2026 South Dakota Legislature

Senate Bill 88

ENROLLED

AN ACT

ENTITLED An Act to clarify the procedure for a potential condemnor to examine real property absent the property owner's permission.

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

Section 1. That § 21-35-31 be AMENDED:

21-35-31. The provisions of this section only apply to a project that requires a siting permit pursuant to chapter 49-41B. Except as otherwise provided in this section, any person vested with authority to take private property for public use may cause an examination and survey to be made as necessary for proposed facilities, and the person, or the person's agent or officer, may enter the property to conduct the examination and survey.

If the owner of the property denies permission for the examination or survey, the person may conduct only an examination and must:

(1) Have a pending or approved siting permit application with the Public Utilities Commission of the State of South Dakota pursuant to § 49-41B-11;

(2) Provide to the owner thirty days' written notice, served in accordance with § 15-6-4 or sent by certified mail with return receipt requested, which contains:

(a) A description of the specific portions of property to be examined;

(b) The anticipated date and time of entry;

(c) The anticipated duration of presence on the property;

(d) A description of the type of examination that may be conducted; and

(e) The name and contact information of the person, or the person's agent or officer, who will enter the property to conduct the examination; and

(3) Make a payment to the owner, or provide sufficient security for the payment, for any actual damage done to the property by the entry.

The owner may challenge the proposed examination or survey by commencing an action in circuit court in the county where the examination or survey is proposed, within thirty days of service of the written notice.

Upon written request, the owner is entitled to a copy of the results of any survey or examination conducted pursuant to this section.

This section does not apply to the state or its political subdivisions. This section is in addition to and not in derogation of other existing law.

For purposes of this section, "examination" means a minimally invasive, superficial inspection of real property, resulting in no more than minor soil disturbances, to obtain general information that is not a matter of public record. For purposes of this section, "survey" means a more detailed, comprehensive, or invasive investigation of real property.

An Act to clarify the procedure for a potential condemnor to examine real property absent the property owner's permission.

I certify that the attached Act originated in the:

Senate as Bill No. 88

_____
Secretary of the Senate

_____
President of the Senate

Attest:

_____
Secretary of the Senate

_____
Speaker of the House

Attest:

_____
Chief Clerk of the House

Received at this Executive Office
this _____ day of _____,

2026 at _____M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 2026

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 2026
at _____ o'clock __M.

_____
Secretary of State

By _____
Asst. Secretary of State

Senate Bill No. 88
File No. _____
Chapter No. _____