

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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

State, Veterans & Military Affairs

SENATE
3rd Reading Unam ended
April 13, 2010

SENATE
2nd Reading Unam ended
April 12, 2010

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.**

HOUSE
3rd Reading Unam ended
March 15, 2010

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

HOUSE
Am ended 2nd Reading
March 12, 2010

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.

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

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

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

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

(b) "Military installation" means:

(I) 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, the total acreage of which installation is in excess of ~~one thousand~~ FIVE HUNDRED acres; "Military installation" ~~does not include the Rocky Mountain arsenal nor any facility used primarily for civil works, river projects, or flood control projects.~~ OR

(II) THE GREELEY AIR NATIONAL GUARD STATION.

(3) Each local government ~~within~~ whose territorial boundaries is

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

13 (4) Upon submission of the information required to be provided
14 pursuant to subsection (3) of this section, the ~~local government shall~~
15 ~~provide the~~ military installation ~~an opportunity~~ SHALL HAVE FOURTEEN
16 BUSINESS DAYS WITHIN WHICH to review the information and comment
17 SUBMIT COMMENTS TO THE LOCAL GOVERNMENT on the impact the
18 proposed changes may have on the mission of the military installation.
19 Such comments may include:

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

25 (b) Whether the proposed changes are compatible with the
26 installation environmental noise management program of the ~~United~~
27 ~~States Army~~ MILITARY INSTALLATION;

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

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

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

13 (6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
14 NOTHING IN THIS SECTION IS INTENDED OR SHALL BE CONSTRUED TO
15 REQUIRE A LOCAL GOVERNMENT TO PREPARE A NEW MASTER PLAN IN
16 EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (6) IN ORDER TO
17 SATISFY ANY OF THE REQUIREMENTS OF THIS SECTION.

18 **SECTION 2.** 30-28-106 (3) (a) (II) and (6), Colorado Revised
19 Statutes, are amended to read:

20 **30-28-106. Adoption of master plan - contents.** (3) (a) The
21 master plan of a county or region, with the accompanying maps, plats,
22 charts, and descriptive and explanatory matter, shall show the county or
23 regional planning commission's recommendations for the development of
24 the territory covered by the plan. The master plan of a county or region
25 shall be an advisory document to guide land development decisions;
26 however, the plan or any part thereof may be made binding by inclusion
27 in the county's or region's adopted subdivision, zoning, platting, planned

1 unit development, or other similar land development regulations after
2 satisfying notice, due process, and hearing requirements for legislative or
3 quasi-judicial processes as appropriate. After consideration of each of the
4 following, where applicable or appropriate, the master plan may include,
5 but shall not be limited to:

6 (II) The general location of public places or facilities, including
7 public schools, culturally, historically, or archaeologically significant
8 buildings, sites, and objects, playgrounds, forests, reservations, squares,
9 parks, airports, aviation fields, MILITARY INSTALLATIONS, and other public
10 ways, grounds, open spaces, trails, and designated federal, state, and local
11 wildlife areas. FOR PURPOSES OF THIS SECTION, "MILITARY
12 INSTALLATION" SHALL HAVE THE SAME MEANING AS SPECIFIED IN SECTION
13 29-20-105.6 (2) (b), C.R.S.

14 (6) The master plan of any county adopted or amended in
15 accordance with the requirements of this section on and after August 8,
16 2005, shall satisfy the requirements of ~~section 29-1-207~~ SECTION
17 29-20-105.6, C.R.S., as applicable.

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

20 **31-23-206. Master plan.** (1) It is the duty of the commission to
21 make and adopt a master plan for the physical development of the
22 municipality, including any areas outside its boundaries, subject to the
23 approval of the governmental body having jurisdiction thereof, which in
24 the commission's judgment bear relation to the planning of such
25 municipality. The master plan of a municipality shall be an advisory
26 document to guide land development decisions; however, the plan or any
27 part thereof may be made binding by inclusion in the municipality's

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

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

24 (6) The master plan of any municipality adopted or amended in
25 accordance with the requirements of this section on and after August 8,
26 2005, shall satisfy the requirements of ~~section 29-1-207~~ SECTION
27 29-20-105.6, C.R.S., as applicable.

1 **SECTION 4. Repeal of provisions being relocated in this**
2 **act.** 29-1-207, Colorado Revised Statutes, is repealed.

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