

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2264

Introduced by

Senators Kannianen, Boehm, Rust

Representatives B. Anderson, Fegley, Longmuir

1 A BILL for an Act to amend and reenact sections 49-22-08.1, 49-22-08.2, 49-22.1-06, and
2 49-22.1-07, and 49-22.1-08 of the North Dakota Century Code, relating to notification to
3 landowners.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 49-22-08.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **49-22-08.1. Application for a permit - Notice of filing - Amendment - Designation of a**
8 **route.**

9 1. An application for a route permit for an electric transmission facility within a designated
10 corridor must be filed no later than two years after the issuance of the certificate and
11 must be in such form as the commission may prescribe, containing the following
12 information:

13 a. A description of the type, size, and design of the proposed facility.

14 b. A description of the location of the proposed facility.

15 c. An evaluation of the proposed route with regard to the applicable considerations
16 set out in section 49-22-09 and the criteria established pursuant to section
17 49-22-05.1.

18 d. A description of mitigative measures that will be taken to minimize all foreseen
19 adverse impacts resulting from the location, construction, and operation of the
20 proposed facility.

21 e. A description of the right-of-way preparation and construction and reclamation
22 procedures.

23 f. A statement setting forth the manner in which:

- 1 (1) The utility will inform affected landowners of easement acquisition, and
2 necessary easement conditions and restrictions.
- 3 (2) The utility will compensate landowners for easements, without reference to
4 the actual consideration to be paid.
- 5 g. Such other information as the utility may consider relevant or the commission
6 may require.
- 7 2. After determining that the application is complete, the commission shall serve a notice
8 of filing of the application on such persons and agencies that the commission may
9 deem appropriate and shall publish a notice of filing of the application in the official
10 newspaper of each county in which any portion of the designated corridor is located.
- 11 3. A copy of the application shall be furnished to any person or agency, upon request to
12 the commission within thirty days of either service or publication of the notice of filing.
- 13 4. Within thirty days following service of the notice of filing of a complete application by
14 the commission, the applicant shall provide a copy of the commission's notice of filing
15 of the application by first-class mail to the owner of record of any land located within
16 the requested corridor. For purposes of this subsection, the owner of record means the
17 owner identified by the county treasurer to receive the real estate tax statement.
- 18 5. An application for an amendment of a permit shall be in such form and contain such
19 information as the commission shall prescribe.
- 20 5-6. The commission shall designate a route for the construction of an electric transmission
21 facility following the study and hearings provided for in this chapter. This designation
22 shall be made in accordance with the evidence presented at the hearings, an
23 evaluation of the information provided in the application, the criteria established
24 pursuant to section 49-22-05.1, and the considerations set out in section 49-22-09 in a
25 finding with reasons for the designation, and shall be made in a timely manner no later
26 than six months after the filing of a completed application. The time for designation of
27 a route may be extended by the commission for just cause. The failure of the
28 commission to act within the time limit provided in this section shall not operate to
29 divest the commission of jurisdiction in any permit proceeding. Upon designation of a
30 route the commission shall issue a permit to the applicant with such terms, conditions,
31 or modifications deemed necessary.

1 **SECTION 2. AMENDMENT.** Section 49-22-08.2 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **49-22-08.2. Combining application - Notice of filing.**

4 A utility may file a separate application for a certificate or a permit, or combined into one
5 application. If a combined application is filed, the applicant shall mail a notice of filing in a single
6 mailing to the owners of record as required under sections 49-22-08 and 49-22-08.1.

7 **SECTION 3. AMENDMENT.** Section 49-22.1-06 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **49-22.1-06. Application for a certificate - Notice of filing - Amendment - Designation of**
10 **a site or corridor.**

11 1. An application for a certificate must be in the form prescribed by the commission
12 containing the following information:

- 13 a. A description of the size and type of facility.
- 14 b. A summary of any studies that have been made of the environmental impact of
15 the facility.
- 16 c. A statement explaining the need for the facility.
- 17 d. An identification of the location of the preferred site for any gas or liquid energy
18 conversion facility.
- 19 e. An identification of the location of the preferred corridor for any gas or liquid
20 transmission facility.
- 21 f. A description of the merits and detriments of any location identified and a
22 comprehensive analysis with supporting data showing the reasons why the
23 preferred location is best suited for the facility.
- 24 g. A description of mitigative measures that will be taken to minimize all foreseen
25 adverse impacts resulting from the location, construction, and operation of the
26 proposed facility.
- 27 h. An evaluation of the proposed site or corridor with regard to the applicable
28 considerations set out in section 49-22.1-09 and the criteria established pursuant
29 to section 49-22.1-03.
- 30 i. Any other information as the applicant considers relevant or the commission may
31 require.

- 1 2. After determining the application is complete, the commission shall serve a notice of
2 filing of the application on those persons and agencies the commission deems
3 appropriate and shall publish a notice of filing of the application in the official
4 newspaper of each county in which any portion of the site or corridor is proposed to be
5 located.
- 6 3. A copy of the application must be furnished to any person or agency, upon request to
7 the commission within thirty days of either service or publication of the notice of filing.
- 8 4. Within thirty days following service of the notice of filing of a complete application by
9 the commission, the applicant shall provide a copy of the commission's notice of filing
10 of the application by first-class mail to the owner of record of any land located within
11 the requested corridor. For purposes of this subsection, the owner of record means the
12 owner identified by the county treasurer to receive the real estate tax statement.
- 13 5. An application for an amendment of a certificate must be in the form and contain the
14 information as the commission prescribes.
- 15 5-6. The commission may designate a site or corridor for a proposed facility following the
16 study and hearings provided for in this chapter. Any designation must be made in
17 accordance with the evidence presented at the hearings, an evaluation of the
18 information provided in the application, the criteria established pursuant to section
19 49-22.1-03, and the considerations set out in section 49-22.1-09 in a finding with
20 reasons for the designation, and must be made in a timely manner no later than six
21 months after the filing of a completed application for a certificate of site compatibility or
22 no later than three months after the filing of a completed application for a certificate of
23 corridor compatibility. The time for designation of a site or corridor may be extended by
24 the commission for just cause. The failure of the commission to act within the time
25 limits provided in this section does not operate to divest the commission of jurisdiction
26 in any certification proceeding. The commission shall indicate the reasons for any
27 refusal of designation. Upon designation of a site or corridor, the commission shall
28 issue a certificate of site compatibility or a certificate of corridor compatibility with the
29 terms, conditions, or modifications deemed necessary.

30 **SECTION 4. AMENDMENT.** Section 49-22.1-07 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **49-22.1-07. Application for a permit - Notice of filing - Amendment - Designation of a**
2 **route.**

3 1. An application for a route permit for a gas or liquid transmission facility within a
4 designated corridor must be filed no later than two years after the issuance of the
5 certificate and must be in the form the commission prescribes, containing the following
6 information:

7 a. A description of the type, size, and design of the proposed facility.

8 b. A description of the location of the proposed facility.

9 c. An evaluation of the proposed route with regard to the applicable considerations
10 set out in section 49-22.1-09 and the criteria established pursuant to section
11 49-22.1-03.

12 d. A description of mitigative measures that will be taken to minimize all foreseen
13 adverse impacts resulting from the location, construction, and operation of the
14 proposed facility.

15 e. A description of the right-of-way preparation and construction and reclamation
16 procedures.

17 f. A statement setting forth the manner in which:

18 (1) The utility will inform affected landowners of easement acquisition, and
19 necessary easement conditions and restrictions.

20 (2) The utility will compensate landowners for easements, without reference to
21 the actual consideration to be paid.

22 g. Any other information the utility considers relevant or the commission requires.

23 2. After determining the application is complete, the commission shall serve a notice of
24 filing of the application on those persons and agencies the commission deems
25 appropriate and shall publish a notice of filing of the application in the official
26 newspaper of each county in which any portion of the designated corridor is located.

27 3. A copy of the application must be furnished to any person or agency, upon request to
28 the commission within thirty days of either service or publication of the notice of filing.

29 4. Within thirty days following service of the notice of filing of a complete application by
30 the commission, the applicant shall provide a copy of the commission's notice of filing
31 of the application by first-class mail to the owner of record of any land located within

1 the requested corridor. For purposes of this subsection, the owner of record means the
2 owner identified by the county treasurer to receive the real estate tax statement.

3 5. An application for an amendment of a permit must be in the form and contain the
4 information the commission prescribes.

5 ~~5-6.~~ The commission shall designate a route for the construction of a gas or liquid
6 transmission facility following the study and hearings provided for in this chapter. This
7 designation must be made in accordance with the evidence presented at the hearings,
8 an evaluation of the information provided in the application, the criteria established
9 pursuant to section 49-22.1-03, and the considerations set out in section 49-22.1-06 in
10 a finding with reasons for the designation, and must be made in a timely manner no
11 later than six months after the filing of a completed application. The time for
12 designation of a route may be extended by the commission for just cause. The failure
13 of the commission to act within the time limit provided in this section does not operate
14 to divest the commission of jurisdiction in any permit proceeding. Upon designation of
15 a route the commission shall issue a permit to the applicant with the terms, conditions,
16 or modifications deemed necessary.

17 **SECTION 5. AMENDMENT.** Section 49-22.1-08 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **49-22.1-08. Combining application - Notice of filing.**

20 A utility may file a separate application for a certificate or a permit, or combined into one
21 application. If a combined application is filed, the applicant shall mail a notice of filing in a single
22 mailing to the owners of record as required under sections 49-22.1-06 and 49-22.1-07.