

## 2024 South Dakota Legislature

**Senate Bill 177****AMENDMENT 177B  
FOR THE INTRODUCED BILL**

1 An Act to ~~prohibit~~permit the appointment of a circuit court judge ~~or~~, Supreme Court  
2 justice ~~from being appointed, or retired commissioner~~ as a member of the  
3 Public Utilities Commission in place of a disqualified or incapacitated  
4 commissioner in certain proceedings.

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

6 **Section 1. That § 49-1-9 be AMENDED:**

7 **49-1-9.** Such Public Utilities Commission may in all cases conduct its proceedings,  
8 when not otherwise particularly prescribed by law, in such manner and places as will best  
9 conduce to the proper dispatch of business and to the ends of justice.

10 A majority of the commissioners shall constitute a quorum for the transaction of  
11 business, but no commissioner shall participate in any hearing or proceeding in which he  
12 has any conflict of interest or if he is temporarily incapacitated. If a commissioner  
13 determines that he is incapacitated or disqualified from participating for any reason in any  
14 hearing or proceeding, he shall certify that determination to the Governor, or if the  
15 character of the incapacity of any commissioner is such that he is unable to certify his  
16 incapacity to the Governor, the commission may make such certification. In the event of  
17 any such certification, the Governor shall then appoint an elected constitutional officer,  
18 other than the attorney general, a retired circuit judge or Supreme Court justice to act as  
19 a member of the commission in place of the disqualified or incapacitated commissioner  
20 for the purpose of such hearing or proceeding only.

21 If the recusal is for a proceeding requiring a party to pay the costs of processing  
22 the application under §§ 49-41B, 49-1A-8, or 49-16A-100.7, the Governor shall appoint  
23 an elected constitutional officer, other than the attorney general, a South Dakota retired  
24 circuit judge, a retired South Dakota Supreme Court justice, or a retired South Dakota  
25 public utilities commissioner in the place of the disqualified or incapacitated commissioner  
26 for the purpose of such hearing or proceeding only.

1           If a retired circuit judge, Supreme Court justice, or public utilities commissioner is  
2           appointed, their compensation may not exceed the current hourly compensation for a  
3           sitting judge, justice, or commissioner plus expenses. Such compensation shall be part of  
4           the proceeding costs paid by the applicant or other party responsible for costs.

5           For proceedings that have a maximum fee, any compensation arising under this  
6           statute does not count against the maximum fee.

AMENDED