

SENATE BILL NO. 2314

Introduced by

Senators Magrum, Dwyer

Representatives Heilman, S. Olson, Prichard

1 A BILL for an Act to create and enact section 49-19-12.1 of the North Dakota Century Code,
2 relating to common carrier use of eminent domain; and to amend and reenact section 49-19-12
3 of the North Dakota Century Code, relating to common carrier use of eminent domain.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 49-19-12 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **49-19-12. When pipeline carrier may exercise right of eminent domain.**

8 Every

9 1. ~~Subject to approval from the commission under section 49-19-12.1, every common~~
10 ~~pipeline carrier which shall have filed with the commission its acceptance of the~~
11 ~~provisions of this chapter has, subject to chapter 32-15, the right and power of~~
12 eminent domain in the exercise of which it may enter upon and condemn the land,
13 right of way, easements, and property of any person necessary for the construction,
14 maintenance, or authorization of its pipeline. The manner and method of such
15 condemnation, and the assessment and payment of the damages ~~therefor~~ are the
16 same as is provided by law in the case of railroads. The right of eminent domain
17 and the right to use public lands, highways, or roads for right of way for pipelines
18 shall be acquired only by compliance with the provisions of this chapter.

filing an acceptance of the provisions of this chapter and a finding by the trier of fact in a proceeding under chapter 32-15 that it is a common carrier pursuant to this chapter and subject to chapter 32-15 every common pipeline carrier shall have

19 2. Notwithstanding subsection 1, a carbon dioxide common carrier may not exercise the
20 right of eminent domain under subsection 1 until:

21 a. The common carrier has received written consent from eighty-five percent of the
22 landowners that would otherwise be subject to an eminent domain action under
23 this section; or

- 1 b. If a county elects to require written consent from more than eighty-five percent of
2 the landowners subject to an eminent domain action, the common carrier has
3 received written consent from the specified percentage of the landowners
4 required by the county.

5 **SECTION 2.** Section 49-19-12.1 of the North Dakota Century Code is created and enacted
6 as follows:

7 ~~**49-19-12.1. Approval for use of eminent domain – Notice – Hearing.**~~

- 8 ~~1. A common carrier may not exercise eminent domain without first having obtained~~
9 ~~approval from the commission.~~
- 10 ~~2. Upon receipt of a common carrier's filing of acceptance of the provisions of this~~
11 ~~chapter, the commission shall hold a public hearing in the county seat of each county~~
12 ~~potentially impacted by the common carrier's proposed project.~~
- 13 ~~3. Before approving a common carrier's use of eminent domain, the commission shall:~~
- 14 ~~a. Review the general location of the proposed project;~~
- 15 ~~b. Confirm the common carrier has the financial resources needed to complete the~~
16 ~~proposed project; and~~
- 17 ~~c. Consider any issues raised during the public meetings related to the proposed~~
18 ~~project.~~