

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4910

By Delegates Anders, Dillon, and White

[Introduced January 29, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §54-1-2 of the Code of West Virginia, 1931, as amended, and to
2 repeal §54-1-2a, §54-1-3, §54-1-3a, §54-1-4, §54-1-5, §54-1-5a, §54-1-6, §54-1-7, §54-1-
3 8, §54-1-9, §54-1-10, §54-1-11, §54-1-12, §54-2-1, §54-2-2, §54-2-2a, §54-2-3, §54-2-4,
4 §54-2-4a, §54-2-5, §54-2-6, §54-2-7, §54-2-7a, §54-2-7b, §54-2-8, §54-2-9, §54-2-9a,
5 §54-2-10, §54-2-11, §54-2-11a, §54-2-12, §54-2-13, §54-2-14, §54-2-14a, §54-2-15, §54-
6 2-16, §54-2-16a, §54-2-17, §54-2-18, §54-2-19, §54-2-20, §54-2-21, §54-3-1, §54-3-2,
7 §54-3-3, §54-3-4, and §54-3-5, relating to eminent domain; and providing property owners
8 are not subject to eminent domain.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. RIGHT OF EMINENT DOMAIN.

§54-1-2. Public uses for which private property may be taken or damaged.

1 ~~(a) The public uses for which private property may be taken or damaged are as follows:~~

2 ~~(1) For the construction, maintenance and operation of railroad and traction lines (including~~
3 ~~extension, lateral and branch lines, spurs, switches and sidetracks), canals, public landings,~~
4 ~~wharves, bridges, public roads, streets, alleys, parks and other works of internal improvement, for~~
5 ~~the public use;~~

6 ~~(2) For the construction and maintenance of telegraph, telephone, electric light, heat and~~
7 ~~power plants, systems, lines, transmission lines, conduits, stations (including branch, spur and~~
8 ~~service lines), when for public use;~~

9 ~~(3) For constructing, maintaining and operating pipelines, plants, systems and storage~~
10 ~~facilities for manufacturing gas and for transporting petroleum oil, natural gas, manufactured gas,~~
11 ~~and all mixtures and combinations thereof, by means of pipes, pressure stations or otherwise,~~
12 ~~(including the construction and operation of telephone and telegraph lines for the service of such~~
13 ~~systems and plants), and for underground storage areas and facilities, and the operation and~~
14 ~~maintenance thereof, for the injection, storage and removal of natural gas in subterranean oil~~
15 ~~and/or gas bearing stratum, which, as shown by previous exploration of the stratum sought to be~~

condemned and within the limits of the reservoir proposed to be utilized for such purposes, has ceased to produce or has been proved to be nonproductive of oil and/or gas in substantial quantities, when for public use, the extent of the area to be acquired for such purpose to be determined by the court on the basis of reasonable need therefor. Nothing in this subsection shall be construed to interfere with the power of the state and its political subdivisions to enact and enforce ordinances and regulations deemed necessary to protect the lives and property of citizens from the effects of explosions of oil or gas;

(4) For constructing, maintaining and operating, water plants and systems, including lines for transporting water by any corporate body politic, or private corporation, for supplying water to the inhabitants of any city, town, village or community, for public use, including lands for pump stations, reservoirs, cisterns, storage dams, and other means of storing, purifying and transporting water, and the right to take and damage lands which may be flooded by the impounded waters, and to appropriate any spring, stream and the surrounding property necessary to protect, preserve and maintain the purity of any such spring, stream, reservoir, cistern and water impounded by means of any storage dam;

(5) For the purpose of constructing, maintaining and operating sewer systems, lines and sewage disposal plants, to collect, transport and dispose of sewage. When in the interest of the public welfare and the preservation of the public health, the construction of a sewer line to serve a single building or institution shall be deemed a public use, and, for such purpose, the right of eminent domain, if within a municipal corporation, may be exercised in the name of a municipal corporation, and if not within a municipal corporation, in the name of the county commission of the county in which the property is located;

(6) For the reasonable use by an incorporated company engaged in a public enterprise of which the state or any county or municipality is the sole or a part owner;

(7) For courthouses and municipal buildings, parks, public playgrounds, the location of public monuments, and all other public buildings;

~~(8) For cemeteries, and the extension and enlargement of existing cemeteries: *Provided*, That no lands shall be taken for cemetery purposes which lie within four hundred feet of a dwelling house, unless to extend the boundaries of an existing cemetery, and then only in such manner that the limits of the existing cemetery shall not be extended nearer than four hundred feet of any dwelling house distant four hundred feet or more from such cemetery, or nearer than it was to any dwelling house which is within four hundred feet thereof;~~

~~(9) For public schools, public libraries and public hospitals;~~

~~(10) For the construction and operation of booms (including approaches, landings and ways necessary for such objects), when for a public use;~~

~~(11) By the State of West Virginia for any and every other public use, object and purpose not herein specifically mentioned, but in no event may "public use", for the purposes of this subdivision, be construed to mean the exercise of eminent domain primarily for private economic development.~~

~~For purposes of this subdivision, no private property may be taken by the State of West Virginia or its political subdivisions without the owner's consent when the primary purpose of the taking is economic development that will ultimately result in ownership or control of the property transferring to another private entity, other than one having the power of eminent domain, whether by purchase agreement, long-term lease agreement or any other mechanism whereby ownership or control is effectively transferred: *Provided*, That a municipal urban renewal authority may exercise a right of eminent domain as to property only within an area designated a slum area or blighted area under the provisions of article eighteen, chapter sixteen of this code.~~

~~By the United States of America for each and every legitimate public use, need and purpose of the government of the United States, within the purview, and subject to the provisions of chapter one of this code.~~

~~(12) For constructing, maintaining and operating pipelines, plants, systems and storage facilities, for the transportation by common carrier as a public utility of coal and its derivatives and~~

~~all mixtures and combinations thereof with any substance by means of pipes, pressure stations or otherwise (including the construction and operation of telephone and telegraph lines for the service of such systems and plants), for public use: *Provided*, That the common carrier engages in some intrastate activity in this state, if there is any reasonable demand therefor: *Provided*, however, That in addition to all other requisites by federal or state Constitutions, statute or common law required for the taking of private property for public use, a further prerequisite and condition precedent to the exercise of such taking of or damage to private property for public use as in this subsection hereinabove provided, is that the Public Service Commission of this state, in an appropriate hearing and proceeding on due notice to all interested persons, firms or corporations, in accordance with the procedure now or hereafter established by statute and the regulations thereunder, shall have found that such pipeline transportation of coal and its derivatives and all mixtures and combinations thereof is required for the public convenience and necessity, and that the Public Service Commission of this state shall not extend a certificate of convenience and necessity or make such finding of public convenience and necessity unless, in addition to the other facts required to support such findings, it shall have been established by the applicant therefor that the patents and other similar rights under which the applicant proposes to construct, maintain or operate such pipeline, plants, systems and storage facilities shall be and shall remain equally available, insofar as said subsequent applicant may determine such availability, upon fair and reasonable terms, to other bona fide applicants seeking a certificate of convenience and necessity and finding of fact for any other pipeline in West Virginia; for the purpose of making the findings hereinbefore set forth the Public Service Commission shall have and exercise jurisdiction, and that the aforesaid findings in this proviso above set forth shall be subject to judicial review as in other Public Service Commission proceedings.~~

~~It is the intention of the Legislature in amending this section by the addition of subdivision (12) to extend the right of eminent domain to coal pipelines for public use; to provide for regulation of such coal pipelines by the Public Service Commission of this state or the Interstate Commerce~~

94 ~~Commission of the United States of America, or both; to assure that such rights shall be extended~~
95 ~~only to public utilities or common carriers as distinguished from private carriers or contract carriers;~~
96 ~~to make patents covering the same equally available to others on fair and reasonable terms; and~~
97 ~~to prevent monopolistic use of coal pipelines by any users thereof which would result in any~~
98 ~~appreciable economic detriment to others similarly situated by reasons of any such monopoly.~~

99 Notwithstanding the provisions of any other law, no governmental entity by this state or of
100 this state, its subdivisions, including but not limited to, counties, municipalities, localities, cities,
101 commissions, departments, school districts, mines, boards, railroad authorities, corporations,
102 public-private entities or any other entity operating within this state or by this state, may exercise
103 the right of eminent domain to force private property owners to sell and or lose their property.

§54-1-2a. Notice; good faith purchase.

1 [Repealed.]

§54-1-3. Entry on lands.

1 [Repealed.]

§54-1-3a. Entry by political body to obtain data; compensation to owner.

1 [Repealed.]

§54-1-4. Restrictions as to dwelling houses -- Railroad and other internal improvement companies.

1 [Repealed.]

§54-1-5. Same -- Lines for transportation of gas, oil, coal, etc., and storage tanks.

1 [Repealed.]

§54-1-5a. Restrictions as to the exercise of the right of eminent domain by the West Virginia Housing Development Fund.

1 [Repealed.]

§54-1-6. Quantity of land acquired.

1 [Repealed.]

§54-1-7. Roadways; crossings.

1 [Repealed.]

§54-1-8. Estate acquired; taxation.

1 [Repealed.]

§54-1-9. Crossing or alteration of course of works of another entity; civil action.

1 [Repealed.]

§54-1-10. Taking wood and other materials and water; deposits of waste; cutting trees.

1 [Repealed.]

§54-1-11. Specific purposes not limitation.

1 [Repealed.]

§54-1-12. Facilities for moving fuel coal to coal fired steam electric power plants.

1 [Repealed.]

ARTICLE

2.

PROCEDURE.

§54-2-1. Jurisdiction.

1 [Repealed.]

§54-2-2. Pleadings; verification; parties.

1 [Repealed.]

§54-2-2a. Additional requirement for condemnation proceeding for right-of-way for certain high voltage transmission line.

1 [Repealed.]

§54-2-3. Notice; riparian owner affected by taking of water.

1 [Repealed.]

§54-2-4. Persons under disability.

1 [Repealed.]

§54-2-4a. Lis pendens notice; effect.

1 [Repealed.]

§54-2-5. Commissioners; qualifications.

1 [Repealed.]

§54-2-6. How commissioners appointed.

1 [Repealed.]

§54-2-7. Oath of commissioners.

1 [Repealed.]

§54-2-7a. Information for commissioners.

1 [Repealed.]

§54-2-7b. Supervision of hearings; appointment, powers, duties and compensation of court commissioner; subpoena of witnesses, etc.

1 [Repealed.]

§54-2-8. Powers of commissioners; hearings; view of property.

1 [Repealed.]

§54-2-9. Report of commissioners.

1 [Repealed.]

§54-2-9a. Separate findings of compensation and damages.

1 [Repealed.]

§54-2-10. Proceedings on report; trial by jury.

1 [Repealed.]

§54-2-11. Setting aside report; recommittal; new commissioners.

1 [Repealed.]

§54-2-11a. Waiver of findings by commissioners.

1 [Repealed.]

§54-2-12. Vesting of title in applicant.

1 [Repealed.]

§54-2-13. Entry on land on payment of compensation.

1 [Repealed.]

§54-2-14. Entry by state or its political subdivisions.

1 [Repealed.]

§54-2-14a. Alternative method for condemnation by state or its political subdivision.

1 [Repealed.]

§54-2-15. Alternative procedure for condemnation by business corporation; bond.

1 [Repealed.]

§54-2-16. Increase or decrease in award after payment into court; costs.

1 [Repealed.]

§54-2-16a. Liability for costs generally.

1 [Repealed.]

§54-2-17. Effect of judgment against applicant for excess.

1 [Repealed.]

§54-2-18. Payment to clerk; disposition of money paid into court; determination of conflicting claims; notice to condemnee.

1 [Repealed.]

§54-2-19. Compensation of commissioners and jurors.

1 [Repealed.]

§54-2-20. Recordation of certified copy of condemnation order.

1 [Repealed.]

§54-2-21. Effective date of new percent interest rates.

1 [Repealed.]

**ARTICLE 3. IMPLEMENTATION OF UNIFORM RELOCATION ASSISTANCE AND
REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AND THE 1987
AMENDMENTS THERETO KNOWN AS TITLE IV OF THE SURFACE**

**TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF
1987.**

§54-3-1. Definitions.

1 [Repealed.]

§54-3-2. Statement of purposes.

1 [Repealed.]

**§54-3-3. Implementation of federal act; powers of state agencies; payments under act not
considered income or resources for certain purposes.**

1 [Repealed.]

**§54-3-4. Construction of article; assistance for dislocation, etc., occurring prior to effective
date.**

1 [Repealed.]

§54-3-5. Severability.

1 [Repealed.]

NOTE: The purpose of this bill is to protect the citizens of the West Virginia from losing their
property to eminent domain.

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