

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 14-0476.01 Jery Payne x2157

SENATE BILL 14-052

SENATE SPONSORSHIP

Crowder,

HOUSE SPONSORSHIP

Sonnenberg,

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

Agriculture, Livestock, & Natural Resources

A BILL FOR AN ACT

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

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.

HOUSE
Amended 2nd Reading
February 20, 2014

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.

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 or with~~ EXTENSION AGENT WITH EXPERTISE IN SOIL
21 CONSERVATION OR SOIL SCIENCE, AND AFTER CONSULTATION WITH ~~local~~
22 ~~owners~~ or occupiers, including the owner or occupier of the land from

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

1 actual cost of treatment, whichever is less, in any one calendar year. Said
2 THE BOARD SHALL RECORD THE resolution shall be recorded in the
3 minutes of the board, DELIVER the original thereof shall be delivered by
4 the clerk of said board to the county assessor, and SEND a copy thereof
5 shall be mailed by registered mail BY REGISTERED MAIL to the landowner
6 at the address shown on the records of the county assessor and to the
7 occupier, if known to the board.

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

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