

NO FISCAL IMPACT

Drafting Number: LLS 13-0847**Date:** February 22, 2013**Prime Sponsor(s):** Sen. Hodge
Rep. Williams**Bill Status:** Senate Local Government**Fiscal Analyst:** Alex Schatz (303-866-4375)

TITLE: CONCERNING THE ACQUISITION OF RIGHTS-OF-WAY BY PIPELINE COMPANIES.**Summary of Legislation**

This bill clarifies that pipeline companies that convey oil, gasoline, or other petroleum products may acquire rights-of-way by eminent domain pursuant to Article 5, Title 38, C.R.S. The bill reiterates the applicability of state constitutional provisions concerning just compensation for property taken by eminent domain, as well as federal pipeline safety regulations and other applicable current law. The bill takes effect upon signature of the governor, or upon becoming law without his signature.

Background

Pipeline companies conveying petroleum products have historically negotiated for rights-of-way, and prepared condemnation petitions where those negotiations failed to obtain critical rights-of-way, on the basis of eminent domain powers vested in "pipeline companies" by Article 5, Title 38, C.R.S. Industry practices in Colorado were also historically informed by various other cases and statutory provisions granting the power of eminent domain to pipeline companies, such as Sections 38-1-101.5 and 38-2-101, C.R.S. This bill overrides the May 2012 Colorado Supreme Court decision in the case of *Larson v. Sinclair Transportation Company*, which held that only pipeline companies in the business of transmitting electricity or natural gas may use the power of eminent domain in Article 5, Title 38, C.R.S., specifically Section 38-5-105, C.R.S.

Assessment

The bill is assessed as having no fiscal impact. By reaffirming common practices prior to the May 2012 issuance of the Colorado Supreme Court holding in *Larson*, the bill is consistent with the status quo for governmental agencies unaffected by eminent domain activities initiated by petroleum pipeline companies since that time. No agencies submitted evidence that they are engaged in an eminent domain dispute with a petroleum pipeline company or have changed position financially or with respect to real estate management as a result of the May 2012 holding. The fiscal note concludes that governmental agencies are unaffected by the bill because they have not relied on the Colorado Supreme Court's holding in *Larson*.

Departments Contacted

Agriculture
Counties
Municipalities
Law
Judicial Branch

Higher Education
Office of Information Technology
Natural Resources
Property Taxation

Local Affairs
Transportation
Personnel
Regulatory Agencies