



2023 South Dakota Legislature

House Bill 1202

Introduced by: **Representative Sjaarda**

1 **An Act to require consent from property owners prior to a pipeline condemnation**
 2 **proceeding.**

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

4 **Section 1. That § 21-35-2 be AMENDED:**

5 **21-35-2.** A petition filed pursuant to § 21-35-1 shall ~~name~~ must:

6 (1) Name the person, group, or corporation desiring to take or damage private
 7 property as plaintiff, and all persons having interest in or liens upon the property
 8 affected by the proceeding as defendants, so far as they ~~shall be~~ are known at the
 9 time of the filing ~~the same~~. It shall ~~contain~~;

10 (2) Contain a description of the property to be taken or damaged. ~~The~~;

11 (3) Set forth the purpose for which the property is to be taken or damaged ~~shall be~~
 12 clearly set forth in the petition; and

13 (4) Be accompanied by a verification of consent, if required by section 3 of this Act.

14 It ~~shall is~~ not be necessary to specify the interests or claims of the several
 15 defendants in the land or property affected by the proceeding.

16 **Section 2. That § 49-7-13 be AMENDED:**

17 **49-7-13.** Any ~~pipeline companies owning company that owns~~ a pipeline ~~which and~~
 18 is a common carrier, as defined by § 49-7-11, may exercise the right of eminent domain
 19 in acquiring right-of-way as prescribed by statute. ~~However, in~~ In the case of school and
 20 public lands, no right-of-way for the purpose of carriage of property by pipeline ~~shall may~~
 21 exceed ten feet in width ~~but the pipeline~~, except that the company shall have has the right
 22 to secure ~~such land as may be reasonably~~ that is required for pumps, stations, substations,
 23 tanks, or buildings necessary for the carriage ~~of the type or kinds of property the pipeline~~
 24 company intends its pipeline to carry.

1 **Section 3. That chapter 49-7 be amended with a NEW SECTION:**

2 A company seeking to exercise the right of eminent domain under this chapter shall
3 demonstrate that it has received consent to proceed with the condemnation from the
4 owners of property that the proposed pipeline will cross.

5 To demonstrate consent, the company shall:

6 (1) Calculate the total linear feet of pipeline proposed to cross this state;

7 (2) Allow each property owner one vote per linear foot of pipeline proposed to cross
8 the owner's property;

9 (3) Determine that votes representing at least ninety percent of the total linear feet,
10 as established under subdivision (1) of this section, are cast in support of the
11 eminent domain proceeding; and

12 (4) File verification of the consent with the petition for ascertainment of compensation
13 required by § 21-35-1.

14 For purposes of this section, if property being crossed by a pipeline is under the
15 ownership of multiple persons, the vote required by this section must be cast by one
16 person, with the authority to act on behalf of the multiple owners.