

**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.

10

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

12

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

3
4 **1-26-715. Compensation for condemnation of property**
5 **for energy collector systems.**

6
7 Compensation related to the condemnation of property for
8 the erection, placement or expansion of an energy collector
9 system associated with a commercial facility generating
10 electricity shall be made in accordance with W.S. 1-26-704
11 and 1-26-818.

12
13 *****
14 *****
15 **STAFF COMMENT**

16
17 Both W.S. 1-26-704 and the newly created 1-26-818 pertain
18 to eminent domain and compensation standards. W.S. 1-26-704
19 provides how the fair market value in a condemnation action
20 is calculated for compensation purposes.

21
22 *****
23 *****

24
25 **1-26-818. Right of eminent domain; energy collector**
26 **systems; authorization; restrictions.**

27

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.

12

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:

19

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

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

(B) With not less than eighty-five percent (85%) 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; and

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

1

2 (c) Notwithstanding W.S. 1-26-704, in any
3 condemnation allowed under this section, the measure of
4 compensation shall be the greater of the fair market value
5 of the property rights taken or the amount by which the
6 fair market value of the entire property immediately before
7 the taking exceeds the fair market value of the remainder
8 of the property immediately after the taking. For purposes
9 of calculating compensation under this subsection,
10 improvements to the property shall be included in its fair
11 market value.

12

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

17

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

1

2 (i) Authorizes initial or additional energy
3 collector systems;

4

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

7

8 (iii) Authorizes the parties to renegotiate the
9 easement.

10

11 (f) Thirty (30) days before a condemnation action is
12 commenced under this section, the entity seeking to condemn
13 property shall give notice to the board of county
14 commissioners of the county and any local governing body of
15 the city or town in which the condemnation is to take
16 place.

17

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

1

2 (h) This section shall not apply to:

3

4 (i) A public utility that has been granted a
5 certificate of public convenience and necessity under W.S.
6 37-2-205;

7

8 (ii) Electric substations or interconnection
9 facilities associated with existing or proposed
10 transmission lines that serve load or that export energy
11 from Wyoming.

12

13 (j) As used in this section:

14

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

1

2 (ii) "Commercial facility generating
3 electricity" means any commercial plant, property or
4 facility generating electricity from any source for the
5 purpose of selling electricity at the retail market price.

6

7 **Section 2.** W.S. 1-26-502(a)(vi), 1-26-701(a) and (c),
8 1-26-815 by creating a new subsection (e) and 34-27-105 are
9 amended to read:

10

11 **1-26-502. Definitions.**

12

13 (a) As used in this act:

14

15 (vi) "This act" means W.S. 1-26-501 through
16 ~~1-26-817~~ 1-26-818.

17

18 **1-26-701. Compensation standards.**

19

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

1

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

7

8 **1-26-815. Right of eminent domain granted; ways of**
9 **necessity for authorized businesses; purposes; extent.**

10

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

18

19 **34-27-105. Compensation for taking of wind or solar**
20 **energy rights.**

21

22 Nothing in this act diminishes the right of the owner of
23 the surface estate to receive compensation under W.S.

1 1-26-701 through ~~1-26-714~~ 1-26-715 for the taking of wind
2 or solar energy rights incidental to the exercise of
3 eminent domain.

4

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

6

7 *****
8 *****
9 **STAFF COMMENT**

10

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

12

13 1-26-815. Right of eminent domain granted; ways of
14 necessity for authorized businesses; purposes; extent.

15

16 (d) No person qualified to exercise the condemnation
17 authority granted by this section, except a public utility
18 that has been granted a certificate of public convenience
19 and necessity pursuant to W.S. 37-2-205, shall exercise the
20 authority for the erection, placement or expansion of
21 collector systems associated with commercial facilities
22 generating electricity from wind. The prohibition imposed
23 by this subsection shall be effective immediately and shall
24 end June 30, 2015 or upon the effective date of legislation
25 establishing additional conditions for the use of
26 condemnation authority for the erection, placement or
27 expansion of collector systems associated with commercial
28 facilities generating electricity from wind, whichever
29 occurs earlier. As used in this subsection, "collector
30 systems associated with commercial facilities generating
31 electricity from wind" means the conductor infrastructure,
32 including conductors, towers, substations, switchgear and
33 other components necessary to deliver power from any
34 commercial facility generating electricity from wind up to
35 but not including electric substations or interconnections
36 facilities associated with existing or proposed
37 transmission lines that serve load or that export energy
38 from Wyoming.

39

1 *****
2 *****
3

4 **Section 4.** This act applies to condemnation actions
5 initiated on or after July 1, 2025. Nothing in this act is
6 construed to impair any existing contracts.

7

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

9

10 (END)