

Second Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

**ENGROSSED**

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

LLS NO. 06-0172.02 Jason Gelender

**SENATE BILL 06-078**

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**SENATE SPONSORSHIP**

**Wiens**, Isgar, and May R.

**HOUSE SPONSORSHIP**

**McKinley**, Green, Borodkin, Hefley, Larson, and Stafford

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**Senate Committees**  
Transportation

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING A PROHIBITION AGAINST THE EXERCISE OF THE POWER**  
102 **OF EMINENT DOMAIN BY A PRIVATE CORPORATION TO CONDEMN**  
103 **THE PRIVATE PROPERTY OF ANOTHER PERSON OR ENTITY FOR**  
104 **THE PURPOSE OF ACQUIRING RIGHTS-OF-WAY FOR A PRIVATE**  
105 **TOLL ROAD OR PRIVATE TOLL HIGHWAY.**

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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.)*

**Transportation Legislation Review Committee.** Specifies that a private corporation formed for the purpose of constructing a private toll road or toll highway shall not have the power to use eminent domain 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.*

SENATE  
Amended 2nd Reading  
January 27, 2006

acquire rights-of-way for the toll road or toll highway, but that a corporation may enter into an agreement with a public entity to enable the construction of a private toll road or private toll highway.

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

2           **SECTION 1.** Article 45 of title 7, Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW SECTION to read:

4           **7-45-104. Acquisition of right-of-way.** NOTWITHSTANDING THE  
5 PROVISIONS OF SECTION 38-2-101, C.R.S., ON AND AFTER THE EFFECTIVE  
6 DATE OF THIS SECTION, A CORPORATION FORMED UNDER THIS ARTICLE  
7 SHALL NOT HAVE THE POWER TO EXERCISE THE RIGHT OF EMINENT DOMAIN  
8 TO ACQUIRE ANY PART OF THE RIGHT-OF-WAY OF THE LINE OF A PROPOSED  
9 TOLL ROAD OR TOLL HIGHWAY SPECIFIED IN THE CERTIFICATE OF  
10 INCORPORATION OF THE CORPORATION AS REQUIRED BY SECTION 7-45-101  
11 (1). NOTHING HEREIN SHALL PROHIBIT A CORPORATION FROM ENTERING  
12 INTO A PUBLIC-PRIVATE INITIATIVE WITH THE DEPARTMENT OF  
13 TRANSPORTATION IN ACCORDANCE WITH THE PROVISIONS OF PART 12 OF  
14 ARTICLE 1 OF TITLE 43, C.R.S., FOR THE PURPOSE OF ENABLING THE  
15 CONSTRUCTION OF SUCH A TOLL ROAD OR TOLL HIGHWAY, BUT IN SUCH A  
16 CASE THE POWER OF EMINENT DOMAIN SHALL NOT BE EXERCISED BY THE  
17 CORPORATION AND MAY BE EXERCISED BY THE DEPARTMENT ONLY FOR  
18 PURPOSES OF ACQUIRING PROPERTY AND RIGHTS-OF-WAY NECESSARY FOR  
19 THE COMPLETION OF A TOLL ROAD OR TOLL HIGHWAY OPEN TO THE PUBLIC  
20 THAT IS INCORPORATED INTO THE STATEWIDE TRANSPORTATION PLAN  
21 PREPARED PURSUANT TO SECTION 43-1-1103 (5), C.R.S. IN EXERCISING  
22 THE POWER OF EMINENT DOMAIN, THE DEPARTMENT SHALL COMPLY WITH  
23 ALL LAWS AND ADMINISTRATIVE RULES THAT GOVERN THE DEPARTMENT'S  
24 USE OF EMINENT DOMAIN FOR STATE HIGHWAY PROJECTS.

1           SECTION 2. 43-1-1201 (5), Colorado Revised Statutes, is  
2           amended to read:

3           43-1-1201. Definitions. As used in this part 12, unless the  
4           context otherwise requires:

5           (5) "Transportation system" means the state transportation  
6           infrastructure and related systems, including highways AND TOLL ROADS  
7           OPEN TO THE PUBLIC and associated rights-of-way, bridges, vehicles,  
8           equipment, park and ride lots, transit stations, transportation management  
9           systems, and intelligent vehicle highway systems, AND OTHER GROUND  
10           TRANSPORTATION SYSTEMS.

11           SECTION 3. 43-1-1202 (1) (a) (X) and (1) (f), Colorado Revised  
12           Statutes, are amended to read:

13           43-1-1202. Department powers. (1) Notwithstanding any other  
14           law, the department may:

15           (a) Solicit and consider proposals, enter into agreements, grant  
16           benefits, and accept contributions for public-private initiatives pursuant  
17           to this part 12 concerning any of the following:

18           (X) Design, financing, construction, operation, maintenance, and  
19           improvement of TOLL ROADS OPEN TO THE PUBLIC AND turnpike projects  
20           within the state pursuant to part 2 of article 3 of this title;

21           (f) Exercise any power of the department authorized by law to  
22           facilitate the development and performance of public-private initiatives,  
23           INCLUDING BUT NOT LIMITED TO THE DEPARTMENT'S POWER OF EMINENT  
24           DOMAIN FOR THE PURPOSE OF ACQUIRING PROPERTY AND RIGHTS-OF-WAY  
25           NECESSARY FOR THE COMPLETION OF A TOLL ROAD OR TOLL HIGHWAY  
26           OPEN TO THE PUBLIC THAT IS INCORPORATED INTO THE STATEWIDE  
27           TRANSPORTATION PLAN PREPARED PURSUANT TO SECTION 43-1-1103 (5).

1           **SECTION 4. Safety clause.** The general assembly hereby finds,  
2 determines, and declares that this act is necessary for the immediate  
3 preservation of the public peace, health, and safety.