agreement, lease or other agreement by and between a natural gas  
32 company and a landowner or their predecessors in title or interest.

NOTE: The purpose of this bill is to permit natural gas companies to enter private property without prior consent from the owner for the limited purposes of obtaining data to comply with regulatory requirements or to survey land for pipeline development. This bill also requires natural gas companies to request permission to inspect property and to provide owner notice of intent to enter property prior to entry. The bill further preempts entries authorized under this section from being deemed either a trespass or a taking.

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