



## 2025 South Dakota Legislature

# Senate Bill 198

SENATE STATE AFFAIRS ENGROSSED

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

Introduced by: **Senator Larson**

1 **An Act to establish conditions a prospective condemnor must satisfy before**  
 2 **commencing condemnation proceedings.**

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

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

5 **21-35-1.** In all cases where any person, group, or corporation, public or private,  
 6 including the owners of water rights, ditches, flumes, reservoirs, and mining property  
 7 under the provisions of the laws of Congress, invested with the privilege of taking or  
 8 damaging private property for public use, in making, constructing, repairing, or using any  
 9 work or improvement allowed by law, shall determine to exercise ~~such~~ the privilege, ~~it~~ the  
 10 prospective condemnor shall file a petition in the circuit court for the county in which the  
 11 property to be taken or damaged is situated, praying that the just compensation to be  
 12 made for ~~such~~ the property may be ascertained by a jury.

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

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

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

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

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

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

- 1           The notice required in section 2 of this Act must contain:
- 2           (1) The prospective condemnor's full legal name, phone number, and primary address;
- 3           (2) A detailed description of the property proposed to be taken or damaged;
- 4           (3) A request for mediation in accordance with chapter 19-13A;
- 5           (4) A list of at least three proposed mediators; and
- 6           (5) A statement that the affected property owner has fifteen days to either:
- 7                 (a) Select one of the mediators proposed by the condemnor; or
- 8                 (b) Propose an alternate mediator agreeable to both parties.

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

10           Mediation, as required in section 2 of this Act, must be conducted within sixty days

11           of the affected property owner's receipt of the notice pursuant to sections 2 and 3 of this

12           Act, unless the parties agree to extend the time for mediation.

13           The mediator shall facilitate discussions to explore alternatives to condemnation,

14           including alternative routes within the confines of the applicable permit, as required in

15           section 5 of this Act, and increased compensation.

16           If mediation results in a voluntary agreement between the parties, the mediator

17           must facilitate preparation of a written settlement agreement, which upon execution by

18           the parties is binding and enforceable.

19           If mediation does not result in an agreement, the mediator must issue a written

20           confirmation of mediation completion to be filed with the court upon commencement of

21           any condemnation proceeding pursuant to this chapter.

22           If the property owner refuses to participate in mediation, then upon

23           commencement of a condemnation proceeding pursuant to this chapter, the prospective

24           condemnor, as described in § 21-35-1, must submit an affidavit to the court documenting

25           the condemnor's efforts, and the property owner's refusal, to participate in mediation.

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

27           If a project for which property is proposed to be taken or damaged requires a

28           permit under chapter 49-41B, a prospective condemnor must obtain the permit from the

29           Public Utilities Commission before commencement of any condemnation proceeding

30           pursuant to this chapter.