

April 20, 2015

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2120

That the House recede from its amendments as printed on page 866 of the Senate Journal and page 1004 of the House Journal and that Engrossed Senate Bill No. 2120 be amended as follows:

Page 1, line 1, after "subsection" insert "3 of section 49-22-03 and subsection"

Page 1, line 2, after "to" insert "the definition of construction and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 3 of section 49-22-03 of the North Dakota Century Code is amended and reenacted as follows:

3. "Construction" includes any clearing of land, excavation, or other action that would affect the environment of the site after April 9, 1975, but does not include activities:
  - a. Conducted wholly within the geographic location for which a utility has previously obtained a certificate or permit under this chapter, or on which a facility was constructed before April 9, 1975, if:
    - (1) The activities are within the boundaries of for the construction of the same type of facility as the existing type of facility as identified in a subdivision of subsections 5 or 12 of this section and the activities are:
      - (a) AWithin the geographic boundaries of a previously issued certificate or permit;
      - (b) For an energy conversion facility constructed before April 9, 1975, within the geographic location on which the facility was built; or
      - (c) For a transmission facility constructed before April 9, 1975, within a width of three hundred fifty feet [106.68 meters] on either side of the centerline;
    - (2) Except as provided in subdivision b, the activities do not affect any known exclusion or avoidance area; ~~and~~
    - (3) The activities are for the construction:
      - (a) Of a new energy conversion facility;
      - (b) Of a new gas, liquid, or electric transmission facility;
      - (c) To improve the existing energy conversion facility or gas, liquid, or electric transmission facility; or
      - (d) To increase or decrease the capacity of the existing energy conversion facility or gas, liquid, or electric transmission facility; and

- (4) Before conducting any activities, the utility certifies in writing to the commission that the:
  - (a) The activities will not affect any known exclusion or avoidance area;
  - (b) The activities are for the construction:
    - [1] Of a new energy conversion facility;
    - [2] Of a new gas, liquid, or electric transmission facility;
    - [3] To improve the existing energy conversion facility or gas, liquid, or electric transmission facility; or
    - [4] To increase or decrease the capacity of the existing energy conversion facility or gas, liquid, or electric transmission facility; and the
  - (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility.
- b. Otherwise qualifying for exclusion under subdivision a, except that the activities are expected to affect a known avoidance area and the utility before conducting any activities:
  - (1) Certifies in writing to the commission that:
    - (a) The activities will not affect any known exclusion area; and
    - (b) The activities are for the construction:
      - [1] Of a new energy conversion facility;
      - [2] Of a new gas, liquid, or electric transmission facility;
      - [3] To improve the existing energy conversion facility or gas, liquid, or electric transmission facility; or
      - [4] To increase or decrease the capacity of the existing energy conversion facility or gas, liquid, or electric transmission facility; and
    - (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility;
  - (2) Notifies the commission in writing that the activities are expected to impact an avoidance area and provides information on the specific avoidance area expected to be impacted and the reasons why impact cannot be avoided; and
  - (3) Receives the commission's written approval for the impact to the avoidance area, based on a determination that there is no reasonable alternative to the expected impact. If the commission does not approve impacting the avoidance area, the utility must obtain siting authority under this chapter for the affected portion of the site or route. If the commission fails to act on the

notification required by this subdivision within thirty days of the utility's filing the notification, the impact to the avoidance area is deemed approved.

- c. Incident to preliminary engineering or environmental studies."

Page 2, line 4, replace "twenty-five" with "ten"

Renumber accordingly