

**First Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 25-1064.01 Nicole Myers x4326

**HOUSE BILL 25-1334**

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**HOUSE SPONSORSHIP**

**Bacon,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

Transportation, Housing & Local Government

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING A MODIFICATION OF THE "SPECIAL DISTRICT ACT" TO**  
102             **CLARIFY THE CONDEMNATION AUTHORITY GRANTED TO**  
103             **CERTAIN SPECIAL DISTRICTS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Currently, the "Special District Act" (act) grants metropolitan districts and water and sanitation districts the power to have and exercise the powers of eminent domain and dominant eminent domain, but does not define these powers. The bill specifies that the powers of eminent domain and dominant eminent domain granted to metropolitan districts

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.*  
*Dashes through the words or numbers indicate deletions from existing law.*

and water and sanitation districts in the act do not authorize the exercise of the power of dominant eminent domain to acquire state-owned property or the property of a home rule city, town, city and county, or county.

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

2             **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4             (a) During the 1981 legislative session, the general assembly  
5 enacted House Bill 81-1320, which repealed and reenacted the "Special  
6 District Act", effective July 1, 1981. In repealing and reenacting the  
7 "Special District Act", the general assembly granted metropolitan districts  
8 and water and sanitation districts the power to have and exercise the  
9 powers of eminent domain and dominant eminent domain as specified in  
10 sections 32-1-1004 (4) and 32-1-1006 (1)(f), Colorado Revised Statutes;

11            (b) The "Special District Act" as originally enacted and amended  
12 did not define the meaning of the power of dominant eminent domain;

13            (c) In granting the powers of eminent domain and dominant  
14 eminent domain, it was not the general assembly's intent to grant to  
15 metropolitan districts and water and sanitation districts the power to  
16 acquire through condemnation, through the exercise of the power of  
17 dominant eminent domain, state-owned property or the property of home  
18 rule municipal political subdivisions of the state that are established  
19 pursuant to article XX of the state constitution; and

20            (d) In *Town of Parker v. Colorado Division of Parks & Outdoor*  
21 *Recreation*, 860 P.2d 584 (Colo. App. 1993), the Colorado court of  
22 appeals correctly concluded that the power of dominant eminent domain  
23 under section 32-1-1006, Colorado Revised Statutes, does not authorize

1 the condemnation of state-owned property.

2 (2) The general assembly further finds and declares that it is  
3 necessary to clarify its original intent in granting the power of dominant  
4 eminent domain to metropolitan districts and water and sanitation districts  
5 through an amendment expressing the general assembly's intent that the  
6 power of dominant eminent domain may not be exercised to condemn  
7 state-owned property or the property of home rule municipal political  
8 subdivisions of the state that are created under article XX of the state  
9 constitution and home rule counties created under section 16 of article  
10 XIV of the state constitution.

11 **SECTION 2.** In Colorado Revised Statutes, 32-1-1004, **amend**  
12 (4) as follows:

13 **32-1-1004. Metropolitan districts - additional powers and**  
14 **duties.** (4) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4)(b)  
15 OF THIS SECTION, a metropolitan district may have and exercise the ~~power~~  
16 POWERS of eminent domain and dominant eminent domain and, in the  
17 manner provided by article 1 of title 38, may take any property necessary  
18 to the exercise of the powers granted, both within and without the special  
19 district, only for the purposes of fire protection, sanitation, street  
20 improvements, television relay and translator facilities, water, or water  
21 and sanitation, except for the acquisition of water rights, and, within the  
22 boundaries of the district, if the district is providing park and recreation  
23 services, only for the purpose of easements and rights-of-way for access  
24 to park and recreational facilities operated by the special district and only  
25 where no other access to such facilities exists or can be acquired by other  
26 means. A metropolitan district shall not exercise its power of dominant  
27 eminent domain within a municipality or the unincorporated area of a

1 county, other than within the boundaries of the jurisdiction that approved  
2 its service plan, without a written resolution approving the exercise of  
3 dominant eminent domain by the governing body of the municipality in  
4 connection with property that is located within an incorporated area or by  
5 the board of county commissioners of the county in connection with  
6 property that is located within an unincorporated area.

7 (b) A DISTRICT SHALL NOT EXERCISE THE POWER OF DOMINANT  
8 EMINENT DOMAIN TO ACQUIRE PROPERTY OF THE STATE OR OF A HOME  
9 RULE CITY, TOWN, OR CITY AND COUNTY ESTABLISHED UNDER ARTICLE XX  
10 OF THE STATE CONSTITUTION OR OF A HOME RULE COUNTY ESTABLISHED  
11 UNDER SECTION 16 OF ARTICLE XIV OF THE STATE CONSTITUTION; EXCEPT  
12 THAT THIS SUBSECTION (4)(b) DOES NOT CREATE, ELIMINATE, MODIFY, OR  
13 OTHERWISE IMPAIR RIGHTS OR LIABILITIES THAT ARE VESTED ON THE  
14 EFFECTIVE DATE OF THIS SUBSECTION (4)(b) OR CREATE NEW OBLIGATIONS  
15 OR ATTACH NEW DISABILITIES WITH RESPECT TO PAST TRANSACTIONS.

16 **SECTION 3.** In Colorado Revised Statutes, 32-1-1006, **amend**  
17 (1)(f) as follows:

18 **32-1-1006. Sanitation, water and sanitation, or water districts**  
19 **- additional powers - special provisions.** (1) In addition to the powers  
20 specified in section 32-1-1001, the board of any sanitation, water and  
21 sanitation, or water district has the following powers for and on behalf of  
22 such district:

23 (f) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(f)(II)  
24 OF THIS SECTION, to have and exercise the ~~power~~ POWERS of eminent  
25 domain and dominant eminent domain and, in the manner provided by  
26 article 1 of title 38, ~~C.R.S.~~, to take any property necessary to the exercise  
27 of the powers granted, both within and without the special district, except

1 for the acquisition of water rights.

2 (II) A DISTRICT SHALL NOT EXERCISE THE POWER OF DOMINANT  
3 EMINENT DOMAIN TO ACQUIRE PROPERTY OF THE STATE OR OF A HOME  
4 RULE CITY OR TOWN, OR CITY AND COUNTY ESTABLISHED UNDER ARTICLE  
5 XX OF THE STATE CONSTITUTION OR A HOME RULE COUNTY CREATED  
6 UNDER SECTION 16 OF ARTICLE XIV OF THE STATE CONSTITUTION; EXCEPT  
7 THAT THIS SUBSECTION (1)(f)(II) SHALL NOT CREATE, ELIMINATE, MODIFY,  
8 OR OTHERWISE IMPAIR RIGHTS OR LIABILITIES THAT ARE VESTED ON THE  
9 EFFECTIVE DATE OF THIS SUBSECTION (1)(f)(II), OR CREATE NEW  
10 OBLIGATIONS OR ATTACH NEW DISABILITIES WITH RESPECT TO PAST  
11 TRANSACTIONS.

12 **SECTION 4. Safety clause.** The general assembly finds,  
13 determines, and declares that this act is necessary for the immediate  
14 preservation of the public peace, health, or safety or for appropriations for  
15 the support and maintenance of the departments of the state and state  
16 institutions.