

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.11.19

BILL 6

LLS NO. 20-0381.01 Bob Lackner x4350

INTERIM COMMITTEE BILL

Wildfire Matters Review Committee

BILL TOPIC: "No Waiver Sovereign Immunity Forest Mgmt"

A BILL FOR AN ACT

101 **CONCERNING THE RETENTION BY THE STATE OF SOVEREIGN IMMUNITY**
102 **IN AN ACTION FOR INJURIES RESULTING FROM FOREST**
103 **MANAGEMENT ACTIVITIES UNDERTAKEN BY THE STATE.**

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/>.)

Wildfire Matters Review Committee. Under current law, the state waives sovereign immunity in an action for injuries resulting from a prescribed fire started or maintained by the state or any of its employees on or after January 1, 2012. Under the bill, the state does not waive sovereign immunity in an action for injuries resulting from forest

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

management activities undertaken by the state, which activities include, without limitation, prescribed fires, broadcast burns, or slash pile burns started or maintained by the state or any of its employees.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds that:

4 (a) Colorado's water supplies and the quality and quantity of water
5 that flows from forested watersheds are critical to the citizens and
6 economy of the state;

7 (b) Over the past two decades, Colorado has experienced
8 increasing numbers of large, high-severity wildfires and unprecedented
9 levels of forest mortality from insects and diseases;

10 (c) Fifty percent of Colorado's forests are at moderate to high risk
11 of wildfire; and

12 (d) Projections of increased levels of disturbance frequency and
13 severity have therefore created concerns regarding the sustained delivery
14 of clean water from Colorado's headwater forests.

15 (2) The general assembly further determines that:

16 (a) Science-based forest management may reduce forest hazardous
17 fuels linked to wildfire risk and severe fire behavior and may create forest
18 stand conditions that are more resilient and less susceptible to insects and
19 diseases;

20 (b) Active forest management treatments aimed at improving
21 forest health and watershed conditions and protecting human safety,
22 homes, and infrastructure play an important role in reducing costs to
23 communities, citizens, water providers, and users; and

24 (c) All forest management tools should be available to address

1 forest conditions in Colorado.

2 (3) By enacting this act, the general assembly intends to provide
3 direction to protect water supplies and forested watersheds by authorizing
4 the use of all forest management tools available and where applicable,
5 including the use of prescribed fires, broadcast burns, or slash pile burns,
6 to help improve the health and resiliency of Colorado's forests.

7 **SECTION 2.** In Colorado Revised Statutes, 24-10-106.1, **amend**
8 (1) as follows:

9 **24-10-106.1. Immunity and partial waiver - claims against the**
10 **state - injuries from prescribed fire - on or after January 1, 2012.**

11 (1) Notwithstanding any other provision of this ~~article~~ ARTICLE 10, the
12 state ~~shall be~~ IS immune from liability in all claims for injury that lie in
13 tort or could lie in tort regardless of whether that may be the type of
14 action or the form of relief chosen by the claimant except as provided
15 otherwise in this section or section 24-10-106. In addition to any other
16 claims for which the state waives immunity under this ~~article~~ ARTICLE 10,
17 sovereign immunity is waived by the state in an action for injuries
18 resulting from a prescribed fire started or maintained by the state or any
19 of its employees on or after January 1, 2012, BUT PRIOR TO THE EFFECTIVE
20 DATE OF THIS SECTION, AS AMENDED. THE STATE DOES NOT WAIVE
21 SOVEREIGN IMMUNITY IN AN ACTION FOR INJURIES RESULTING FROM
22 FOREST MANAGEMENT ACTIVITIES UNDERTAKEN BY THE STATE,
23 INCLUDING, WITHOUT LIMITATION, PRESCRIBED FIRES, BROADCAST BURNS,
24 OR SLASH PILE BURNS STARTED OR MAINTAINED BY THE STATE OR ANY OF
25 ITS EMPLOYEES ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, AS
26 AMENDED.

27 **SECTION 3. Applicability.** This act applies to civil actions

1 commenced on or after the effective date of this act.

2 **SECTION 4. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.