

First Extraordinary Session
Sixty-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 01S-2028.01 Jason Gelender

SENATE BILL 01S-003

SENATE SPONSORSHIP

Evans,

HOUSE SPONSORSHIP

Stafford,

Senate Committees

Public Policy and Planning

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE OFFICE OF SMART GROWTH, AND, IN CONNECTION**
102 **THEREWITH, INCREASING THE PERCENTAGE OF MONEYS IN THE**
103 **COLORADO HERITAGE COMMUNITIES FUND THAT THE OFFICE**
104 **MAY EXPEND FOR THE PURPOSE OF ISSUING GRANTS TO LOCAL**
105 **GOVERNMENTS FOR THE DEVELOPMENT OF MASTER PLANS AND**
106 **TRANSFERRING THE COLORADO LAND USE COMMISSION TO THE**
107 **OFFICE.**

Bill Summary

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

Increases the percentage of moneys in the Colorado heritage

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.

communities fund that the office of smart growth may expend for the purpose of issuing grants to local governments for the development of master plans. As of July 1, 2001, transfers the Colorado land use commission from the office of the governor to the office of smart growth. Abolishes the existing commission on June 30, 2001.

Makes conforming amendments.

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

SECTION 1. 24-32-3207 (2), Colorado Revised Statutes, is amended to read:

24-32-3207. Colorado heritage communities fund - creation - source of funds. (2) Not more than an amount equal to ~~thirty~~ FIFTY percent of any moneys in the fund as of the beginning of any given fiscal year shall be made available before the end of that same fiscal year to local governments in grant moneys for the development of master plans pursuant to section 24-32-3203 (3) (d).

SECTION 2. Article 32 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART, CONTAINING RELOCATED PROVISIONS, to read:

PART 33

COLORADO LAND COMMISSION

24-32-3301. [Formerly 24-65-101] Short title. This article shall be known and may be cited as the "Colorado Land Use Act".

24-32-3302. [Formerly 24-65-102] Legislative declaration.
(1) The general assembly finds and declares that the rapid growth and development of the state and the resulting demands on its land resources make new and innovative measures necessary to encourage planned and orderly land use development; to provide for the needs of agriculture, forestry, industry, business, residential communities, and recreation in

1 future growth; to encourage uses of land and other natural resources
2 which are in accordance with their character and adaptability; to conserve
3 soil, water, and forest resources; to protect the beauty of the landscape;
4 and to promote the efficient and economical use of public resources. The
5 general assembly further finds and declares that there is an increasing
6 mutuality of interest and responsibility between the various levels of
7 government in the state which calls for coordinate and unified policies in
8 planning for growth and development in the interests of order and
9 economy and that the most effective means of attaining the objects set
10 forth in this article is the adoption of the statewide system of land use.

11 (2) In order to provide the leadership necessary to meet the
12 objectives of this article, the general assembly authorizes the Colorado
13 land use commission to develop and hold hearings upon state land use
14 plans and maps and related implementation techniques. It is the intent of
15 the general assembly that land use, land use planning, and quality of
16 development are matters in which the state has responsibility for the
17 health, welfare, and safety of the people of the state and for the protection
18 of the environment of the state.

19 **24-32-3303. [Formerly 24-65-103] Colorado land use**
20 **commission.** (1) ON JUNE 30, 2001, THE COLORADO LAND USE
21 COMMISSION AS IT EXISTED PRIOR TO JUNE 30, 2001, IS ABOLISHED, AND
22 THE TERMS OF THE MEMBERS OF THE COMMISSION THEN SERVING ARE
23 TERMINATED.

24 ~~(1)~~ (2) (a) There is hereby ~~established, within the office of the~~
25 ~~governor,~~ CREATED the Colorado land use commission, referred to in this
26 ~~article~~ PART 33 as the "commission", WHICH IS CREATED WITHIN THE
27 OFFICE OF SMART GROWTH CREATED IN SECTION 24-32-3203. The

1 commission shall consist of nine members who shall be appointed in the
2 manner and shall serve for terms as set forth in this section. ~~The~~
3 ~~commission shall assume its duties June 1, 1970, and all terms of~~
4 ~~commission members shall commence on that date.~~

5 (b) Six members shall be appointed by the governor, one from
6 each congressional district, one of whom shall reside west of the
7 continental divide, but no more than three members shall be from any one
8 major political party. ~~Appointments made to take effect on January 1,~~
9 ~~1983, shall be made in accordance with section 24-1-135. On and after~~
10 ~~January 1, 1983, and prior to June 15, 1987, the terms of office of the~~
11 ~~members appointed under this paragraph (b) shall be five years. Persons~~
12 ~~holding office on June 15, 1987, are subject to the provisions of section~~
13 ~~24-1-137. Thereafter~~ Members shall be appointed for terms of four years
14 each. A vacancy on the commission occurs whenever any member moves
15 out of the congressional district from which ~~he was~~ appointed. A member
16 who moves out of such congressional district shall promptly notify the
17 governor of the date of such move, but such notice is not a condition
18 precedent to the occurrence of the vacancy. Any vacancies shall be filled
19 by appointment of the governor for the unexpired term.

20 (c) The governor shall also appoint three members who shall serve
21 at his OR HER pleasure, one of whom shall reside in southwest Colorado
22 and one in northwest Colorado. No more than two of such members shall
23 be members of the same major political party.

24 (2) (3) The commission shall elect a ~~chairman~~ CHAIR from among
25 its members. The members shall receive no compensation for their
26 service on the commission but shall be reimbursed for their actual and
27 necessary expenses incurred in the performance of their duties.

1 (3) (4) The commission is authorized to utilize its own staff or to
2 contract for services in the performance of its duties. The departments
3 and agencies of state and local government shall make available to the
4 commission such data and information as are necessary for it to perform
5 its duties. The commission may receive and utilize funds from federal or
6 other governmental agencies and grants and gifts from any other sources.
7 It shall adopt rules for its conduct and maintain a public record of its
8 activities, accomplishments, and recommendations.

9 **24-32-3304. [Formerly 24-65-104] Duties of the commission**
10 **- temporary emergency power.** ~~(1) (a) In order to carry out the~~
11 ~~purposes of this article, the commission is authorized and directed to~~
12 ~~develop, hold hearings upon, and submit to the general assembly a~~
13 ~~progress report by February 1, 1972, an interim plan by September 1,~~
14 ~~1972, and a final land use planning program by December 1, 1973. All~~
15 ~~such submittals shall relate to a total land use planning program for the~~
16 ~~state of Colorado and shall include related implementation techniques,~~
17 ~~which may include but need not be limited to an environmental matrix,~~
18 ~~management matrix, growth monitoring system, and impact model. In~~
19 ~~developing the land use planning program, the commission shall utilize~~
20 ~~and recognize, to the fullest extent possible, all existing uses, plans,~~
21 ~~policies, standards, and procedures affecting land use at the local, state,~~
22 ~~and federal levels and particularly note where, in its opinion, deficiencies~~
23 ~~exist. The land use planning program shall also specify development~~
24 ~~policy and procedures for the future.~~

25 (b) ~~In developing its land use planning program, the commission~~
26 ~~shall recognize that the decision-making authority as to the character and~~
27 ~~use of land shall be at the lowest level of government possible consistent~~

1 with the purposes of this article. In this regard, the commission may
2 establish criteria by which land use management problems will be
3 classified as matters of state concern, matters of regional concern, matters
4 of local concern, or such other classification as the commission may
5 deem necessary and proper. Furthermore, the commission shall
6 specifically include in its land use planning program the roles,
7 responsibilities, and authority of the various levels and agencies of
8 government.

9 (c) The commission shall appoint, with approval of the governor,
10 and consult with an advisory committee in the preparation of the land use
11 planning program. Such advisory committee shall exist until January 10,
12 1974, and shall include but need not be limited to one representative of
13 each of the following interests: Utilities, communication, transportation,
14 petroleum, municipal government, county government, regional planning
15 commissions, conservation, livestock, construction, Negro community,
16 Mexican-American community, mining, industry, agriculture, land
17 development, recreation, timber, real estate, and water, but at least one
18 member of the advisory committee shall be appointed from each planning
19 region of the state designated by the division of planning.

20 (d) Four members of the general assembly shall also be appointed
21 to the advisory committee to the commission to serve until January 10,
22 1974. Two members shall be appointed by the speaker of the house of
23 representatives, one member from each of the two major political parties;
24 and two members shall be appointed by the president of the senate, one
25 member from each of the two major political parties.

26 (e) In the preparation of the land use planning program, the
27 commission shall hold such public hearings as it deems necessary, but in

1 ~~any event at least one meeting shall be held in each planning region of the~~
2 ~~state designated by the division of planning.~~

3 ~~(2)(a)~~ (1) Whenever, in the normal course of its duties as set forth
4 in this article, the commission determines that there is in progress or
5 proposed a land development activity which constitutes a danger of
6 injury, loss, or damage of serious and major proportions to the public
7 health, welfare, or safety, the commission shall immediately give written
8 notice to the board of county commissioners of each county involved of
9 the pertinent facts and dangers with respect to such activity. If said board
10 of county commissioners does not remedy the situation within a
11 reasonable time, the commission may request the governor to review such
12 facts and dangers with respect to such activity. If the governor grants such
13 request, a review shall be conducted by the governor at a meeting with
14 the commission and the boards of county commissioners of the counties
15 involved. If, after such review, the governor determines that such activity
16 does constitute such a danger, the governor may direct the commission to
17 issue its written cease and desist order to the person in control of such
18 activity. Such order shall require that said person immediately
19 discontinue such activity. If such activity, notwithstanding such order, is
20 continued, the commission may apply to the district court for the county
21 in which such activity is located for a temporary restraining order,
22 preliminary injunction, or permanent injunction, as provided for in the
23 Colorado rules of civil procedure. Any such action shall be given
24 precedence over all other matters pending in such district court. The
25 institution of such action shall confer upon said district court exclusive
26 jurisdiction to determine finally the subject matter thereof.

27 ~~(b)~~ (2) In the event the commission issues such cease and desist

1 order or a district court issues such a temporary restraining order,
2 preliminary injunction, or permanent injunction, the commission shall
3 proceed immediately to establish the planning criteria necessary to
4 eliminate or avoid such danger. The appropriate local governmental
5 agency shall then take immediate action to implement the aforementioned
6 planning criteria.

7 (e) (3) Where such a land development activity is located wholly
8 within a city, city and county, or town, the city council or board of
9 trustees shall have such jurisdiction and be subject to such requirements
10 of this subsection (2) SECTION as are otherwise applicable to the board of
11 county commissioners.

12 **24-32-3305. [Formerly 24-65-106] Commission staff to assist**
13 **counties and municipalities.** The commission, within available
14 appropriations, shall assign full-time professional staff members to assist
15 counties and municipalities in the program established under article 65.1
16 of this title and to monitor progress in the same.

17 **SECTION 3.** 24-1-135 (2), Colorado Revised Statutes, is
18 amended to read:

19 **24-1-135. Effect of congressional redistricting.** (2) Any
20 member of a board, commission, or committee who was appointed or
21 elected to such office as a resident of a designated congressional district
22 pursuant to section 24 (2) of article VI of the state constitution or sections
23 11-2-102, 12-22-104, 12-35-104, 12-47.1-301, 22-2-105, 23-1-102,
24 23-20-102, 23-21-503, or 23-60-104, C.R.S., or sections 24-32-308,
25 24-32-706, ~~or 24-65-103~~, OR 24-32-3303, or sections 25-1-103, 25-1-902,
26 25-3.5-104, 26-11-101, 33-11-105, 34-60-104, or 35-65-401, C.R.S., and
27 who no longer resides in such congressional district solely because of a

1 change made to the boundaries of such district subsequent to the 1990
2 federal decennial census, is eligible to hold office for the remainder of the
3 term to which the member was elected or appointed, notwithstanding
4 such nonresidency.

5 **SECTION 4.** The introductory portion to 24-65.1-101 (1),
6 Colorado Revised Statutes, is amended to read:

7 **24-65.1-101. Legislative declaration.** (1) In addition to the
8 legislative declaration contained in ~~section 24-65-102 (1)~~ SECTION
9 24-32-3302 (1), the general assembly further finds and declares that:

10 **SECTION 5.** 24-65.1-405 (2), Colorado Revised Statutes, is
11 amended to read:

12 **24-65.1-405. Report of local government's progress.** (2) Upon
13 the basis of the information contained in such reports and any information
14 received pursuant to any other relevant provision of this article, the
15 Colorado land use commission may take appropriate action pursuant to
16 ~~section 24-65-104 (2) (a)~~ SECTION 24-32-3304 (1).

17 **SECTION 6. Repeal of provisions being relocated in this**
18 **act.** Article 65 of title 24, Colorado Revised Statutes, is repealed.

19 **SECTION 7. Effective date.** This act shall take effect July 1,
20 2001.

21 **SECTION 8. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.