

# Senate Bill No. 129

(By Senator Sypolt)

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[Introduced January 11, 2012; referred to  
the Committee on the Judiciary.]

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A BILL to amend and reenact §36-3-5a of the Code of West Virginia, 1931, as amended, relating to descriptions of easements and rights-of-way in deeds and similar instruments.

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

That §36-3-5a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. FORM AND EFFECT OF DEEDS AND CONTRACTS.**

**§36-3-5a. Easement and right-of-way; description of property; exception for certain public utility facilities and mineral leases.**

- 1 (a) Any deed or instrument that initially grants or
- 2 reserves an easement or right-of-way shall describe the
- 3 easement or right-of-way by any of the following:

4       (1) Metes and bounds; ~~or by~~

5       (2) Specification of the centerline ~~of the easement or~~  
6 ~~right-of-way, or by~~ and width;

7       (3) Station and offset; or

8       (4) Reference to an attached drawing or plat which may  
9 not require a survey or instrument based on the use of the  
10 global positioning system which may not require a survey.

11 *Provided, That*

12       (b) Oil and gas, gas storage and mineral leases ~~shall not~~  
13 ~~be~~ are not required to describe the easement but ~~shall~~ are  
14 required to describe the land on which the easement or  
15 right-of-way will be situate by source of title or reference to  
16 a tax map and parcel, recorded deed, recorded lease, plat or  
17 survey sufficient to reasonably identify and locate the  
18 property on which the easement or right-of-way is situate

19 *Provided, however, That* the easement or right-of-way is not  
20 ~~invalid because of the failure of the easement or right-of-way~~  
21 ~~to meet~~ so long as the easement or right-of-way meets the  
22 requirements of ~~this~~ subsection (a) of this section.

23       (b) (c) This section does not apply to the construction of  
24 a service extension from a main distribution system of a  
25 public utility when ~~such~~ the service extension is located

26 entirely on, below or above the property to which the utility  
 27 service is to be provided.

28       (e) (d) The clerk of the county commission of any county  
 29 in which an easement or right-of-way is recorded pursuant  
 30 to this section ~~shall~~ may only accept for recordation ~~any a~~  
 31 document that complies with this section and that otherwise  
 32 complies with the requirements of article one, chapter thirty-  
 33 nine of this code, without need for a survey or certification  
 34 under section twelve, article thirteen-a, chapter thirty of this  
 35 code.

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(NOTE: The purpose of this bill is to require that descriptions of right-of-ways and easements include width in addition to identification of center line when this method of description is used.

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

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#### JUDICIARY COMMITTEE AMENDMENT

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill No. 129**—A Bill to amend and reenact §36-3-5a of the Code of West Virginia, 1931, as amended, relating to descriptions of easements and rights-of-way in deeds and similar instruments; and amending centerline method of description to include width.