



**Colorado  
Legislative  
Council  
Staff**

**Initiative # 113**

**INITIAL FISCAL  
IMPACT STATEMENT**

**Date:** February 6, 2018

**Fiscal Analyst:** Josh Abram (303-866-3561)

**LCS TITLE:** TAKING PROPERTY FOR PUBLIC USE

Fiscal Impact Summary	FY 2018-19	FY 2020-21	FY 2021-2022
State Revenue	Increase		
State Expenditures	Increase		

**Note:** This *initial* fiscal impact estimate has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the Blue Book Voter Guide if new information becomes available.

**Summary of Measure**

Eminent domain is the power of government to take private property for public use. A common application of this power is taking private property for roads, public schools, or other government buildings. The Colorado constitution and state statutes prohibit the taking or damaging of private property for public use without just compensation to the property owner. This initiative amends the constitutional language controlling eminent domain.

Under Initiative 113, private property is deemed to have been taken for public use whenever the state or any local government imposes a law, regulation or regulatory condition that operates to reduce the fair market value of real property for uses that were allowable at the time the owner acquired the property.

**State Revenue**

Procedurally, when a governmental body seeks to acquire private property through eminent domain, a court or a court-appointed commission is required to establish the amount of just compensation. Filing fees to initiate proceedings with the court system creates new state revenue. This measure will result in additional court cases, and therefore additional fee revenue; however, because the number of future court cases brought by private property owners in response to future government laws or regulations is unknown, no estimate can be made.

**State Expenditures**

State expenditures will increase each time a court in the Judicial Branch decides that a law or regulation has reduced the fair market value of the private property, and therefore, that the state must provide just compensation. The amount of new expenditures required to compensate property holders cannot be estimated; however, this fiscal note assumes this increase could be significant for all branches of state government.

Workload in the Judicial Branch will increase to adjudicate cases, as well as in the Department of Law each time the Attorney General is required to defend the state against a takings claim. This fiscal note assumes that the initiative is not retroactive, and applies only to alleged damage occurring after the measure's effective date.

## **Local Government Impact**

Similar to the state, local government workload and expenditures could increase significantly for each law, regulation or regulatory condition, that local courts rule has reduced the fair market value of private property, and therefore, that the local government must provide just compensation. Local courts also collect a fee for court filings. An increase in court cases will result in an increase in local government revenue.

## **Economic Impact**

The measure will increase the cost of future laws, regulations or regulatory conditions. Public compensation for lost market value will allow certain property owners to maintain a consistent economic position despite changing regulatory conditions that might have reduced the productive value and the economic gains from their property. Governments will be required to cut spending on government programs and / or increase revenue from taxation or fees. This fiscal note does not attempt to predict a behavioral change by government in response to an increased requirement to compensate private property owners.

## **Effective Date**

If approved by voters, the ballot initiative takes effect upon proclamation of the Governor within 30 days of the official canvas of votes at the 2018 general election.

## **State and Local Government Contacts**

All Agencies

## **Abstract of Initiative 113: TAKING PROPERTY FOR PUBLIC USE**

**This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of January, 2018, identifies the following impacts:**

The abstract includes estimates of the fiscal impact of the initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at [www.ColoradoBlueBook.com](http://www.ColoradoBlueBook.com) and the abstract will be included in the ballot information booklet that is prepared for the initiative.

### **Government Revenue and Expenditures**

The measure requires that government compensate property owners anytime a law or regulation reduces the fair market value of private property. The measure will increase state and local expenditures to compensate private property owners as a result of regulatory or legislative action, and will increase state and local revenue from court fees.

### **Economic Impact**

The measure will increase the cost of future laws, regulations or regulatory conditions. Public compensation for lost market value will allow certain property owners to maintain a consistent economic position despite changing regulatory conditions that might have reduced the productive value and the economic gains from their property. Governments will be required to cut spending on government programs and / or increase revenue from taxation or fees.