

Introduced by

Senators Schaible, Unruh

Representatives Nathe, Porter

1 | A BILL for an Act to amend and reenact section 49-22-14.1 and subsection 2 of section  
2 | 49-22-16 of the North Dakota Century Code, relating to energy conversion and transmission  
3 | facility siting.

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

5 | **SECTION 1. AMENDMENT.** Section 49-22-14.1 of the North Dakota Century Code is  
6 | amended and reenacted as follows:

7 | **49-22-14.1. Cooperation with state and federal agencies.**

8 | The commission ~~may, and is encouraged to,~~shall cooperate with and receive and exchange  
9 | technical information and assistance from and with any department, agency, or officer of any  
10 | state, a directly impacted political subdivision, or of the federal government to eliminate  
11 | duplication of effort, to establish a common database, or for any other purpose relating to the  
12 | provisions of this chapter and in furtherance of the statement of policy contained herein.

13 | **SECTION 2. AMENDMENT.** Subsection 2 of section 49-22-16 of the North Dakota Century  
14 | Code is amended and reenacted as follows:

- 15 | 2. A certificate of site compatibility for an energy conversion facility ~~shall~~may not  
16 | supersede or pre-empt any local land use, zoning, or building rules, regulations, or  
17 | ordinances and no site ~~shall~~may be designated which violates local land use, zoning,  
18 | or building rules, regulations, or ordinances. A permit for the construction of a gas or  
19 | liquid transmission facility within a designated corridor ~~may~~must supersede and pre-  
20 | empt any local land use, ~~or zoning, or building rules, regulations, or ordinances~~ upon a  
21 | finding by the commission that such rules, regulations, or ordinances, as applied to the  
22 | proposed route, Before a gas or liquid transmission facility is approved, the  
23 | commission shall require the applicant to comply with the approach or road crossing  
24 | permits, public right-of-way setbacks, building rules, or physical addressing of the

1 political subdivision. The commission may waive the requirements of a political  
2 subdivision if the applicant shows by a preponderance of the evidence the regulations  
3 or ordinances are unreasonably restrictive in view of existing technology, factors of  
4 cost or economics, or needs of consumers regardless of their location, or are in direct  
5 conflict with state or federal administrative law. Without such a finding by the  
6 commission, no route shall be designated which violates local land use, zoning, or  
7 building rules, regulations, or ordinances ~~if representatives of the governing body of~~  
8 ~~each political subdivision with jurisdictional interest are provided notice and an~~  
9 ~~opportunity to testify at the hearing of the commission considering the proposed site,~~  
10 ~~corridor, or route. Representatives of the governing body of each political subdivision~~  
11 ~~with jurisdictional interest in a proposed gas or liquid transmission facility shall provide~~  
12 ~~testimony at the public hearing on an application for a certificate, permit, or waiver. For~~  
13 ~~purposes of this chapter, if no representative of the governing body of a political~~  
14 ~~subdivision provides testimony on the proposed site, corridor, or route at the public~~  
15 ~~hearing, it is presumed a proposed facility will be in compliance with local land use,~~  
16 ~~zoning, or building codes or ordinances.~~ The commission shall provide notice to all the  
17 appropriate political subdivisions at the time an application for a certificate is made  
18 under this section. Upon notice, a political subdivision shall provide a listing to the  
19 commission of all local requirements authorized under this section. If the political  
20 subdivision does not submit the requirements at least ten days before the commission  
21 hearing, all requirements are waived.