

CHAPTER 86

GOVERNMENT - SPECIAL DISTRICTS

SENATE BILL 05-182

BY SENATOR(S) Williams, Takis, and Windels;
also REPRESENTATIVE(S) Ragsdale, Benefield, Berens, Hodge, Todd, Vigil, Borodkin, and Butcher.

AN ACT

**CONCERNING THE OFFSET OF SPECIAL BENEFITS AGAINST PARTIAL TAKINGS IN CONNECTION WITH
PROPERTY ACQUISITIONS FOR TRANSPORTATION PROJECTS UNDERTAKEN BY THE REGIONAL
TRANSPORTATION DISTRICT.**

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

SECTION 1. 38-1-114 (1) and (2) (a), Colorado Revised Statutes, are amended, and the said 38-1-114 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

38-1-114. Formula for computing compensation - definitions. (1) Except for the provisions of subsection (2) of this section ~~which~~ THAT shall apply to ~~highway acquisition~~ ACQUISITIONS FOR HIGHWAYS AND TRANSPORTATION PROJECTS UNDERTAKEN BY THE REGIONAL TRANSPORTATION DISTRICT CREATED BY ARTICLE 9 OF TITLE 32, C.R.S., the right to compensation and the amount thereof, including damages and benefits, if any, shall be determined initially as of the date the petitioner is authorized by agreement, stipulation, or court order to take possession or the date of trial or hearing to assess compensation, whichever is earlier, but any amount of compensation determined initially shall remain subject to adjustment for one year after the date of the initial determination to provide for additional damages or benefits not reasonably foreseeable at the time of the initial determination. In estimating the value of all property actually taken, the true and actual value at such time shall be allowed and awarded. No deduction therefrom shall be allowed for any benefit to the residue of said property. In estimating damages occasioned to other portions of the claimant's property or any part thereof other than that actually taken, the value of the benefits, if any, may be deducted therefrom. In all cases the owner shall receive the full and actual value of all property actually taken. In case the benefit to the property not actually taken exceeds the damages sustained by the owner to the property not actually taken, the owner shall not be required to pay or allow credit for such excess.

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

(2) (a) For ~~highway acquisition~~ ACQUISITIONS FOR HIGHWAYS AND TRANSPORTATION PROJECTS UNDERTAKEN BY THE REGIONAL TRANSPORTATION DISTRICT CREATED BY ARTICLE 9 OF TITLE 32, C.R.S., the right to compensation and the amount thereof, including damages and benefits, if any, shall be determined as of the date the petitioner is authorized by agreement, stipulation, or court order to take possession or the date of trial or hearing to assess compensation, whichever is earlier, but any amount of compensation determined initially shall remain subject to adjustment for one year after the date of the initial determination to provide for additional damages or benefits not reasonably foreseeable at the time of the initial determination.

(3) FOR PURPOSES OF THIS SECTION, "TRANSPORTATION" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 43-1-102 (6), C.R.S.

SECTION 2. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 10, 2005, if adjournment sine die is on May 11, 2005); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to condemnation actions filed on or after the applicable effective date of this act.

Became Law: April 19, 2005