



## 2024 South Dakota Legislature

# House Bill 1185

SENATE COMMERCE AND ENERGY ENGROSSED

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 may be  
 22 conducted; and
- 23 (e) The name and contact information of the person, or the person's manager  
 24 or officer, who will enter the property for the purpose of causing the  
 25 examination and survey; and

1           (3)     Make a payment to the owner, or provide sufficient security for the payment, for  
2                   any actual damage done to the property by the entry. If the project is for  
3                   construction of a pipeline for the transmission of carbon dioxide, in addition to the  
4                   foregoing, the person must make a one-time payment to the owner, prior to entry,  
5                   in the amount of five hundred dollars as compensation for entering the owner's  
6                   property.

7                   A landowner may challenge the right to survey or examine by commencing an  
8                   action in circuit court in the county where the survey or examination is proposed within  
9                   thirty days of service of the written notice in circuit court. Upon the written request of the  
10                   owner, the results of a survey or examination of the owner's private property conducted  
11                   pursuant to this section must be provided to the owner. This section does not apply to the  
12                   state or its political subdivisions. This section is in addition to and not in derogation of  
13                   other existing law.

14                   For the purpose of this section, the term "examination" means an inspection of a  
15                   property to obtain general information which is not a matter of public record. For the  
16                   purpose of this section, the term "survey" means a more detailed, comprehensive, or  
17                   invasive investigation of a property.