

CHAPTER 339

GOVERNMENT - LOCAL

SENATE BILL 22-002

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also REPRESENTATIVE(S) Cutter and Will, Lynch, Snyder, Valdez D., Amabile, Bacon, Bernett, Bird, Bockenfeld, Boesenecker, Carver, Daugherty, Esgar, Exum, Froelich, Herod, Holtorf, Hooton, Jodeh, Kipp, Lindsay, Lontine, McCluskie, McCormick, Michaelson Jenet, Mullica, Rich, Ricks, Roberts, Soper, Titone, Valdez A., Van Winkle, Weissman.

AN ACT

CONCERNING INCREASING THE RESOURCES AVAILABLE FOR FIRE PROTECTION SERVICES PROVIDED BY VOLUNTEER AND SEASONAL FIREFIGHTERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 24-33.5-1220, **add** (6) as follows:

24-33.5-1220. Funds available - emergency fire fund - wildland fire equipment repair fund - wildland fire cost recovery fund - creation - gifts, grants, and donations authorized - rules. (6) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A FIRE DEPARTMENT IS ELIGIBLE FOR REIMBURSEMENT FOR WILDLAND FIRE SUPPRESSION ACTIVITIES WITHIN THE JURISDICTION OR DESIGNATED BOUNDARIES OF THE FIRE DEPARTMENT FROM THE GOVERNOR'S EMERGENCY FUND AND THE WILDLAND FIRE COST RECOVERY FUND IF:

(I) THE FIRE DEPARTMENT RELIES SOLELY OR PRIMARILY ON VOLUNTEER FIREFIGHTERS TO PROVIDE FIRE PROTECTION SERVICES, AS DETERMINED UNDER GUIDELINES ADOPTED BY THE DIVISION IN THE ANNUAL WILDFIRE PREPAREDNESS PLAN REQUIRED BY SECTION 24-33.5-1227 (2)(a);

(II) THE WILDLAND FIRE EXCEEDS THE CAPABILITIES OF THE FIRE DEPARTMENT TO CONTROL OR EXTINGUISH; AND

(III) THE MUTUAL AID PERIOD FOR THAT FIRE HAS ENDED.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) THE FIRE DEPARTMENT MUST USE MONEY RECEIVED PURSUANT TO THIS SUBSECTION (6) TO COMPENSATE VOLUNTEER FIREFIGHTERS PURSUANT TO GUIDELINES ADOPTED BY THE DIVISION IN THE ANNUAL WILDFIRE PREPAREDNESS PLAN REQUIRED BY SECTION 24-33.5-1227 (2)(a).

(c) THE DIVISION AND EACH COUNTY SHERIFF'S OFFICE SHALL MODIFY ANY INTERGOVERNMENTAL AGREEMENTS GOVERNING REIMBURSEMENT FOR WILDLAND FIRE SUPPRESSION ACTIVITIES AS NECESSARY TO ALLOW REIMBURSEMENT IN ACCORDANCE WITH THIS SUBSECTION (6).

(d) THE DIRECTOR MAY PROMULGATE RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (6).

SECTION 2. In Colorado Revised Statutes, 24-33.5-1226, **amend** (2.5) as follows:

24-33.5-1226. Wildfire emergency response fund - creation - gifts, grants, and donations authorized - rules. (2.5) In addition to any other purpose for the use of money in the wildfire emergency ~~preparedness~~ RESPONSE fund specified in this section, the division may use money in the fund to provide wildfire suppression assistance to county sheriffs, municipal fire departments, or fire protection districts throughout the state at no cost to such entities pursuant to annual guidelines published by the division in the wildfire preparedness plan required by section 24-33.5-1227 (2)(a).

SECTION 3. In Colorado Revised Statutes, 24-33.5-1231, **amend** (1), (2), (3)(a), (3)(b), and (4); and **add** (3.5) and (6) as follows:

24-33.5-1231. Local firefighter safety and disease prevention fund - creation - grants - rules - report. (1) There is hereby created in the state treasury the local firefighter safety and disease prevention fund. The fund consists of all ~~moneys~~ MONEY that may be appropriated OR TRANSFERRED to the fund by the general assembly and all private and public ~~moneys~~ MONEY received through gifts, grants, or donations that ~~are~~ IS transmitted to the state treasurer and credited to the fund. The state treasurer shall credit all interest earned from the investment of ~~moneys~~ MONEY in the fund to the fund. The ~~moneys~~ MONEY in the fund ~~are~~ IS hereby continuously appropriated to the division for the purposes indicated in this section. Any ~~moneys~~ MONEY not expended at the end of each fiscal year ~~remain~~ REMAINS in the fund and shall not be transferred to or revert to the general fund.

(2) (a) The division shall use the ~~moneys~~ MONEY in the fund to:

(I) Award need-based grants to governing bodies and volunteer fire departments to provide funding or reimbursement for:

(A) PURCHASING equipment ~~and~~ OR REPLACING DAMAGED OR OBSOLETE EQUIPMENT, INCLUDING THE COSTS OF DISPOSAL OF DAMAGED AND OBSOLETE EQUIPMENT; AND

(B) PROVIDING training designed to increase firefighter safety and prevent

occupation-related diseases.

(II) REIMBURSE A MULTIPLE EMPLOYER BEHAVIORAL HEALTH TRUST FOR THE DIRECT COSTS OF PROVIDING A PROGRAM PURSUANT TO PART 5 OF ARTICLE 5 OF TITLE 29. IN FISCAL YEAR 2022-23, THE TOTAL REIMBURSEMENT PURSUANT TO THIS SUBSECTION (2)(a)(II) MUST NOT EXCEED ONE MILLION DOLLARS. IN SUBSEQUENT FISCAL YEARS, THE FIRE SERVICE TRAINING, CERTIFICATION, AND FIREFIGHTER SAFETY ADVISORY BOARD, CREATED IN SECTION 24-33.5-1204 (1) SHALL MAKE A RECOMMENDATION TO THE DIVISION BASED UPON THE BEHAVIORAL HEALTH-CARE AND SAFETY NEEDS OF FIREFIGHTERS AS TO THE AMOUNT OF MONEY IN THE FUND THAT MAY BE USED FOR THIS PURPOSE.

(b) The division may expend up to three percent per year from the fund for its direct and indirect costs in administering the ~~grant program~~ PROGRAMS AUTHORIZED BY THIS SECTION. The general assembly intends that the need-based grants from the fund are in addition to, and do not supplant, other sources of funding regarding firefighting.

(3) The director shall promulgate rules governing the award of grants pursuant to subsection (2) of this section, including consideration of:

(a) The recommendations of the fire service training, certification, and firefighter safety advisory board, created in section 24-33.5-1204 (1), concerning the grant application process, funding priorities, and the criteria for awarding grants, SUBJECT TO THE REQUIREMENTS OF SUBSECTION (3.5) OF THIS SECTION;

(b) How to structure the grant application process, which must include a merit-based, peer-review process with grant reviewers from the Colorado state fire chiefs, Colorado professional fire fighters association, ~~and~~ the Colorado state fire fighters association, AND INDIVIDUALS WITH EXPERIENCE AS VOLUNTEER FIREFIGHTERS in equal representation. The peer reviewers shall make recommendations to the director on the award of grants under the program.

(3.5) IN AWARDING GRANTS, THE DIVISION SHALL GIVE PRIORITY TO GOVERNING BODIES AND VOLUNTEER FIRE DEPARTMENTS THAT:

(a) DEMONSTRATE THE GREATEST NEED FOR ADDITIONAL FUNDING TO ENSURE THE SAFETY OF VOLUNTEER AND SEASONAL FIREFIGHTERS;

(b) DEMONSTRATE A LOSS OF TAX REVENUE DUE TO DECREASED ASSESSMENT VALUES AS A RESULT OF A WILDLAND FIRE IN THE FIRE DEPARTMENT'S JURISDICTION IN THE PREVIOUS FIVE YEARS; OR

(c) RELY PRIMARILY OR SOLELY ON VOLUNTEER FIREFIGHTERS AND ARE SERVING COMMUNITIES AFFECTED BY WILDLAND FIRES.

(4) (a) (I) ~~On July 1, 2018, the state treasurer shall transfer two hundred fifty thousand dollars from the general fund to the fund~~ FOR FISCAL YEAR 2022-23, THE GENERAL ASSEMBLY SHALL APPROPRIATE ONE MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND FOR THE IMPLEMENTATION OF THIS SECTION. IN EACH OF FISCAL YEARS 2023-24 AND 2024-25, THE GENERAL ASSEMBLY SHALL

APPROPRIATE FIVE MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND FOR THE IMPLEMENTATION OF THIS SECTION. THE GENERAL ASSEMBLY MAY APPROPRIATE ADDITIONAL MONEY TO THE FUND AS NECESSARY TO MEET THE NEEDS OF FIRE DEPARTMENTS ACROSS THE STATE.

(II) ON OR BEFORE SEPTEMBER 1, 2025, THE STAFF OF THE JOINT BUDGET COMMITTEE SHALL REVIEW THE IMPLEMENTATION OF THIS SECTION AND MAKE A RECOMMENDATION TO THE JOINT BUDGET COMMITTEE AND TO THE WILDFIRE MATTERS REVIEW COMMITTEE OR ANY SUCCESSOR COMMITTEE AS TO THE AMOUNT OF FUTURE APPROPRIATIONS TO THE FUND BASED ON THE CURRENT NEEDS OF FIRE DEPARTMENTS ACROSS THE STATE.

~~(b)(I) SUBJECT TO AVAILABLE APPROPRIATIONS, the division shall use this money to make~~ AWARD grants under subsection (2) of ~~at least once annually in accordance with this section. In no event shall any individual grant be in excess of the amount of twenty-five thousand dollars~~ AND SHALL ALLOW GOVERNING BODIES AND VOLUNTEER FIRE DEPARTMENTS TO SUBMIT APPLICATIONS THROUGHOUT THE YEAR ON AN AS-NEEDED BASIS DUE TO EMERGENT CIRCUMSTANCES.

(II) THE DIVISION MAY USE A PORTION OF THE MONEY IN THE FUND TO DIRECTLY PURCHASE AND DISTRIBUTE PROTECTIVE EQUIPMENT TO GOVERNING BODIES AND VOLUNTEER FIRE DEPARTMENTS TO DIRECTLY PAY FOR TRAINING DESIGNED TO INCREASE FIREFIGHTER SAFETY AND PREVENT OCCUPATION-RELATED DISEASES FOR GOVERNING BODIES AND VOLUNTEER FIRE DEPARTMENTS OR TO REIMBURSE GOVERNING BODIES AND VOLUNTEER FIRE DEPARTMENTS FOR THE COSTS OF PROTECTIVE EQUIPMENT AND TRAINING WITHOUT REQUIRING A GRANT APPLICATION AND PEER REVIEW PROCESS PURSUANT TO SUBSECTIONS (2) AND (3) OF THIS SECTION. IN DISTRIBUTING EQUIPMENT, PAYING FOR TRAINING, OR PROVIDING REIMBURSEMENT PURSUANT TO THIS SUBSECTION (4)(b)(II), THE DIVISION SHALL PRIORITIZE GOVERNING BODIES AND VOLUNTEER FIRE DEPARTMENTS IN ACCORDANCE WITH THE CRITERIA SPECIFIED IN SUBSECTION (3.5) OF THIS SECTION.

(6) THE DIVISION SHALL SUBMIT AN ANNUAL REPORT ON THE EXPENDITURES FROM THE LOCAL FIREFIGHTER SAFETY AND DISEASE PREVENTION FUND TO THE WILDFIRE MATTERS REVIEW COMMITTEE CREATED IN SECTION 2-3-1602. THE REPORT MUST INCLUDE INFORMATION ON THE NUMBER OF GRANTS MADE AND THE NUMBER OF VOLUNTEER AND PAID FIREFIGHTERS IN EACH FIRE DEPARTMENT THAT RECEIVED A GRANT, EQUIPMENT, OR TRAINING PURSUANT TO THIS SECTION. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (6) CONTINUES INDEFINITELY.

SECTION 4. In Colorado Revised Statutes, **add** part 5 to article 5 of title 29 as follows:

PART 5
FIREFIGHTER BEHAVIORAL HEALTH
BENEFITS PROGRAM

29-5-501. Definitions. AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "EMPLOYER" MEANS A MUNICIPALITY, SPECIAL DISTRICT, FIRE AUTHORITY, OR COUNTY IMPROVEMENT DISTRICT THAT EMPLOYS ONE OR MORE FIREFIGHTERS. "EMPLOYER" ALSO MEANS THE DIVISION OF FIRE PREVENTION AND CONTROL CREATED IN SECTION 24-33.5-1201. "EMPLOYER" DOES NOT INCLUDE A POWER AUTHORITY CREATED PURSUANT TO SECTION 29-1-204 OR A MUNICIPALLY OWNED UTILITY.

(2) "FIREFIGHTER" MEANS A FULL- OR PART-TIME EMPLOYEE OF AN EMPLOYER WHOSE DUTIES ARE DIRECTLY INVOLVED WITH THE PROVISION OF FIRE PROTECTION SERVICES AND A VOLUNTEER FIREFIGHTER AS DEFINED IN SECTION 31-30-1102. "FIREFIGHTER" INCLUDES A PERSON MEETING THIS DEFINITION WHO PROVIDES VOLUNTEER SERVICES TO A FIRE AUTHORITY CREATED BY AN INTERGOVERNMENTAL AGREEMENT PROVIDING FIRE PROTECTION.

(3) "TRUST" MEANS A MULTIPLE EMPLOYER BEHAVIORAL HEALTH TRUST DESCRIBED IN SECTION 10-3-903.5 (7)(e), ESTABLISHED FOR THE PURPOSES OF THIS PART 5.

29-5-502. Required program - reimbursement. (1) AN EMPLOYER SHALL PARTICIPATE IN A MULTIPLE EMPLOYER BEHAVIORAL HEALTH TRUST IN ORDER TO PROVIDE THE PROGRAM SPECIFIED IN THIS SECTION FOR ITS FIREFIGHTERS. IF AT ANY TIME THE FUNDING PROVIDED PURSUANT TO SUBSECTION (3) OF THIS SECTION IS INSUFFICIENT TO COVER THE COST OF THE PROGRAM REQUIRED BY THIS SECTION, THEN THE REQUIREMENT TO PARTICIPATE IN THE PROGRAM BECOMES OPTIONAL PURSUANT TO SECTION 29-1-304.5.

(2) A TRUST SHALL PROVIDE A PROGRAM PLANNED, ORGANIZED, OPERATED, AND MAINTAINED TO PROVIDE BASIC SERVICES TO FIREFIGHTERS FOR THE PREVENTION, DIAGNOSIS, AND INITIAL TREATMENT OF EMOTIONAL, BEHAVIORAL, OR MENTAL HEALTH DISORDERS. SERVICES PROVIDED UNDER THE PROGRAM SHALL BE RENDERED PRIMARILY ON AN OUTPATIENT AND CONSULTATIVE BASIS, INCLUDING SERVICES DELIVERED TELEPHONICALLY OR REMOTELY.

(3) SUBJECT TO AVAILABLE APPROPRIATIONS AND THE REQUIREMENTS OF SECTION 24-33.5-1231 (2)(a)(II), THE DIVISION OF FIRE PREVENTION AND CONTROL SHALL REIMBURSE A MULTIPLE EMPLOYER BEHAVIORAL HEALTH TRUST FOR THE DIRECT COSTS OF PROVIDING A PROGRAM AS REQUIRED BY THIS PART 5 FROM THE LOCAL FIREFIGHTER SAFETY AND DISEASE PREVENTION FUND CREATED IN SECTION 24-33.5-1231 (1).

29-5-503. Authority of the trust - rules - report. (1) IN ADDITION TO ANY OTHER AUTHORITY GIVEN TO THE TRUST, THE TRUST HAS THE AUTHORITY TO:

(a) CREATE A PROGRAM DESCRIPTION TO FURTHER DEFINE THE SERVICES AVAILABLE PURSUANT TO THIS PART 5;

(b) STRUCTURE THE SERVICES PROVIDED UNDER THE PROGRAM BASED ON ACTUARIAL RECOMMENDATIONS AND WITH INPUT FROM A COMMITTEE OF THE TRUST CONSISTING OF REPRESENTATIVES OF LABOR, MANAGEMENT, ADMINISTRATION, AND EMPLOYERS SERVING DIFFERENT SIZED POPULATIONS; AND

(c) ADOPT POLICIES AND PROCEDURES FOR THE ADMINISTRATION OF THE TRUST.

(2) ON OR BEFORE OCTOBER 1, 2024, THE TRUST, TOGETHER WITH THE DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY, SHALL SUBMIT A REPORT TO THE WILDFIRE MATTERS REVIEW COMMITTEE ON THE IMPLEMENTATION OF THIS PART 5. THE REPORT MUST, AT A MINIMUM:

(a) DISCUSS THE EXTENT TO WHICH THE PROGRAM PROVIDED UNDER THIS PART 5 IS MEETING THE BEHAVIORAL HEALTH-CARE NEEDS OF FIREFIGHTERS IN THE STATE;

(b) ASSESS THE ONGOING FUNDING NEEDS OF THE TRUST AND WHETHER THE AVAILABLE FUNDING IS SUFFICIENT TO ALLOW THE TRUST TO MEET THE BEHAVIORAL HEALTH-CARE NEEDS OF FIREFIGHTERS; AND

(c) RECOMMEND ANY CHANGES NEEDED TO MORE EFFECTIVELY MEET THE BEHAVIORAL HEALTH-CARE NEEDS OF FIREFIGHTERS ACROSS THE STATE.

SECTION 5. In Colorado Revised Statutes, 29-22.5-103, **amend** (1)(d) as follows:

29-22.5-103. Wildland fires - general authority and responsibilities.

(1) (d) The fire chief shall not seek reimbursement from the county for expenses incurred by the district for their own apparatus, equipment, and personnel used in containing or suppressing a wildfire occurring on private property within the boundaries of the district, EXCEPT AS PROVIDED IN SECTION 30-10-513 (3)(b).

SECTION 6. In Colorado Revised Statutes, 30-10-513, **amend** (3) as follows:

30-10-513. Duties of sheriff - coordination of fire suppression efforts for forest, prairie, or wildland fire - expenses. (3) (a) The board of county commissioners of any county may allow the sheriff, undersheriffs, deputies, municipal or county fire departments, fire protection districts, fire authorities, and such other persons as may be called upon to assist in controlling or extinguishing a prairie, forest, or wildland fire such compensation and reimbursement for other expenses necessarily incurred as the board deems just.

(b) THE BOARD OF COUNTY COMMISSIONERS OF ANY COUNTY MAY ALLOW A FIRE DEPARTMENT, FIRE PROTECTION DISTRICT, OR VOLUNTEER FIRE DEPARTMENT COMPENSATION AND REIMBURSEMENT FROM A COUNTY FUNDING SOURCE FOR OTHER EXPENSES NECESSARILY INCURRED IN CONTROLLING OR EXTINGUISHING A PRAIRIE, FOREST, OR WILDLAND FIRE WITHIN THE JURISDICTION OR BOUNDARIES OF THE FIRE DEPARTMENT, FIRE PROTECTION DISTRICT, OR VOLUNTEER FIRE DEPARTMENT IF THE CIRCUMSTANCES SET FORTH IN SECTION 24-33.5-1220 (6)(a)(I), (6)(a)(II), AND (6)(a)(III) ARE MET, AS THE BOARD DEEMS JUST.

SECTION 7. In Colorado Revised Statutes, 30-10-513.5, **add** (1)(c) as follows:

30-10-513.5. Authority of sheriff relating to fires within unincorporated areas of county - liability for expenses. (1) (c) THIS SECTION DOES NOT PROHIBIT A COUNTY FROM REIMBURSING A FIRE PROTECTION DISTRICT, FIRE DEPARTMENT, OR VOLUNTEER FIRE DEPARTMENT FOR EXPENSES NECESSARILY INCURRED IN

CONTROLLING OR EXTINGUISHING A PRAIRIE, FOREST, OR WILDLAND FIRE FROM A COUNTY FUNDING SOURCE IN ACCORDANCE WITH SECTION 30-10-513 (3)(b).

SECTION 8. In Colorado Revised Statutes, 10-3-903.5, **amend** (7)(a); and **add** (7)(e) as follows:

10-3-903.5. Jurisdiction over providers of health-care benefits - rules.
(7) (a) The provisions of this section and any other laws of this state that regulate insurance or insurance companies shall not apply to any multiple employer health trust ~~which~~ THAT meets the requirements of ~~paragraph (b) of this subsection (7) or~~ SUBSECTION (7)(b) OF THIS SECTION, any multiple employer welfare arrangement ~~which~~ THAT meets the requirements of ~~paragraph (c) of this subsection (7)~~ SUBSECTION (7)(c) OF THIS SECTION, OR ANY MULTIPLE EMPLOYER BEHAVIORAL HEALTH TRUST THAT MEETS THE REQUIREMENTS OF SUBSECTION (7)(e) OF THIS SECTION. Any such trust or arrangement shall be subject to the requirements of this subsection (7) and section 10-3-1104. The exemption provided by this subsection (7) shall not apply to any entity if the division of insurance determines that its operation is hazardous to the public or to individuals receiving benefits.

(e) A MULTIPLE EMPLOYER BEHAVIORAL HEALTH TRUST IS ANY TRUST THAT IS SPONSORED AND MAINTAINED BY ONE OR MORE ENTITIES OF STATE GOVERNMENT OR POLITICAL SUBDIVISIONS OF THE STATE, ORGANIZED PURSUANT TO STATE LAW, AND FUNDED BY THE STATE FOR THE BENEFIT OF THE ENTITIES' EMPLOYEES, INCLUDING A MULTIPLE EMPLOYER BEHAVIORAL HEALTH TRUST ESTABLISHED FOR THE PURPOSES OF PART 5 OF ARTICLE 5 OF TITLE 29.

SECTION 9. Appropriation. For the 2022-23 state fiscal year, \$1,000,000 is appropriated to the local firefighter safety and disease prevention fund created in section 24-33.5-1231 (1), C.R.S. This appropriation is from the General Fund. The department of public safety is responsible for the accounting related to this appropriation.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 3, 2022