

2024 South Dakota Legislature

Senate Bill 218**AMENDMENT 218B
FOR THE INTRODUCED BILL**

1 An Act to ~~restrict the power~~permit, with legislative approval, the use of eminent
2 domain ~~to a utility used for a public purpose by a trans-state transmission~~
3 facility transporting carbon dioxide.

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

5 **Section 1. That § 21-35-1.1 be AMENDED:**

6 **21-35-1.1.** A utility constructing a trans-state transmission ~~line in this state~~
7 facility, as defined in § 49-41B-2, that has obtained a permit pursuant to chapter 49-41B
8 and approval by legislative enactment as required pursuant to § 49-41B-4.1, is entitled
9 to the power of eminent domain as provided by this chapter. ~~However, such action shall~~
10 The entitlement to the power of eminent domain as provided by this chapter may not be
11 construed to constitute approval ~~of for~~ the use of federal eminent domain. ~~Only a public~~
12 utility is entitled to the power of eminent domain under this section authority.

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

14 **49-41B-2.** Terms as used in this chapter mean:

- 15 (1) "AC/DC conversion facility," an asynchronous AC to DC to AC tie that is directly
16 connected to a transmission facility or a facility that connects an AC transmission
17 facility with a DC transmission facility or vice versa;
- 18 (2) "Associated facilities," facilities which include aqueducts, diversion dams,
19 transmission substations, storage ponds, reservoirs, or cooling ponds;
- 20 (3) "Carbon dioxide," a fluid that consists of more than ninety percent carbon dioxide
21 molecules compressed in a supercritical state;
- 22 (4) "Commission," the Public Utilities Commission;
- 23 (5) "Construction," any clearing of land, excavation, or other action that would affect
24 the environment of the site for each land or rights of way upon or over which a
25 facility may be constructed or modified, but not including activities incident to

- 1 preliminary engineering or environmental studies. This term includes modifications
2 to facilities as defined in § 49-41B-2.2;
- 3 (6) "Energy conversion facility," any new facility, or facility expansion, designed for or
4 capable of generation of one hundred megawatts or more of electricity, but does
5 not include any wind or solar energy facilities;
- 6 (7) "Facility," any energy conversion facility, AC/DC conversion facility, transmission
7 facility, solar energy facility, or wind energy facility, and associated facilities;
- 8 (8) "Permit," the permit issued by the commission under this chapter required for the
9 construction and operation of a facility;
- 10 (9) "Person," an individual, partnership, limited liability company, joint venture,
11 private or public corporation, association, firm, public service company,
12 cooperative, political subdivision, municipal corporation, government agency,
13 public utility district, or any other public or private entity, however organized;
- 14 (10) "Siting area," that area within ten miles in any direction of a proposed energy
15 conversion facility, AC/DC conversion facility, or which is determined by the
16 commission to be affected by a proposed energy conversion facility;
- 17 (11) "Trans-state transmission facility," ~~an electric transmission line and its associated~~
18 ~~facilities which facility that~~ originates outside the State of South Dakota of this
19 state, crosses through this state, and terminates outside the State of South
20 Dakota, of this state, and which transmission line and associated facilities either
21 delivers electric power and energy of twenty-five percent or less of the design
22 capacity of such line and facilities for use in the State of South Dakota this state
23 or transports carbon dioxide;
- 24 (12) "Utility," any person engaged in and controlling the generation or transmission of
25 electric energy and gas or liquid transmission facilities as defined by § 49-41B-2.1;
- 26 (13) "Wind energy facility," a new facility, or facility expansion, consisting of a
27 commonly managed integrated system of towers, wind turbine generators with
28 blades, power collection systems, and electric interconnection systems, that
29 converts wind movement into electricity and that is designed for or capable of
30 generation of one hundred megawatts or more of electricity. A wind energy facility
31 expansion includes the addition of new wind turbines, designed for or capable of
32 generating twenty-five megawatts or more of electricity, which are to be managed
33 in common and integrated with existing turbines and the combined megawatt
34 capability of the existing and new turbines is one hundred megawatts or more of
35 electricity. The number of megawatts generated by a wind energy facility is

1 determined by adding the nameplate power generation capability of each wind
2 turbine;

- 3 (14) "Solar energy facility," a new facility, or facility expansion, consisting of a
4 commonly managed integrated system of solar panels, power collection systems,
5 electric interconnection systems, and associated facilities, that converts solar
6 energy into electricity and is designed for or capable of generating one hundred
7 megawatts AC or more of electricity. A facility expansion includes the addition of
8 new solar panels, designed for or capable of generating twenty-five megawatts AC
9 or more of electricity, that are to be managed in common and integrated with
10 existing solar panels, and the combined megawatt capability of the existing and
11 new solar panels is one hundred megawatts AC or more of electricity.

12 **Section 3. That § 49-41B-4.2 be AMENDED:**

13 **49-41B-4.2.** The South Dakota Legislature before approving a proposed
14 trans-state transmission-~~line~~ facility shall find that each of the following criteria has been
15 met:

- 16 (1) That the proposed trans-state transmission-~~line~~ facility and route will comply with
17 all applicable laws and rules;
- 18 (2) That the proposed trans-state transmission-~~line~~ facility and route will not pose a
19 threat of serious injury to the environment nor to the social and economic condition
20 of inhabitants or anticipated inhabitants in the siting area;
- 21 (3) That the proposed trans-state transmission-~~line~~ facility and route will not
22 substantially impair the health, safety or welfare of the inhabitants;
- 23 (4) That the proposed trans-state transmission-~~line~~ facility and route will not unduly
24 interfere with the orderly development of the region with due consideration having
25 been given to views of the governing bodies of effective local units of government;
- 26 (5) That the proposed trans-state transmission facility, if it delivers electric power, will
27 be consistent with the public convenience and necessity in any area or areas which
28 will receive electrical service, either direct or indirect, from the facility, regardless
29 of the state or states in which area or areas are located.