

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

ENROLLED

SENATE BILL No. 73

(By Mr. Bean.....)

PASSED February 21, 1949

In Effect from..... Passage



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Senate Bill No. 73

(BY MR. BEAN)

[Passed February 21, 1949; in effect from passage.]

AN ACT to amend and reenact section two, article one, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the public uses for which private property may be taken or damaged in condemnation proceedings.

Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. *Public Uses For Which Private Property May*

2 *Be Taken or Damaged.*—The public uses for which private

3 property may be taken or damaged are as follows:

4 (a) For the construction, maintenance and operation of

5 railroad and traction lines (including extension, lat-
6 eral and branch lines, spurs, switches and side tracks),
7 canals, public landings, wharves, bridges, public roads,
8 streets, alleys, parks and other works of internal im-
9 provement, for the public use;

10 (b) For the construction and maintenance of tele-
11 graph, telephone, electric light, heat and power plants,
12 systems, lines, transmission lines, conduits, stations
13 (including branch, spur and service lines), when for
14 public use;

15 (c) For constructing, maintaining and operating pipe
16 lines, plants, systems and storage facilities for manu-
17 facturing gas and for transporting petroleum oil, natural
18 gas, manufactured gas, and all mixtures and combina-
19 tions thereof, by means of pipes, pressure stations or
20 otherwise, (including the construction and operation of
21 telephone and telegraph lines for the service of such
22 systems and plants), and for underground storage areas
23 and facilities, and the operation and maintenance there-
24 of, by gas public utilities selling natural gas at retail in
25 West Virginia for the injection, storage and removal of nat-

26 ural gas in subterranean oil and/or gas bearing stratum,
27 which, as shown by previous exploration of the stratum
28 sought to be condemned and within the limits of the reser-
29 voir proposed to be utilized for such purposes, has ceased
30 to produce or has been proved to be non-productive of oil
31 and/or gas in substantial quantities, when for public use,
32 the extent of the area to be acquired for such purpose to
33 be determined by the court on the basis of reasonable need
34 therefor. Nothing in this subsection shall be construed to
35 interfere with the power of the state and its political sub-
36 divisions to enact and enforce ordinances and regulations
37 deemed necessary to protect the lives and property of
38 citizens from the effects of explosions of oil or gas;

39 (d) For constructing, maintaining and operating, water
40 plants and systems, including lines for transporting water
41 by any corporate body politic, or private corporation, for
42 supplying water to the inhabitants of any city, town,
43 village or community, for public use, including lands for
44 pump stations, reservoirs, cisterns, storage dams, and
45 other means of storing, purifying and transporting water,
46 and the right to take and damage lands which may be

47 flooded by the impounded waters, and to appropriate any
48 spring, stream and the surrounding property necessary
49 to protect, preserve and maintain the purity of any such
50 spring, stream, reservoir, cistern and water impounded
51 by means of any storage dam;

52 (e) For the purpose of constructing, maintaining and
53 operating sewer systems, lines and sewage disposal
54 plants, to collect, transport and dispose of sewage. When
55 in the interest of the public welfare and the preservation
56 of the public health, the construction of a sewer line to
57 serve a single building or institution shall be deemed a
58 public use, and, for such purpose, the right of eminent
59 domain, if within a municipal corporation, may be exer-
60 cised in the name of the municipal corporation, and if not
61 within a municipal corporation, in the name of the county
62 court of the county in which the property is located;

63 (f) For the reasonable use by an incorporated com-
64 pany engaged in a public enterprise of which the state or
65 any county or municipality is the sole or a part owner;

66 (g) For courthouses and municipal buildings, parks,

67 public playgrounds, the location of public monuments,
68 and all other public buildings;

69 (h) For cemeteries, and the extension and enlarge-
70 ment of existing cemeteries: *Provided*, That no lands
71 shall be taken for cemetery purposes which lie within
72 four hundred feet of a dwelling house, unless to extend
73 the boundaries of an existing cemetery, and then only in
74 such manner that the limits of the existing cemetery shall
75 not be extended nearer than four hundred feet of any
76 dwelling house distant four hundred feet or more from
77 such cemetery, or nearer than it was to any dwelling
78 house which is within four hundred feet thereof;

79 (i) For public schools, public libraries, and public
80 hospitals;

81 (j) For the construction and operation of booms (in-
82 cluding approaches, landings and ways necessary for such
83 objects), when for a public use;

84 (k) By the State of West Virginia for any and every
85 other public use, object and purpose not herein specifically
86 mentioned. By the United States of America for each
87 and every legitimate public use, need and purpose of the

88 government of the United States, within the purview, and

89 subject to the provisions of, chapter one of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frank L. Spencer

Chairman Senate Committee

Don Matthews

Chairman House Committee

Originated in the Senate.

Takes effect from passage.

Howard Meyer
Clerk of the Senate

J. R. Smith
Clerk of the House of Delegates

Joseph W. Houston
President of the Senate

W. E. Johnson
Speaker House of Delegates

The within APPROVED this the 25th
day of FEBRUARY, 1949.

Okey L. Pattison
Governor.

