

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill 2001 or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 01S2-1020

BY REPRESENTATIVE(S) Madden, Alexander, Boyd, Coleman, Daniel, Garcia, Groff, Grossman, Jahn, Kester, Mace, Marshall, Miller, Ragsdale, Romanoff, Sanchez, Scott, Stafford, Swenson, Tapia, Veiga, Vigil, Weddig, Williams S., Williams T., and Witwer;
also SENATOR(S) Teck, Anderson, Chlouber, Evans, Gordon, Hillman, Isgar, McElhany, Pascoe, Phillips, Tupa, and Windels.

CONCERNING PROCEDURES TO RESOLVE CONFLICT ARISING FROM LOCAL GOVERNMENT DECISIONS RELATING TO MASTER PLANS.

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

SECTION 1. 24-32-3209, Colorado Revised Statutes, is amended to read:

24-32-3209. Comprehensive planning disputes - mediation - list of qualified professionals to assist in mediating land use disputes - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COMPREHENSIVE PLAN" MEANS THE MASTER PLAN OF A LOCAL GOVERNMENT ADOPTED PURSUANT TO SECTION 30-28-106 OR 31-23-206, C.R.S., OR AN AMENDMENT TO SUCH PLAN.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) "COMPREHENSIVE PLANNING DISPUTE" MEANS A DISPUTE BETWEEN TWO OR MORE LOCAL GOVERNMENTS REGARDING A COMPREHENSIVE PLAN.

(c) "COUNTY" MEANS A HOME RULE OR STATUTORY COUNTY.

(d) "LANDOWNER" MEANS ANY OWNER OF RECORD OF STATE, MUNICIPAL, OR PRIVATE LAND AND INCLUDES AN OWNER OF ANY EASEMENT, RIGHT-OF-WAY, OR ESTATE IN THE LAND.

(e) "LOCAL GOVERNMENT" MEANS A MUNICIPALITY OR A COUNTY.

(f) "MEDIATION" MEANS AN INTERVENTION IN COMPREHENSIVE PLANNING DISPUTE NEGOTIATIONS BY A TRAINED NEUTRAL THIRD PARTY WITH THE PURPOSE OF ASSISTING THE LOCAL GOVERNMENTS IN REACHING THEIR OWN SOLUTION TO THE DISPUTE.

(g) "MUNICIPALITY" MEANS A HOME RULE OR STATUTORY CITY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND COUNTY.

(h) "NEIGHBORING JURISDICTION" MEANS THE FOLLOWING:

(I) FOR A COUNTY, ANY ADJACENT COUNTY AND ANY MUNICIPALITY THAT IS WHOLLY OR PARTIALLY LOCATED WITHIN THE BOUNDARIES OF THE COUNTY OR WITHIN THREE MILES OF ANY BOUNDARY OF THE COUNTY; AND

(II) FOR A MUNICIPALITY, EACH COUNTY WITHIN WHICH THE MUNICIPALITY IS WHOLLY OR PARTIALLY LOCATED AND ANY COUNTY OR MUNICIPALITY THAT IS LOCATED WITHIN THREE MILES OF ANY BOUNDARY OF THE MUNICIPALITY.

(2) (a) EACH LOCAL GOVERNMENT SHALL PROVIDE TO EACH NEIGHBORING JURISDICTION WRITTEN NOTICE OF THE PUBLIC HEARINGS AT WHICH THE COMPREHENSIVE PLAN OF THE LOCAL GOVERNMENT IS TO BE CONSIDERED AND A COPY OF THE PROPOSED COMPREHENSIVE PLAN. SUCH NEIGHBORING JURISDICTION MAY REVIEW THE COMPREHENSIVE PLAN AND SUBMIT COMMENTS TO THE LOCAL GOVERNMENT PRIOR TO THE FIRST HEARING ON SUCH PLAN BY THE LOCAL GOVERNMENT.

(b) A NEIGHBORING JURISDICTION MAY FILE A WRITTEN OBJECTION

TO A COMPREHENSIVE PLAN WITH A LOCAL GOVERNMENT AT ANY TIME UP TO AND INCLUDING THIRTY DAYS AFTER THE ADOPTION OF SUCH PLAN. SUCH OBJECTION MAY INCLUDE A REQUEST FOR THE LOCAL GOVERNMENT TO PARTICIPATE IN A MEDIATION OF THE COMPREHENSIVE PLANNING DISPUTE WITH THE NEIGHBORING JURISDICTION COORDINATED BY THE DEPARTMENT THROUGH THE OFFICE USING A MEDIATOR FROM THE LIST MAINTAINED PURSUANT TO SUBSECTION (6) OF THIS SECTION. SUCH LOCAL GOVERNMENT SHALL PARTICIPATE IN THE MEDIATION UPON THE REQUEST OF THE NEIGHBORING JURISDICTION.

(c) IF A NEIGHBORING JURISDICTION HAS MORE THAN ONE OBJECTION TO A COMPREHENSIVE PLAN, ALL SUCH OBJECTIONS SHALL BE CONSIDERED TOGETHER IN THE MEDIATION CONDUCTED PURSUANT TO THIS SUBSECTION (2). A NEIGHBORING JURISDICTION REQUESTING SUCH DISPUTE RESOLUTION OR MEDIATION PROCESS SHALL PAY FOR THE COSTS OF THE MEDIATOR'S SERVICES.

(3) IN THE ALTERNATIVE TO A MEDIATION CONDUCTED PURSUANT TO THIS SECTION, THE PARTIES TO THE DISPUTE MAY USE AN EXISTING INTERGOVERNMENTAL AGREEMENT OR A NEW AGREEMENT TO RESOLVE THE DISPUTES IN WHATEVER MANNER THE LOCAL GOVERNMENTS DETERMINE.

(4) IN CONDUCTING A MEDIATION PURSUANT TO THIS SECTION, THE MEDIATOR SHALL CONSIDER INFORMATION PROVIDED BY ANY LANDOWNER IN THE LAND AREA THAT IS SUBJECT TO THE DISPUTE AND MAY CONSIDER SUCH OTHER INFORMATION AS IS PRESENTED BY OTHER INTERESTED PERSONS.

(5) ANY AGREEMENT OR UNDERSTANDING REACHED BETWEEN TWO OR MORE LOCAL GOVERNMENTS IN THE COURSE OF CONDUCTING A MEDIATION IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION SHALL NOT BE BINDING IN THE EVENT THAT SUCH GOVERNMENTS ARE ULTIMATELY UNSUCCESSFUL IN RESOLVING THEIR COMPREHENSIVE PLANNING DISPUTE.

(6) TO FULFILL ITS ROLE IN COORDINATING A MEDIATED SOLUTION TO DISPUTES BETWEEN AND AMONG LOCAL GOVERNMENTS, the department shall maintain a list of qualified professionals that are available to assist in resolving land use disputes arising between local governments. Such list shall include only those persons and organizations the department determines have professional expertise and skills in land use, planning, zoning, subdivision, annexation, real estate, public administration,

mediation, arbitration, or related disciplines. Such list shall be made available to governmental entities and the public through the office created by this part 32 for the purpose of facilitating the resolution of disputes between or among local governments arising out of land use matters.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Stan Matsunaka
PRESIDENT OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO