

ORIGINAL SENATE
FILE NO. SF0181

ENROLLED ACT NO. 39, SENATE

SIXTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2025 GENERAL SESSION

AN ACT relating to eminent domain; limiting the exercise of the power of condemnation for energy collector systems; providing compensation standards for condemned property as specified; requiring proof of compliance and notice of condemnation as specified; providing requirements for existing easements; providing definitions; making conforming amendments; repealing an existing provision; specifying applicability; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 1-26-715 and 1-26-818 are created to read:

1-26-715. Compensation for condemnation of property for energy collector systems.

Compensation related to the condemnation of property for the erection, placement or expansion of an energy collector system associated with a commercial facility generating electricity shall be made in accordance with W.S. 1-26-704 and 1-26-818.

1-26-818. Right of eminent domain; energy collector systems; authorization; restrictions.

(a) Subject to this section, any person authorized to do business in this state may appropriate by condemnation a way of necessity over, across or on so much of the lands or real property of others as necessary for the erection, placement or expansion of an energy collector system associated with a commercial facility generating electricity. Except as provided in subsection (h) of this section, each person, association, company or corporation

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shall comply with the requirements of this section before appropriating by condemnation property as specified in this subsection.

(b) Except as provided in subsection (h) of this section, each person exercising the power of eminent domain under this section shall:

(i) Negotiate and have finalized land use and compensation agreements:

(A) That shall grant the person the right to occupy and use not less than sixty-six percent (66%) of the land upon which the energy collector system will be constructed; or

(B) With not less than sixty-six percent (66%) of the owners of the land upon which the energy collector system will be constructed if not less than three (3) landowners are involved in the potential condemnation action.

(ii) Allege in any complaint for condemnation and provide proof to a court of competent jurisdiction:

(A) Compliance with paragraph (i) of this subsection;

(B) All terms and consideration, including monetary compensation or compensation given to landowners as described in subsections (b)(i)(A) and (B) of this section, granted to the owners of property with whom the person negotiated under paragraph (i) of this subsection. The court shall ensure that, except for providing the information to the opposing party, all terms and

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consideration alleged in the complaint under this subparagraph remain confidential; and

(C) That the commercial facility generating electricity with which the energy collector system constitutes a public use.

(c) For purposes of calculating compensation under this section, improvements to the property shall be included in its fair market value.

(d) W.S. 1-26-701 through 1-26-715 shall apply to any condemnation under this section except in no circumstances shall the minimum compensation to be paid be less than the average paid under W.S. 1-26-818(b)(i).

(e) A commercial facility generating electricity shall not use an existing easement agreement or order granting an easement to the condemnor to place additional energy collector systems associated with a commercial facility generating electricity without first complying with this section unless the existing easement:

(i) Authorizes initial or additional energy collector systems;

(ii) Contemplates a method by which an easement can be enlarged or amended; or

(iii) Authorizes the parties to renegotiate the easement.

(f) Thirty (30) days before a condemnation action is commenced under this section, the entity seeking to condemn property shall give notice to the board of county

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commissioners of the county and any local governing body of the city or town in which the condemnation is to take place.

(g) Any order granting an easement to a condemnor under this section shall include clauses relating to liability of the parties for potential damages arising from activities occurring on the condemned property and reclamation requirements pertaining to the condemnor's use of the property.

(h) This section shall not apply to:

(i) A public utility that has been granted a certificate of public convenience and necessity under W.S. 37-2-205;

(ii) Any energy collector system associated with a commercial facility generating electricity that began serving load or that began exporting energy from Wyoming before July 1, 2025.

(j) As used in this section:

(i) "Energy collector system associated with a commercial facility generating electricity" means the conductor infrastructure, including conductors, towers, substations, switchgear and other components necessary to deliver power from any commercial facility generating electricity up to, but not including, electric substations or interconnections facilities associated with existing or proposed transmission lines that serve load or that export energy from Wyoming;

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(ii) "Commercial facility generating electricity" means any commercial plant, property or facility generating electricity from any source for the purpose of selling electricity.

Section 2. W.S. 1-26-502(a)(vi), 1-26-701(a) and (c), 1-26-815 by creating a new subsection (e) and 34-27-105 are amended to read:

1-26-502. Definitions.

(a) As used in this act:

(vi) "This act" means W.S. 1-26-501 through ~~1-26-817~~ 1-26-818.

1-26-701. Compensation standards.

(a) An owner of property or an interest in property taken by eminent domain is entitled to compensation determined under the standards prescribed by W.S. 1-26-701 through ~~1-26-713~~ 1-26-715.

(c) Except as specifically provided by W.S. 1-26-701 through ~~1-26-713~~ 1-26-715, compensation, damages, or other relief to which a person is otherwise entitled under this act or other law are not affected, but duplication of payment is not permitted.

1-26-815. Right of eminent domain granted; ways of necessity for authorized businesses; purposes; extent.

(e) No person qualified to exercise the condemnation authority granted by this section, except those persons specified in W.S. 1-26-818(h), shall exercise the authority

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for the erection, placement or expansion of an energy collector system associated with a commercial facility generating electricity except in accordance with W.S. 1-26-818.

34-27-105. Compensation for taking of wind or solar energy rights.

Nothing in this act diminishes the right of the owner of the surface estate to receive compensation under W.S. 1-26-701 through ~~1-26-714~~ 1-26-715 for the taking of wind or solar energy rights incidental to the exercise of eminent domain.

Section 3. W.S. 1-26-815(d) is repealed.

Section 4. This act applies to condemnation actions initiated on or after July 1, 2025. Nothing in this act is construed to impair any existing contracts. Nothing in this act shall be construed to prohibit projects regarding commercial facilities generating electricity or energy collector systems that have begun the local or state permitting process before July 1, 2025.

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Section 5. This act is effective July 1, 2025.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk