

CHAPTER 123

GOVERNMENT - LOCAL

HOUSE BILL 03-1077

BY REPRESENTATIVE(S) May M., Coleman, Harvey, Madden, Plant, Pommer, Rippy, Weissmann, Wiens, Williams S.,
Frangas, Merrifield, and Weddig;
also SENATOR(S) Evans, Fitz-Gerald, Tapia, and Tupa.

AN ACT

CONCERNING THE ESTABLISHMENT OF A PROCESS FOR THE RESOLUTION OF DISPUTES AMONG LOCAL GOVERNMENTS ARISING OUT OF A PETITION FOR ANNEXATION OF LAND THAT IS LOCATED WITHIN THE BOUNDARIES OF A DEVELOPMENT PLAN ENTERED INTO BY LOCAL GOVERNMENTS THROUGH INTERGOVERNMENTAL AGREEMENT.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The "Local Government Land Use Control Enabling Act of 1974", article 20 of title 29, Colorado Revised Statutes, was adopted, in part, to provide for planned and orderly development within Colorado through the use of intergovernmental agreements by local governments to establish mutually binding and enforceable comprehensive development plans for areas within their jurisdiction.

(b) The "Municipal Annexation Act of 1965", part 1 of article 12 of title 31, Colorado Revised Statutes, does not address the zoning of newly annexed land that is located within the boundaries of a mutually binding and enforceable comprehensive development plan by an annexing municipality that is not a party to the intergovernmental agreement that established such plan.

(c) The stated policy of planned and orderly development within Colorado as contained in both the "Local Government Land Use Control Enabling Act of 1974" and the "Municipal Annexation Act of 1965" mandates that a process be established for the resolution of disputes between or among neighboring jurisdictions arising out of a petition for annexation of land that is located within the boundaries of a development plan entered into by local governments through intergovernmental

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

agreement.

SECTION 2. 24-32-3209 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-32-3209. Comprehensive planning disputes - development plan 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:

(c.5) "DEVELOPMENT PLAN" MEANS A MUTUALLY BINDING AND ENFORCEABLE DEVELOPMENT PLAN ESTABLISHED PURSUANT TO SECTION 29-20-105 (2), C.R.S., BY INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OR COUNTIES IN WHICH LAND TO BE ANNEXED IS LOCATED AND A MUNICIPALITY OR BETWEEN ANY TWO OR MORE MUNICIPALITIES LOCATED WITHIN SUCH COUNTY OR COUNTIES.

SECTION 3. 24-32-3209 (5), Colorado Revised Statutes, is amended, and the said 24-32-3209 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-32-3209. Comprehensive planning disputes - development plan disputes - mediation - list of qualified professionals to assist in mediating land use disputes - definitions. (2.3) (a) THE PARTIES TO AN INTERGOVERNMENTAL AGREEMENT ESTABLISHING A DEVELOPMENT PLAN SHALL PROVIDE NOTICE AND A COPY OF THE AGREEMENT, TOGETHER WITH A MAP DEMONSTRATING THE TERRITORY COVERED BY THE AGREEMENT, TO EACH NEIGHBORING JURISDICTION.

(b) EACH MUNICIPALITY THAT HAS RECEIVED A PETITION FOR ANNEXATION FILED PURSUANT TO SECTION 31-12-107, C.R.S., WHICH ANNEXATION COVERS TERRITORY INCLUDED WITHIN THE BOUNDARIES ENCOMPASSED WITHIN A DEVELOPMENT PLAN TO WHICH THE MUNICIPALITY IS NOT A PARTY, AND THAT HAS RECEIVED NOTICE AND A COPY OF THE PLAN IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (2.3) SHALL PROVIDE TO THE PARTIES TO THE DEVELOPMENT PLAN WRITTEN NOTICE OF THE PETITION FOR ANNEXATION, AS WELL AS A COPY OF THE PETITION, PRIOR TO THE REFERRAL OF THE PETITION BY THE MUNICIPAL CLERK TO THE GOVERNING BODY OF THE MUNICIPALITY PURSUANT TO SECTION 31-12-107 (1) (f), C.R.S. WHERE ANY PORTION OF THE AREA TO BE ANNEXED UNDER THE PETITION IS LOCATED WITHIN THE BOUNDARIES OF A DEVELOPMENT PLAN, EACH NEIGHBORING JURISDICTION THAT IS A PARTY TO SUCH PLAN MAY FILE WITH THE GOVERNING BODY OF THE ANNEXING MUNICIPALITY A WRITTEN OBJECTION TO THE PETITION NO LATER THAN THIRTY DAYS AFTER RECEIPT OF THE PETITION IN ACCORDANCE WITH THE REQUIREMENTS OF THIS PARAGRAPH (b). IN THE WRITTEN OBJECTION FILED, THE NEIGHBORING JURISDICTION MAY ADDITIONALLY REQUEST THAT THE ANNEXING MUNICIPALITY PARTICIPATE IN A MEDIATION OF THE DISPUTE ARISING OUT OF THE PETITION WITH THE ASSISTANCE OF A QUALIFIED PROFESSIONAL FROM THE LIST OF SUCH PROFESSIONALS MAINTAINED BY THE DEPARTMENT PURSUANT TO SUBSECTION (6) OF THIS SECTION. UPON THE REQUEST OF ANY NEIGHBORING JURISDICTION THAT IS A PARTY TO THE DEVELOPMENT PLAN, THE ANNEXING MUNICIPALITY SHALL PARTICIPATE IN THE MEDIATION REQUIRED BY THIS PARAGRAPH (b).

(c) NO PETITION FOR ANNEXATION SHALL BE REFERRED BY A MUNICIPAL CLERK TO

THE GOVERNING BODY OF THE MUNICIPALITY FOR ANY ACTION PURSUANT TO SECTION 31-12-107 (1) (f), C.R.S., UNTIL:

(I) THE MEDIATION REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2.3) IS COMPLETED; OR

(II) NOT LESS THAN NINETY DAYS HAVE PASSED FROM THE DATE ON WHICH THE MUNICIPALITY IN RECEIPT OF THE PETITION FOR ANNEXATION WAS NOTIFIED OF A REQUEST TO MEDIATE BY A NEIGHBORING JURISDICTION PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2.3).

(d) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COSTS OF OBTAINING THE ASSISTANCE OF A QUALIFIED PROFESSIONAL IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION (2.3) SHALL BE ASSUMED BY THE NEIGHBORING JURISDICTION REQUESTING THE MEDIATION. WHERE MORE THAN ONE NEIGHBORING JURISDICTION REQUESTS THE MEDIATION, THE COSTS OF OBTAINING THE ASSISTANCE OF A QUALIFIED PROFESSIONAL SHALL BE ALLOCATED PRO RATA BETWEEN OR AMONG ALL SUCH JURISDICTIONS.

(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 OR DEVELOPMENT PLAN dispute.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 9, 2003