

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

138Q0379

HOUSE TRANSPORTATION

ENGROSSED NO. **HB 1121** - 2/17/2009

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Steele, Bolin, Elliott, Feickert, Hoffman, Hunhoff (Bernie), Kirkeby, Kopp, Lederman, Lust, McLaughlin, Novstrup (David), Olson (Betty), Schlekeway, Solum, Sorenson, Thompson, and Van Gerpen and Senators Fryslie, Bradford, Gant, Garnos, Howie, Maher, Miles, Novstrup (Al), Peterson, Rhoden, and Schmidt

1 FOR AN ACT ENTITLED, An Act to establish certain procedural requirements related to the  
2 relocation of electrical lines, communication lines, and pipelines.

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

4 Section 1. That § 31-26-23 be amended to read as follows:

5 31-26-23. ~~When any highway along, under, or over which such facilities have been~~  
6 ~~constructed shall be changed, the permit holder shall, upon ninety days' notice in writing,~~  
7 ~~remove or relocate such facilities at its own cost.~~ If any highway or public entity infrastructure  
8 is constructed or changed within the public right-of-way, the public entity or its representative  
9 shall notify any affected known utility that has electrical lines, communications lines, or  
10 pipelines and allow the affected utility to participate in a coordination meeting during the  
11 planning or design phase of the project, except as provided in this section. The meeting shall  
12 allow the public entity and affected known utility to discuss options to minimize construction



1 delays, limit the impact of the construction on utility facilities, and to minimize or eliminate  
2 costs associated with any utility removal or relocation. No such option may cause the public  
3 entity to incur additional costs unless a written agreement is reached to have the affected utility  
4 pay for the additional costs incurred by the public entity.

5 If the public entity determines that coordination meetings will not be held due to the project  
6 scope and size, the public entity shall notify any affected known utility and allow the affected  
7 utility thirty days to submit written comments on the project.

8 After the coordination meetings or after the written comment period, the permit holder shall,  
9 upon ninety days notice in writing, remove or relocate the facilities at its own cost unless other  
10 arrangements have been mutually agreed upon in writing. If the public entity, in coordination  
11 with the utility, determines that winter weather conditions make removal or relocation  
12 impractical, the accrual of time within the ninety-day notification period shall be suspended  
13 until conditions make removal or relocation practical. If a utility's facility is discovered during  
14 construction that was not identified by the utility during the planning or design phase or during  
15 the written comment period if the public entity determines that a coordination meeting will not  
16 be held, the ninety-day notice is not required and the utility shall coordinate with the public  
17 entity to remove or relocate the facility as soon as practically possible for the project.