

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0731.01 Bob Lackner

HOUSE BILL 08-1278

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HOUSE SPONSORSHIP

Summers and White, Kerr J., Looper, and McNulty

SENATE SPONSORSHIP

Tochtrop,

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House Committees

Transportation & Energy

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE EXERCISE OF THE POWER OF EMINENT DOMAIN BY  
102 THE REGIONAL TRANSPORTATION DISTRICT.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires the regional transportation district (RTD), and any copetitioner in a condemnation action with which RTD may be associated for the purpose of acquiring property for an RTD project, if any, to acquire property and rights-of-way through the exercise of its power of eminent domain only as necessary for public transit purposes. Specifies that, once acquired, the property may only be used by RTD for such purposes, including any ancillary or secondary functions necessary to

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.*

support the purposes. In exercising the power of eminent domain, requires RTD to comply to the extent practicable with all laws that govern the use of eminent domain by the Colorado department of transportation for state highway purposes. Prohibits RTD from selling or otherwise transferring ownership of property or rights-of-way acquired through the exercise of eminent domain to any other person.

Makes explicitly clear that existing statutory provisions construing the term "public use" for purposes of eminent domain powers to exclude the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenue apply to RTD or to any copetitioner in a condemnation action with which RTD may be associated for the purpose of acquiring property for an RTD project, if any.

Makes conforming amendments. Defines a term.

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

2 **SECTION 1.** 32-9-103, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **32-9-103. Definitions.** As used in this article, unless the context  
5 otherwise requires:

6 (12.5) "PUBLIC TRANSIT PURPOSES" MEANS THE ACQUISITION,  
7 CONSTRUCTION, ADMINISTRATION, OR MAINTENANCE OF STATIONS AND  
8 SIMILAR FACILITIES AND IMPROVEMENTS DIRECTLY USED TO TRANSPORT  
9 PERSONS BY ANY FORM AND RELATED RIGHTS-OF-WAY TO ACCOMPLISH  
10 SUCH TRANSPORT. "PUBLIC TRANSIT PURPOSES" SHALL NOT INCLUDE THE  
11 ACQUISITION, CONSTRUCTION, ADMINISTRATION, OR MAINTENANCE OF  
12 ANCILLARY OR SECONDARY FACILITIES OR IMPROVEMENTS NECESSARY TO  
13 SUPPORT SUCH PURPOSES, INCLUDING WITHOUT LIMITATION, PARKING  
14 FACILITIES OR ANY FORM OF RETAIL OR RESIDENTIAL DEVELOPMENT OR  
15 ANY MIXTURE OF SUCH DEVELOPMENT LOCATED AT, IN, OR CONNECTED TO  
16 SUCH STATIONS OR FACILITIES.

17 **SECTION 2.** 32-9-119 (1) (k), Colorado Revised Statutes, is

1 amended to read:

2 **32-9-119. Additional powers of district.** (1) In addition to any  
3 other powers granted to the district in this article, the district has the  
4 following powers:

5 (k) To condemn property for public use AS AUTHORIZED BY  
6 SECTION 32-9-161;

7 **SECTION 3.** 32-9-161, Colorado Revised Statutes, is amended  
8 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to  
9 read:

10 **32-9-161. Eminent domain.** (3) ON OR AFTER THE EFFECTIVE  
11 DATE OF THIS SUBSECTION (3), THE DISTRICT, AND ANY COPETITIONER IN  
12 A CONDEMNATION ACTION WITH WHICH THE DISTRICT MAY BE ASSOCIATED  
13 FOR THE PURPOSE OF ACQUIRING PROPERTY FOR A DISTRICT PROJECT, IF  
14 ANY, SHALL ONLY ACQUIRE PROPERTY AND RIGHTS-OF-WAY THROUGH THE  
15 EXERCISE OF ITS POWER OF EMINENT DOMAIN AS NECESSARY FOR PUBLIC  
16 TRANSIT PURPOSES. ONCE ACQUIRED, SUCH PROPERTY MAY ONLY BE USED  
17 BY THE DISTRICT FOR SUCH PURPOSES, INCLUDING ANY ANCILLARY OR  
18 SECONDARY FUNCTIONS NECESSARY TO SUPPORT SUCH PURPOSES. IN  
19 EXERCISING THE POWER OF EMINENT DOMAIN IN ACCORDANCE WITH THE  
20 PROVISIONS OF THIS ARTICLE, THE DISTRICT SHALL COMPLY TO THE  
21 EXTENT PRACTICABLE WITH ALL LAWS THAT GOVERN THE USE OF EMINENT  
22 DOMAIN BY THE DEPARTMENT OF TRANSPORTATION FOR STATE HIGHWAY  
23 PURPOSES. THE DISTRICT MAY NOT SELL OR OTHERWISE TRANSFER  
24 OWNERSHIP OF PROPERTY OR RIGHTS-OF-WAY ACQUIRED THROUGH THE  
25 EXERCISE OF EMINENT DOMAIN AS AUTHORIZED BY THIS ARTICLE TO ANY  
26 OTHER PERSON OR ENTITY.

27 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,

1 ANY CONDEMNATION ACTION COMMENCED BY THE DISTRICT OR ANY  
2 COPETITIONER IN A CONDEMNATION ACTION WITH WHICH THE DISTRICT  
3 MAY BE ASSOCIATED FOR THE PURPOSE OF ACQUIRING PROPERTY FOR A  
4 DISTRICT PROJECT, IF ANY, SHALL SATISFY THE REQUIREMENTS SPECIFIED  
5 IN SECTION 38-1-101, C.R.S. TO THE EXTENT THERE IS ANY CONFLICT  
6 BETWEEN THE PROVISIONS OF THIS ARTICLE AND THE PROVISIONS OF  
7 SECTION 38-1-101, C.R.S., THE PROVISIONS OF SECTION 38-1-101, C.R.S.,  
8 SHALL CONTROL.

9           **SECTION 4. Effective date - applicability.** This act shall take  
10 effect July 1, 2008, and shall apply to condemnation actions commenced  
11 on or after said date.

12           **SECTION 5. Safety clause.** The general assembly hereby finds,  
13 determines, and declares that this act is necessary for the immediate  
14 preservation of the public peace, health, and safety.