

CHAPTER 351

TRANSPORTATION

SENATE BILL 00-225

BY SENATORS Wattenberg, Blickensderfer, Feeley, Hillman, Powers, Arnold, Chlouber, Congrove, Hernandez, Martinez, Matsunaka, Musgrave, Nichol, Sullivant, Thiebaut, and Wham;
also REPRESENTATIVES Stengel, Dean, Alexander, Clarke, Coleman, Fairbank, Gagliardi, Gottlieb, Hefley, Hoppe, King, Lawrence, Lee, Mace, McElhany, McKay, Miller, Mitchell, Nuñez, Paschall, Pfiffner, Plant, Ragsdale, Sinclair, Smith, Spradley, Taylor, Webster, and Young.

AN ACT

CONCERNING REIMBURSEMENT TO LANDOWNERS WHOSE PROPERTY IS BEING ACQUIRED BY A PUBLIC HIGHWAY AUTHORITY IN CONNECTION WITH EMINENT DOMAIN PROCEEDINGS.

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

SECTION 1. 43-4-506 (1) (h), Colorado Revised Statutes, is amended to read:

43-4-506. Powers of the authority - inclusion or exclusion of property - determination of public highway alignment. (1) In addition to any other powers granted to the authority pursuant to this part 5, the authority has the following powers:

(h) (I) To have and exercise the power of eminent domain in the manner provided by law for the condemnation of private property for public use and to take any private property necessary to exercise the powers granted in this part 5, either within or without the boundaries of the authority; except that the authority shall not exercise the power of eminent domain with respect to property located outside the boundaries of the authority and within the boundaries of a municipality without the consent of the governing body of such municipality or within the unincorporated boundaries of a county without the consent of the governing body of such county.

(II) TO THE EXTENT APPLICABLE, IN ADDITION TO ANY COMPENSATION AWARDED THE OWNER IN AN EMINENT DOMAIN PROCEEDING PURSUANT TO THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (h), AND ANY BENEFITS THAT MAY BE DUE THE OWNER PURSUANT TO ARTICLE 56 OF TITLE 24, C.R.S., THE AUTHORITY SHALL ADDITIONALLY REIMBURSE THE OWNER WHOSE PROPERTY IS BEING ACQUIRED OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

CONDEMNED BY SUCH AUTHORITY THE FOLLOWING:

(A) AN AMOUNT REPRESENTING THE REASONABLE COSTS OF RELOCATING THE INDIVIDUALS, FAMILIES, AND BUSINESS CONCERNS THAT WILL BE DISPLACED BY SUCH AUTHORITY, INCLUDING WITHOUT LIMITATION, MOVING EXPENSES AND ACTUAL DIRECT LOSSES OF PROPERTY RESULTING FROM THE DISPLACEMENT. IN THE CASE OF A OWNER THAT IS A BUSINESS CONCERN, SUCH AMOUNT SHALL ALSO COVER EXPENSES INCURRED IN CONNECTION WITH THE REESTABLISHMENT OF SUCH CONCERN, INCLUDING WITHOUT LIMITATION, EXPENSES INCURRED IN CONNECTION WITH THE CONSTRUCTION OF REPLACEMENT FACILITIES OR UTILITY, WATER, OR SEWER CONNECTIONS, AS WELL AS LOST PROFITS THAT ARE REASONABLY RELATED TO RELOCATION OF THE BUSINESS RESULTING FROM THE DISPLACEMENT FOR WHICH REIMBURSEMENT OR COMPENSATION IS NOT OTHERWISE MADE; AND

(B) IN CONNECTION WITH PROCEEDINGS FOR THE AUTHORITY'S ACQUISITION OR CONDEMNATION OF PROPERTY PURSUANT TO THIS PART 5 IN WHICH THE FINAL VALUE OF THE PROPERTY AS DETERMINED BY THE COURT EXCEEDS TEN THOUSAND DOLLARS, THE COURT SHALL AWARD THE OWNER ALL OF SUCH OWNER'S REASONABLE ATTORNEY FEES AND THE REASONABLE COSTS OF THE LITIGATION INCURRED BY SUCH OWNER WHERE THE AWARD BY THE COURT IN SUCH PROCEEDINGS EXCEEDS BY ONE HUNDRED THIRTY PERCENT OR MORE THE LAST WRITTEN OFFER GIVEN TO THE PROPERTY OWNER PRIOR TO THE FILING OF THE CONDEMNATION ACTION. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (B), THE REASONABLE COSTS OF LITIGATION SHALL INCLUDE BUT NOT BE LIMITED TO THOSE ITEMS INCLUDABLE AS COSTS IN ACCORDANCE WITH SECTION 13-16-122, C.R.S.

SECTION 2. Applicability. This act shall apply to any proceeding involving the acquisition or condemnation of property by a public highway authority through the exercise of its eminent domain powers commenced on or after the effective date of this act and to any proceeding for the acquisition or condemnation of property by a public highway authority commenced before the effective date of this act for which there has been neither a final adjudication of the parties' rights with respect to such property nor a final settlement of all claims as of the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2000