



## **Background**

Section 38-1-101, C.R.S., prohibits the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenue. Private property may otherwise be taken solely for the purpose of furthering a public use.

In 1970, the U.S. Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act), and amended it in 1987. All federal, state, and local government agencies receiving federal financial assistance for public programs and projects must comply with the act.

All state agencies are limited by law and may only exercise the power of eminent domain as defined by these statutes.

## **State Expenditures**

This bill will result in a minimum expenditure of \$108,000 from the State Highway Fund.

This fiscal note assumes that non-binding mediation is only necessary when a settlement cannot be reached by a state agency and the property owner, and that the cost of mediation will be borne by the condemning agency. The principal state agency involved in eminent domain actions is the Colorado Department of Transportation (CDOT). The CDOT averages 24 condemnations annually. The cost for mediation is estimated at \$250 per hour, and a minimum of 18 hours per mediation. Thus, each condemnation action necessitating mediation will cost \$4,500, and the total additional cost to the CDOT is \$108,000 (24 condemnations \* \$4,500 = \$108,000) per year.

The CDOT may also incur increased construction costs whenever a mediation delays project starts. In the event that such delays push project starts beyond the construction season, the delay may climb to several months. The CDOT has experienced a 6 percent annual increase in construction costs since 1990. The average cost of a project involving condemnation is estimated at \$3.6 million. Therefore, the CDOT could incur additional construction costs of \$18,000 each month such a project is delayed ( $\$3.6 \text{ million} * .06 = \$216,000 / 12 \text{ months} = \$18,000 \text{ per month}$ ).

Further, the Department of Law will provide legal assistance to state agencies that are involved in mediation and request assistance; however, attorney time has not been estimated.

## **Local Government Impact**

The RTD will incur expenditures as a result of the bill. During the T-Rex project, the RTD engaged in 100 condemnation actions out of a total 200 properties acquired. In FY 2008-09 and FY 2009-10 the RTD will initiate an estimated 200 property acquisitions. Based on historical trends, it is anticipated that one-half of these properties will result in condemnation, thus requiring that the RTD enter into mediation with the property owner. Mediation for 100 condemnation actions at a per mediation cost of \$4,500 will cost the RTD \$450,000 in each of the next two fiscal years.

Local municipalities, urban renewal authorities, and school districts, all have the power of eminent domain. There are 271 municipalities, 43 urban renewal authorities, and 178 school districts. These bodies rarely, if ever, condemn property; however, a large municipality such as Denver condemns several properties each year.

**State Appropriations**

In FY 2008-09, the Colorado Department of Transportation will require a cash funds appropriation of \$108,000 from the State Highway Fund.

**Departments Contacted**

Law  
Transportation

Judicial  
RTD

Local Affairs