

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0571.01 Jason Gelender

SENATE BILL 06-115

SENATE SPONSORSHIP

Takis,

HOUSE SPONSORSHIP

Larson,

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

101 CONCERNING THE RIGHTS OF A LOCAL GOVERNMENT WITH REGARD TO
102 THE CONSTRUCTION OF A PRIVATE TOLL ROAD OR TOLL
103 HIGHWAY.

Bill Summary

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

Requires a corporation formed for the purpose of constructing a toll road or toll highway to file with the county clerk and recorder of each county through which any portion of the proposed toll road or toll highway will pass and update as changes necessitate a map or survey of the proposed route of the toll road or toll highway and to include with the map or survey a statement of the proposed route of the toll road or toll

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.

highway, within 3 miles, and a listing of all property over or across which the proposed toll road or toll highway will be constructed.

Requires a corporation to obtain the consent of the appropriate municipal or county authorities before constructing a private toll road or toll highway through, in, upon, under, or over any street or alley of any city, incorporated town, county, or city and county. Subject to specified limitations, allows a political subdivision to levy a tax, fee, or charge for any right or privilege of constructing or operating a private toll road or toll highway. In any controversy concerning the appropriateness of a fee or charge, requires the political subdivision to prove that the fee or charge is no greater than necessary to defray the direct impacts or costs incurred by the political subdivision.

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

2 **SECTION 1.** 38-2-101, Colorado Revised Statutes, is amended
3 to read:

4 **38-2-101. Who may condemn real estate, rights-of-way, or**
5 **other rights - additional requirements for private toll roads and toll**
6 **highways.** (1) If any corporation formed for the purpose of constructing
7 a road, ditch, reservoir, pipeline, bridge, ferry, tunnel, telegraph line,
8 railroad line, electric line, electric plant, telephone line, or telephone plant
9 is unable to agree with the owner for the purchase of any real estate or
10 right-of-way or easement or other right necessary or required for the
11 purpose of any such corporation for transacting its business or for any
12 lawful purpose connected with the operations of the company, ~~such~~ THE
13 corporation may acquire title to such real estate or right-of-way or
14 easement or other right in the manner provided by law for the
15 condemnation of real estate or right-of-way. Any ditch, reservoir, or
16 pipeline company, in the same manner, may condemn and acquire the
17 right to take and use any water not previously appropriated.

18 (2) A CORPORATION FORMED FOR THE PURPOSE OF CONSTRUCTING
19 A PRIVATE TOLL ROAD OR TOLL HIGHWAY SHALL FILE WITH THE COUNTY

1 CLERK AND RECORDER OF EACH COUNTY THROUGH WHICH ANY PORTION
2 OF THE PROPOSED TOLL ROAD OR TOLL HIGHWAY WILL PASS A MAP OR
3 SURVEY OF THE PROPOSED ROUTE OF THE TOLL ROAD OR TOLL HIGHWAY.
4 THE CORPORATION SHALL INCLUDE WITH THE MAP OR SURVEY A
5 STATEMENT OF THE PROPOSED ROUTE OF THE TOLL ROAD OR TOLL
6 HIGHWAY, WITHIN THREE MILES, AND A LISTING OF ALL PROPERTY OVER OR
7 ACROSS WHICH THE PROPOSED TOLL ROAD OR TOLL HIGHWAY WILL BE
8 CONSTRUCTED, AND SHALL FILE SUPPLEMENTARY MAPS, SURVEYS,
9 STATEMENTS, AND LISTINGS UPON ANY LAWFUL CHANGE OF THE PROPOSED
10 ROUTE OF THE TOLL ROAD OR TOLL HIGHWAY.

11 (3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
12 AUTHORIZE ANY CORPORATION TO CONSTRUCT A PRIVATE TOLL ROAD OR
13 TOLL HIGHWAY THROUGH, IN, UPON, UNDER, OR OVER ANY STREET OR
14 ALLEY OF ANY CITY, INCORPORATED TOWN, COUNTY, OR CITY AND
15 COUNTY WITHOUT FIRST OBTAINING THE CONSENT OF THE MUNICIPAL OR
16 COUNTY AUTHORITIES HAVING POWER TO GIVE THE CONSENT OF THE CITY,
17 INCORPORATED TOWN, COUNTY, OR CITY AND COUNTY.

18 (4) (a) A POLITICAL SUBDIVISION MAY LEVY A TAX, FEE, OR
19 CHARGE FOR ANY RIGHT OR PRIVILEGE OF CONSTRUCTING OR OPERATING
20 A PRIVATE TOLL ROAD OR TOLL HIGHWAY SUCH AS A STREET OR PUBLIC
21 HIGHWAY CONSTRUCTION PERMIT FEE OR AN IMPACT FEE OR OTHER
22 SIMILAR DEVELOPMENT CHARGE DESIGNED TO FUND EXPENDITURES BY
23 THE POLITICAL SUBDIVISION ON CAPITAL FACILITIES NEEDED TO SERVE THE
24 TOLL ROAD OR TOLL HIGHWAY, BUT SHALL ONLY LEVY A CONSTRUCTION
25 PERMIT FEE TO THE EXTENT THAT THE PERMIT FEE APPLIES TO ALL
26 PERSONS SEEKING A CONSTRUCTION PERMIT.

27 (b) ALL PERMIT FEES, IMPACT FEES, OR OTHER SIMILAR

1 DEVELOPMENT CHARGES LEVIED BY A POLITICAL SUBDIVISION ON A
2 CORPORATION CONSTRUCTING OR OPERATING A PRIVATE TOLL ROAD OR
3 TOLL HIGHWAY SHALL BE NO GREATER THAN NECESSARY TO DEFRAY THE
4 COSTS DIRECTLY INCURRED BY THE POLITICAL SUBDIVISION IN PROVIDING
5 SERVICES, AND, IN THE CASE OF IMPACT FEES OR OTHER DEVELOPMENT
6 CHARGES, SHALL BE NO GREATER THAN NECESSARY TO DEFRAY IMPACTS
7 DIRECTLY RELATED TO THE TOLL ROAD OR TOLL HIGHWAY. THE FEES AND
8 CHARGES SHALL ALSO BE REASONABLY RELATED IN TIME TO THE
9 INCURRENCE OF THE IMPACTS OR COSTS. IN ANY CONTROVERSY
10 CONCERNING THE APPROPRIATENESS OF A FEE OR CHARGE, THE POLITICAL
11 SUBDIVISION SHALL HAVE THE BURDEN OF PROVING THAT THE FEE OR
12 CHARGE IS NO GREATER THAN NECESSARY TO DEFRAY THE DIRECT
13 IMPACTS OR COSTS INCURRED BY THE POLITICAL SUBDIVISION. ALL COSTS
14 OF CONSTRUCTION SHALL BE BORNE BY THE CORPORATION CONSTRUCTING
15 OR OPERATING THE TOLL ROAD OR TOLL HIGHWAY.

16 **SECTION 2. Effective date.** This act shall take effect at 12:01
17 a.m. on the day following the expiration of the ninety-day period after
18 final adjournment of the general assembly that is allowed for submitting
19 a referendum petition pursuant to article V, section 1 (3) of the state
20 constitution (August 9, 2006, if adjournment sine die is on May 10,
21 2006); except that, if a referendum petition is filed against this act or an
22 item, section, or part of this act within such period, then the act, item,
23 section, or part, if approved by the people, shall take effect on the date of
24 the official declaration of the vote thereon by proclamation of the
25 governor.