



## 2024 South Dakota Legislature

# House Bill 1079

Introduced by: **Representative Moore**

1 **An Act to require property owner permission or a siting permit prior to entry for an**  
 2 **examination and survey.**

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~~This section applies only ~~apply to a project which~~  
 6 ~~that~~ requires a siting permit pursuant to chapter 49-41B.

7 Each person vested with the authority to take private property for public use may  
 8 ~~cause an examination and survey to be made as necessary for its proposed facilities. The~~  
 9 ~~person or the person's agents and officers may enter the private property for the purpose~~  
 10 ~~of the~~ causing an examination and survey. ~~Any person seeking to cause an examination~~  
 11 ~~or survey, where permission for examination or survey has been denied, shall, provided~~  
 12 the person:

- 13 (1) ~~Have~~Has filed a siting permit application with the Public Utilities Commission  
 14 pursuant to § 49-41B-11;
- 15 (2) ~~Give~~Has given to the owner and any tenant in possession of the private property  
 16 at least thirty days written notice, ~~including the filing and of the~~ expected dates of  
 17 entry, ~~to the owner and any tenant in possession of the private property and~~  
 18 included with the notice a copy of the siting permit application; and
- 19 (3) ~~Make~~Made a payment to the owner, or ~~provide~~ provided sufficient security for the  
 20 payment, for any actual damage done to the property by the entry; and
- 21 (4) Obtained, from the property owner, written consent for the entry at the appointed  
 22 date and time.

23 If the person fails to meet any criteria set forth in this section, the person may not  
 24 enter the private property for the purpose of causing an examination and survey unless  
 25 the commission has issued a siting permit and the payment or security specified in  
 26 subdivision (3) has been provided to the property owner.

- 1                    This section does not apply to the state or its political subdivisions. ~~This section is~~  
2                    ~~in addition to and not in derogation of other existing law.~~