

AN ACT

ENTITLED, An Act to clarify the authority of counties to grant certain utility easements for the installation of underground cable.

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

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

31-26-1. The board of county commissioners, upon written application designating the particular highway the use of which is desired, may grant to any person engaged in the manufacture or sale of electric light and power, or any municipality authorized by law to purchase electric current, or any person authorized by law to purchase such current from such municipality, or any person engaged in, or about to engage in, the furnishing of telephone service, the right to erect and maintain poles and wires or to bury underground cable for the purpose of conducting electricity for lighting, heating, and power purposes, together with stay wires and braces, and for the purpose of furnishing telephone service, in and along any public highway in its county for a period not to exceed twenty years, subject to the conditions set forth in this chapter and such further reasonable regulations as the Legislature may hereafter prescribe.

Section 2. That § 31-26-3 be amended to read as follows:

31-26-3. The poles and fixtures, guy wires, braces, and stays or underground cable buried or erected under § 31-26-1 shall be located under the joint field supervision and direction of the grantee and the governing body charged with the maintenance of the state trunk highway on which they are placed and constructed consistent with the permit requirements adopted under § 31-26-22. They shall be so constructed as not to inconvenience the public in the use of any road or the navigation of any stream. An appeal from the decision of the Department of Transportation may be taken to the Transportation Commission. An appeal from the decision of the commission may be taken to the circuit court in the manner provided by law and the rules of practice and procedure adopted by the

Supreme Court.

Section 3. That § 31-26-5 be amended to read as follows:

31-26-5. The grantee under § 31-26-1 shall construct and maintain said poles, wires, or underground cable and line in accordance with the National Electrical Safety Code adopted by the Bureau of Standards of the United States Department of Commerce.

Section 4. That § 31-26-9 be amended to read as follows:

31-26-9. Any person who, having received a grant as to placing of wires and poles or underground cable on a highway under this chapter, fails to comply with the provisions of § 31-26-4, 31-26-5, or 31-26-7 commits a petty offense.

Section 5. That § 31-26-11 be amended to read as follows:

31-26-11. In the case of either a transmission line application or a telephone line application under § 31-26-1, the applicant shall state the place where the applicant's central plant is located, the point or points to which the applicant desires to transmit electricity or furnish telephone service, and the route over which the applicant desires to construct such lines or bury underground cable. The application shall state what electric, telegraph, and telephone lines are, at the time of making the application, occupying a part of the highway or highways which the proposed lines are to occupy. Any applicant who hereafter desires to construct a telephone line or bury underground cable shall state whether the applicant has obtained a certificate of convenience and necessity from the Public Utilities Commission.

Section 6. That § 31-26-12 be amended to read as follows:

31-26-12. If the applicant in the case of a transmission application, wishes to construct lines or bury underground cable for rural electrification the applicant may state that the applicant wishes to construct lines for rural electrification throughout the county, in which event the applicant need not show the point or points to which the applicant desires to transmit electricity nor the route, and if the

application is granted to such applicant for rural electrification county-wide authorization may be given to such applicant but subject to the other provisions of this chapter. For the purposes of this chapter, a line or underground cable shall be deemed "for rural electrification" if it carries at least one circuit of such voltage as is practical for and customarily used in distributing electricity to farms.

Section 7. That § 31-26-13 be amended to read as follows:

31-26-13. The county auditor shall present an application under § 31-26-1 to the board of county commissioners within thirty days after the filing of the same, at a regular or special meeting called for that purpose and shall give ten days' notice by mail of such application and the time and place when and where such application will be heard to all persons, firms, or corporations owning or operating electric, telephone, or telegraph lines or underground cable on any part of the highway or highways which the proposed lines may occupy.

Section 8. That § 31-26-15 be amended to read as follows:

31-26-15. If the application for construction or reconstruction of an electric line is granted by the board of county commissioners, it shall be competent for such board to adjust any differences that may arise between any such applicant and any owner or owners of any electric, telephone, or telegraph line or underground cable affected by such decision, in the matter of construction or reconstruction, and such board may adjust and apportion the costs which may be occasioned in order to carry out the plans, methods, or means approved by the board as deemed necessary to avoid or minimize interference or hazard. However, if there is a dispute between two telephone companies such dispute shall be adjusted by the Public Utilities Commission.

Section 9. That § 31-26-18 be amended to read as follows:

31-26-18. If the board of county commissioners has granted the right to any person to construct lines or bury underground cable for the transmission of electricity as provided in §§ 31-26-1 to 31-26-17, inclusive, and if before constructing such line the applicant desires to change the route

designated in the grant, the board may change the route upon application of the person constructing the same subject to the same provisions for placing poles, fixtures, guy wires, braces, and stays or underground cable, as provided by law on original construction.

Section 10. That § 31-26-21 be amended to read as follows:

31-26-21. Nothing contained in § 31-26-19 or 31-26-20 shall be construed to exempt anyone owning or operating any telephone, telegraph, or electric line or underground cable in this state from liability for any damage or injury which anyone may sustain by reason of the faulty or negligent construction or maintenance of such telephone, telegraph, or electric line or underground cable.

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I certify that the attached Act originated in the

SENATE as Bill No. 187

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 187  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State