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Colorado State Fire Chiefs' Association

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To: House Local Government Committee
From: Paul L. Cooke, Executive Director
Subject: HB10-1368, County Land-Use Approval Under PUD Act (Rep. Scanlan)
Date: April 15, 2010

Please Vote NO on House Bill 1368!

HB 1368 seeks to undo Colorado law that for a great many years has created balance between the land use regulatory authority of county governments and the often overriding need of other governmental entities to properly site an essential public facility, such as fire stations. The Colorado State Fire Chief's Association urges you to defeat this effort.

In the provision of fire and emergency medical services, one or two minutes can make the difference between saving a life or suppressing a fire before it is out of control. Thus, one of the most important criteria to be considered when selecting a site on which to construct a fire station is response times and distances to areas to be protected. This often requires extensive computer-modeling that examines such things as traffic access points, traffic volumes and travel speeds, congestion, intersections, topography, and natural and man-made obstructions, as well as the nature of the risk to be protected and the location of other fire stations.

A fire station location analysis generally results in very specific sites that optimize the delivery of critical emergency services. Because of the complex analysis that goes into selecting sites for fire stations and other fire protection facilities, few areas in any county or municipality are appropriately zoned to accommodate them. For this reason county (and municipal) zoning regulations often conflict with proposed projects of fire protection districts.

For many years, Colorado's Location and Extent process has balanced the competing interests of the respective governmental bodies. The process requires all public projects be reviewed by the applicable zoning commission that has adopted a master-zoning plan, but also grants the power of the submitting entity to overrule a denial based upon zoning restrictions.

HB 1368 is the result of the recent Colorado Supreme Court decision in BOCC v. Hygiene Fire Protection District, where the authority of a governmental body to override zoning decisions was upheld, and the proponents seek to overturn this decision by enacting new law.

"Serving the Chief Fire Officers of Colorado Since 1968"

The facts of the Hygiene FPD case are simple. Hygiene FPD needed to build a fire station and identified land that it wanted to acquire for this purpose. But the land that the District wanted to construct the fire station on was not in conformity with the existing planned unit development (PUD) plan. Boulder County recognized location and extent powers of the District BUT argued that that once the land has been subject to a PUD plan then the District has to first get a PUD amendment from the County before obtaining the land it wanted.

The District disagreed and submitted the required a location and extent application with the County. The County refused to process it until the PUD was amended, but it told the District that it didn't want the fire station there anyway. The District sued, and the courts agreed with the District: the PUD laws/regulations are really zoning regulations which the location and extent statute allows the District to overrule.

The ability of a fire protection district to construct fire stations and other fire protection facilities on sites identified as optimum to the provision of fire and related emergency services must be maintained. For this reason we urge your NO vote on HB 1368.