

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL REVISED FISCAL IMPACT

(replaces fiscal note dated February 24, 2014)

Drafting Number: LLS 14-0616**Date:** March 6, 2014**Prime Sponsor(s):** Sen. Jahn
Rep. May**Bill Status:** House Judiciary**Fiscal Analyst:** Alex Schatz (303-866-4375)**SHORT TITLE:** PIPELINE RIGHT-OF-WAY

Fiscal Impact Summary*	FY 2013-2014 (current year)	FY 2014-2015	FY 2015-2016
State Revenue			
State Expenditures	Minimal cost increase.	Minimal workload increase.	
FTE Position Change			
Appropriation Required: None.			

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

This **reengrossed** bill clarifies that pipeline companies that convey oil, gasoline, or other petroleum products may acquire rights-of-way by eminent domain pursuant to Article 5, Title 38, C.R.S. The bill reiterates the applicability of state constitutional provisions concerning just compensation for property taken by eminent domain, as well as federal pipeline safety regulations.

If a county or municipality with regulatory jurisdiction over a proposed petroleum, petroleum products, or hazardous liquids pipeline of at least six-inch diameter does not have adequate resources to evaluate the safety of the pipeline, that county or municipality must seek professional assistance, with costs paid by the pipeline applicant. By July 1, 2014, the Department of Local Affairs (DOLA) must notify all counties and municipalities of this requirement to seek assistance. A county or municipality may request DOLA's assistance to locate professionals qualified to evaluate pipeline safety.

Background

Pipeline companies conveying petroleum products have historically negotiated for rights-of-way, and prepared condemnation petitions where those negotiations failed to obtain critical rights-of-way, on the basis of eminent domain powers vested in "pipeline companies" by Article 5, Title 38, C.R.S. Industry practices in Colorado were also historically informed by various other cases and statutory provisions granting the power of eminent domain to pipeline companies, such as Sections 38-1-101.5 and 38-2-101, C.R.S. This bill overrides the May 2012 Colorado Supreme Court decision in the case of *Larson v. Sinclair Transportation Company*, which held that only pipeline companies in the business of transmitting electricity or natural gas may use the power of eminent domain in Article 5, Title 38, C.R.S., specifically Section 38-5-105, C.R.S.

State Expenditures

In the current fiscal year, FY 2013-14, DOLA will expend minimal effort to produce and disseminate a notice regarding the bill's requirement for local governments to seek assistance if they cannot already thoroughly evaluate the safety of a proposed pipeline. The fiscal note assumes that this notification may be sent electronically, or included with other regular correspondence to county and municipal governments, and will not require new appropriations.

In FY 2014-15 and future fiscal years, DOLA will compile information regarding professional consultants that evaluate pipeline safety and use this information to respond to requests for assistance made by counties and municipalities. Workload to compile consultant information and advise local governments is minimal and will not require new appropriations.

Local Government Impact

The bill results in minimal fiscal impacts to certain counties and municipalities. Cities, towns, and counties that lie in the path of proposed major commercial petroleum and hazardous liquids pipelines may increase expenditures for professional consultants, to ensure compliance with the bill's standard of thorough evaluation. Many local governments have professional staff, existing fees, and other procedures that apply to pipeline applications. Any increase in costs will be offset by revenue from pipeline applicants, who must pay for professional assistance.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Agriculture	Higher Education	Local Affairs
Counties	Office of Information Technology	Transportation
Municipalities	Natural Resources	Personnel
Law	Property Taxation	Regulatory Agencies
Judicial Branch		