

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

**Senate Bill 638**

BY SENATOR NELSON

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



1 A BILL to amend and reenact §24-2H-6 of the Code West Virginia, 1931, as amended, relating to  
2 the Public Service Commission; and changing hearing location and customer notice  
3 provisions in a distressed or failing utility and formal proceeding.

*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  
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.