

**First Regular Session  
Sixty-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 01-0859.01 Nicole Hoffman

**HOUSE BILL 01-1391**

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**HOUSE SPONSORSHIP**

**Nunez**, Cadman, Kester, Miller, Schultheis, Sinclair, and Webster

**SENATE SPONSORSHIP**

**Evans**,

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**House Committees**

State, Veterans, & Military Affairs

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING COUNTY REVIEW OF THE MUNICIPAL ANNEXATION OF AN**  
102 **AREA LOCATED IN SUCH COUNTY.**

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**Bill Summary**

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

Requires the board of county commissioners governing an area proposed to be annexed to review the impact report submitted to such board by the annexing municipality and to make findings regarding the annexation.

Specifies the grounds on which the board of county commissioners governing an area proposed to be annexed may object to a proposed annexation.

Directs the board of county commissioners governing the area

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.*

proposed to be annexed to submit any objections to the proposed annexation to the governing body of the annexing municipality. Directs the governing body of the annexing municipality to consider such objections when determining the legality of the proposed annexation.

Requires the board of county commissioners governing an area proposed to be annexed and the governing body of the annexing municipality to submit any disputes regarding the annexation to the office of smart growth in the department of local affairs. States that the office shall determine whether the grounds for such objection exist. Specifies that the office's findings shall be binding upon all parties and that no other procedure shall be available to the parties for further review of such findings.

In the alternative, requires the board of county commissioners governing the area proposed to be annexed and the governing body of the annexing municipality to submit a dispute regarding the proposed annexation to binding arbitration. States that any arbitration decision shall be binding upon the parties and no other procedure shall be available to the parties for the further review of such decision.

For annexations that have been the subject of a public hearing but are incomplete as of the effective date of this act, specifies that a board of county commissioners may object to the annexation and seek resolution through the office of smart growth in the department of local affairs or through binding arbitration.

For annexations that are subject to judicial review on or after the effective date of this act, states that the district court suspend that review if a board of county commissioners objects to the annexation pursuant to the process established in this act. Requires that such issues be resolved through the office of smart growth in the department of local affairs or through binding arbitration.

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

2           **SECTION 1.** The introductory portion to 31-12-108.5 (1),  
3 Colorado Revised Statutes, is amended to read:

4           **31-12-108.5. Annexation impact report - requirements.** (1) The  
5 ANNEXING municipality shall prepare an impact report concerning the  
6 proposed annexation at least twenty-five days before the date of the  
7 hearing established pursuant to section 31-12-108 and shall file one copy  
8 with the board of county commissioners governing the area proposed to

1 be annexed within five days thereafter. Such report shall not be required  
2 for annexations of ten acres or less in total area or when the ANNEXING  
3 municipality and the board of county commissioners governing the area  
4 proposed to be annexed agree that the report may be waived. Such report  
5 shall include, as a minimum:

6 **SECTION 2.** Part 1 of article 12 of title 31, Colorado Revised  
7 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

8 **31-12-108.7. County review of annexation.** (1) (a) UPON  
9 RECEIPT OF AN ANNEXATION IMPACT REPORT FROM AN ANNEXING  
10 MUNICIPALITY PURSUANT TO SECTION 31-12-108.5, THE BOARD OF COUNTY  
11 COMMISSIONERS GOVERNING THE AREA PROPOSED TO BE ANNEXED SHALL  
12 CONSIDER THE PROPOSED ANNEXATION IN ACCORDANCE WITH THE  
13 COUNTY'S ADOPTED MASTER OR COMPREHENSIVE PLAN AND OTHER  
14 APPLICABLE LAND USE STANDARDS AND PROCEDURES.

15 (b) THE BOARD OF COUNTY COMMISSIONERS GOVERNING THE AREA  
16 PROPOSED TO BE ANNEXED SHALL DETERMINE WHETHER THE PROPOSED  
17 ANNEXATION COMPLIES WITH THE COUNTY'S STANDARDS AND  
18 REGULATIONS OR WHETHER THERE IS ANY NONCONFORMITY OR DEFICIENCY  
19 OF THE PROPOSED ANNEXATION RELATIVE TO THE COUNTY'S APPLICABLE  
20 PLANNING STANDARDS AND REGULATIONS. THE BOARD MAY OBJECT TO THE  
21 PROPOSED ANNEXATION BASED ON SUCH NONCONFORMITY OR DEFICIENCY.  
22 GROUNDS FOR SUCH OBJECTION MAY INCLUDE, BUT ARE NOT LIMITED TO,  
23 THE FOLLOWING:

24 (I) THE ANNEXATION IS INCONSISTENT WITH THE COUNTY'S MASTER  
25 PLAN;

26 (II) THE ANNEXATION IS INCOMPATIBLE WITH THE COUNTY'S  
27 ZONING IN THE VICINITY OF THE PROPOSED ANNEXATION;

1 (III) THE ANNEXATION IS INCOMPATIBLE WITH THE LAND USES AND  
2 DEVELOPMENT IN THE VICINITY OF THE PROPOSED ANNEXATION; OR

3 (IV) THE COUNTY’S INFRASTRUCTURE IS NOT SUFFICIENT TO SERVE  
4 THE DEVELOPMENT CONTEMPLATED BY THE PROPOSED ANNEXATION,  
5 INCLUDING ANY PROPOSED REZONING OF THE AREA.

6 (c) IF THE BOARD OF COUNTY COMMISSIONERS GOVERNING THE  
7 AREA PROPOSED TO BE ANNEXED OBJECTS TO THE PROPOSED ANNEXATION,  
8 THE BOARD SHALL SUBMIT WRITTEN OBJECTIONS TO THE GOVERNING BODY  
9 OF THE ANNEXING MUNICIPALITY AT LEAST FIVE DAYS PRIOR TO THE  
10 HEARING REGARDING THE ANNEXATION PURSUANT TO SECTION 31-12-108.  
11 AT SUCH HEARING THE GOVERNING BODY OF THE ANNEXING MUNICIPALITY  
12 SHALL CONSIDER SUCH OBJECTIONS.

13 (2) (a) IN THE EVENT THAT THE GOVERNING BODY OF THE  
14 ANNEXING MUNICIPALITY AGREES WITH THE WRITTEN OBJECTIONS OF THE  
15 BOARD OF COUNTY COMMISSIONERS GOVERNING THE AREA PROPOSED TO  
16 BE ANNEXED, ANY ANNEXATION SHALL BE CONSISTENT WITH THE COUNTY’S  
17 STANDARDS AND REGULATIONS.

18 (b) IN THE EVENT THAT THE GOVERNING BODY OF THE ANNEXING  
19 MUNICIPALITY DISAGREES WITH ANY OF THE WRITTEN OBJECTIONS OF THE  
20 BOARD OF COUNTY COMMISSIONERS GOVERNING THE AREA PROPOSED TO  
21 BE ANNEXED, THE GOVERNING BODY OF THE ANNEXING MUNICIPALITY  
22 SHALL SUSPEND THE ANNEXATION PROCEEDINGS AND SUCH GOVERNING  
23 BODY AND SUCH BOARD SHALL RESOLVE THE DISPUTE IN ACCORDANCE  
24 WITH THE PROCEDURE ESTABLISHED IN PARAGRAPH (c) OR (d) OF THIS  
25 SUBSECTION (2). THE PROCEDURE UTILIZED SHALL BE DESIGNATED BY THE  
26 BOARD OF COUNTY COMMISSIONERS GOVERNING THE AREA PROPOSED TO  
27 BE ANNEXED.

1 (c) (I) EXCEPT AS PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION  
2 (2), IF THE GOVERNING BODY OF THE ANNEXING MUNICIPALITY DISPUTES  
3 ANY OF THE WRITTEN OBJECTIONS OF THE BOARD OF COUNTY  
4 COMMISSIONERS GOVERNING THE AREA PROPOSED TO BE ANNEXED, SUCH  
5 GOVERNING BODY AND SUCH BOARD SHALL JOINTLY SUBMIT THE  
6 OBJECTIONS AND DISPUTES TO THE OFFICE OF SMART GROWTH IN THE  
7 DEPARTMENT OF LOCAL AFFAIRS WITHIN TEN DAYS AFTER THE HEARING  
8 REGARDING SUCH ANNEXATION HELD PURSUANT TO SECTION 31-12-108.

9 (II) THE OFFICE OF SMART GROWTH IN THE DEPARTMENT OF LOCAL  
10 AFFAIRS SHALL MAKE FINDINGS AND A DETERMINATION REGARDING  
11 WHETHER THE GROUNDS FOR OBJECTION ASSERTED BY THE BOARD OF  
12 COUNTY COMMISSIONERS GOVERNING THE AREA PROPOSED TO BE ANNEXED  
13 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION ARE  
14 WELL FOUNDED. THE FINDINGS SHALL BE SUBMITTED TO THE GOVERNING  
15 BODY OF THE ANNEXING MUNICIPALITY AND TO SUCH BOARD PRIOR TO  
16 PROCEEDING WITH THE PROPOSED ANNEXATION.

17 (III) THE FINDINGS OF THE OFFICE OF SMART GROWTH IN THE  
18 DEPARTMENT OF LOCAL AFFAIRS SHALL BE BINDING UPON THE GOVERNING  
19 BODY OF THE ANNEXING MUNICIPALITY AND THE BOARD GOVERNING THE  
20 AREA PROPOSED TO BE ANNEXED. ANY ANNEXATION SHALL BE CONSISTENT  
21 WITH THE FINDINGS OF THE OFFICE OF SMART GROWTH. SUCH FINDINGS  
22 SHALL BE SUBJECT TO JUDICIAL REVIEW ONLY FOR STATUTORY  
23 COMPLIANCE WITH THIS SECTION.

24 (d) (I) AS AN ALTERNATIVE TO PARAGRAPH (c) OF THIS SUBSECTION  
25 (2), IF THE GOVERNING BODY OF THE ANNEXING MUNICIPALITY DISAGREES  
26 WITH ANY OF THE WRITTEN OBJECTIONS OF THE BOARD OF COUNTY  
27 COMMISSIONERS GOVERNING THE AREA PROPOSED TO BE ANNEXED, SUCH

1 GOVERNING BODY AND SUCH BOARD SHALL AGREE TO SUBMIT THE DISPUTE  
2 TO BINDING ARBITRATION WITHIN TEN DAYS AFTER THE HEARING  
3 REGARDING SUCH ANNEXATION HELD PURSUANT TO SECTION 31-12-108.  
4 SAID ARBITRATION SHALL BE BY THREE QUALIFIED PROFESSIONALS FROM  
5 THE LIST MAINTAINED BY THE OFFICE OF SMART GROWTH IN THE  
6 DEPARTMENT OF LOCAL AFFAIRS PURSUANT TO SECTION 24-32-3209,  
7 C.R.S.

8 (II) THE ARBITRATION PROCEEDING SHALL BE CONDUCTED  
9 PURSUANT TO THE "UNIFORM ARBITRATION ACT OF 1975", PART 2 OF  
10 ARTICLE 22 OF TITLE 13, C.R.S. THE DECISION OF THE ARBITRATION PANEL  
11 SHALL BE SUBMITTED TO THE GOVERNING BODY OF THE ANNEXING  
12 MUNICIPALITY AND THE BOARD OF COUNTY COMMISSIONERS GOVERNING  
13 THE AREA PROPOSED TO BE ANNEXED PRIOR TO PROCEEDING WITH THE  
14 PROPOSED ANNEXATION. ANY ANNEXATION SHALL BE CONSISTENT WITH  
15 THE DECISION OF THE PANEL. SUCH DECISION SHALL BE BINDING AND  
16 SHALL BE SUBJECT TO JUDICIAL REVIEW ONLY FOR STATUTORY  
17 COMPLIANCE WITH THIS SECTION AND THE "UNIFORM ARBITRATION ACT  
18 OF 1975".

19 (3) (a) IN THE EVENT THAT AN ANNEXING MUNICIPALITY HAS HELD  
20 A HEARING PURSUANT TO SECTION 31-12-108 BUT THE ANNEXING  
21 ORDINANCE BY SUCH MUNICIPALITY HAS NOT YET TAKEN EFFECT AS OF THE  
22 EFFECTIVE DATE OF THIS ACT, THE BOARD OF COUNTY COMMISSIONERS  
23 GOVERNING THE AREA PROPOSED TO BE ANNEXED MAY OBJECT TO THE  
24 PENDING ANNEXATION PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF  
25 THIS SECTION PRIOR TO THE DATE SUCH ORDINANCE TAKES EFFECT.

26 (b) IF THE BOARD OF COUNTY COMMISSIONERS GOVERNING THE  
27 AREA PROPOSED TO BE ANNEXED OBJECTS TO THE PENDING ANNEXATION

1 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, THE  
2 BOARD SHALL SUBMIT ITS OBJECTIONS TO THE GOVERNING BODY OF THE  
3 ANNEXING MUNICIPALITY PRIOR TO THE DATE THE ANNEXING ORDINANCE  
4 TAKES EFFECT. THE GOVERNING BODY SHALL SUSPEND THE ANNEXATION  
5 PROCEEDINGS AND SUCH GOVERNING BODY AND BOARD SHALL RESOLVE  
6 ANY SUCH OBJECTION IN ACCORDANCE WITH THE PROCEDURE ESTABLISHED  
7 IN PARAGRAPH (c) OR (d) OF SUBSECTION (2) OF THIS SECTION.

8 (4) FOR ANY ANNEXATION THAT IS SUBJECT TO JUDICIAL REVIEW  
9 PURSUANT TO SECTION 31-12-116 ON OR AFTER THE EFFECTIVE DATE OF  
10 THIS ACT, THE DISTRICT COURT SHALL SUSPEND SUCH REVIEW IF THE BOARD  
11 OF COUNTY COMMISSIONERS INITIATED SUCH REVIEW ON ONE OR MORE OF  
12 THE GROUNDS FOR OBJECTION SPECIFIED IN PARAGRAPH (b) OF SUBSECTION  
13 (1) OF THIS SECTION. THE DISTRICT COURT SHALL DIRECT THE BOARD AND  
14 THE GOVERNING BODY OF THE ANNEXING MUNICIPALITY TO RESOLVE ANY  
15 SUCH OBJECTION IN ACCORDANCE WITH THE PROCEDURE ESTABLISHED IN  
16 PARAGRAPH (c) OR (d) OF SUBSECTION (2) OF THIS SECTION.

17 (5) NOTHING IN THIS SECTION SHALL PRECLUDE A BOARD OF  
18 COUNTY COMMISSIONERS THAT BELIEVES ITSELF TO BE AGGRIEVED BY THE  
19 ACTS OF THE GOVERNING BODY OF AN ANNEXING MUNICIPALITY FROM  
20 SEEKING REVIEW PURSUANT TO SECTION 31-12-116 BASED ON GROUNDS  
21 OTHER THAN THE GROUNDS FOR OBJECTION ESTABLISHED IN PARAGRAPH  
22 (b) OF SUBSECTION (1) OF THIS SECTION.

23 **SECTION 3. Applicability.** This act shall apply to any  
24 annexation pursuant to section 31-12-106, Colorado Revised Statutes, or  
25 by an annexation petition or petition for an annexation election pursuant  
26 to section 31-12-107, Colorado Revised Statutes, that commences on or  
27 after the effective date of this act or that is pending on or after the

1 effective date of this act, and to any annexation ordinance under part 1 of  
2 article 12 of title 31, Colorado Revised Statutes, that is subject to judicial  
3 review under sections 31-12-116 and 31-12-117, Colorado Revised  
4 Statutes, including appellate review, whether or not such review is sought  
5 on or after said date.

6 **SECTION 4. Safety clause.** The general assembly hereby finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.