

Sixty-ninth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1258

Introduced by

Representatives Brandenburg, Bosch, Grueneich, Hagert, Nathe, Porter, Headland,
Kempenich

Senators Conley, Kessel, Patten, Wanzek

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

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

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 49-22-16 of the North Dakota Century
6 Code is amended and reenacted as follows:

7 2. a. A certificate of site compatibility for an electric energy conversion facility may not
8 supersede or preempt any local land use, zoning, or building rules, regulations,
9 or ordinances and a site may not be designated which violates local land use,
10 zoning, or building rules, regulations, or ordinances.

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12 b. ~~Except as provided in this section, a permit for the construction of an electric~~
13 ~~transmission facility within a designated corridor supersedes and preempts any~~
14 ~~local land use, or zoning, or building rule, regulation, or ordinance, upon a finding~~
15 ~~by the commission that the rule, regulation, or ordinance, as applied to the~~
16 ~~proposed route, is regulations.~~

17 c. Before an electric transmission facility is approved, the commission shall require
18 the applicant to comply with the road use agreements of the impacted political
19 subdivision. A permit may supersede and preempt the requirements of a political
20 subdivision if the applicant shows by a preponderance of the evidence the
21 regulations or ordinances are unreasonably restrictive in view of existing

1 technology, factors of cost or economics, or needs of consumers regardless of
2 location. ~~Without such a finding by the commission, a route may not be~~
3 ~~designated which violates a local land use, zoning, or building rule, regulation, or~~
4 ~~ordinance, or are in direct conflict with state or federal laws or rules.~~

- 5 d. When an application for a certificate for an electric transmission facility is filed,
6 the commission shall notify the townships with retained zoning authority, cities,
7 and counties in which any part of the proposed corridor is located. The
8 commission may not schedule a public hearing sooner than forty-five days from
9 the date notification is sent by mail or electronic mail. Upon notification, a political
10 subdivision shall provide a listing to the commission of all local requirements
11 identified under this subsection. The listing of requirements must be filed at least
12 ten days before the hearing or the requirements are superseded and preempted.
13 e. An applicant must comply with all local requirements provided to the commission
14 under subdivision d, which are not otherwise superseded by the commission.

15 **SECTION 2. RETROACTIVE APPLICATION.** This Act applies retroactively to January 1,
16 2025.