

2023 South Dakota Legislature

House Bill 1089**AMENDMENT 1089A
FOR THE INTRODUCED BILL**

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) A general description of the property to be examined and surveyed;

21 (b) The anticipated date of entry;

22 (c) The anticipated duration of presence on the property, which may not exceed
23 three days; and

24 ~~(b)(d)~~ The name and contact information of the person, or the person's agent or
25 officer, who will enter the property for the purpose of causing the
26 examination and survey; and

1 (3) Make a an initial payment to the owner, ~~or~~ in the amount of five hundred dollars,
2 as compensation for entering the owner's property, and provide sufficient
3 security ~~for~~ to ensure the payment, of additional compensation for any actual
4 damage done to the property by the entry.

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

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