



*Colorado Legislative Council Staff*  
**STATE and LOCAL  
 FISCAL IMPACT**

**Drafting Number:** LLS 06-1058  
**Prime Sponsor(s):** Rep. White  
 Sen. Tochtrop

**Date:** April 28, 2006  
**Bill Status:** House SVMA  
**Fiscal Analyst:** Marc Carey (303-866-4102)

**TITLE:** CONCERNING THE CIRCUMSTANCES UNDER WHICH PRIVATE PROPERTY MAY BE ACQUIRED BY PUBLIC ENTITIES THROUGH EXERCISE OF THE POWER OF EMINENT DOMAIN IN FURTHERANCE OF A PUBLIC USE, AND, IN CONNECTION THEREWITH, PROHIBITING PRIVATE PROPERTY FROM BEING TAKEN BY THE STATE OR ANY POLITICAL SUBDIVISION UNLESS THE CONDEMNING ENTITY ESTABLISHES THAT THE TAKING IS FOR A PUBLIC USE, EXCLUDING TAKINGS FOR ECONOMIC DEVELOPMENT OR TAX REVENUE ENHANCEMENT FROM THE MEANING OF PUBLIC USE, AND REQUIRING THAT A CONDEMNATION ACTION SATISFY A HIGHER DEGREE OF PROOF WHEN THE TAKING IS FOR THE ERADICATION OF BLIGHT.

<b>Fiscal Impact Summary</b>	<b>FY 2006/07</b>	<b>FY 2007/08</b>
<b>State Revenues</b>		
General Fund	Potential Reduction	Potential Reduction
<b>State Expenditures</b>		
<b>FTE Position Change</b>	0.0 FTE	0.0 FTE
<b>Effective Date:</b> Upon signature of the Governor.		
<b>Appropriation Summary for FY 2006/07:</b> None.		
<b>Local Government Impact:</b> Potential reduction in sales and property tax revenue.		

**Summary of Legislation**

This bill concerns the taking of private property through eminent domain. Specifically, the bill clarifies that, without the consent of the owner of the property, private property may not be taken or damaged by a public entity for a public or private use without just compensation. The bill excludes the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenue from the statutory definition of "public use", and specifies that private property may be taken solely for the purpose of furthering a public use.

The bill specifies that, in any condemnation action, the burden of proof is on the condemning entity to demonstrate, by a preponderance of the evidence, that the taking of private property is for a public use. The lone exception is a condemnation action for the eradication of blight, in which case the condemning entity is required to demonstrate, by clear and convincing evidence, that the taking of the property is for a public use.

### **State Revenues**

The bill limits the ability of public entities in Colorado to use eminent domain to condemn property for certain purposes, and establishes a legal standard for the burden of proof for the condemning entity. This may reduce future sales or income tax revenue that the state would have collected through any redevelopment projects. It is not certain how many potential redevelopment projects will be affected by the bill. Furthermore, there are no mandates that any redevelopment must occur under current law. As a result, no estimate of fiscal impact is provided.

### **Local Government Impact**

Under current law, local governments may form urban renewal authorities and redevelop property designated as blighted. By narrowing the scope of cases where eminent domain may be used, this bill may hinder redevelopment efforts in some communities, which could reduce sales and property tax revenue. It is not clear how many existing projects would not have qualified under this bill's more restrictive definition. Nor is it clear how many future projects will not qualify due to the new restrictions. Therefore, no estimate was made as to the bill's local government impact.

### **State Appropriations**

No new appropriations will be required in FY 2006-07.

### **Departments Contacted**

Local Affairs

Transportation