

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0495.01 Nicole Myers x4326

HOUSE BILL 24-1155

HOUSE SPONSORSHIP

Velasco,

SENATE SPONSORSHIP

Cutter,

House Committees

Agriculture, Water & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO THE STATUTES THAT GUIDE THE
102 MANAGEMENT OF CERTAIN PUBLIC SAFETY EMERGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law regarding the authority over wildland fires is not aligned with current practice for managing wildland fires in the state. The bill aligns the statutes that address the management of wildland fires with current practice.

Transfer of wildland fire management from a fire response agency to the county sheriff. Current law specifies that a fire protection

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

district may transfer the management of a wildland fire to the county sheriff (sheriff) when the fire exceeds the fire chief of a fire protection district's (fire chief) capability to manage, but does not contemplate such transfer by a municipal fire department, volunteer fire department, fire authority, or other fire response agency. To specify the authority of all fire response agencies to transfer the management of a wildland fire to the sheriff, the bill authorizes a fire department, as currently defined in law, to transfer the management of a wildland fire and repeals references to transfers by a fire protection district.

In addition, current law allows a sheriff to develop a wildfire preparedness plan for the unincorporated area of a county in cooperation with any fire district with jurisdiction over the unincorporated area. The bill specifies that the sheriff may also develop such plan in cooperation with any fire department with jurisdiction over the unincorporated area.

Management of wildland fires subject to the provisions of relevant plans or agreements. Current law specifies that the duties of the sheriff and the fire chief are subject to the community wildfire protection plan (CWPP). However, the CWPP addresses the identification and reduction of hazards and is not focused on the response to or management of wildland fires. The bill repeals references to the CWPP in the statutes that address the response to and management of wildland fires and specifies that the sheriff and the fire chief are subject to any relevant plans or agreements.

Management strategy when a wildland fire has been transferred to the state. Current law specifies that when a sheriff transfers the management of a wildland fire to the division of fire prevention and control in the department of public safety (division), the division is required to use unified command, which is a management strategy that uses multiple incident commanders with shared objectives. This requirement does not allow the division and the sheriff to determine the most appropriate management strategy for each wildland fire. The bill repeals the requirement that the division and the sheriff use unified command when a wildland fire has been transferred to the division.

Management strategy for hazardous substance incident response. In addition, current law requires that unified command be used in the response to a hazardous substance incident, which does not allow responding agencies to determine the most appropriate response to and management of such an incident. The bill repeals the requirement that unified command be used in a hazardous substance incident.

Use of the current incident command system for wildland fire management. Current law requires a sheriff to appoint a local incident management team to provide command and control to manage a wildland fire. However, a sheriff, the fire department, or the state may instead assign an incident commander or a non-local incident management team to manage the fire. The bill repeals the requirement that a sheriff appoint

a local incident management team and instead requires the sheriff to appoint an incident commander for a wildland fire. In addition, the bill specifies that the agency that has jurisdiction over any wildland fire in the state is required to manage the fire using the incident command system as currently defined in law.

References to the state emergency operations plan in wildland fire response and suppression statutes. Current law specifies that the division is the lead state agency for wildland fire suppression as identified in the Colorado state emergency operations plan (SEOP) and in accordance with the Colorado state forest service statute. However, the SEOP can only be activated by an executive order and does not apply to the majority of wildland fire operations or the majority of assistance and support that the division provides to local agencies. In addition, the reference to the state forest service is no longer accurate. The bill repeals references to the SEOP and the state forest service in the statute designating the division as the lead state agency for wildland fire response and suppression.

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

2 **SECTION 1.** In Colorado Revised Statutes, 29-22-102, **amend**
3 (1) as follows:

4 **29-22-102. Hazardous substance incidents - response**
5 **authorities - designation - definition.** (1) It is the purpose of this
6 section to provide for the designation of emergency response authorities
7 for hazardous substance incidents. Every emergency response authority
8 designated in or pursuant to this section is responsible for providing and
9 maintaining the capability for emergency response to a hazardous
10 substance incident occurring within its jurisdiction. An emergency
11 response authority may provide and maintain the capability for such
12 response directly or through mutual aid or other agreements, including an
13 agreement with a private entity to support the emergency response
14 authority, responding fire departments, or other government agencies.
15 Subject to the provisions of local or regional response agreements for
16 hazardous substance incidents, the first emergency response authority, or

1 its public agency designee through mutual aid or otherwise, to arrive at
2 the scene of the incident, regardless of whether the incident occurs within
3 its jurisdiction, is responsible for the emergency response as incident
4 commander until such time as the emergency response authority that has
5 jurisdiction over the incident site has arrived. ~~after which unified~~
6 ~~command shall be followed until the emergency response has concluded.~~
7 As used in this section, "emergency response to a hazardous substance
8 incident" means taking the initial emergency action necessary to minimize
9 the effects or threat of adverse effects of a hazardous substance incident
10 on human health or the environment.

11 **SECTION 2.** In Colorado Revised Statutes, 29-22.5-102, **add**
12 (1.5) as follows:

13 **29-22.5-102. Definitions.** As used in this article 22.5, unless the
14 context otherwise requires:

15 (1.5) "FIRE DEPARTMENT" HAS THE SAME MEANING AS SET FORTH
16 IN SECTION 24-33.5-1202 (3.9).

17 **SECTION 3.** In Colorado Revised Statutes, 29-22.5-103, **amend**
18 (1)(a), (1)(b), (2), (3)(a), and (3)(c); and **add** (5) as follows:

19 **29-22.5-103. Wildland fires - general authority and**
20 **responsibilities.** (1) (a) The chief of the fire department ~~in each fire~~
21 ~~protection district in the state~~ is responsible for the management of
22 wildland fires that occur within the JURISDICTIONAL boundaries of ~~his or~~
23 ~~her district~~ THE CHIEF'S DEPARTMENT and that are within the capability of
24 the fire ~~district~~ DEPARTMENT to control or extinguish in accordance with
25 the provisions of section 32-1-1002 (3)(a). ~~C.R.S.~~

26 (b) The fire chief may utilize mutual aid agreements ~~and unified~~
27 ~~command~~ with neighboring fire ~~protection districts~~ DEPARTMENTS to

1 suppress and control fires that cross or threaten to cross ~~the boundaries of~~
2 ~~the district~~ JURISDICTIONAL BOUNDARIES.

3 (2) (a) The sheriff is the fire warden of the county and is
4 responsible for the planning for, and the coordination of, efforts to
5 suppress wildfires occurring in the unincorporated area of the county
6 outside the boundaries of a fire ~~protection district~~ DEPARTMENT or that
7 exceed the capabilities of the fire ~~protection district~~ DEPARTMENT to
8 control or extinguish in accordance with the provisions of section
9 30-10-513. ~~C.R.S.~~

10 (b) In the case of a wildfire that exceeds the capabilities of the fire
11 ~~protection district~~ DEPARTMENT to control or extinguish and that requires
12 mutual aid and outside resources, the sheriff shall appoint a ~~local incident~~
13 ~~management team~~ AN INCIDENT COMMANDER to provide the command
14 and control infrastructure required to manage the fire. The sheriff shall
15 assume financial responsibility for fire fighting efforts on behalf of the
16 county and the authority for the ordering and monitoring of resources.

17 (c) In the case of a wildfire that exceeds the capability of the
18 county to control or extinguish, the sheriff ~~shall be~~ IS responsible for
19 seeking the assistance of the state, by requesting assistance from the
20 division. The sheriff and the director shall enter into an agreement
21 concerning the transfer of authority and responsibility for fire suppression
22 and the retention of responsibilities. ~~under a unified command structure.~~

23 (3) (a) The division ~~shall be~~ IS the lead state agency for wildland
24 fire RESPONSE AND suppression. ~~as identified in the Colorado state~~
25 ~~emergency operations plan and in accordance with the provisions of~~
26 ~~section 23-31-301, C.R.S.~~

27 (c) In case of a wildland fire that exceeds the capability of the

1 county to control or extinguish, the division may assist the sheriff in
2 controlling or extinguishing such fires, and may assume command of such
3 incidents with the concurrence of the sheriff. ~~under a unified command~~
4 ~~structure.~~

5 (5) THE AGENCY THAT HAS JURISDICTION OVER ANY WILDLAND
6 FIRE IN THE STATE SHALL MANAGE THE FIRE USING THE INCIDENT
7 COMMAND SYSTEM.

8 **SECTION 4.** In Colorado Revised Statutes, 29-22.5-104, **amend**
9 (1) introductory portion as follows:

10 **29-22.5-104. County wildfire preparedness plan.** (1) The
11 sheriff of each county may develop and update as necessary a wildfire
12 preparedness plan for the unincorporated area of the county in
13 cooperation with any fire district OR DEPARTMENT with jurisdiction over
14 such unincorporated area. Any such plan shall:

15 **SECTION 5.** In Colorado Revised Statutes, **amend** 30-10-512 as
16 follows:

17 **30-10-512. Sheriff to act as fire warden.** Subject to the
18 provisions of ~~the community wildfire protection plan prepared by the~~
19 ~~county in accordance with section 30-15-401.7,~~ ANY RELEVANT PLANS OR
20 AGREEMENTS, the sheriff of every county, in addition to other duties, shall
21 act as fire warden of ~~his or her~~ THE SHERIFF'S respective county and is
22 responsible for the coordination of fire suppression efforts in case of
23 prairie, forest, or wildland fires or wildfires occurring in the
24 unincorporated area of the county outside the boundaries of a fire
25 ~~protection district~~ DEPARTMENT or that exceed the capabilities of the fire
26 ~~protection district~~ DEPARTMENT to control or extinguish.

27 **SECTION 6.** In Colorado Revised Statutes, 30-10-513, **amend**

1 (1); and **add** (5) and (6) as follows:

2 **30-10-513. Duties of sheriff - coordination of fire suppression**
3 **efforts for forest, prairie, or wildland fire - expenses - definition.**

4 (1) (a) Subject to the provisions of ~~the community wildfire protection~~
5 ~~plan prepared by the county in accordance with section 30-15-401.7~~, ANY
6 RELEVANT PLANS OR AGREEMENTS, it is the duty of the sheriff to assume
7 the responsibility for coordinating fire suppression efforts in case of any
8 prairie, forest, or wildland fire or wildfire occurring in the unincorporated
9 area of the county outside the boundaries of a fire ~~protection district~~
10 DEPARTMENT or that exceed the capabilities of the fire ~~protection district~~
11 DEPARTMENT to control or extinguish.

12 (b) In the case of a prairie, forest, or wildland fire occurring
13 within the JURISDICTIONAL boundaries of one or more fire ~~protection~~
14 ~~districts~~ DEPARTMENTS that does not exceed the capabilities of the fire
15 ~~protection district~~ DEPARTMENT to control or extinguish, the sheriff OR
16 THE DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF
17 PUBLIC SAFETY may assist the chief of the fire ~~protection district~~
18 DEPARTMENT in controlling or extinguishing such fire, and, in connection
19 with such assistance, the sheriff may solicit such additional assistance
20 from such persons as the sheriff and the fire chief deem necessary. The
21 sheriff may assume command of such incidents with the concurrence of
22 the fire chief.

23 (c) In the case of a prairie, forest, or wildland fire that exceeds the
24 capabilities of the fire ~~protection district~~ DEPARTMENT to control or
25 extinguish and that requires mutual aid and outside resources, the sheriff
26 shall appoint ~~a local incident management team~~ AN INCIDENT
27 COMMANDER to provide the command and control infrastructure required

1 to manage the fire. The sheriff shall assume financial responsibility for
2 fire fighting efforts on behalf of the county and the authority for the
3 ordering and monitoring of resources.

4 (d) When a wildfire exceeds the capability of the county to control
5 or extinguish, the sheriff shall be responsible for seeking the assistance
6 of the state by requesting assistance from the division of fire prevention
7 and control in the department of public safety. The sheriff and the director
8 of the division of fire prevention and control shall enter into an agreement
9 concerning the transfer of authority and responsibility for fire suppression
10 and the retention of responsibilities. ~~under a unified command structure.~~

11 (5) THE AGENCY THAT HAS JURISDICTION OVER ANY WILDLAND
12 FIRE IN THE STATE SHALL MANAGE THE FIRE USING THE INCIDENT
13 COMMAND SYSTEM AS DEFINED IN SECTION 29-22.5-102 (3).

14 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES, "FIRE DEPARTMENT" HAS THE SAME MEANING AS SET FORTH IN
16 SECTION 24-33.5-1202 (3.9).

17 **SECTION 7.** In Colorado Revised Statutes, 32-1-1002, **amend**
18 (3)(a) as follows:

19 **32-1-1002. Fire protection districts - additional powers and**
20 **duties.** (3) (a) The chief of the fire department in each fire protection
21 district in the state of Colorado, by virtue of ~~such~~ THE office ~~so~~ held by
22 ~~him or her~~ THE CHIEF, shall have authority over the supervision of all fires
23 within the district; except that responsibility for coordinating fire
24 suppression efforts in case of any prairie, forest, or wildland fire that
25 exceeds the capabilities of the district to control or extinguish shall be
26 transferred to the county sheriff in accordance with section 30-10-513,
27 ~~C.R.S.~~, subject to the duties and obligations imposed by this subsection

1 (3) and subject to the provisions of ~~the community wildfire protection~~
2 ~~plan prepared by the county in accordance with section 30-15-401.7,~~
3 ~~C.R.S.~~ ANY RELEVANT PLANS OR AGREEMENTS. The chief ~~shall be~~ IS
4 vested with ~~such~~ THE other express authority ~~as is~~ contained in this
5 subsection (3), including commanding the fire department of such district.

6 **SECTION 8. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly; except
9 that, if a referendum petition is filed pursuant to section 1 (3) of article V
10 of the state constitution against this act or an item, section, or part of this
11 act within such period, then the act, item, section, or part will not take
12 effect unless approved by the people at the general election to be held in
13 November 2024 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.