

HOUSE BILL NO. 1384

Introduced by

Representatives Weisz, Brandenburg, Damschen

Senator Fischer

1 A BILL for an Act to create and enact a new section to chapter 47-05 of the North Dakota
2 Century Code, relating to public utility easements.

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

4 **SECTION 1.** A new section to chapter 47-05 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Easements over private property - Limitations.**

- 7 1. When a public utility, as defined in section 49-01-01, acquires an easement over
8 private property by purchase, gift, or eminent domain proceedings, except
9 temporary easements for construction, the public utility must definitely and
10 specifically describe the easement being acquired, and may acquire an easement
11 in a width necessary for the safe conduct of its business.
- 12 2. For the purposes of this section, a public utility may meet the requirement of a
13 definite and specific description of an easement by:
- 14 a. Including in the recorded description of the easement the specific legal
15 reference points as to the location of the easement in relation to the corners of
16 the specific property involved at the points the easement enters and departs
17 from the property, the width of the easement, and each change of course as
18 the easement crosses the property; or
- 19 b. Appending to the recorded description of the easement a drawing that
20 identifies by means of a scale or specific measurements the location of the
21 easement in relation to the corners of the specific property involved at the
22 points the easement enters and departs from the property, the width of the
23 easement, and each change of course as the easement crosses the property.

- 1 3. When a question arises as to the location, width, or course of an easement across
2 specific property and the recorded description of the easement does not include a
3 definite and specific description of the location, width, or course of the easement by
4 a method identified in subsection 2, the public utility holding the easement, upon
5 written request by the specific property owner, shall produce and record in a timely
6 manner an instrument that provides a definite and specific description using a
7 method described in subsection 2. The definite and specific description must be
8 the minimum width necessary for the safe conduct of the business of the public
9 utility with respect to the language of the original easement. In the partial release
10 or other instrument, a public utility may reserve:
 - 11 a. The right of reasonable ingress and egress over and across the released
12 property, provided that it agrees to pay any damages caused by the exercise
13 of such rights; and
 - 14 b. Additional conditions and restrictions permitted in the original easement.
- 15 4. Thirty days after a public utility has produced and delivered to the property owner a
16 definite and specific description, and provided that the property owner has not
17 within thirty days responded to the public utility with a written objection to the terms
18 of the property description, the public utility may record the description and is not
19 thereafter required to again produce or record under this section for the same
20 property or a part of the same property.
- 21 5. This section applies to every easement over private property acquired by a public
22 utility, regardless of when the easement was acquired or created.
- 23 6. This section does not require a public utility to physically locate, establish, and
24 monument by means of a land survey prepared by a licensed land surveyor the
25 corners of the specific property involved.
- 26 7. This section does not limit direct access to a public utility in an emergency
27 situation. The public utility affected by the emergency must compensate the
28 property owner for damages caused by directly accessing the easement.