

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Eminent domain-energy collector systems.

Sponsored by: Joint Agriculture, State and Public Lands &
Water Resources Interim Committee

A BILL

for

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

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

12

1 (a) Subject to this section, any person authorized to
2 do business in this state may appropriate by condemnation a
3 way of necessity over, across or on so much of the lands or
4 real property of others as necessary for the erection,
5 placement or expansion of an energy collector system
6 associated with a commercial facility generating
7 electricity. Except as provided in subsection (h) of this
8 section, each person, association, company or corporation
9 shall comply with the requirements of this section before
10 appropriating by condemnation property as specified in this
11 subsection.

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

16

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

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20 (A) That shall grant the person the right
21 to occupy and use not less than eighty-five percent (85%)
22 of the land upon which the energy collector system will be
23 constructed; or

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2 (B) With not less than eighty-five percent
3 (85%) of the owners of the land upon which the energy
4 collector system will be constructed if not less than three
5 (3) landowners are involved in the potential condemnation
6 action.

7

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

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

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14 (B) All terms and consideration, monetary
15 and otherwise, granted to the owners of property with whom
16 the person negotiated under paragraph (i) of this
17 subsection; and

18

19 (C) That the commercial facility generating
20 electricity with which the energy collector system is
21 associated constitutes an economically, legally and
22 logistically viable project.

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 STAFF COMMENT
 The phrase "constitutes an economically, legally and
 logistically viable project" may be seen as vague. The
 Committee may wish to consider inserting language that is
 more specific.

(c) Notwithstanding W.S. 1-26-704, in any
 condemnation allowed under this section, the measure of
 compensation shall be the greater of the fair market value
 of the property rights taken or the amount by which the
 fair market value of the entire property immediately before
 the taking exceeds the fair market value of the remainder
 of the property immediately after the taking. For purposes
 of calculating compensation under this subsection,
 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 to the extent the
 restrictions in this section are inconsistent with that
 article.

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

7

8 (i) Authorizes initial or additional energy
9 collector systems;

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

13

14 (iii) Authorizes the parties to renegotiate the
15 easement.

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17 (f) Thirty (30) days before a condemnation action is
18 commenced under this section, the entity seeking to condemn
19 property shall give notice to the board of county
20 commissioners of the county and any local governing body of
21 the city or town in which the condemnation is to take
22 place.

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

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8 (h) This section shall not apply to:

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10 (i) A public utility that has been granted a
11 certificate of public convenience and necessity under W.S.
12 37-2-205;

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14 (ii) Electric substations or interconnection
15 facilities associated with existing or proposed
16 transmission lines that serve load or that export energy
17 from Wyoming.

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19 (j) As used in this section:

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21 (i) "Energy collector system associated with a
22 commercial facility generating electricity" means the
23 conductor infrastructure, including conductors, towers,

1 substations, switchgear and other components necessary to
2 deliver power from any commercial facility generating
3 electricity to, but not including, electric substations or
4 interconnections facilities associated with existing or
5 proposed transmission lines that serve load or that export
6 energy from Wyoming;

7

8 (ii) "Commercial facility generating
9 electricity" means any commercial plant, property or
10 facility generating electricity from any source for the
11 purpose of selling electricity at the retail market price.

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13 **Section 2.** W.S. 1-26-502(a)(vi), 1-26-701(a) and (c),
14 1-26-815 by creating a new subsection (e) and 34-27-105 are
15 amended to read:

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17 **1-26-502. Definitions.**

18

19 (a) As used in this act:

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21 (vi) "This act" means W.S. 1-26-501 through
22 ~~1-26-817~~ 1-26-818.

23

1 **1-26-701. Compensation standards.**

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

7

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

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14 **1-26-815. Right of eminent domain granted; ways of**
15 **necessity for authorized businesses; purposes; extent.**

16

17 (e) No person qualified to exercise the condemnation
18 authority granted by this section, except those persons
19 specified in W.S. 1-26-818(h), shall exercise the authority
20 for the erection, placement or expansion of an energy
21 collector system associated with a commercial facility
22 generating electricity except in accordance with W.S.
23 1-26-818.

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34-27-105. Compensation for taking of wind 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 energy rights incidental to the exercise of eminent domain.

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

STAFF COMMENT

W.S. 1-26-815(d) reads as follows:

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

(d) No person qualified to exercise the condemnation authority granted by this section, except a public utility that has been granted a certificate of public convenience and necessity pursuant to W.S. 37-2-205, shall exercise the authority for the erection, placement or expansion of collector systems associated with commercial facilities generating electricity from wind. The prohibition imposed by this subsection shall be effective immediately and shall end June 30, 2015 or upon the effective date of legislation establishing additional conditions for the use of condemnation authority for the erection, placement or expansion of collector systems associated with commercial facilities generating electricity from wind, whichever occurs earlier. As used in this subsection, "collector

1 systems associated with commercial facilities generating
 2 electricity from wind" means the conductor infrastructure,
 3 including conductors, towers, substations, switchgear and
 4 other components necessary to deliver power from any
 5 commercial facility generating electricity from wind up to
 6 but not including electric substations or interconnections
 7 facilities associated with existing or proposed
 8 transmission lines that serve load or that export energy
 9 from Wyoming.

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 11 *****
 12 *****
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14 **Section 4.** This act applies to condemnation actions
 15 initiated on or after July 1, 2025. Nothing in this act is
 16 construed to impair any existing contracts.

17
 18 **Section 5.** This act is effective July 1, 2025.

19
 20 (END)