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Senate Bill 23-213: Summary of Amendments of the Senate Appropriations Committee Adopted April 26, 2023

Senate Bill 23-213 was [amended](#) by the Senate Appropriations committee. The amendment re-writes the bill and removes most aggressive land use and zoning preemptions below. The bill as amended passed out of the committee on a party-line vote and will be debated on second reading in the Senate this week.

Major preemptions removed

Preemptions of local control and home rule authority removed from the bill include requirements that certain municipalities follow a state-issued model code or modify local laws to allow, as a use by right:

- Accessory dwelling units wherever single-family housing was allowed;
- “Middle housing” in certain areas where single-family housing was allowed; and
- Multifamily housing near fixed rail stations and in “key corridors.”

The amendment also removed:

- Broad language preempting local laws and requirements, including those that might make certain development “physically impossible or practically difficult”;
- Mandates that municipalities adopt a set number of “affordability strategies;”
- Substantial parts of the legislative declarations that attempted to establish traditionally local matters as being of mixed state and local concern; and
- Provisions concerning common interest communities and water loss audit verification.

Department of Local Affairs focused on planning and resources (Section 1)

DOLA will perform a variety of tasks, including:

- Conducting statewide, regional, and local housing needs assessments and providing guidance for municipalities to create local housing needs plans.
- Conducting a displacement risk assessment and provide guidance to mitigate that displacement risk.

- Creating menus for affordability strategies that municipalities must select from in creating their housing needs plans. No set minimum is required. Different menus exist for urban municipalities and rural resort job centers.
- Creating “state strategic growth objectives,” a “natural and agricultural land priorities report,” and a “water supply forecast.” Strategic growth objectives are “broad guidance” and will define strategic growth areas to further the bill’s goals (e.g., growth in key corridors and transit areas, avoiding greenfield development, prioritizing redevelopment and infill development, supporting a mix of housing types and density levels, and water efficiency). Generally, these areas are in census urbanized areas. The objectives promote investment in these areas, will streamline state agency permitting processes, and require state projects, grant programs, and planning efforts to support the areas.
- Conducting “compliance reviews” of plans.

The bill maintains an advisory committee to assist DOLA with its work. The committee continues to consist of state officials and local government planning employees appointed by the governor and by legislative leadership. The committee will also report to the General Assembly on key corridors and recommendations to address long-term housing supply and affordability needs.

The public comment process remains the same.

The technical assistance language remains the same.

Municipal planning and reporting requirements

Housing needs plan (Section 1): Urban municipalities and rural resort job centers must create a “housing needs plan” by December 2026. Smaller urban municipalities with a lower level of annual household income may opt out of this requirement. Generally, plans may be informed by local and regional housing needs plans and must include must contain:

- A narrative of the stakeholder process;
- An analysis of how the municipality will address housing needs;
- An implementation plan identifying strategies to meet housing needs.
- A narrative of displacement risk and mitigation measures.

DOLA will conduct a “compliance review” and approve or provide feedback housing needs plans. DOLA’s consideration of housing needs plans will be considered as it develops strategic growth objectives where state projects and funding will be prioritized.

Strategic growth and housing mix analysis (Section 1): Metropolitan planning organizations (MPOs) with a population of 250,000 or more and municipalities outside of those MPOs that have a population of at least 50,000 must also create a “strategic growth and housing mix analysis” by December 2025. This applies to all municipalities and counties with a population over 250,000. This new analysis concept will influence master plans and must include:

- Areas for development or redevelopment qualifying as “strategic growth areas” (an area identified by the state as a priority area for growth under the state’s identified goals);
- Prioritize strategic growth areas for growth; and
- Evaluate existing zoning and density in strategic growth areas.

Master plans (Sections 5 and 8): The amendment added a new mandatory “strategic growth element” that includes information from the regional “strategic growth and housing mix analysis” created by an MPO (as applicable) and an analysis of how that information is being included, plus other local strategic growth areas, transportation, utility and infrastructure gaps that are needed to enable strategic growth areas, and zoning refinements and densities needed to accommodate housing needs and strategic growth objectives.

The amendment also requires urban municipalities to review and revise master plans to ensure compliance with the requirements of the section at least every 10 years.

The bill continues mandatory standards for county and municipal master planning. After June 2024, plans must include a housing element, a water element, and a natural and agricultural land priorities element, in addition to the new “strategic growth element.” Plans must be submitted to DOLA for review and comment.

Reporting requirements (Section 1): Urban municipalities and rural resort job centers also must report on housing development information annually, including housing activity, zoning information, and resources dedicated to development review.

Continuing limitations on municipal authority

Residential occupancy limits (Section 4): The bill continues to prohibit local residential occupancy limits “that differ based on the relationships of the occupants of a dwelling.” The bill does not limit overall occupancy limits for structures, building safety codes, or density standards.

Manufactured and modular housing (Sections 2, 3, 7): The bill maintains efforts to promote and streamline opportunities for manufactured, modular, and tiny homes, much of which is already regulated heavily by Federal law or DOLA’s Division of Housing. This includes state authority to approve representatives that will perform final construction plan reviews (that already do inspections).

Section 7 generally requires that municipalities treat manufactured and modular homes under similar standards to site-built with regards to approvals and site standards. Existing law prohibits municipalities from having development laws that exclude these housing types. Without changing existing provisions in law, the bill requires that:

- Approval processes be based on “objective standards and administrative review” equal to site-built homes, but can be subject to “subjective review” if an equivalent process applies to site-built homes;
- Municipalities cannot apply more restrictive development standards than applied to site-built homes in the same residential zones (including requirements for

permanent foundations, minimum floor space, size, improvement location standards, and side yard or setback standards).

Manufactured homes (CRS 24-32-3302(20)) are preconstructed building units designed for residential occupancy and meeting standards under federal standards. They are not RVs or modern mobile homes. Modular homes (CRS 24-72-3302(25)) are factory-built residential structures built pursuant to state building codes and designed for permanent installation (excluding those covered by federal standards and mobile homes from before 1974).

Other provisions

The bill retains authority to sell municipal property without an election for affordable housing purposes (Section 6).

The bill continues to modify various transportation statutes to focus projects and grants on state strategic growth objectives (Sections 9, 10, 11, and 12). The amendment required that CDOT articulate state growth objectives in project requirements.

The amendments also updated the appropriations language (Section 13).