



2023 South Dakota Legislature

House Bill 1089

Introduced by: **Representative Wangsness**

1 **An Act to require notice and compensation prior to entry upon private land for the**
 2 **purpose of causing an examination and survey.**

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

4 **Section 1. That § 21-35-31 be AMENDED:**

5 **21-35-31.** ~~The provisions of this~~This section applies only ~~apply~~ to a project
 6 ~~which~~that requires a siting permit pursuant to chapter 49-41B. ~~Each~~

7 A person vested with authority to take private property for public use may cause
 8 ~~an~~a visual examination and a location and topographical survey to be made, as necessary,
 9 for its ~~proposed~~ facilities.

10 The person or the person's agents and officers may enter ~~the~~ private property for
 11 the purpose of the examination and survey.

12 Any person seeking to cause an examination or survey, ~~where~~if permission for an
 13 examination or survey has been denied, shall:

14 (1) Have filed a siting permit application with the Public Utilities Commission, pursuant
 15 to § 49-41B-11;

16 (2) ~~Give thirty days written notice, including the filing and expected dates of~~
 17 ~~entry,~~Provide to the owner, and any tenant in possession of the private property,
 18 thirty days' written notice that complies with the service requirements set forth in
 19 § 15-6-4, and includes:

20 (a) The anticipated date of entry; and

21 (b) The name and contact information of the person, or the person's agent or
 22 officer, who will enter the property for the purpose of causing the
 23 examination and survey; and

24 (3) ~~Make a~~an initial payment to the owner, or ~~in~~in the amount of five hundred dollars,
 25 as compensation for entering the owner's property, and provide sufficient

1 security ~~for~~ to ensure the payment ~~of~~ of additional compensation for any actual
2 damage done to the property by the entry.

3 This section does not apply to the state or ~~its any political subdivisions~~ subdivision
4 of the state.

5 This section is in addition to and not in derogation of any other existing law.