

CHAPTER 304

PROPERTY

SENATE BILL 11-050

BY SENATOR(S) Roberts, Guzman, Jahn, King S., Newell, Steadman, Tochtrop, White;
also REPRESENTATIVE(S) Gerou, Brown, Fischer, Hamner, Hullinghorst, Kagan, Kefalas, Kerr J., Labuda, Looper, Massey,
Vigil, Wilson.

AN ACT

**CONCERNING A REQUIREMENT THAT A CONDEMNING AUTHORITY PAY FAIR MARKET VALUE FOR
LAND SUBJECT TO A CONSERVATION EASEMENT.**

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

SECTION 1. Article 30.5 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-30.5-112. Conservation easement - task force - creation - report - legislative declaration - repeal. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) IT IS WITHIN THE POWER OF THE GENERAL ASSEMBLY TO ADDRESS ISSUES RELATED TO PROPERTY BEING CONDEMNED THAT IS SUBJECT TO A CONSERVATION EASEMENT; AND

(b) ISSUES RELATED TO THE VALUE OF PROPERTY BEING CONDEMNED THAT IS SUBJECT TO A CONSERVATION EASEMENT ARE A MATTER OF STATEWIDE CONCERN AND SHOULD BE ADDRESSED BY THE GENERAL ASSEMBLY.

(2)(a) THERE IS HEREBY CREATED THE CONDEMNATION OF CONSERVED PROPERTY TASK FORCE, REFERRED TO IN THIS SECTION AS THE "TASK FORCE", WHICH SHALL MEET DURING THE INTERIM AFTER THE FIRST REGULAR SESSION OF THE SIXTY-EIGHTH GENERAL ASSEMBLY TO STUDY THE VALUATION OF PROPERTY BEING CONDEMNED THAT IS SUBJECT TO A CONSERVATION EASEMENT, REPORT ITS FINDINGS AND RECOMMENDATIONS, AND, IF APPROPRIATE, PROPOSE STATUTORY MODIFICATIONS TO ENSURE THAT THE PROPERTY INTERESTS CONDEMNED ARE VALUED FAIRLY AND APPROPRIATELY.

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

(b) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING TWELVE MEMBERS:

(I) THE EXECUTIVE DIRECTOR OF COLORADO COUNTIES, INCORPORATED, OR HIS OR HER DESIGNEE;

(II) THE EXECUTIVE DIRECTOR OF THE COLORADO MUNICIPAL LEAGUE, OR HIS OR HER DESIGNEE;

(III) THREE REPRESENTATIVES OF UTILITIES WITH EXPERTISE IN EMINENT DOMAIN, ONE TO BE APPOINTED BY THE PRESIDENT OF THE SENATE, ONE TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND ONE TO BE APPOINTED BY THE GOVERNOR;

(IV) THREE REPRESENTATIVES OF VARIOUS CONSERVATION EASEMENT HOLDERS, ONE TO BE APPOINTED BY THE PRESIDENT OF THE SENATE, ONE TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND ONE TO BE APPOINTED BY THE GOVERNOR;

(V) TWO REPRESENTATIVES OF LANDOWNER INTERESTS, ONE TO BE APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND

(VI) TWO REPRESENTATIVES OF THE APPRAISER COMMUNITY, ONE TO BE APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

(c) ALL APPOINTMENTS TO THE TASK FORCE SHALL BE MADE ON OR BEFORE JUNE 15, 2011.

(3) (a) THE TASK FORCE SHALL STUDY, MAKE RECOMMENDATIONS, AND REPORT FINDINGS ON ALL MATTERS RELATING TO THE VALUATION OF CONSERVATION EASEMENTS SUBJECT TO CONDEMNATION, INCLUDING A REVIEW OF EXISTING COLORADO EMINENT DOMAIN LAW RELATING TO THE APPLICATION OF THE UNDIVIDED BASIS RULE IN THE CONTEXT OF PROPERTY SUBJECT TO A CONSERVATION EASEMENT, PERCEIVED DEFICIENCIES IN EXISTING CONDEMNATION LAW FROM THE PERSPECTIVE OF THE CONSERVATION EASEMENT COMMUNITY, OPPORTUNITIES TO ADDRESS THE PERCEIVED DEFICIENCIES USING EXISTING LAW, APPRAISAL PRACTICE IMPLICATIONS, TAX IMPLICATIONS, APPORTIONMENT ISSUES, AND POTENTIAL CHANGES TO EXISTING LAW TO ADDRESS SPECIFIC PROBLEMS.

(b) THE TASK FORCE SHALL SUBMIT A WRITTEN REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY AND LOCAL GOVERNMENT COMMITTEES OF THE SENATE AND THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES AND LOCAL GOVERNMENT COMMITTEES OF THE HOUSE OF REPRESENTATIVES BY OCTOBER 17, 2011. UPON REQUEST OF A MEMBER OF THE TASK FORCE, SUMMARIES OF DISSENTING OPINIONS SHALL BE PREPARED AND ATTACHED TO THE FINAL REPORT OF FINDINGS AND RECOMMENDATIONS.

(4) (a) THE FIRST MEETING OF THE TASK FORCE SHALL BE NO LATER THAN AUGUST

2, 2011. THE TASK FORCE SHALL MEET AT LEAST FOUR TIMES.

(b) MEETINGS OF THE TASK FORCE SHALL BE PUBLIC MEETINGS.

(5) THE TASK FORCE SHALL SOLICIT AND ACCEPT REPORTS AND PUBLIC TESTIMONY AND MAY REQUEST OTHER SOURCES, INCLUDING BUT NOT LIMITED TO THE NATIONAL CONFERENCE OF STATE LEGISLATURES, REPRESENTATIVES FROM STATE AND LOCAL GOVERNMENT, PROPERTY OWNERS, NONPROFIT ORGANIZATIONS, APPROPRIATE TRADE GROUPS AND REPRESENTATIVES OF OTHER CONDEMNOR INTERESTS WITH EMINENT DOMAIN EXPERTISE SUCH AS SPECIAL DISTRICTS, THE DEPARTMENT OF TRANSPORTATION, AND PIPELINE COMPANIES, TO PROVIDE TESTIMONY, WRITTEN COMMENTS, AND OTHER RELEVANT DATA TO THE TASK FORCE.

(6) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION AND SHALL NOT BE ENTITLED TO REIMBURSEMENT FOR EXPENSES.

(7) THIS SECTION IS REPEALED, EFFECTIVE NOVEMBER 1, 2011.

SECTION 2. 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 8, 2011