



2024 South Dakota Legislature

House Bill 1185

Introduced by: **Representative** Mortenson

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 will be
 22 conducted; and
- 23 (e) The name and contact information of the person, or the person's agent or
 24 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.