

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

**REENGROSSED**

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

LLS NO. 14-0476.01 Jery Payne x2157

**SENATE BILL 14-052**

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**SENATE SPONSORSHIP**

**Crowder,**

**HOUSE SPONSORSHIP**

**Sonnenberg,**

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**Senate Committees**

Agriculture, Natural Resources, & Energy

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING ACTIONS TAKEN TO REMEDIATE SOIL EROSION CREATING**  
102 **PROPERTY DAMAGE.**

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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>.)*

Currently, a board of county commissioners may, after a complaint has been filed and the appropriate consultations made, determine that windblown soil from land in the county is harming neighboring property and the erosion constitutes an emergency. The county may mitigate the erosion and charge the benefitted land owner. But the charge cannot

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  
3rd Reading Unamended  
January 29, 2014

SENATE  
Amended 2nd Reading  
January 28, 2014

exceed the lesser of the actual cost or \$15 per acre.

**Section 1** of the bill adds a range specialist or extension agent with expertise in soil conservation or soil science to the list of people the board may consult. **Section 2** replaces the \$15 cap on the treatment cost with a limit of the actual cost, but the cost may not exceed the maximum listed in the published market rates for the service.

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

2 **SECTION 1.** In Colorado Revised Statutes, 35-72-103, **amend**  
3 (1) as follows:

4 **35-72-103. Action by county commissioners - emergency**  
5 **conditions.** (1) (a) When the board of ~~any~~ A county of the state is advised  
6 in writing or otherwise informed that soil is blowing from ~~any~~ land in the  
7 county; ~~and~~ THE BOARD is supplied with a description of ~~such~~ THE land;  
8 and it appears that ~~by reason of such blowing from any land in the county;~~  
9 private property, including ~~but not limited to~~ crops, grasslands, fences,  
10 fencerows, irrigation canals, ditches, or livestock on adjacent or other  
11 land, or roads, barrow ditches, fences or other public property is being  
12 damaged ~~such~~ BY THE BLOWING SOIL, THE board shall as soon as  
13 practicable:

14 (I) Give notice of ~~such~~ THE complaint to the owner or occupier of  
15 the land from which soil is blowing; and

16 (II) ~~Inspect or cause to be inspected such~~ ORDER THE INSPECTION  
17 OF THE land.

18 (b) If the board finds, after consultation with a member or  
19 members of the local district board of directors, ~~with~~ the state  
20 conservation board, A RANGE SPECIALIST OR EXTENSION AGENT WITH  
21 EXPERTISE IN SOIL CONSERVATION OR SOIL SCIENCE, or ~~with~~ local owners  
22 or occupiers, including the owner or occupier of the land from which soil

1 is blowing, that soil is blowing from ~~such~~ THE land in sufficient quantity  
2 to be injurious to private property, including ~~but not limited to~~ crops,  
3 grasslands, fences, fencerows, irrigation canals, ditches, or livestock on  
4 adjacent or other land, or to roads, barrow ditches, fences, or other public  
5 property because of soil being blown thereon, ~~such~~ THE board shall  
6 determine what, if anything, can be done to prevent or materially lessen  
7 ~~such~~ THE blowing of soil from ~~such~~ THE land. If the board determines,  
8 after ~~such~~ THE consultation, that the complaint lodged with it falls under  
9 ~~the provisions of~~ article 3.5 of this title, ~~no~~ THE BOARD SHALL NOT TAKE  
10 further action. ~~shall be taken by the board.~~ If the board finds, after ~~such~~  
11 THE consultation, that an emergency exists, that ~~such~~ THE blowing is  
12 occurring, THAT PROPERTY DAMAGE APPEARS TO BE RESULTING FROM THE  
13 BLOWING SOIL, AND that it can be prevented or materially lessened by  
14 treatment of the soil, ~~and that property damage appears to be resulting~~  
15 ~~therefrom,~~ ~~such~~ THE board shall issue a citation to the owner as listed  
16 upon the records of the county assessor and to the occupier, if known to  
17 ~~such~~ THE board, specifying the nature of the treatment required and the  
18 extent thereof, ~~and~~ the date by which ~~such~~ THE treatment is to be  
19 commenced, and the date it is to be completed.

20 **SECTION 2.** In Colorado Revised Statutes, 35-72-105, **amend**  
21 (1) as follows:

22 **35-72-105. Method of assessment.** (1) Upon the completion of  
23 the treatment caused to be performed by the board as provided in section  
24 35-72-103, the board shall, by resolution, determine ~~the~~ WHAT land ~~so~~  
25 ~~benefited~~ BENEFITS and from which soil is blowing and assess against  
26 ~~said~~ THE OWNER OF THE BENEFITED land ~~so benefited~~ the ACTUAL cost of  
27 ~~said~~ THE treatment. ~~not in excess of fifteen dollars per acre or the actual~~

1 cost of treatment, whichever is less, in any one calendar year. Said THE  
2 BOARD SHALL USE THE MARKET RATES OF SERVICES IN THE "AGRICULTURE  
3 & BUSINESS MANAGEMENT NOTES", AS PUBLISHED BY THE COLORADO  
4 STATE UNIVERSITY EXTENSION, OR A COMPARABLE PUBLICATION AS A  
5 GUIDE FOR CHARGES AND SHALL NOT EXCEED THE MAXIMUM COST OF  
6 SERVICES LISTED. THE BOARD SHALL RECORD THE resolution ~~shall be~~  
7 ~~recorded~~ in the minutes of the board, DELIVER the original ~~thereof shall~~  
8 ~~be delivered by the clerk of said board~~ to the county assessor, and SEND  
9 a copy ~~thereof shall be mailed by registered mail~~ BY REGISTERED MAIL to  
10 the landowner at the address shown on the records of the county assessor  
11 and to the occupier, if known to the board.

12 **SECTION 3. Act subject to petition - effective date -**  
13 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
14 the expiration of the ninety-day period after final adjournment of the  
15 general assembly (August 6, 2014, if adjournment sine die is on May 7,  
16 2014); except that, if a referendum petition is filed pursuant to section 1  
17 (3) of article V of the state constitution against this act or an item, section,  
18 or part of this act within such period, then the act, item, section, or part  
19 will not take effect unless approved by the people at the general election  
20 to be held in November 2014 and, in such case, will take effect on the  
21 date of the official declaration of the vote thereon by the governor.

22 (2) This act applies to mitigation actions taken on or after the  
23 applicable effective date of this act.