

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0264.01 Gregg Fraser

SENATE BILL 11-050

SENATE SPONSORSHIP

Roberts,

HOUSE SPONSORSHIP

Gerou,

Senate Committees
Agriculture and Natural Resources
Legislative Council

House Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT A CONDEMNING AUTHORITY PAY**
102 **FAIR MARKET VALUE FOR LAND SUBJECT TO A CONSERVATION**
103 **EASEMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill specifies that if land subject to a conservation easement is condemned, the condemning authority shall pay no less than the fair market value of the property as if unencumbered by the easement. The condemnation proceeds are to be apportioned between the grantor and

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.

SENATE
Amended 2nd Reading
April 27, 2011

grantee of the easement.

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

2 SECTION 1. Article 30.5 of title 38, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW SECTION to read:

4 38-30.5-112. Conservation easement - task force - creation -
5 report - legislative declaration - repeal. (1) THE GENERAL ASSEMBLY
6 HEREBY FINDS, DETERMINES, AND DECLARES THAT:

7 (a) IT IS WITHIN THE POWER OF THE GENERAL ASSEMBLY TO
8 ADDRESS ISSUES RELATED TO PROPERTY BEING CONDEMNED THAT IS
9 SUBJECT TO A CONSERVATION EASEMENT; AND

10 (b) ISSUES RELATED TO THE VALUE OF PROPERTY BEING
11 CONDEMNED THAT IS SUBJECT TO A CONSERVATION EASEMENT ARE A
12 MATTER OF STATEWIDE CONCERN AND SHOULD BE ADDRESSED BY THE
13 GENERAL ASSEMBLY.

14 (2) (a) THERE IS HEREBY CREATED THE CONDEMNATION OF
15 CONSERVED PROPERTY TASK FORCE, REFERRED TO IN THIS SECTION AS THE
16 "TASK FORCE", WHICH SHALL MEET DURING THE INTERIM AFTER THE FIRST
17 REGULAR SESSION OF THE SIXTY-EIGHTH GENERAL ASSEMBLY TO STUDY
18 THE VALUATION OF PROPERTY BEING CONDEMNED THAT IS SUBJECT TO A
19 CONSERVATION EASEMENT, REPORT ITS FINDINGS AND
20 RECOMMENDATIONS, AND, IF APPROPRIATE, PROPOSE STATUTORY
21 MODIFICATIONS TO ENSURE THAT THE PROPERTY INTERESTS CONDEMNED
22 ARE VALUED FAIRLY AND APPROPRIATELY.

23 (b) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING TWELVE
24 MEMBERS:

25 (I) THE EXECUTIVE DIRECTOR OF COLORADO COUNTIES,

1 INCORPORATED, OR HIS OR HER DESIGNEE;

2 (II) THE EXECUTIVE DIRECTOR OF THE COLORADO MUNICIPAL
3 LEAGUE, OR HIS OR HER DESIGNEE;

4 (III) THREE REPRESENTATIVES OF UTILITIES WITH EXPERTISE IN
5 EMINENT DOMAIN, ONE TO BE APPOINTED BY THE PRESIDENT OF THE
6 SENATE, ONE TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF
7 REPRESENTATIVES, AND ONE TO BE APPOINTED BY THE GOVERNOR;

8 (IV) THREE REPRESENTATIVES OF VARIOUS CONSERVATION
9 EASEMENT HOLDERS, ONE TO BE APPOINTED BY THE PRESIDENT OF THE
10 SENATE, ONE TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF
11 REPRESENTATIVES, AND ONE TO BE APPOINTED BY THE GOVERNOR;

12 (V) TWO REPRESENTATIVES OF LANDOWNER INTERESTS, ONE TO BE
13 APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE TO BE APPOINTED
14 BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND

15 (VI) TWO REPRESENTATIVES OF THE APPRAISER COMMUNITY, ONE
16 TO BE APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE TO BE
17 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

18 (c) ALL APPOINTMENTS TO THE TASK FORCE SHALL BE MADE ON OR
19 BEFORE JUNE 15, 2011.

20 (3) (a) THE TASK FORCE SHALL STUDY, MAKE RECOMMENDATIONS,
21 AND REPORT FINDINGS ON ALL MATTERS RELATING TO THE VALUATION OF
22 CONSERVATION EASEMENTS SUBJECT TO CONDEMNATION, INCLUDING A
23 REVIEW OF EXISTING COLORADO EMINENT DOMAIN LAW RELATING TO THE
24 APPLICATION OF THE UNDIVIDED BASIS RULE IN THE CONTEXT OF
25 PROPERTY SUBJECT TO A CONSERVATION EASEMENT, PERCEIVED
26 DEFICIENCIES IN EXISTING CONDEMNATION LAW FROM THE PERSPECTIVE
27 OF THE CONSERVATION EASEMENT COMMUNITY, OPPORTUNITIES TO

1 ADDRESS THE PERCEIVED DEFICIENCIES USING EXISTING LAW, APPRAISAL
2 PRACTICE IMPLICATIONS, TAX IMPLICATIONS, APPORTIONMENT ISSUES, AND
3 POTENTIAL CHANGES TO EXISTING LAW TO ADDRESS SPECIFIC PROBLEMS.

4 (b) THE TASK FORCE SHALL SUBMIT A WRITTEN REPORT OF ITS
5 FINDINGS AND RECOMMENDATIONS TO THE AGRICULTURE, NATURAL
6 RESOURCES, AND ENERGY AND LOCAL GOVERNMENT COMMITTEES OF THE
7 SENATE AND THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES
8 AND LOCAL GOVERNMENT COMMITTEES OF THE HOUSE OF
9 REPRESENTATIVES BY OCTOBER 17, 2011. UPON REQUEST OF A MEMBER
10 OF THE TASK FORCE, SUMMARIES OF DISSENTING OPINIONS SHALL BE
11 PREPARED AND ATTACHED TO THE FINAL REPORT OF FINDINGS AND
12 RECOMMENDATIONS.

13 (4) (a) THE FIRST MEETING OF THE TASK FORCE SHALL BE NO LATER
14 THAN AUGUST 2, 2011. THE TASK FORCE SHALL MEET AT LEAST FOUR
15 TIMES.

16 (b) MEETINGS OF THE TASK FORCE SHALL BE PUBLIC MEETINGS.

17 (5) THE TASK FORCE SHALL SOLICIT AND ACCEPT REPORTS AND
18 PUBLIC TESTIMONY AND MAY REQUEST OTHER SOURCES, INCLUDING BUT
19 NOT LIMITED TO THE NATIONAL CONFERENCE OF STATE LEGISLATURES,
20 REPRESENTATIVES FROM STATE AND LOCAL GOVERNMENT, PROPERTY
21 OWNERS, NONPROFIT ORGANIZATIONS, APPROPRIATE TRADE GROUPS AND
22 REPRESENTATIVES OF OTHER CONDEMNOR INTERESTS WITH EMINENT
23 DOMAIN EXPERTISE SUCH AS SPECIAL DISTRICTS, THE DEPARTMENT OF
24 TRANSPORTATION, AND PIPELINE COMPANIES, TO PROVIDE TESTIMONY,
25 WRITTEN COMMENTS, AND OTHER RELEVANT DATA TO THE TASK FORCE.

26 (6) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT
27 COMPENSATION AND SHALL NOT BE ENTITLED TO REIMBURSEMENT FOR

1 EXPENSES.

2 (7) THIS SECTION IS REPEALED, EFFECTIVE NOVEMBER 1, 2011.

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