First Regular Session Sixty-eighth General Assembly STATE OF COLORADO

REREVISED

This Version Includes All Amendments Adopted in the Second House SENATE BILL 11-050

LLS NO. 11-0264.01 Gregg Fraser

SENATE SPONSORSHIP

Roberts,

Gerou,

HOUSE SPONSORSHIP

Senate Committees Agriculture and Natural Resources Legislative Council

House Committees Finance

A BILL FOR AN ACT

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

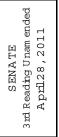
103 EASEMENT.

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 HOUSE 3rd Reading Unam ended M ay 6, 2011

HOUSE 2nd Reading Unam ended M ay 5, 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	<u>38-30.5-112. Conservation easement - task force - creation -</u>
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,

-2-

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	<u>BEFORE JUNE 15, 2011.</u>
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	$\underline{\operatorname{REVIEW}} \operatorname{OFEXISTING} \underline{\operatorname{Colorado}} \operatorname{Eminent} \operatorname{DOMAIN} \operatorname{LAW} \operatorname{RELATING} \operatorname{TO} \operatorname{THE}$
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	<u>REPRESENTATIVES BY OCTOBER 17, 2011. UPON REQUEST OF A MEMBER</u>
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	<u>TIMES.</u>
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 <u>EXPENSES.</u>

- 2 (7) This section is repealed, effective November 1, 2011.
- 3 SECTION 2. Safety clause. The general assembly hereby finds,
- 4 <u>determines, and declares that this act is necessary for the immediate</u>
- 5 preservation of the public peace, health, and safety.