

DIGEST OF BILLS ENACTED BY THE SIXTY-THIRD GENERAL ASSEMBLY

2001 SECOND EXTRAORDINARY SESSION
OCTOBER 2001

Publication of the Colorado Revised Statutes occurs several months following the end of each regular legislative session. Prior to such publication, the Office of Legislative Legal Services prepares the Digest of Bills and concurrent resolutions as required under section 2-3-504, C.R.S. The Digest consists of summaries of all bills and concurrent resolutions enacted by the Sixty-third General Assembly at its Second Extraordinary Session ending October 9, 2001. The summaries include the dates bills are approved and the effective dates of the bills. The Digest is not a substitute for the text of the bills or for provisions of Colorado Revised Statutes, but gives the user notice of and summary information on recent changes to the statutes.

APPROPRIATIONS

S.B. 01S2-23 Capital construction appropriation - reduction - capital projects - revenue allocation to HUTF - transfer from capital construction fund to general fund. Decreases the capital construction appropriation for specified projects. Eliminates the March 1, 2002, transfer from the general fund to the capital construction fund. Limits the state sales and use tax revenues allocated to the HUTF in 2001-02 fiscal year to \$35,179,062. Transfers \$219,266,853 from the capital construction fund to the general fund upon the effective date of this act.

BECAME LAW November 9, 2001

EFFECTIVE November 9, 2001

GOVERNMENT - LOCAL

S.B. 01S2-15 Development impact fees. Authorizes local governments to impose fees to fund capital facilities needed to serve new development. Requires that such impact fees be:

- Legislatively adopted by the local government;
- Generally applicable to a broad class of property; and
- Intended to defray the projected impacts on capital facilities caused by the development.

Requires local governments that levy impact fees to quantify the reasonable impacts of proposed development and set the amount of the fee at a level no greater than necessary to defray such impacts directly related to the proposed development. States that any schedule of impact fees adopted by a local government shall ensure that landowners are not required both to pay an impact fee and make a site specific dedication of property to meet the same need for capital facilities.

Subjects impact fees to existing statutory provisions on accounting of land development charges. Permits local governments to waive impact fees on low- and moderate-income housing or affordable employee housing.

Prohibits impact fees on development permits for which a complete application was submitted before the adoption of the schedule of impact fees. Prohibits the collection of impact fees before the issuance of a development permit.

Grants to any person or entity that owns or has an interest in land subject to an impact fee standing to seek a declaratory judgment on whether the fee is consistent with the law. Permits applicants for development permits to pay impact fees and proceed with development without prejudice to their right to challenge the validity of the fee. Permits courts to enter judgments in favor of applicants for development permits in the amount of improperly collected impact fees and interest thereon.

Declares that the matters addressed in the section on impact fees are matters of statewide concern. Permits local governments to continue imposing impact fees under any schedule adopted before October 1, 2001, so long as such schedule of fees:

- Prevents the imposition of both impact fees and property dedications for the same impact;
- Provides for accounting of impact fees under existing statutory provisions;
- Does not apply to complete development applications submitted before the adoption of the schedule; and
- Does not interfere with the judicial remedies of applicants.

Requires amendments to such impact fee schedules adopted after October 1, 2001, to comply with all requirements of the section on impact fees. Declares that the provisions of the section on impact fees are nonseverable.

States that if a local government imposes a discretionary requirement on a property owner to provide services to the local government as a condition of development, there shall be an essential nexus between the requirement and a legitimate local government interest and the requirement shall be roughly proportional to the impact of the development. States that if a local government imposes a discretionary requirement on a property owner to dedicate

property, pay money, or provide services as a condition of development, the property owner may comply with the requirement and proceed with development without prejudice to the property owner's right to challenge the validity of the requirement.

APPROVED by Governor November 6, 2001

EFFECTIVE November 6, 2001

H.B. 01S2-1006 Mandatory adoption of local government master plans. Requires each county and municipality that meets specified descriptions to adopt a master plan within 2 years after the effective date of the act. Directs the department of local affairs to determine annually whether a county or municipality is subject to the requirements of the act and notify any newly identified counties or municipalities. Gives any newly identified county or municipality 2 years to adopt a master plan. Clarifies that once a county or municipality is identified as being subject to the requirements of the act, the county or municipality remains subject to those requirements, regardless of whether it continues to meet any of the descriptions. Requires each local government master plan to contain a recreational and tourism uses element and specifies the content of such element.

APPROVED by Governor November 6, 2001

EFFECTIVE January 8, 2002

NOTE: This act was passed without a safety clause. For further information concerning the effective date, see the table of contents page of this digest on the Internet.

GOVERNMENT - MUNICIPAL

H.B. 01S2-1001 Annexation - limitations. Authorizes local governments to include provisions concerning annexation in intergovernmental agreements, including but not limited to provisions:

- That a comprehensive development plan shall continue to control particular land areas even though the land areas have been annexed;
- For revenue sharing between local governments; and
- Concerning land areas that may be annexed by municipalities and the conditions related to such annexations as established in the comprehensive plan adopted by the municipalities.

Prior to the completion of an annexation in which the annexing municipality achieves the statutory contiguity requirement by annexing a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway, requires the annexing municipality to annex any of the following parcels that abut such platted street or alley, public or private right-of-way, public or private transportation right-of-way or area, or lake, reservoir, stream, or other natural or artificial waterway, where such parcel satisfies the statutory eligibility requirements for an annexation and for which an annexation petition has been submitted to the municipality no later than 45 days prior to the statutorily required annexation hearing:

- Any parcel of property having an individual schedule number for county tax filing purposes upon the petition of the owner of such parcel;
- Any subdivision that consists of only one subdivision filing upon the petition of the requisite number of property owners within the subdivision; and
- Any subdivision filing within a subdivision that consists of more than one subdivision filing upon the petition of the requisite number of property owners within the subdivision filing.

Specifies that the annexation of such parcels shall be under the same or substantially similar terms and conditions, considered in the same hearing, and included in the same impact report as the initial annexation.

Requires an annexing municipality that has achieved the statutory contiguity requirement by annexing a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway to provide written notice of the annexation and a landowner's right to petition for annexation to every owner of any abutting parcel. States that such notice shall be by regular mail and upon the latter of 90 days before the annexation hearing or the date that the annexation petition is filed.

Specifies that a municipality's inadvertent failure to provide notice of the annexation shall neither create a cause of action in favor of any landowner nor invalidate any annexation proceeding.

APPROVED by Governor November 6, 2001

EFFECTIVE November 6, 2001

GOVERNMENT - STATE

S.B. 01S2-22 State employees - increase in state contribution for group benefit plans - specified period - appropriation. For the period beginning December 1, 2001, through November 30, 2002, increases the amount of state contributions for employees, other than certain elected state officials, who are enrolled in group benefit plans. Specifies that, for purposes of providing parity in the amount of state contributions for all employees statewide, the state shall contribute an amount necessary to ensure that the employee contribution for any given medical benefits plan is identical for each employee enrolled in said plan, regardless of the county of residence of the employee.

Increases appropriations made by \$3,000,341 for implementation of the act. Said sums shall be cash funds exempt from the undesignated fund balance for medical plans in the group benefit plans reserve fund.

APPROVED by Governor November 6, 2001

EFFECTIVE November 6, 2001

H.B. 01S2-1020 Comprehensive planning disputes - mediation. Requires local governments to provide written notice to neighboring local governments of hearings at which a comprehensive plan or an amendment to a comprehensive plan will be considered. Allows neighboring local governments to review and comment upon comprehensive plans and demand that the local government agree to participate in a mediation of any dispute regarding the comprehensive plan. Specifies a time limit for making such demand. Requires the requesting neighboring local government to pay for the costs of the mediator's services.

Provides an alternative that allows the parties to use an existing intergovernmental agreement or a new agreement to resolve the dispute. Specifies that the mediation shall be coordinated through the office of smart growth. Requires mediators to consider information provided by landowners in the land area subject to the dispute and allows mediators to consider information presented by other interested persons.

States that any agreement reached between local governments as a result of the mediation process shall not be binding in the event the governments are unsuccessful at resolving their dispute.

Specifies that the list maintained by the department of local affairs of professionals who are qualified to resolve land use disputes between local governments shall be used to fulfill the department's role in coordinating mediated solutions to such disputes.

APPROVED by Governor November 6, 2001

EFFECTIVE November 6, 2001

H.B. 01S2-1034 Group benefit plan pilot program - selected area - enrollment - report. For purposes of accelerating the statewide health care study for state employees, authorizes the director of the department of personnel to conduct a group benefit plan pilot program for state employees residing in an area of the state in which state HMO health care insurance premiums have increased 40% or greater under a 2002 group benefit plan if the director determines that:

- The pilot program can be implemented by March 1, 2002; and

- A group benefit plan can be contracted for with a carrier by such date that will provide health insurance to the employees participating in the pilot program at a lower cost than the existing HMO group benefit plans offered in such area.

Limits participation in the pilot program to state employees that reside in an area of the state selected by the director of the department of personnel in which the state HMO health care insurance premiums have increased 40% or greater. Allows an employee enrolled in a group benefit plan in the pilot program area as of December 31, 2001, to participate in the pilot program by enrolling in the group benefit plan under such program during a special open enrollment period designated by the director.

Requires the director of the department of personnel to provide a written report to the joint budget committee containing an evaluation of the pilot program, including, but not limited to, the number of employees participating in the pilot program, the health insurance cost savings to such employees, and the amount of moneys spent by the department of personnel on the pilot program.

APPROVED by Governor November 6, 2001

EFFECTIVE November 6, 2001

HUMAN SERVICES - SOCIAL SERVICES

S.B. 01S2-12 Breast and Cervical Cancer Prevention and Treatment Program. Implements Colorado's option to create a breast and cervical cancer prevention and treatment program ("program") under the "Colorado Medical Assistance Act" as allowed by federal law.

Declares that it is in the interest of the state to provide for the prevention and treatment of breast and cervical cancer.

Creates the program to provide medical assistance to eligible persons with breast or cervical cancer. States that to be eligible for medical assistance, a person must:

- Have been screened under the centers for disease control and prevention's national breast and cervical cancer early detection program;
- Be in need of treatment;
- Not have reached 65 years of age; and
- Not have any creditable coverage as defined by the federal "Public Health Service Act".

States that medical assistance for breast and cervical cancer is available for the period that begins when the person is determined to be eligible for medical assistance and throughout the period that such person meets the definition of an "eligible person". States that medical assistance is also available for a period of presumptive eligibility that begins when the person is diagnosed and in need of treatment. The period of presumptive eligibility ends on the date when a determination is made that the person is eligible for medical assistance or, if the person does not submit an application for medical assistance, the last day of the month following the month during which the person was found to be eligible for medical services, whichever date is earlier.

Requires the department of health care policy and financing ("department") to establish, operate, and monitor the program. Requires the department to amend the state medical assistance plan to include the program, and to submit the amendment to the centers for medicare and medicaid services regional office for approval. Grants rule-making authority to the medical services board. Requires the department to inform the joint budget committee of the general assembly about any changes in the rate of federal financial participation.

Allows the department to accept and expend moneys from legislative appropriations, from federal sources, and from nonprofit and for-profit entities. Creates a breast and cervical cancer prevention and treatment fund, consisting of moneys appropriated by the general assembly from the general fund and from interest derived from the tobacco litigation settlement cash fund.

Repeals the program on July 1, 2009, unless the federal match moneys are decreased or no longer available, in which case the general assembly may repeal the program at an earlier date.

Appropriates \$58,746 from the breast and cervical cancer prevention and treatment fund to the department of health care policy and financing for implementation of the act. The general assembly anticipates that for the fiscal year beginning July 1, 2002, the department of health care policy and financing will receive \$103,386 from federal funds for implementation of this act. Appropriates \$24,000 to the department of human services,

office of information technology services, client-oriented information network, from cash funds exempt received from the department of health care policy and financing.

APPROVED by Governor November 1, 2001

EFFECTIVE November 1, 2001

TRANSPORTATION

S.B. 01S2-8 Motor vehicles - traffic laws - drunk driving - penalties. Declares that a prior amendment to the drunk driving laws, enacted by Senate Bill 01-168, may inadvertently have created ambiguity in the applicable penalties for vehicular assault, vehicular homicide, and second and subsequent convictions for driving under the influence, driving while ability impaired, and driving with excessive alcoholic content. Declares that this act is intended to remove any such ambiguity and restore the preexisting system of penalties for such offenses. Amends the relevant portions of the drunk driving laws accordingly.

APPROVED by Governor September 25, 2001

EFFECTIVE September 25, 2001

SUBJECT INDEX

	Bill No.	Page No.
Appropriations		
Capital construction appropriation - reduction - capital projects - revenue allocation to HUTF - transfer from capital construction fund to general fund..	SBS2 23	1
Government - Local		
Development impact fees..	SBS2 15	2
Mandatory adoption of local government master plans..	HBS21006	3
Government - Municipal		
Annexation - limitations..	HBS21001	4
Government - State		
Comprehensive planning disputes - mediation..	HBS21020	6
Group benefit plan pilot program - selected area - enrollment - report.. . .	HBS21034	7
State employees - increase in state contribution for group benefit plans - specified period - appropriation...	SBS2 22	6
Human Services - Social Services		
Breast and Cervical Cancer Prevention and Treatment Program..	SBS2 12	8
Transportation		
Motor vehicles - traffic laws - drunk driving - penalties..	SBS2 8	10