



2021 South Dakota Legislature

Senate Bill 38

Introduced by: The Committee on Commerce and Energy at the request of the Public Utilities Commission

1 **An Act to correct technical errors in and make stylistic revisions to certain provisions**
 2 **regarding public utilities.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 49-30-23 be AMENDED.

5 **49-30-23. Transfer of stock--Stock deemed personal property.**

6 The stock of every corporation organized under this chapter ~~shall be~~ is deemed
 7 personal estate, and ~~shall be~~ is transferable in the manner prescribed in its bylaws, subject
 8 to the provisions of §§ 57A-8-301 to ~~57A-8-320.1~~ 57A-8-307, inclusive, and §§ 57A-8-
 9 401 to ~~57A-8-406~~ 57A-8-407, inclusive, but no share ~~shall be~~ is transferable until all
 10 previous calls ~~shall~~ have been fully paid in.

11 **Section 2.** That § 49-31-108 be AMENDED.

12 **49-31-108. Telephone solicitation--Violations--Civil penalty.**

13 Any person who violates §§ 49-31-99 to 49-31-108, inclusive, or any rules
 14 promulgated pursuant to §§ 49-31-99 to ~~49-31-108~~ 49-31-108, inclusive, is subject to a
 15 civil penalty to be imposed by the commission, after notice and opportunity for hearing.
 16 The commission may impose a civil fine of not more than five thousand dollars for each
 17 offense. In determining the amount of the penalty upon finding a violation, or the amount
 18 of a compromise settlement, the commission shall consider the appropriateness of the
 19 penalty to the size of the business of the person charged, prior offenses and compliance
 20 history, and the good faith of the person charged in attempting to achieve compliance.
 21 Any telephone solicitation made to a person whose name first appears on the register is
 22 not a violation of §§ 49-31-99 to 49-31-108, inclusive, if the solicitation is made within
 23 thirty days of the receipt of the register. Any penalty collected pursuant to this section
 24 shall be credited to the telephone solicitation account established pursuant to § 49-31-
 25 104.

1 **Section 3.** That § 49-33-5.1 be AMENDED.

2 **49-33-5.1. Powers of corporation--Business corporation powers.**

3 In addition to all provisions and powers in chapters 49-33 and 49-34 ~~which that~~
 4 are applicable to corporations organized ~~thereunder~~ under those chapters, all provisions
 5 and powers set forth in the South Dakota Business Corporation Act, §§ 47-1A-101 to 47-
 6 1A-863.3, inclusive, §§ 47-1A-1401 to 47-1A-1440, inclusive, and §§ 47-1A-1601 to ~~47-~~
 7 ~~1A-1621.3~~ 47-1A-1703.1, inclusive, applicable to domestic corporations are also
 8 applicable to corporations ~~which that~~ have been or will be organized under chapters 49-
 9 33 and 49-34 except if in conflict with the express provisions of chapters 49-33 and 49-
 10 34.

11 **Section 4.** That § 49-33-21 be AMENDED.

12 **49-33-21. Transfer of stock--Stock deemed personal property.**

13 The stock of every corporation organized under this chapter ~~shall be~~ is deemed
 14 personal property and ~~shall be~~ is transferable in the manner prescribed by its bylaws, and
 15 subject to the provisions of §§ 57A-8-301 to ~~57A-8-320.1~~ 57A-8-307, inclusive and 57A-
 16 8-401 to ~~57A-8-406~~ 57A-8-407, inclusive, but no ~~shares shall be~~ share is transferable
 17 until all previous calls and assessments ~~thereon shall~~ on the share have been fully paid.

18 **Section 5.** That § 49-37-4 be AMENDED.

19 **49-37-4. Contractual powers--Sale of electrical appliances or equipment**
 20 **prohibited.**

21 Subject to the limitations of the petition for its creation and all amendments
 22 thereto, a consumers power district may engage in, or transact business, or enter into
 23 any kind of contract or arrangement with any person, firm, corporation, limited liability
 24 company, association or labor union, state, county, municipality, governmental
 25 subdivision, or agency, or with the government of the United States, the Rural
 26 Electrification Administration, or with any officer, department, bureau, or agency thereof,
 27 or with any corporation organized by federal law, including the Reconstruction Finance
 28 Corporation, or any successor thereof, or with any body, politic or corporate, for any of
 29 the purposes mentioned in ~~§§ 49-37-2 and 49-37-3~~ §§ 49-37-2 and 49-37-3.1 or for or
 30 incident to the exercise of any one or more of the foregoing powers, or for the generation,
 31 distribution, transmission, sale, purchase, exchange, interchange, wheeling, and pooling
 32 of electric power and energy for lighting, power, heating, and for any and every service

1 involving, employing, or in any manner pertaining to the use of electric power and energy,
2 by whatever means generated or distributed, or for the financing or payment of the cost
3 and expense incident to the acquisition or operation of any such power plant or system or
4 incident to any obligation or indebtedness entered into or incurred by the district, ~~except~~
5 ~~that such.~~ However, the district may not engage in the sale of electrical appliances or
6 equipment.

7 **Section 6.** That § 49-37-9.1 be AMENDED.

8 **49-37-9.1. Prior joint acts validated despite bid law noncompliance.**

9 All acts and proceedings had prior to January 1, 1975, and all contracts,
10 expenditures and acquisitions made prior to January 1, 1975, by any consumers power
11 district of the state where ~~such~~ the consumers power district jointly with others contracted
12 for the construction, building, alteration, extension, improvements, or the leasing of any
13 power plant or system are in all things legalized, cured, and declared valid,
14 ~~notwithstanding the fact that the consumers power district did not comply with the~~
15 ~~provisions of §§ 5-18-1 to 5-18-14, inclusive.~~

16 **Section 7.** That § 49-31-12.6 be AMENDED.

17 **49-31-12.6. Deposits into regulatory assessment fee fund.**

18 The Public Utilities Commission may require a telecommunications company as
19 defined in ~~subdivision 49-31-1(26)~~ § 49-31-1 to make a deposit when it files for approval
20 of a general change in rates or prices for any noncompetitive or emerging competitive
21 telecommunications service. The commission may require a telecommunications company
22 to deposit up to one hundred thousand dollars in the South Dakota Public Utilities
23 Commission Regulatory Assessment Fee fund, the amount to be designated by
24 commission order.

25 **Section 8.** That § 49-31-79 be AMENDED.

26 **49-31-79. Requirements of rural telephone company.**

27 Pursuant to 47 U.S.C. § 251(f)(1) as of January 1, 1998, the obligations of an
28 incumbent local exchange carrier, which include the duty to negotiate and provide
29 interconnection, unbundled network elements, resale, notice of changes and collocation,
30 do not apply to a rural telephone company unless the company has received a bona fide
31 request for interconnection, services, or network elements and the commission

1 determines that the rural telephone company shall fulfill the request. The commission may
2 only determine that the rural telephone company shall fulfill the request if, after notice
3 and hearing pursuant to chapter 1-26, the commission finds that the request is not unduly
4 economically burdensome, the request is technically feasible, and the request is consistent
5 with the universal service principles and provisions set forth in 47 U.S.C. § 254 as of
6 January 1, 1998. The commission shall make ~~such~~ the determination within one hundred
7 twenty days after receiving notice of the request. The person or entity making the request
8 ~~shall have~~ has the burden of proof as to whether each of the standards for reviewing the
9 request has been met. Nothing in this section prevents a rural telephone company from
10 voluntarily agreeing to provide any of the services, facilities, or access referenced by this
11 section.