

**Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0731.01 Bob Lackner

HOUSE BILL 08-1278

HOUSE SPONSORSHIP

Summers and White, Kerr J., Looper, and McNulty

SENATE SPONSORSHIP

Tochtrop,

House Committees

Transportation & Energy
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE EXERCISE OF THE POWER OF EMINENT DOMAIN BY**
102 **THE REGIONAL TRANSPORTATION DISTRICT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the regional transportation district (RTD), and any copetitioner in a condemnation action with which RTD may be associated for the purpose of acquiring property for an RTD project, if any, to acquire property and rights-of-way through the exercise of its power of eminent domain only as necessary for public transit purposes. Specifies that, once acquired, the property may only be used by RTD for such purposes, including any ancillary or secondary functions necessary to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

support the purposes. In exercising the power of eminent domain, requires RTD to comply to the extent practicable with all laws that govern the use of eminent domain by the Colorado department of transportation for state highway purposes. Prohibits RTD from selling or otherwise transferring ownership of property or rights-of-way acquired through the exercise of eminent domain to any other person.

Makes explicitly clear that existing statutory provisions construing the term "public use" for purposes of eminent domain powers to exclude the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenue apply to RTD or to any copetitioner in a condemnation action with which RTD may be associated for the purpose of acquiring property for an RTD project, if any.

Makes conforming amendments. Defines a term.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 32-9-103, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **32-9-103. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (12.5) "PUBLIC TRANSIT PURPOSES" MEANS THE ACQUISITION,
7 CONSTRUCTION, ADMINISTRATION, OR MAINTENANCE OF STATIONS AND
8 SIMILAR FACILITIES AND IMPROVEMENTS DIRECTLY USED TO TRANSPORT
9 PERSONS BY ANY FORM AND RELATED RIGHTS-OF-WAY TO ACCOMPLISH
10 SUCH TRANSPORT. "PUBLIC TRANSIT PURPOSES" SHALL ALSO INCLUDE
11 REASONABLE PARKING-ONLY FACILITIES NECESSARY TO SUPPORT THE
12 OPERATIONS OF TRANSIT STATIONS, MAINTENANCE FACILITIES,
13 SUBSTATIONS, AND SUCH ADDITIONAL REASONABLE AND NECESSARY
14 FACILITIES AND UTILITIES NECESSARY TO OPERATE AND MAINTAIN THE
15 SYSTEM OF PUBLIC TRANSPORT. "PUBLIC TRANSIT PURPOSES" SHALL NOT
16 INCLUDE THE ACQUISITION, CONSTRUCTION, ADMINISTRATION, OR
17 MAINTENANCE OF ANY FORM OF COMMERCIAL OR RESIDENTIAL

1 DEVELOPMENT OR IMPROVEMENTS OR ANY MIXTURE OF SUCH
2 DEVELOPMENT OR IMPROVEMENTS LOCATED AT, IN, OR CONNECTED TO
3 THE STATIONS OR FACILITIES.

4 **SECTION 2.** 32-9-119 (1) (k), Colorado Revised Statutes, is
5 amended to read:

6 **32-9-119. Additional powers of district.** (1) In addition to any
7 other powers granted to the district in this article, the district has the
8 following powers:

9 (k) To condemn property for public use AS AUTHORIZED BY
10 SECTION 32-9-161;

11 **SECTION 3.** 32-9-161, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
13 read:

14 **32-9-161. Eminent domain.** (3) ON OR AFTER THE EFFECTIVE
15 DATE OF THIS SUBSECTION (3), THE DISTRICT, AND ANY COPETITIONER IN
16 A CONDEMNATION ACTION WITH WHICH THE DISTRICT MAY BE ASSOCIATED
17 FOR THE PURPOSE OF ACQUIRING PROPERTY FOR A DISTRICT PROJECT, IF
18 ANY, SHALL ONLY ACQUIRE PROPERTY AND RIGHTS-OF-WAY THROUGH THE
19 EXERCISE OF ITS POWER OF EMINENT DOMAIN AS NECESSARY FOR PUBLIC
20 TRANSIT PURPOSES. ONCE ACQUIRED, SUCH PROPERTY MAY ONLY BE USED
21 BY THE DISTRICT FOR SUCH PURPOSES, INCLUDING ANY ANCILLARY OR
22 SECONDARY FUNCTIONS NECESSARY TO SUPPORT SUCH PURPOSES. IN
23 EXERCISING THE POWER OF EMINENT DOMAIN IN ACCORDANCE WITH THE
24 PROVISIONS OF THIS ARTICLE, THE DISTRICT SHALL COMPLY TO THE
25 EXTENT PRACTICABLE WITH ALL LAWS THAT GOVERN THE USE OF EMINENT
26 DOMAIN BY THE DEPARTMENT OF TRANSPORTATION FOR STATE HIGHWAY
27 PURPOSES. THE DISTRICT MAY NOT SELL, ASSIGN, OR OTHERWISE

1 TRANSFER ANY LEGAL INTEREST IN PROPERTY OR RIGHTS-OF-WAY
2 ACQUIRED THROUGH THE EXERCISE OF EMINENT DOMAIN AS AUTHORIZED
3 BY THIS ARTICLE TO ANY OTHER PERSON OR ENTITY UNTIL COMPLETION OF
4 THE TRANSIT PROJECT FOR WHICH THE PROPERTY WAS ACQUIRED.
5 NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO APPLY TO
6 CONDEMNATIONS UNDERTAKEN WITH THE CONSENT OF THE OWNER OF THE
7 PROPERTY.

8 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,
9 ANY CONDEMNATION ACTION COMMENCED BY THE DISTRICT OR ANY
10 COPETITIONER IN A CONDEMNATION ACTION WITH WHICH THE DISTRICT
11 MAY BE ASSOCIATED FOR THE PURPOSE OF ACQUIRING PROPERTY FOR A
12 DISTRICT PROJECT, IF ANY, SHALL SATISFY THE REQUIREMENTS SPECIFIED
13 IN SECTION 38-1-101, C.R.S. TO THE EXTENT THERE IS ANY CONFLICT
14 BETWEEN THE PROVISIONS OF THIS ARTICLE AND THE PROVISIONS OF
15 SECTION 38-1-101, C.R.S., THE PROVISIONS OF SECTION 38-1-101, C.R.S.,
16 SHALL CONTROL.

17 **SECTION 4.** 38-1-101, Colorado Revised Statutes, is amended
18 BY THE ADDITION OF A NEW SUBSECTION to read:

19 **38-1-101. Compensation - public use - commission - jury -**
20 **court - prohibition on elimination of nonconforming uses or**
21 **nonconforming property design by amortization - limitation on**
22 **extraterritorial condemnation by municipalities - nonbinding**
23 **mediation - definitions.** (4.5) NOTWITHSTANDING ANY OTHER
24 PROVISION OF LAW, BEFORE AN EMINENT DOMAIN ACTION MAY BE
25 COMMENCED BY THE STATE OR ANY POLITICAL SUBDIVISION, THE STATE OR
26 THE POLITICAL SUBDIVISION, AS APPLICABLE, AND THE OWNER OF THE
27 SUBJECT PROPERTY SHALL PARTICIPATE IN NONBINDING MEDIATION, THE

1 MANNER AND FORM OF WHICH SHALL BE AS AGREED UPON BY THE PARTIES
2 TO THE MEDIATION.

3 **SECTION 5. Effective date - applicability.** This act shall take
4 effect July 1, 2008, and shall apply to condemnation actions commenced
5 on or after said date.

6 **SECTION 6. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.