

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 11, 2008  
Date

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

HB08-1278 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Strike the Appropriations Committee Report, dated March 14, 2008, and  
2 substitute the following:

3 "Strike the Transportation & Energy Committee Report, dated February  
4 19, 2008, and substitute the following:

5 "Amend printed bill, strike everything below the enacting clause and  
6 substitute the following:

7 "SECTION 1. 32-9-161, Colorado Revised Statutes, is amended  
8 BY THE ADDITION OF A NEW SUBSECTION to read:

9 **32-9-161. Eminent domain - definitions.** (3) (a) EXCEPT AS  
10 OTHERWISE PROVIDED IN THIS SUBSECTION (3), NO PRIVATE PROPERTY  
11 ACQUIRED BY EMINENT DOMAIN BY THE DISTRICT ON OR AFTER JANUARY  
12 1, 2008, SHALL BE SUBSEQUENTLY TRANSFERRED TO A PRIVATE PARTY  
13 UNLESS:

14 (I) THE OWNER OF THE PROPERTY CONSENTS IN WRITING TO  
15 ACQUISITION OF THE PROPERTY BY EMINENT DOMAIN BY THE DISTRICT;

16 (II) (A) THE GOVERNING BODY OF THE DISTRICT DETERMINES  
17 WITHIN TEN YEARS OF THE DATE OF THE EARLIER OF POSSESSION OR  
18 TRANSFER OF TITLE TO THE DISTRICT THAT THE PROPERTY IS NO LONGER

1 NECESSARY FOR THE PURPOSE FOR WHICH IT WAS ORIGINALLY ACQUIRED,  
2 AND THE DISTRICT FIRST OFFERS TO SELL THE PROPERTY TO THE OWNER  
3 FROM WHOM IT WAS ACQUIRED, IF THE OWNER CAN BE LOCATED, AT A  
4 PRICE PER SQUARE FOOT NOT TO EXCEED THAT PAID BY THE DISTRICT AND  
5 THE OWNER DECLINES TO EXERCISE SUCH RIGHT OF FIRST REFUSAL.

6 (B) THE OFFER DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS  
7 SUBPARAGRAPH (II) TO BE MADE TO THE OWNER FROM WHOM THE  
8 PROPERTY WAS ACQUIRED SHALL BE EXTENDED BY THE DISTRICT IN  
9 WRITING IN THE FORM OF A NOTICE OF DISPOSITION OF PROPERTY. THE  
10 DISTRICT SHALL SEND THE NOTICE BY CERTIFIED MAIL, RETURN RECEIPT  
11 REQUESTED, TO THE OWNER AT THE OWNER'S LAST-KNOWN MAILING  
12 ADDRESS. IF, NOT LATER THAN NINETY DAYS AFTER THE NOTICE IS  
13 MAILED, THE OWNER FAILS TO RESPOND IN WRITING TO THE DISTRICT'S  
14 OFFER BY MEANS OF AN EXPRESSION OF INTEREST IN ACCEPTING THE  
15 OFFER, THE DISTRICT MAY TRANSFER THE PROPERTY TO A THIRD PARTY OF  
16 ITS OWN CHOOSING ON SUCH TERMS AS IT SPECIFIES IN THE OFFER.

17 (III) THE PROPERTY ACQUIRED BY THE DISTRICT HAS BEEN  
18 ABANDONED; OR

19 (IV) THE OWNER OF THE PROPERTY HAS REQUESTED OR PLEADED  
20 IN AN EMINENT DOMAIN ACTION THAT THE DISTRICT ALSO ACQUIRE  
21 PROPERTY THAT IS NOT ESSENTIAL TO THE PURPOSE OF THE ACQUISITION  
22 ON THE BASIS THAT ACQUIRING LESS PROPERTY WOULD LEAVE THE OWNER  
23 OF THE PROPERTY HOLDING AN UNECONOMIC REMNANT.

24 (b) FOR PURPOSES OF THIS SUBSECTION (3):

25 (I) "OWNER" MEANS ONLY THE RECORD OWNER OF PROPERTY.  
26 "OWNER" SHALL NOT INCLUDE ANY OF THE RECORD OWNER'S HEIRS,  
27 SUCCESSORS, ASSIGNS, DEVISEES, OR OTHER PERSONS CLAIMING BY OR  
28 THROUGH THE RECORD OWNER.

29 (II) "PRIVATE PROPERTY" OR "PROPERTY" MEANS, AS APPLIED TO  
30 REAL PROPERTY, ONLY A FEE OWNERSHIP INTEREST.

31 **SECTION 2. Effective date - applicability.** This act shall take  
32 effect July 1, 2008, and shall apply to condemnation actions commenced  
33 on or after said date.

1           **SECTION 3. Safety clause.** The general assembly hereby finds,  
2 determines, and declares that this act is necessary for the immediate  
3 preservation of the public peace, health, and safety."."."

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