

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0506.01 Bob Lackner

HOUSE BILL 10-1205

HOUSE SPONSORSHIP

Ryden, Todd

SENATE SPONSORSHIP

Spence, Williams

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING LAND USE PLANNING BY LOCAL GOVERNMENTS TO**
102 **ADDRESS THE IMPACTS OF LAND USE DEVELOPMENT UPON**
103 **MILITARY INSTALLATIONS IN CLOSE PROXIMITY TO SUCH**
104 **GOVERNMENTS.**

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://www.leg.state.co.us/billsummaries>.)

The bill modifies statutory provisions relating to the land use planning by county and municipal governments to address the impacts of

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.*

military installations. **Section 1** of the bill adds military installations to the list of key facilities that are considered areas of state interest for purposes of statutory provisions governing areas and activities of state interest (HB 1041 powers). "Military installation" is defined in **section 2** of the bill as a base, camp, post, station, airfield, yard, center, or any other land area under the jurisdiction of the United States department of defense, including any leased facility, that is larger than 500 acres.

Section 3 of the bill modifies existing statutory provisions requiring local governments to notify military installations of certain zoning changes occurring near such installations in the following respects:

- ! Current law requires a local government with a military installation within its territory to submit to the commanding officer of the installation information about proposed changes to the local government's comprehensive plan or land development regulations that would affect any territory of the local government within 2 miles of the installation. Section 3 adjusts this provision by requiring a local government with territory within 2 miles of a military installation to submit to the installation commanding officer and the flying mission commanding officer information related to zoning changes that would affect any area within 2 miles of the installation. Section 3 also gives the military installation 60 days within which to review the information and submit comments to the local government on the impact the proposed changes may have on the mission of the military installation.
- ! Section 3 also requires a county or municipal master plan to reflect the off-site impacts of a military installation using noise contour data provided by the United States department of defense.
- ! Section 3 modifies the definition of "military facility", as it relates to the applicable statute, to include facilities larger than 500 acres, rather than those larger than 1,000 acres.
- ! Finally, section 3 also clarifies that nothing in the bill is intended or shall be construed to require a county or municipality to prepare a new master plan in order to satisfy any of the requirements of the bill.

Section 4 of the bill adds "military installation" to the list of public places or facilities that may be included in a county or municipal master plan.

1 **SECTION 1.** 24-65.1-104 (7), Colorado Revised Statutes, is
2 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

3 **24-65.1-104. Definitions pertaining to other areas and**
4 **activities of state interest.** As used in this article, unless the context
5 otherwise requires:

- 6 (7) "Key facilities" means:
- 7 (e) MILITARY INSTALLATIONS.

8 **SECTION 2.** 24-65.1-104, Colorado Revised Statutes, is
9 amended BY THE ADDITION OF A NEW SUBSECTION to read:

10 **24-65.1-104. Definitions pertaining to other areas and**
11 **activities of state interest.** As used in this article, unless the context
12 otherwise requires:

13 (9.5) "MILITARY INSTALLATION" MEANS A BASE, CAMP, POST,
14 STATION, AIRFIELD, YARD, CENTER, OR ANY OTHER LAND AREA UNDER THE
15 JURISDICTION OF THE UNITED STATES DEPARTMENT OF DEFENSE,
16 INCLUDING ANY LEASED FACILITY, THE TOTAL ACREAGE OF WHICH
17 INSTALLATION IS IN EXCESS OF FIVE HUNDRED ACRES. NOTWITHSTANDING
18 ANY OTHER PROVISION OF THIS SUBSECTION (9.5), "MILITARY
19 INSTALLATION" INCLUDES BUCKLEY AIR FORCE BASE, CHEYENNE
20 MOUNTAIN AIR FORCE STATION, FORT CARSON ARMY POST, GREELEY AIR
21 NATIONAL GUARD STATION, PETERSON AIR FORCE BASE, SCHRIEVER AIR
22 FORCE BASE, AND THE UNITED STATES AIR FORCE ACADEMY.

23 **SECTION 3.** Part 1 of article 20 of title 29, Colorado Revised
24 Statutes, is amended BY THE ADDITION OF A NEW SECTION
25 CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS,
26 to read:

27 **29-20-105.6. [Formerly 29-1-207] Notification to military**

1 **installations by local governments of land use changes - legislative**
2 **declaration - definitions.** (1) The general assembly hereby finds,
3 determines, and declares that it is desirable for local governments in the
4 state to cooperate with military installations located within the state in
5 order to encourage compatible land use, help prevent incompatible urban
6 encroachment upon military installations, and facilitate the continued
7 presence of major military installations within the state.

8 (2) As used in this section, unless the context otherwise requires:

9 (a) "Local government" means a county, home rule or statutory
10 city, town, territorial charter city, OR A city and county. ~~or a metropolitan~~
11 ~~district created pursuant to title 32, C.R.S.~~

12 (b) "Military installation" means a base, camp, post, station,
13 airfield, yard, center, or any other land area under the jurisdiction of the
14 United States department of defense, including any leased facility, the
15 total acreage of which installation is in excess of ~~one thousand~~ FIVE
16 HUNDRED acres. ~~"Military installation" does not include the Rocky~~
17 ~~Mountain arsenal nor any facility used primarily for civil works, river~~
18 ~~projects, or flood control projects.~~ NOTWITHSTANDING ANY OTHER
19 PROVISION OF THIS PARAGRAPH (b), "MILITARY INSTALLATION" INCLUDES
20 BUCKLEY AIR FORCE BASE, CHEYENNE MOUNTAIN AIR FORCE STATION,
21 FORT CARSON ARMY POST, GREELEY AIR NATIONAL GUARD STATION,
22 PETERSON AIR FORCE BASE, SCHRIEVER AIR FORCE BASE, AND THE
23 UNITED STATES AIR FORCE ACADEMY.

24 (3) EACH COUNTY OR MUNICIPAL MASTER PLAN REQUIRED BY
25 SECTION 30-28-106 OR 31-23-206, C.R.S., RESPECTIVELY, SHALL PROVIDE
26 THE RECOMMENDATIONS OF THE COUNTY OR MUNICIPALITY, AS
27 APPLICABLE, FOR DEVELOPMENT THAT IT DEEMS COMPATIBLE WITH ANY

1 OFF-SITE NOISE IMPACTS OF MILITARY INSTALLATIONS. IN MAKING ITS
2 RECOMMENDATIONS, THE COUNTY OR MUNICIPALITY SHALL CONSIDER,
3 AMONG OTHER DATA, ANY OFF-SITE NOISE IDENTIFIED IN ANY
4 ENVIRONMENTAL ASSESSMENTS OR ENVIRONMENTAL IMPACT STATEMENTS
5 PREPARED FOR AND ACCEPTED BY THE UNITED STATES DEPARTMENT OF
6 DEFENSE CONTEMPORANEOUS WITH THE PLACEMENT OF MILITARY
7 ACTIVITIES ON THE STATE'S MILITARY INSTALLATIONS. FOR GUIDANCE ON
8 LAND USES COMPATIBLE WITH NOISE GENERATED BY OVERFLIGHT OF
9 MILITARY AIRCRAFT, THE COUNTY OR MUNICIPALITY MAY REFER TO
10 UNITED STATES DEPARTMENT OF DEFENSE INSTRUCTION 4165.57.

11 ~~(3)~~(4) Each local government ~~within~~ whose territorial boundaries
12 ~~is located~~ ARE WITHIN TWO MILES OF all or any portion of a military
13 installation shall timely provide to the INSTALLATION commanding officer
14 ~~of that installation~~ AND THE FLYING MISSION COMMANDING OFFICER, or ~~his~~
15 ~~or her designee~~ THEIR DESIGNEES, information relating to proposed
16 ZONING changes to the local government's comprehensive plan,
17 amendments to the plan, or land development regulations that, if
18 approved, would significantly affect the ~~intensity, density, or~~ use of any
19 area within ~~the territorial boundaries of the local government that is~~
20 ~~within~~ two miles of the military installation. Nothing in this subsection
21 ~~(3)~~(4) is intended to require submission of any information in connection
22 with a site-specific development application under consideration by the
23 local government.

24 ~~(4)~~(5) Upon submission of the information required to be
25 provided pursuant to ~~subsection (3)~~ SUBSECTION (4) of this section, the
26 local government shall ~~provide the~~ military installation ~~an opportunity~~
27 SHALL HAVE FOURTEEN BUSINESS DAYS WITHIN WHICH to review the

1 information and ~~comment~~ SUBMIT COMMENTS TO THE LOCAL
2 GOVERNMENT on the impact the proposed changes may have on the
3 mission of the military installation. Such comments may include:

4 (a) If the military installation has an airfield, whether the proposed
5 changes will be compatible with the safety and noise standards contained
6 in the air installation compatible use zone ~~adopted by the military~~
7 ~~installation~~ RECOMMENDED BY UNITED STATES DEPARTMENT OF DEFENSE
8 INSTRUCTION 4165.57 for that airfield;

9 (b) Whether the proposed changes are compatible with the
10 installation environmental noise management program of the ~~United~~
11 ~~States Army~~ MILITARY INSTALLATION;

12 (c) Whether the proposed changes are compatible with any joint
13 land use study for the area within which the changes are to take place, if
14 such study has been completed; or

15 (d) Whether the military installation's mission will be adversely
16 affected by the proposed changes.

17 ~~(5)~~ (6) The local government shall review any comments received
18 from the commanding officer OR THE FLYING MISSION COMMANDING
19 OFFICER, or ~~his or her designee~~ THEIR DESIGNEES, pursuant to ~~subsection~~
20 ~~(4)~~ SUBSECTION (5) of this section when considering approval of a
21 comprehensive plan, amendments to the plan, or its land development
22 regulations. The local government shall forward a copy of any such
23 comments received to the office of smart growth created in section
24 24-32-3203 (1) (a), C.R.S.

25 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
26 NOTHING IN THIS SECTION IS INTENDED OR SHALL BE CONSTRUED TO
27 REQUIRE A LOCAL GOVERNMENT TO PREPARE A NEW MASTER PLAN IN

1 EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (7) IN ORDER TO
2 SATISFY ANY OF THE REQUIREMENTS OF THIS SECTION.

3 **SECTION 4.** 30-28-106 (3) (a) (II) and (6), Colorado Revised
4 Statutes, are amended to read:

5 **30-28-106. Adoption of master plan - contents.** (3) (a) The
6 master plan of a county or region, with the accompanying maps, plats,
7 charts, and descriptive and explanatory matter, shall show the county or
8 regional planning commission's recommendations for the development of
9 the territory covered by the plan. The master plan of a county or region
10 shall be an advisory document to guide land development decisions;
11 however, the plan or any part thereof may be made binding by inclusion
12 in the county's or region's adopted subdivision, zoning, platting, planned
13 unit development, or other similar land development regulations after
14 satisfying notice, due process, and hearing requirements for legislative or
15 quasi-judicial processes as appropriate. After consideration of each of the
16 following, where applicable or appropriate, the master plan may include,
17 but shall not be limited to:

18 (II) The general location of public places or facilities, including
19 public schools, culturally, historically, or archaeologically significant
20 buildings, sites, and objects, playgrounds, forests, reservations, squares,
21 parks, airports, aviation fields, MILITARY INSTALLATIONS, and other public
22 ways, grounds, open spaces, trails, and designated federal, state, and local
23 wildlife areas. FOR PURPOSES OF THIS SECTION, "MILITARY
24 INSTALLATION" SHALL HAVE THE SAME MEANING AS SPECIFIED IN SECTION
25 29-20-105.6 (2) (b), C.R.S.

26 (6) The master plan of any county adopted or amended in
27 accordance with the requirements of this section on and after August 8,

1 2005, shall satisfy the requirements of ~~section 29-1-207~~ SECTION
2 29-20-105.6, C.R.S., as applicable.

3 **SECTION 5.** 31-23-206 (1) (b) and (6), Colorado Revised
4 Statutes, are amended to read:

5 **31-23-206. Master plan.** (1) It is the duty of the commission to
6 make and adopt a master plan for the physical development of the
7 municipality, including any areas outside its boundaries, subject to the
8 approval of the governmental body having jurisdiction thereof, which in
9 the commission's judgment bear relation to the planning of such
10 municipality. The master plan of a municipality shall be an advisory
11 document to guide land development decisions; however, the plan or any
12 part thereof may be made binding by inclusion in the municipality's
13 adopted subdivision, zoning, platting, planned unit development, or other
14 similar land development regulations after satisfying notice, due process,
15 and hearing requirements for legislative or quasi-judicial processes as
16 appropriate. When a commission decides to adopt a master plan, the
17 commission shall conduct public hearings, after notice of such public
18 hearings has been published in a newspaper of general circulation in the
19 municipality in a manner sufficient to notify the public of the time, place,
20 and nature of the public hearing, prior to final adoption of a master plan
21 in order to encourage public participation in and awareness of the
22 development of such plan and shall accept and consider oral and written
23 public comments throughout the process of developing the plan. Such
24 plan, with the accompanying maps, plats, charts, and descriptive matter,
25 shall, after consideration of each of the following, where applicable or
26 appropriate, show the commission's recommendations for the
27 development of said municipality and outlying areas, including, but not

1 limited to:

2 (b) The general location of public places or facilities, including
3 public schools, culturally, historically, or archaeologically significant
4 buildings, sites, and objects, playgrounds, squares, parks, airports,
5 aviation fields, MILITARY INSTALLATIONS, and other public ways, grounds,
6 open spaces, trails, and designated federal, state, and local wildlife areas.

7 FOR PURPOSES OF THIS SECTION, "MILITARY INSTALLATION" SHALL HAVE
8 THE SAME MEANING AS SPECIFIED IN SECTION 29-20-105.6 (2) (b), C.R.S.

9 (6) The master plan of any municipality adopted or amended in
10 accordance with the requirements of this section on and after August 8,
11 2005, shall satisfy the requirements of ~~section 29-1-207~~ SECTION
12 29-20-105.6, C.R.S., as applicable.

13 **SECTION 6. Repeal of provisions being relocated in this**
14 **act.** 29-1-207, Colorado Revised Statutes, is repealed.

15 **SECTION 7. Act subject to petition - effective date.** This act
16 shall take effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part shall not take effect
22 unless approved by the people at the general election to be held in
23 November 2010 and shall take effect on the date of the official
24 declaration of the vote thereon by the governor.