

## 2024 South Dakota Legislature

**Senate Bill 177****AMENDMENT 177D  
FOR THE SENATE COMMERCE AND ENERGY ENGROSSED  
BILL**

1 **An Act to permit the appointment of a circuit court judge or Supreme Court justice**  
2 **as a member of the Public Utilities Commission in place of a disqualified or**  
3 **incapacitated commissioner.**

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

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

6 **49-1-9.** Such Public Utilities Commission may in all cases conduct its proceedings,  
7 when not otherwise particularly prescribed by law, in such manner and places as will best  
8 conduce to the proper dispatch of business and to the ends of justice.

9 A majority of the commissioners shall constitute a quorum for the transaction of  
10 business, but no commissioner shall participate in any hearing or proceeding in which he  
11 has any conflict of interest or if he is temporarily incapacitated. If a commissioner  
12 determines that he is incapacitated or disqualified from participating for any reason in any  
13 hearing or proceeding, he shall certify that determination to the Governor, or if the  
14 character of the incapacity of any commissioner is such that he is unable to certify his  
15 incapacity to the Governor, the commission may make such certification. In the event of  
16 any such certification, the Governor shall then appoint an elected constitutional officer,  
17 other than the attorney general, ~~or a retired circuit judge or Supreme Court justice~~ to act  
18 as a member of the commission in place of the disqualified or incapacitated commissioner  
19 for the purpose of such hearing or proceeding only. If all elected constitutional officers,  
20 other than the attorney general, have certified to the Governor that the elected  
21 constitutional officers are disqualified or otherwise decline the appointment, the Governor  
22 may appoint a retired South Dakota circuit judge or retired South Dakota Supreme Court  
23 justice to act. If a retired judge or retired supreme court justice is appointed, the judge  
24 or justice must be compensated at the rate paid set by the Unified Judicial System for  
25 compensation of retired judges and justices sitting for a recused judge or justice.