

2025 South Dakota Legislature

Senate Bill 198**AMENDMENT 198A
FOR THE INTRODUCED BILL**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

1 An Act to ~~enhance environmental conservation in South Dakota~~ establish conditions a
2 prospective condemnor must satisfy before commencing condemnation
3 proceedings.

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

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

6 **21-35-1.** In all cases where any person, group, or corporation, public or private,
7 including the owners of water rights, ditches, flumes, reservoirs, and mining property
8 under the provisions of the laws of Congress, invested with the privilege of taking or
9 damaging private property for public use, in making, constructing, repairing, or using any
10 work or improvement allowed by law, shall determine to exercise ~~such~~ the privilege, ~~it~~ the
11 prospective condemnor shall file a petition in the circuit court for the county in which the
12 property to be taken or damaged is situated, praying that the just compensation to be
13 made for ~~such~~ the property may be ascertained by a jury.

14 A petition may not be filed pursuant to this chapter until the condemnor has
15 complied with the requirements of sections 2 to 5, inclusive, of this Act.

16 **Section 2. That a NEW SECTION be added to chapter 21-35:**

17 Before any prospective condemnor, as described in § 21-35-1, may initiate
18 condemnation proceedings pursuant to this chapter, the condemnor shall engage in good
19 faith mediation with any affected property owner in an attempt to reach a mutually
20 agreeable resolution regarding the property proposed to be taken or damaged.

21 The condemnor shall provide the property owner written notice of the condemnor's
22 intent to acquire an interest in the property at least ninety days before commencement of
23 any condemnation proceeding pursuant to this chapter.

1 The condemnor shall pay any cost associated with the mediation.

2 **Section 3. That a NEW SECTION be added to chapter 21-35:**

3 The notice required in section 2 of this Act must contain:

4 (1) The prospective condemnor's full legal name, phone number, and primary address;

5 (2) A detailed description of the property proposed to be taken or damaged;

6 (3) A request for mediation in accordance with chapter 19-13A;

7 (4) A list of at least three proposed mediators; and

8 (5) A statement that the affected property owner has fifteen days to either:

9 (a) Select one of the mediators proposed by the condemnor; or

10 (b) Propose an alternate mediator agreeable to both parties.

11 **Section 4. That a NEW SECTION be added to chapter 21-35:**

12 Mediation, as required in section 2 of this Act, must be conducted within sixty days
13 of the affected property owner's receipt of the notice pursuant to sections 2 and 3 of this
14 Act, unless the parties agree to extend the time for mediation.

15 The mediator shall facilitate discussions to explore alternatives to condemnation,
16 including alternative routes within the confines of the applicable permit, as required in
17 section 5 of this Act, and increased compensation.

18 If mediation results in a voluntary agreement between the parties, the mediator
19 must facilitate preparation of a written settlement agreement, which upon execution by
20 the parties is binding and enforceable.

21 If mediation does not result in an agreement, the mediator must issue a written
22 confirmation of mediation completion to be filed with the court upon commencement of
23 any condemnation proceeding pursuant to this chapter.

24 If the property owner refuses to participate in mediation, then upon
25 commencement of a condemnation proceeding pursuant to this chapter, the prospective
26 condemnor, as described in § 21-35-1, must submit an affidavit to the court documenting
27 the condemnor's efforts, and the property owner's refusal, to participate in mediation.

28 **Section 5. That a NEW SECTION be added to chapter 21-35:**

29 If a project for which property is proposed to be taken or damaged requires a
30 permit under chapter 49-41B, a prospective condemnor must obtain the permit from the

1 Public Utilities Commission before commencement of any condemnation proceeding
2 pursuant to this chapter.

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AMENDMENT