

Deliver to
 Representative:
 McFadyen
 Green
 Borodkin
 Fischer
 Levy
 Marestica
 McNulty
 Merrifield
 Primavera
 Rice
 Sonnenberg
 Swalm
 Vaad
 Sponsor:
 Rep. Stafford

HB1343_L004

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee	Date
-----------------------	------

Committee on Transportation & Energy.

After consideration on the merits, the Committee recommend the following:

HB08-1343 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
 2 substitute the following:

3 "SECTION 1. 7-45-101 (1), (3), and (4). Colorado Revised
 4 Statutes, are amended to read:

5 7-45-101. **Formation of toll road or toll highway company -**
 6 **description of corridor.** (1) A toll road or toll highway company shall
 7 be formed under Colorado law, and, BEFORE THE EFFECTIVE DATE OF THIS
 8 SUBSECTION (1), AS AMENDED, ONLY, its filed formation document shall
 9 specify and map a three-mile corridor within which a toll road or toll
 10 highway or a toll road or toll highway project will be located and identify
 11 the general location of the termini within the corridor. ON AND AFTER
 12 THE EFFECTIVE DATE OF THIS SUBSECTION (1), AS AMENDED, A TOLL ROAD
 13 OR TOLL HIGHWAY COMPANY MAY NOT SPECIFY AND MAP A
 14 TRANSPORTATION CORRIDOR IN ITS FILED FORMATION DOCUMENT, AND
 15 ANY THREE-MILE OR OTHER CORRIDOR SPECIFIED AND MAPPED IN A FILED
 16 FORMATION DOCUMENT FILED BEFORE THE EFFECTIVE DATE OF THIS
 17 SUBSECTION (1), AS AMENDED, IS VOID. If a toll road or toll highway
 18 company complies with the provisions of this article, it shall have the
 19 power to erect toll gates and set and collect tolls.

20 (3) ~~Nothing in articles 30 to 52, 101 to 117, or 121 to 137 of this~~
 21 ~~title shall be construed to authorize a toll road or toll highway company~~
 22 ~~to locate all or any part of its three-mile corridor, as described in~~
 23 ~~subsection (1) of this section, upon any existing toll road, toll highway,~~
 24 ~~or public highway that is, at the time of the formation of the company,~~



1 ~~used as such, or within five miles of the route or corridor for a future toll~~
2 ~~road, toll highway, or toll road or toll highway project that has been~~
3 ~~designated in any previously filed formation document except as~~
4 ~~necessary to cross the toll road, toll highway, project, route, or corridor.~~

5 (4) ~~On June 6, 2006, any toll road or toll highway company whose~~
6 ~~existing certificate of incorporation specifies the route of a future toll~~
7 ~~road or toll highway or the location of a future toll road or toll highway~~
8 ~~project, or any affiliate of such a company, shall have the exclusive right~~
9 ~~for a period of ninety days to file new or amended formation documents~~
10 ~~that encompass land within the specified route.~~

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

13 7-45-101.5. Procedure for locating toll road corridor. (1) ON
14 AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1), A TOLL ROAD OR
15 TOLL HIGHWAY COMPANY THAT WISHES TO CONSTRUCT A TOLL ROAD OR
16 TOLL HIGHWAY SHALL FIRST OBTAIN PRELIMINARY APPROVAL OF THE
17 LOCATION OF A THREE-MILE CORRIDOR WITHIN WHICH THE TOLL ROAD OR
18 TOLL HIGHWAY IS PROPOSED TO BE LOCATED FROM THE EXECUTIVE
19 DIRECTOR OF THE DEPARTMENT.

20 (2) A TOLL ROAD OR TOLL HIGHWAY COMPANY THAT WISHES TO
21 OBTAIN PRELIMINARY APPROVAL FOR THE LOCATION OF A THREE-MILE
22 CORRIDOR AS REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL
23 SUBMIT TO THE EXECUTIVE DIRECTOR FOR REVIEW:

24 (a) A SPECIFICATION AND MAP OF A CORRIDOR, NO MORE THAN
25 THREE-MILES IN WIDTH, WITHIN WHICH A TOLL ROAD OR TOLL HIGHWAY
26 IS PROPOSED TO BE LOCATED, INCLUDING IDENTIFICATION OF THE GENERAL
27 LOCATION AND TERMINI OF THE TOLL ROAD OR TOLL HIGHWAY;

28 (b) AN ASSESSMENT OF THE FEASIBILITY AND LONG-TERM
29 VIABILITY OF THE PROJECT;

30 (c) INFORMATION PERTAINING TO THE TECHNOLOGY TO BE
31 UTILIZED ON THE PROJECT; AND

32 (d) AN ANTICIPATED DATE ON WHICH THE COMPANY WILL REQUEST
33 THE EXECUTIVE DIRECTOR'S APPROVAL OF THE SCOPE OF PLANNED



1 ENVIRONMENTAL DOCUMENTATION AS REQUIRED BY SECTION 7-45-106 (1)
2 (b) (I).

3 (3) NOTWITHSTANDING PRELIMINARY APPROVAL OF THE LOCATION
4 OF A THREE-MILE CORRIDOR BY THE EXECUTIVE DIRECTOR, A TOLL ROAD
5 OR TOLL HIGHWAY COMPANY SHALL NOT COMMENCE THE CONSTRUCTION
6 OF A TOLL ROAD OR TOLL HIGHWAY OR ANY OTHER ELEMENT OF A TOLL
7 ROAD OR TOLL HIGHWAY PROJECT UNTIL ALL REQUIREMENTS OF SECTIONS
8 7-45-105 AND 7-45-106, HAVE BEEN MET. A DECISION TO INCLUDE A TOLL
9 ROAD OR TOLL HIGHWAY IN A REGIONAL OR STATEWIDE TRANSPORTATION
10 PLAN SHALL BE GOVERNED BY THE REQUIREMENTS OF SECTIONS 7-45-105
11 AND 7-45-106 AND THE RECORD OF PROCEEDINGS CONCERNING THE TOLL
12 ROAD OR TOLL HIGHWAY BEFORE THE METROPOLITAN PLANNING
13 ORGANIZATION, THE REGIONAL PLANNING COMMISSION, OR THE
14 TRANSPORTATION COMMISSION.

15 SECTION 3. 7-45-102, Colorado Revised Statutes, is amended
16 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
17 read:

18 7-45-102. **Definitions.** As used in this article, unless the context
19 otherwise requires:

20 (6.3) "DEPARTMENT" MEANS THE DEPARTMENT OF
21 TRANSPORTATION CREATED IN SECTION 24-1-128.7 (1), C.R.S.

22 (6.5) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
23 THE DEPARTMENT.

24 SECTION 4. 7-45-103, Colorado Revised Statutes, is amended
25 to read:

26 7-45-103. **Deadline to commence work - maintenance of effort**
27 **requirement.** A toll road or toll highway company shall commence
28 work, including but not limited to planning, design, environmental
29 mitigation, and other preconstruction work, on the toll road or toll
30 highway proposed in the filed formation document WITHIN THE
31 THREE-MILE CORRIDOR PRELIMINARLY APPROVED BY THE EXECUTIVE
32 DIRECTOR PURSUANT TO SECTION 7-45-101.5 no later than three years
33 after the filing of the document; DATE OF THE PRELIMINARY APPROVAL OR
34 within one year after receiving all necessary approvals for construction.



1 If any necessary approval is the subject of administrative or judicial
2 review, then the one-year period shall be automatically extended until one
3 year after all administrative or judicial review has been concluded. The
4 toll road or toll highway company and any successor toll road or toll
5 highway company shall continue the work from day to day until at least
6 five hundred thousand dollars have been expended on the toll road or toll
7 highway. If the toll road or toll highway company fails to perform the
8 required work, ~~it shall forfeit all rights acquired under its filed formation~~
9 ~~document and be administratively dissolved~~ THE PRELIMINARY APPROVAL
10 OF THE THREE-MILE CORRIDOR BY THE EXECUTIVE DIRECTOR SHALL
11 BECOME VOID AND THE TOLL ROAD OR TOLL HIGHWAY SHALL NOT BE
12 INCLUDED AS AN APPROVED PROJECT IN ANY REGIONAL OR STATEWIDE
13 TRANSPORTATION PLAN. If the toll road or toll highway company
14 performs the required work, it shall have the exclusive right to develop
15 or seek approval to develop a toll road or toll highway within the
16 three-mile corridor ~~specified in its filed formation document as required~~
17 ~~by section 7-45-101 (1)~~ PRELIMINARILY APPROVED BY THE EXECUTIVE
18 DIRECTOR.

19 SECTION 5. 7-45-104 (1), Colorado Revised Statutes, is
20 amended to read:

21 7-45-104. Acquisition of right-of-way. (1) Notwithstanding the
22 provisions of section 38-2-101, C.R.S., on and after June 6, 2006, a toll
23 road or toll highway company shall not have the power to exercise the
24 right of eminent domain to acquire any part of the right-of-way of the
25 three-mile corridor of a proposed toll road or toll highway ~~specified in the~~
26 ~~filed formation document of the company as required by section 7-45-101~~
27 ~~(1)~~ PRELIMINARILY APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO
28 SECTION 7-45-101.5. Nothing herein shall prohibit a toll road or toll
29 highway company from entering into a public-private initiative with the
30 department of transportation in accordance with the provisions of part 12
31 of article 1 of title 43, C.R.S., and as authorized in section 7-45-111 for
32 the purpose of enabling the construction of such a toll road or toll
33 highway, but in such a case the power of eminent domain shall not be
34 exercised by the toll road or toll highway company and may be exercised
35 by the department only for purposes of acquiring property and
36 rights-of-way necessary for the completion of a toll road or toll highway
37 open to the public that is incorporated into the comprehensive statewide
38 transportation plan prepared pursuant to section 43-1-1103 (5), C.R.S.
39 The department may not use the power of eminent domain provided in



1 this section to acquire a cemetery, as defined in section 10-15-102 (2),
2 C.R.S., or property owned by or primarily used by a religious
3 organization. In exercising the power of eminent domain, the department
4 shall comply with all laws and administrative rules that govern the
5 department's use of eminent domain for state highway projects, and the
6 rights-of-way acquired shall form a corridor no larger than that approved
7 by all affected metropolitan planning organizations, regional planning
8 commissions, and the transportation commission pursuant to sections
9 7-45-105 and 7-45-106. In accordance with section 43-1-1204 (3) (b),
10 C.R.S., the department may not sell or otherwise transfer ownership of
11 property or rights-of-way acquired through the exercise of the power of
12 eminent domain as authorized by this section to a toll road or toll highway
13 company.

14 **SECTION 6.** 7-45-105 (1) and (3) (b), Colorado Revised
15 Statutes, are amended to read:

16 **7-45-105. Planning standards and project review.** (1) A toll
17 road or toll highway company shall not commence the construction of a
18 toll road or toll highway or of any other element of a toll road or toll
19 highway project until the toll road or toll highway or other element has
20 been reviewed by every metropolitan planning organization or regional
21 planning commission that is located in whole or in part within the
22 three-mile corridor ~~designated by the toll road or toll highway company~~
23 ~~as required by section 7-45-101 (1)~~ PRELIMINARILY APPROVED BY THE
24 EXECUTIVE DIRECTOR PURSUANT TO SECTION 7-45-101.5 and has been
25 included in the regional transportation plan in effect for the region
26 pursuant to section 43-1-1103, C.R.S., and in the comprehensive
27 statewide transportation plan required pursuant to section 43-1-1103 (5),
28 C.R.S. In designated nonattainment areas for any pollutant pursuant to
29 the federal "Clean Air Act", 42 U.S.C. sec. 7401 et seq., as amended, a
30 metropolitan planning organization or regional planning commission shall
31 not include a toll road or toll highway project in the regional
32 transportation plan unless the organization or commission has performed
33 an emissions analysis that demonstrates that regional emissions and local
34 project emissions will continue to conform to the state implementation
35 plan if the project is added to the regional transportation plan. The toll
36 road or toll highway company shall pay the reasonable actual costs for the
37 emissions analysis. Each organization or commission may condition its
38 addition of a toll road or toll highway project into the regional
39 transportation plan upon acceptable environmental mitigation activities



1 and commitments to offset incremental costs of public services that will
2 be necessary as a result of development of the project within the planning
3 region.

4 (3) (b) Upon request of a local government located in whole or in
5 part within the three-mile corridor of a proposed toll road or toll highway
6 or toll road or toll highway project as specified pursuant to section
7 ~~7-45-101 (1)~~ PRELIMINARILY APPROVED BY THE EXECUTIVE DIRECTOR
8 PURSUANT TO SECTION 7-45-101.5, a toll road or toll highway company
9 shall consult with representatives from the local government and shall
10 consider available mitigation of demonstrable negative impacts on the
11 local government or its citizens that would result from the construction,
12 operation, or financing of the toll road or toll highway or project.

13 SECTION 7. 7-45-108, Colorado Revised Statutes, is amended
14 to read:

15 **7-45-108. County clerk and property owner notification.**

16 (1) Within ninety THIRTY days of filing ~~a formation document pursuant~~
17 ~~to section 7-45-101~~ RECEIVING PRELIMINARY APPROVAL OF A THREE-MILE
18 CORRIDOR FROM THE EXECUTIVE DIRECTOR PURSUANT TO SECTION
19 7-45-101.5, a toll road or toll highway company shall:

20 (a) ~~Cause MAIL written notice to be sent to and recorded by the~~
21 ~~clerk and recorder of each county that includes territory that is included~~
22 ~~within the three-mile corridor specified in the filed formation document~~
23 ~~of the intent of the toll road or toll highway company to construct a toll~~
24 ~~road, toll highway, or toll road or toll highway project within that corridor~~
25 ~~and shall mail the written notice~~ THE CORRIDOR to each person who owns
26 real property within the three-mile corridor. The toll road or toll highway
27 company shall send the notice by certified mail and shall generally
28 describe the proposed toll road, toll highway, or project, including its
29 location, termini, improvements, and operation. The notice shall also
30 explain that the project may not go forward until the process for
31 approving the project required by this article has been completed,
32 summarize the approval process, identify opportunities during the process
33 for public involvement, and provide a contact for additional information.

34 (b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1.5) OF THIS
35 SECTION, file a disclaimer of interest and map of the three-mile corridor
36 with the clerk and recorder's office in the county of residence of each



1 person to whom the company provided written notice pursuant to
2 paragraph (a) of this subsection (1) that expressly states that the filed
3 formation document OR AGREEMENT does not effect an interest in the
4 person's real property within the three-mile corridor specified in the filed
5 formation document AGREEMENT.

6 (1.5) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
7 (1.5), A PRIVATE TOLL ROAD OR TOLL HIGHWAY COMPANY MAY NOT FILE
8 A DISCLAIMER OF INTEREST AND MAP AS OTHERWISE REQUIRED BY
9 PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND MAY NOT FILE
10 WITH THE CLERK AND RECORDER OF ANY COUNTY THE WRITTEN NOTICE
11 REQUIRED TO BE MAILED TO PERSONS WHO OWN REAL PROPERTY IN ITS
12 CORRIDOR PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS
13 SECTION. IN ADDITION TO THE WRITTEN NOTICE REQUIRED BY PARAGRAPH
14 (a) OF SUBSECTION (1) OF THIS SECTION, ON AND AFTER THE EFFECTIVE
15 DATE OF THIS SUBSECTION (1.5), A PRIVATE TOLL ROAD OR TOLL HIGHWAY
16 COMPANY, WITHIN THIRTY DAYS OF THE DATE ON WHICH ALL
17 PREREQUISITES TO THE COMMENCEMENT OF WORK ON ANY ELEMENT OF
18 THE TOLL ROAD OR TOLL HIGHWAY HAVE BEEN SATISFIED, SHALL CAUSE
19 WRITTEN NOTICE TO BE SENT TO AND RECORDED BY THE CLERK AND
20 RECORDER OF EACH COUNTY THAT INCLUDES TERRITORY WITHIN THE
21 THREE-MILE CORRIDOR PRELIMINARILY APPROVED BY THE EXECUTIVE
22 DIRECTOR PURSUANT TO SECTION 7-45-101.5 OF THE INTENT OF THE
23 COMPANY TO COMMENCE CONSTRUCTION OF THE TOLL ROAD OR TOLL
24 HIGHWAY WITHIN THE CORRIDOR AND SHALL MAIL THE WRITTEN NOTICE
25 BY CERTIFIED MAIL TO EACH PERSON WHO OWNS REAL PROPERTY WITHIN
26 THE CORRIDOR. THE NOTICE SHALL DESCRIBE THE TOLL ROAD OR TOLL
27 HIGHWAY, INCLUDING ITS LOCATION, TERMINI, IMPROVEMENTS, AND
28 OPERATION, AND THE COMPANY SHALL MAIL, FILE, AND RECORD UPDATED
29 WRITTEN NOTICE UPON ANY LAWFUL CHANGE OF THE PROPOSED ROUTE OF
30 THE TOLL ROAD OR TOLL HIGHWAY. ANY PROPERLY AUTHORIZED AND
31 LEGALLY FILED DISCLAIMER OF INTEREST, MAP, OR WRITTEN NOTICE FILED
32 OR RECORDED BY A PRIVATE TOLL ROAD OR TOLL HIGHWAY COMPANY
33 BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1.5) IS HEREBY
34 DECLARED VOID AND OF NO EFFECT. THE VOIDING OF A DISCLAIMER OF
35 INTEREST, MAP, OR WRITTEN NOTICE PURSUANT TO THIS SUBSECTION (1.5)
36 CONCLUSIVELY ESTABLISHES THAT THE DISCLAIMER OF INTEREST, MAP, OR
37 WRITTEN NOTICE DOES NOT AFFECT THE TITLE TO ANY PROPERTY OR HAVE
38 ANY OTHER LEGAL EFFECT, AND A TITLE INSURANCE COMPANY SHALL
39 EXCLUDE A VOID DISCLAIMER OF INTEREST, MAP, OR WRITTEN NOTICE
40 FROM ANY DOCUMENTS IT PREPARES ON AND AFTER THE EFFECTIVE DATE



1 OF THIS SUBSECTION (1.5).

2 (2) ~~A toll road or toll highway company that has filed a formation~~
3 ~~document prior to June 6, 2006, and that has not satisfied the notice~~
4 ~~requirements of subsection (1) of this section shall file a new or amended~~
5 ~~formation document within ninety days of June 6, 2006, that includes the~~
6 ~~information required by section 7-45-101 (1) and that certifies that the~~
7 ~~company has complied with or will comply with the requirements of said~~
8 ~~subsection (1) within ninety days of June 6, 2006.~~

9 (3) ~~Compliance with the notification and filing requirements of~~
10 ~~subsections (1) and (2) of this section shall constitute compliance with the~~
11 ~~notification, filing, and recording requirements of section 38-2-101 (2),~~
12 ~~C.R.S., as enacted by Senate Bill 06-115, enacted at the second regular~~
13 ~~session of the sixty-fifth general assembly.~~

14 **SECTION 8.** 7-45-109, Colorado Revised Statutes, is amended
15 to read:

16 **7-45-109. Use of land by toll road or toll highway company -**
17 **right to repurchase unneeded condemned property.** Any interest in
18 real property that is obtained by a toll road or toll highway company,
19 other than a leasehold interest in property or rights-of-way acquired and
20 owned by the department of transportation as authorized in section
21 7-45-104, ~~within the A three-mile corridor specified in its filed formation~~
22 ~~document~~ PRELIMINARILY APPROVED BY THE EXECUTIVE DIRECTOR
23 PURSUANT TO SECTION 7-45-101.5 AND THAT is not used for a toll road or
24 toll highway project shall not be used for commercial, residential, or
25 industrial development; except that this limitation on use shall apply only
26 during the period in which the toll road or toll highway company is
27 developing or operating a toll road or toll highway within the corridor.
28 If the development or operation of a toll road or toll highway ceases after
29 the department has exercised the power of eminent domain to acquire
30 property deemed at the time of acquisition to be necessary for the
31 completion of the toll road or toll highway as authorized in section
32 7-45-104, a person from whom the department acquired property through
33 the exercise of eminent domain has an exclusive option to repurchase the
34 property acquired at the price paid for the property as just compensation
35 by the department. The person may exercise the option within eighteen
36 months following the cessation of the development or operation of the toll
37 road or toll highway.



