

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 4768

BY DELEGATE CAPITO

[Originating in the Committee on Government

Organization on February 17, 2022]

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 within
8 25 miles of the utility's service area. The commission shall give reasonable notice of the time,
9 place and 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)~~ (1) Issuance of a press release;

14 ~~(3)~~ (2) 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)~~ (3) The utility shall give notice to its customers of the time, place and subject matter of
22 the hearing either as a bill insert or printed on its monthly bill statement as ordered by the
23 commission.

24 (c) The public hearing shall be conducted to receive public comments, including, but not
25 limited to, comments regarding possible options available to bring the distressed or failing utility
26 into compliance with appropriate statutory and regulatory standards concerning actual or
27 imminent public health problems or unreasonable quality and reliability service standards. At the
28 evidentiary hearing, the commission shall receive evidence to determine if the utility is a
29 distressed or failing utility and whether a capable proximate utility should acquire the utility. If
30 there is more than one capable proximate utility, then sufficient evidence should be presented to
31 allow the commission to determine the appropriate capable proximate utility to acquire the
32 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.