

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0506.01 Bob Lackner

HOUSE BILL 10-1205

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HOUSE SPONSORSHIP

Ryden, Todd

SENATE SPONSORSHIP

Spence, Williams

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House Committees  
State, Veterans, & Military Affairs

Senate Committees

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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.

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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://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.

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

22           **29-20-105.6. [Formerly 29-1-207] Notification to military**  
23 **installations by local governments of land use changes - legislative**  
24 **declaration - definitions.** (1) The general assembly hereby finds,  
25 determines, and declares that it is desirable for local governments in the  
26 state to cooperate with military installations located within the state in  
27 order to encourage compatible land use, help prevent incompatible urban

1 encroachment upon military installations, and facilitate the continued  
2 presence of major military installations within the state.

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

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

7 (b) "Military installation" means a base, camp, post, station,  
8 airfield, yard, center, or any other land area under the jurisdiction of the  
9 United States department of defense, including any leased facility, the  
10 total acreage of which installation is in excess of ~~one thousand~~ FIVE  
11 HUNDRED acres. ~~"Military installation" does not include the Rocky~~  
12 ~~Mountain arsenal nor any facility used primarily for civil works, river~~  
13 ~~projects, or flood control projects.~~

14 (3) EACH COUNTY OR MUNICIPAL MASTER PLAN REQUIRED BY  
15 SECTION 30-28-106 OR 31-23-206, C.R.S., RESPECTIVELY, SHALL REFLECT  
16 THE OFF-SITE IMPACTS OF ANY MILITARY INSTALLATION LOCATED WITHIN  
17 THE TERRITORIAL BOUNDARIES OF THE COUNTY OR MUNICIPALITY, AS  
18 APPLICABLE, UTILIZING, IN ADDITION TO OTHER CRITERIA, THE NOISE  
19 CONTOUR DATA PROVIDED BY UNITED STATES DEPARTMENT OF DEFENSE  
20 INSTRUCTION 4165.57. AS RECOMMENDED BY THE DEPARTMENT OF  
21 DEFENSE INSTRUCTION, THE COUNTY OR MUNICIPALITY SHALL TAKE  
22 IMPACT AREAS INTO ACCOUNT IN PLOTTING NOISE CONTOURS.

23 ~~(3)~~(4) Each local government ~~within~~ whose territorial boundaries  
24 ~~is located~~ ARE WITHIN TWO MILES OF all or any portion of a military  
25 installation shall timely provide to the INSTALLATION commanding officer  
26 ~~of that installation~~ AND THE FLYING MISSION COMMANDING OFFICER, or  
27 ~~his or her designee~~ THEIR DESIGNEES, information relating to proposed

1 ZONING changes to the local government's comprehensive plan,  
2 amendments to the plan, or land development regulations that, if  
3 approved, would significantly affect the intensity, density, or use of any  
4 area within the territorial boundaries of the local government that is  
5 within two miles of the military installation. Nothing in this subsection  
6 (3) is intended to require submission of any information in connection  
7 with a site-specific development application under consideration by the  
8 local government.

9 (4) (5) Upon submission of the information required to be  
10 provided pursuant to subsection (3) SUBSECTION (4) of this section, the  
11 local government shall provide the military installation an opportunity  
12 SHALL HAVE SIXTY DAYS WITHIN WHICH to review the information and  
13 comment SUBMIT COMMENTS TO THE LOCAL GOVERNMENT on the impact  
14 the proposed changes may have on the mission of the military  
15 installation. Such comments may include:

16 (a) If the military installation has an airfield, whether the  
17 proposed changes will be compatible with the safety and noise standards  
18 contained in the air installation compatible use zone adopted by the  
19 military installation RECOMMENDED BY UNITED STATES DEPARTMENT OF  
20 DEFENSE INSTRUCTION 4165.57 for that airfield;

21 (b) Whether the proposed changes are compatible with the  
22 installation environmental noise management program of the United  
23 States Army MILITARY INSTALLATION;

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

27 (d) Whether the military installation's mission will be adversely

1 affected by the proposed changes.

2 ~~(5)~~(6) The local government shall review any comments received  
3 from the commanding officer OR THE FLYING MISSION COMMANDING  
4 OFFICER, or ~~his or her designee~~ THEIR DESIGNEES, pursuant to ~~subsection~~  
5 ~~(4)~~ SUBSECTION (5) of this section when considering approval of a  
6 comprehensive plan, amendments to the plan, or its land development  
7 regulations. The local government shall forward a copy of any such  
8 comments received to the office of smart growth created in section  
9 24-32-3203 (1) (a), C.R.S.

10 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
11 NOTHING IN THIS SECTION IS INTENDED OR SHALL BE CONSTRUED TO  
12 REQUIRE A LOCAL GOVERNMENT TO PREPARE A NEW MASTER PLAN IN  
13 EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (7) IN ORDER TO  
14 SATISFY ANY OF THE REQUIREMENTS OF THIS SECTION.

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

17 **30-28-106. Adoption of master plan - contents.** (3) (a) The  
18 master plan of a county or region, with the accompanying maps, plats,  
19 charts, and descriptive and explanatory matter, shall show the county or  
20 regional planning commission's recommendations for the development  
21 of the territory covered by the plan. The master plan of a county or  
22 region shall be an advisory document to guide land development  
23 decisions; however, the plan or any part thereof may be made binding by  
24 inclusion in the county's or region's adopted subdivision, zoning, platting,  
25 planned unit development, or other similar land development regulations  
26 after satisfying notice, due process, and hearing requirements for  
27 legislative or quasi-judicial processes as appropriate. After consideration

1 of each of the following, where applicable or appropriate, the master plan  
2 may include, but shall not be limited to:

3 (II) The general location of public places or facilities, including  
4 public schools, culturally, historically, or archaeologically significant  
5 buildings, sites, and objects, playgrounds, forests, reservations, squares,  
6 parks, airports, aviation fields, MILITARY INSTALLATIONS, and other  
7 public ways, grounds, open spaces, trails, and designated federal, state,  
8 and local wildlife areas. FOR PURPOSES OF THIS SECTION, "MILITARY  
9 INSTALLATION" SHALL HAVE THE SAME MEANING AS SPECIFIED IN SECTION  
10 29-20-105.6 (2) (b), C.R.S.

11 (6) The master plan of any county adopted or amended in  
12 accordance with the requirements of this section on and after August 8,  
13 2005, shall satisfy the requirements of ~~section 29-1-207~~ SECTION  
14 29-20-105.6, C.R.S., as applicable.

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

17 **31-23-206. Master plan.** (1) It is the duty of the commission to  
18 make and adopt a master plan for the physical development of the  
19 municipality, including any areas outside its boundaries, subject to the  
20 approval of the governmental body having jurisdiction thereof, which in  
21 the commission's judgment bear relation to the planning of such  
22 municipality. The master plan of a municipality shall be an advisory  
23 document to guide land development decisions; however, the plan or any  
24 part thereof may be made binding by inclusion in the municipality's  
25 adopted subdivision, zoning, platting, planned unit development, or other  
26 similar land development regulations after satisfying notice, due process,  
27 and hearing requirements for legislative or quasi-judicial processes as

1 appropriate. When a commission decides to adopt a master plan, the  
2 commission shall conduct public hearings, after notice of such public  
3 hearings has been published in a newspaper of general circulation in the  
4 municipality in a manner sufficient to notify the public of the time, place,  
5 and nature of the public hearing, prior to final adoption of a master plan  
6 in order to encourage public participation in and awareness of the  
7 development of such plan and shall accept and consider oral and written  
8 public comments throughout the process of developing the plan. Such  
9 plan, with the accompanying maps, plats, charts, and descriptive matter,  
10 shall, after consideration of each of the following, where applicable or  
11 appropriate, show the commission's recommendations for the  
12 development of said municipality and outlying areas, including, but not  
13 limited to:

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

22 (6) The master plan of any municipality adopted or amended in  
23 accordance with the requirements of this section on and after August 8,  
24 2005, shall satisfy the requirements of ~~section 29-1-207~~ SECTION  
25 29-20-105.6, C.R.S., as applicable.

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

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