

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1957

Committee Substitute for
ENROLLED

SENATE BILL NO. 264

(By Mr. *James C. J. J. J.*)

PASSED *March 8* 1957

In Effect *90 days from* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 264

(Originating in the Committee on the Judiciary)

[Passed March 8, 1957; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to notices to the owner or other interested party in eminent domain proceedings when the property proceeded against is subject to future interests.

Be it enacted by the Legislature of West Virginia:

That section three, article two, 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 3. *Notice; Riparian Owner Affected by Taking*
2 *Water.*—Of such application ten days' notice shall be
3 served on the owners, claimants and person holding liens,
4 whose interests the applicant seeks to condemn, and the
5 notice may be given either before the petition is pre-
6 sented or afterwards. But where the owners of the real
7 estate proposed to be taken or the persons holding such
8 liens or conflicting claims, or any of them, are nonresi-
9 dents of the state or their whereabouts is unknown, or
10 they are unknown to the applicant, or there be any per-
11 sons made parties defendant by the general description of
12 parties unknown as provided in section two of this article,
13 the notice as to them, instead of being thus served may be
14 given by advertisement containing (by reference to a plat
15 filed for the purpose in the office of the clerk of the cir-
16 cuit court or otherwise) a specific description of the prop-
17 erty in which they are interested that is proposed to be
18 taken, and stating the purpose to which it is intended to
19 be appropriated, and the time and place at which a hear-
20 ing will be asked upon the application, which advertise-
21 ment shall be published at least once a week for four suc-

22 cessive weeks in some newspaper published in the county,
23 or if none be published therein, then some newspaper of
24 general circulation in the county.

25 Where water is to be taken as authorized in section ten,
26 article one of this chapter, notice to riparian owners hav-
27 ing lands below the point at which the water is proposed
28 to be taken, and likely to be affected thereby, shall be
29 given by publishing the same once each week for four
30 successive weeks in some newspaper of general circula-
31 tion published in the county. Any such riparian owner
32 may come into court, or before the judge of such court in
33 vacation, on the return day of the notice and publication,
34 make himself a party to the proceedings and have his
35 rights passed upon by the commissioner, and his damage,
36 if any, ascertained, allowed and paid as in this chapter
37 provided for the taking of lands.

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

E. H. McCourt
Chairman Senate Committee

W. C. Shelton
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

Thomas Dyer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Ralph J. Bean
President of the Senate

W. E. Fleming
Speaker House of Delegates

The within approved this the 15th
day of March, 1957.

Leif B. Henderson
Governor



Filed In the Office of the Secretary of State
of West Virginia MAR 15 1957

D. PITT O'BRIEN
SECRETARY OF STATE