

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 01-0085.01 Bob Lackner

SENATE BILL 01-008

SENATE SPONSORSHIP

May

HOUSE SPONSORSHIP

Senate Committees

Govt, Veterans & Military Relations, & Trans
Public Policy and Planning
Public Policy and Planning

House Committees

A BILL FOR AN ACT

101 **CONCERNING AN EXPANSION OF THE PURPOSES FOR WHICH PROPERTY**
102 **MAY BE ACQUIRED BY THE DEPARTMENT OF TRANSPORTATION**
103 **BY MEANS OF ITS EMINENT DOMAIN POWERS TO SPECIFY THAT**
104 **PROPERTY MAY BE ACQUIRED FOR STATE TRANSPORTATION**
105 **PURPOSES.**

Bill Summary

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

Transportation Legislation Review Committee. Expands the authority of the department of transportation in connection with its powers of eminent domain, which authority is currently limited to the acquisition and disposition of property for state highway purposes, to include the

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.*

acquisition and disposition of property for state transportation purposes.
Defines "state transportation purposes".

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

2 **SECTION 1.** 43-1-203, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **43-1-203. Definitions.** As used in this part 2, unless the context
5 otherwise requires:

6 (2) "STATE TRANSPORTATION PURPOSES" MEANS THE TRANSPORT
7 OF PERSONS OR PROPERTY BY MOTOR VEHICLE, BUS, TRUCK, RAILROAD,
8 LIGHT RAIL, MASS TRANSIT, OR AIRPLANE.

9 **SECTION 2.** 43-1-208 (3), Colorado Revised Statutes, is
10 amended to read:

11 **43-1-208. State highway - damages - eminent domain - state**
12 **transportation commission.** (3) (a) Any person owning land or having
13 an interest in any land over which any proposed state highway extends
14 who is of the opinion that the tender made to him by the transportation
15 commission is inadequate, personally or by agent or attorney on or before
16 ten days from the date of such tender, may file a written request addressed
17 to the transportation commission for a jury to ascertain the compensation
18 ~~which~~ THAT he OR SHE may be entitled to by reason of damages sustained
19 by altering, widening, changing, or laying out such state highway.
20 Thereupon the transportation commission shall proceed in the acquisition
21 of such premises, under articles 1 to 7 of title 38, C.R.S.

22 (b) IN ADDITION TO ANY OTHER POWER UNDER THIS SECTION, the
23 transportation commission also has the power and is authorized to proceed
24 in the acquisition of the lands of private persons for state highway
25 TRANSPORTATION purposes, according to said articles 1 to 7 of title 38,

1 C.R.S., without tender or other proceedings under this part 2.

2 **SECTION 3.** 43-1-209, Colorado Revised Statutes, is amended
3 to read:

4 **43-1-209. Subsurface support deemed acquired.** Whenever real
5 property is acquired for ~~road or highway~~ STATE TRANSPORTATION
6 purposes, whether such acquisition is by purchase, lease, or other means
7 or by eminent domain, the right to subsurface support of such real
8 property is deemed to be acquired therewith. In the event the acquiring
9 authority determines that public convenience, necessity, and safety do not
10 require such subsurface support or determines that only a part of such
11 subsurface support is required for public convenience, necessity, and
12 safety, such acquiring authority may specifically exclude such subsurface
13 support, either in whole or in part, in such acquisition in accordance with
14 said determination.

15 **SECTION 4.** 43-1-210 (1) and (3), Colorado Revised Statutes, are
16 amended to read:

17 **43-1-210. Acquisition and disposition of property.**

18 (1) Whenever a part of a parcel of land is to be taken for state ~~highway~~
19 TRANSPORTATION purposes and the remainder is to be left in such shape
20 or condition as to be of little value to its owner or to give rise to claims or
21 litigation concerning severance or other damage, the department of
22 transportation may acquire by purchase or condemnation the whole
23 parcel; except that the owner of said parcel may, at his OR HER option,
24 retain the mineral or gravel interests therein, subject to the right to
25 subsurface support retained by the department of transportation pursuant
26 to section 43-1-209. The owner who retains said mineral or gravel
27 interests shall not disturb the surface of the acquired parcel. The

1 department of transportation may sell or lease the remainder of said parcel
2 or may exchange the same for other property needed for state highway
3 TRANSPORTATION purposes.

4 (3) The department of transportation has the authority to acquire
5 by purchase, exchange, or condemnation rights-of-way for future needs
6 for which rights-of-way have been identified in the current five-year
7 highway program of projects and to lease any lands ~~which~~ THAT are held
8 for state highway TRANSPORTATION purposes and are not presently needed
9 therefor on such terms and conditions as the chief engineer, with the
10 approval of the governor, may fix. When any right-of-way is to be
11 acquired for future needs pursuant to this subsection (3), the department
12 of transportation may obtain possession of such right-of-way pursuant to
13 section 38-1-105 (6) (a), C.R.S., even though construction funds are not
14 available at the time of acquisition, following the approval of an
15 environmental assessment.

16 **SECTION 5. Effective date - applicability.** This act shall take
17 effect July 1, 2001, and shall apply to eminent domain proceedings
18 commenced on or after said date.

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