

1 **Senate Bill No. 71**

2 (By Senators Sypolt, McCabe and Williams)

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4 [Introduced February 13, 2013; referred to the Committee on the
5 Judiciary.]
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10 A BILL to amend and reenact §36-3-5a of the Code of West Virginia,
11 1931, as amended, relating to descriptions of easements and
12 rights-of-way in deeds and similar instruments; and amending
13 the centerline method of description to include width.

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

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

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

18 **§36-3-5a. Easement and right-of-way; description of property;**
19 **exception for certain public utility facilities and**
20 **mineral leases.**

21 (a) Any deed or instrument that initially grants or reserves
22 an easement or right-of-way shall describe the easement or right-

1 of-way by any of the following:

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

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

5 (3) Station and offset; or

6 (4) Reference to an attached drawing or plat which may not
7 require a survey or instrument based on the use of the global
8 positioning system which may not require a survey. ~~Provided, That~~

9 (b) Oil and gas, gas storage and mineral leases ~~shall not be~~
10 are not required to describe the easement but ~~shall~~ are required to
11 describe the land on which the easement or right-of-way will be
12 situate by source of title or reference to a tax map and parcel,
13 recorded deed, recorded lease, plat or survey sufficient to
14 reasonably identify and locate the property on which the easement
15 or right-of-way is situate ~~Provided, however, That the easement or~~
16 ~~right of-way is not invalid because of the failure of the easement~~
17 ~~or right-of-way to meet~~ so long as the easement or right-of-way
18 meets the requirements of ~~this~~ subsection (a) of this section.

19 ~~(b)~~ (c) This section does not apply to the construction of a
20 service extension from a main distribution system of a public
21 utility when ~~such~~ the service extension is located entirely on,
22 below or above the property to which the utility service is to be
23 provided.

1 ~~(c)~~ (d) The clerk of the county commission of any county in
2 which an easement or right-of-way is recorded pursuant to this
3 section ~~shall~~ may only accept for recordation ~~any~~ a document that
4 complies with this section and that otherwise complies with the
5 requirements of article one, chapter thirty-nine of this code,
6 without need for a survey or certification under section twelve,
7 article thirteen-a, chapter thirty of this code.

NOTE: The purpose of this bill is to require that descriptions of right-of-ways and easements include width in addition to identification of the 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.