

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

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 11-0264.01 Gregg Fraser

**SENATE BILL 11-050**

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**SENATE SPONSORSHIP**

**Roberts,**

**HOUSE SPONSORSHIP**

**Gerou,**

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**Senate Committees**

Agriculture and Natural Resources  
Legislative Council

**House Committees**

Finance

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**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.**

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**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.*

HOUSE  
3rd Reading Unam ended  
May 6, 2011

HOUSE  
2nd Reading Unam ended  
May 5, 2011

SENATE  
3rd Reading Unam ended  
April 28, 2011

SENATE  
Am ended 2nd Reading  
April 27, 2011

grantee of the easement.

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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.