WEST VIRGINIA CODE: §22-11-17

§22-11-17. Power of eminent domain; procedures; legislative finding.

(a) When any person who is owner of an establishment is ordered by the director to stop or prevent pollution or the violation of the rules of the board or director or to take corrective or remedial action, compliance with which order will require the acquisition, construction or installation of a new treatment works or the extension or modification of or an addition to an existing treatment works, (which acquisition, construction, installation, extension, modification or addition of or to a treatment works pursuant to such order is referred to in this section as "such compliance") such person may exercise the power of eminent domain in the manner provided in chapter fifty-four of this code, to acquire such real property or interests in real property as may be determined by the director to be reasonably necessary for such compliance.

(b) Upon application by such person and after twenty days' written notice to all persons whose property may be affected, the director shall make and enter an order determining the specific real property or interests in real property, if any, which are reasonably necessary for such compliance. In any proceeding under this section, the person seeking to exercise the right of eminent domain herein conferred shall establish the need for the amount of land sought to be condemned and that such land is reasonably necessary for the most practical method for such compliance.

(c) The right of eminent domain herein conferred does not apply to the taking of any dwelling house or for the taking of any land within five hundred feet of any such dwelling house.

(d) The Legislature hereby declares and finds that the taking and use of real property and interests in real property determined to be reasonably necessary for such compliance promotes the health, safety and general welfare of the citizens of this state by reducing and abating pollution in the waters of this state in which the public at large has an interest and otherwise; that such taking and use are necessary to provide and protect a safe, pure and adequate water supply to the municipalities and citizens of the state; that because of topography, patterns of land development and ownership and other factors it is impossible in many cases to effect such compliance without the exercise of the power of eminent domain and that the use of real property or interests in real property to effect such compliance is a public use for which private property may be taken or destroyed.

WV Legislature