

CHAPTER 302

**GOVERNMENT - LOCAL**

HOUSE BILL 05-1230

BY REPRESENTATIVE(S) Weissmann, and Green;  
also SENATOR(S) Shaffer, and Williams.

**AN ACT**

**CONCERNING A REQUIREMENT THAT PUBLIC UTILITY FACILITY SITING COMPLY WITH LOCAL GOVERNMENT ZONING RULES.**

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

**SECTION 1.** 40-5-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**40-5-101. New construction - extension - compliance with local zoning rules.**

(3) EXCEPT AS OTHERWISE PROVIDED IN SECTION 29-20-108, C.R.S., ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3), NO PUBLIC UTILITY SHALL CONSTRUCT OR INSTALL ANY NEW FACILITY, PLANT, OR SYSTEM WITHIN THE TERRITORIAL BOUNDARIES OF ANY LOCAL GOVERNMENT UNLESS THE CONSTRUCTION OR INSTALLATION COMPLIES WITH THE ZONING RULES, RESOLUTIONS, OR ORDINANCES OF THE LOCAL GOVERNMENT APPLICABLE TO THE PROPERTY ON WHICH THE FACILITY, PLANT, OR SYSTEM IS TO BE CONSTRUCTED OR INSTALLED. NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO PROHIBIT A LOCAL GOVERNMENT FROM GRANTING A VARIANCE FROM ITS ZONING RULES, RESOLUTIONS, OR ORDINANCES FOR SUCH USES OF THE PROPERTY. NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO GRANT THE COMMISSION ANY ADDITIONAL AUTHORITY TO RESTRICT A SITING APPLICATION. FOR PURPOSES OF THIS SUBSECTION (3), "LOCAL GOVERNMENT" SHALL MEAN A COUNTY, HOME RULE OR STATUTORY CITY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND COUNTY.

**SECTION 2. Effective date.** (1) 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 (August 10, 2005, if adjournment sine

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

die is on May 11, 2005); 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.

(2) The provisions of this act shall apply to the construction or installation of any new utility facility, plant, or system commenced on or after the effective date of this act.

Approved: June 3, 2005