



## 2024 South Dakota Legislature

# House Bill 1200

SENATE STATE AFFAIRS ENGROSSED

*Introduced by: The Committee on State Affairs*

1 **An Act to increase the minimum fee required with an application for construction of**  
 2 **an energy conversion and transmission facility.**

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

4 **Section 1. That § 49-41B-12 be AMENDED:**

5 **49-41B-12.** At the time of filing an application as required in § 49-41B-11 ~~or as~~  
 6 ~~subsequently required by the commission,~~ an applicant ~~shall~~ must deposit the minimum  
 7 fee with the commission. If required by the commission, an applicant must remit an initial  
 8 amount to be determined by the commission based upon the ~~estimated~~ actual cost of  
 9 investigating, reviewing, processing, and serving notice of an application. The amount  
 10 shall ~~must~~ be deposited with the state treasurer and credited to a subfund within the  
 11 designated revenue fund and ~~shall~~ may only be disbursed on vouchers approved by the  
 12 commission for the actual cost of investigating, reviewing, processing, and serving notice  
 13 of the application. ~~The~~ Except as otherwise agreed to by an applicant, the maximum fee  
 14 chargeable may not exceed one-quarter of one percent of the first one hundred million  
 15 dollars of estimated construction cost plus one-twentieth of one percent of all additional  
 16 estimated construction costs of the facility. To exceed the maximum fee when the  
 17 applicant has not agreed to a fee higher than the maximum amount, the commission must  
 18 make a finding upon a motion from the commission staff that all costs incurred were  
 19 reasonably necessary to investigate, review, process, and serve notice of the application.  
 20 In these circumstances, the commission must seek reimbursement for those costs, during  
 21 the next regular legislative session. However, the minimum total fee chargeable may not  
 22 be less than ~~eight~~ twenty thousand dollars. The minimum fee is nonrefundable unless  
 23 ordered by the commission.

24 If the commission determines that an environmental impact statement should be  
 25 prepared as provided under chapter 34A-9 before taking final action on an application  
 26 under this chapter, the maximum fee chargeable above may be increased to an amount

1 not to exceed one-half of one percent of the first one hundred million dollars of estimated  
2 construction cost plus one-twentieth of one percent of all additional estimated construction  
3 costs of the facility. However, the provisions of this paragraph do not apply in cases in  
4 which a detailed environment impact study has been completed pursuant to the  
5 requirements of the National Environmental Policy Act of 1969 as amended to January 1,  
6 2009, and implementing regulations thereto if such a statement is available to the  
7 commission at least thirty days prior to the time the commission is required to render a  
8 decision under § 49-41B-24 or 49-41B-25. The provisions of this section apply to all  
9 pending permit applications and future permit applications before the commission.

10 **Section 2. That § 49-41B-26 be AMENDED:**

11 **49-41B-26.** The commission ~~shall~~ must provide the applicant with a full financial  
12 accounting relating to the expenditures of the amount received pursuant to § 49-41B-12.  
13 Except for the ~~eight~~ twenty thousand dollar minimum fee required pursuant to § 49-41B-  
14 12, unused moneys ~~shall~~ must be refunded to the applicant within thirty days of the  
15 commission's decision on the application.