

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

**House Bill 4768**

BY DELEGATE CAPITO

[Introduced February 15, 2022; Referred to the  
Committee on Government Organization]

1 A BILL to amend and reenact §24-2H-6b of the Code of West Virginia, 1931, as amended, relating  
2 to utility hearings, changing hearing location and customer notice provisions.

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

**ARTICLE 2H. POWER OF COMMISSION TO ORDER MEASURES UP TO AND INCLUDING THE ACQUISITION OF DISTRESSED AND FAILING WATER AND WASTEWATER UTILITIES.**

**§24-2H-6. Notice to distressed or failing utility and formal proceeding.**

1 (a) A proceeding under this article may be initiated by the commission on its own motion,  
2 or by the staff of the commission, or any other person or entity having a legal interest in the  
3 financial, managerial or operational condition of the utility, by filing a petition with the commission.  
4 In any such petition, the utility shall be named as the respondent. The commission shall include  
5 as additional parties any capable proximate public and private utilities that may be able to acquire  
6 the utility.

7 (b) The commission shall hold an evidentiary and public hearing(s) in a location in or near  
8 the utility’s service area. The commission shall give reasonable notice of the time, place and  
9 subject matter of the hearing as follows:

10 (1) A Class I legal publication in a qualified newspaper pursuant to §59-3-2(a) of this code  
11 in the county or counties where the utility is located; ~~to take place no more than 10 days before~~  
12 ~~the date of the hearing~~

13 (2) Issuance of a press release;

14 (3) Written notice by certified mail or registered mail to:

15 (A) The utility;

16 (B) The Consumer Advocate Division;

17 (C) Capable proximate public or private utility(s) that were made parties to the proceeding;

18 and

- 19 (D) The county commission if the utility is a public service district; or
- 20 (E) The municipality if the utility is owned and operated by the municipality.
- 21 (4) The utility shall give notice to its customers of the time, place and subject matter of the
- 22 hearing either as a bill insert or printed on its monthly bill statement as ordered by the commission.
- 23 (c) The public hearing shall be conducted to receive public comments, including, but not
- 24 limited to, comments regarding possible options available to bring the distressed or failing utility
- 25 into compliance with appropriate statutory and regulatory standards concerning actual or
- 26 imminent public health problems or unreasonable quality and reliability service standards. At the
- 27 evidentiary hearing, the commission shall receive evidence to determine if the utility is a
- 28 distressed or failing utility and whether a capable proximate utility should acquire the utility. If
- 29 there is more than one capable proximate utility, then sufficient evidence should be presented to
- 30 allow the commission to determine the appropriate capable proximate utility to acquire the
- 31 distressed or failing utility.

NOTE: The purpose of this bill is to amend the hearing and notice provisions in determining whether a utility is "distressed" under W.Va. Code 24-2H-1, *et seq. of this code* to reduce the burden on the distressed utility.

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