



2024 South Dakota Legislature
House Bill 1185
ENROLLED

AN ACT

ENTITLED An Act to amend provisions regarding entry on private property for examination and survey of a project requiring a siting permit.

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

Section 1. That § 21-35-31 be AMENDED:

21-35-31. The provisions of this section only apply to a project that requires a siting permit pursuant to chapter 49-41B. Each person vested with authority to take private property for public use may cause an examination and survey to be made as necessary for its proposed facilities. The person or the person's agents and officers may enter the private property for the purpose of the examination and survey. Any person seeking to cause an examination or survey, where permission for examination or survey has been denied, must:

- (1) Have a pending or approved siting permit application with the Public Utilities Commission pursuant to § 49-41B-11;
- (2) Provide to the owner of the private property, thirty days' written notice served in accordance with § 15-6-4 or sent by certified mail with return receipt requested that contains:
 - (a) A description of the specific portions of property to be examined and surveyed;
 - (b) The anticipated date and time of entry;
 - (c) The anticipated duration of presence on the property;
 - (d) A description of the types of surveys and examinations that may be conducted; and
 - (e) The name and contact information of the person, or the person's manager or officer, who will enter the property for the purpose of causing the examination and survey; and

- (3) Make a payment to the owner, or provide sufficient security for the payment, for any actual damage done to the property by the entry. If the project is for construction of a common carrier, as described in § 49-7-11, in addition to the foregoing, the person must make a one-time payment to the owner, prior to entry, in the amount of five hundred dollars as compensation for entering the owner's property.

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

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

An Act to amend provisions regarding entry on private property for examination and survey of a project requiring a siting permit.

I certify that the attached Act originated in
the:
House as Bill No. 1185

Received at this Executive Office
this ____ day of _____,
2024 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this _____ day of
_____, A.D., 2024

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2024
at _____ o'clock __ M.

Secretary of the Senate

Secretary of State

House Bill No. 1185
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State