

## 2024 South Dakota Legislature

**House Bill 1185****AMENDMENT 1185D  
FOR THE HOUSE COMMERCE AND ENERGY ENGROSSED  
BILL**

1 **An Act to amend provisions regarding entry on private property for examination and**  
2 **survey of a project requiring a siting permit.**

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 section only apply to a project ~~which~~ that requires  
6 a siting permit pursuant to chapter 49-41B. Each person vested with authority to take  
7 private property for public use may cause an examination and survey to be made as  
8 necessary for its proposed facilities. The person or the person's agents and officers may  
9 enter the private property for the purpose of the examination and survey. Any person  
10 seeking to cause an examination or survey, where permission for examination or survey  
11 has been denied, ~~shall~~ must:

- 12 (1) ~~Have filed a pending or approved~~ siting permit application with the Public Utilities  
13 Commission pursuant to § 49-41B-11;
- 14 (2) ~~Give thirty days written notice, including the filing and expected dates of entry,~~  
15 Provide to the owner and any tenant in possession of the private property, thirty  
16 days' written notice served in accordance with § 15-6-4 that contains:
- 17 (a) A description of the specific portions of property to be examined and  
18 surveyed;
- 19 (b) The anticipated date and time of entry;
- 20 (c) The anticipated duration of presence on the property;
- 21 (d) A description of the types of surveys and examinations that may be  
22 conducted; and
- 23 (e) The name and contact information of the person, or the person's manager  
24 or officer, who will enter the property for the purpose of causing the  
25 examination and survey; and

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

5 A landowner may challenge the right to survey or examine by commencing an  
6 action in circuit court in the county where the survey or examination is proposed within  
7 thirty days of service of the written notice in circuit court. Upon the written request of the  
8 owner, the results of a survey or examination of the owner's private property conducted  
9 pursuant to this section must be provided to the owner. This section does not apply to the  
10 state or its political subdivisions. This section is in addition to and not in derogation of  
11 other existing law.

12 For the purpose of this section, the term "examination" means an inspection of a  
13 property to obtain general information which is not a matter of public record. For the  
14 purpose of this section, the term "survey" means a more detailed, comprehensive, or  
15 invasive investigation of a property.