

CHAPTER 215

GOVERNMENT - STATE

SENATE BILL 06-096

BY SENATOR(S) Taylor, Boyd, Dyer, Entz, Evans, Fitz-Gerald, Isgar, Kester, Lamborn, McElhany, Shaffer, Traylor, Tupa, Wiens, and Williams;
also REPRESENTATIVE(S) Butcher, Berens, Carroll M., Coleman, Curry, Gallegos, Hodge, Hoppe, Kerr J., Larson, Liston, McFadyen, Plant, Rose, Stafford, Todd, White, and Witwer.

AN ACT**CONCERNING RESOURCES TO FIGHT WILDFIRES.**

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

SECTION 1. 23-30-310 (2) and (3), Colorado Revised Statutes, are amended, and the said 23-30-310 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

23-30-310. Wildfire emergency response fund - creation - wildfire preparedness fund - creation. (2) The Colorado state forest service shall use the moneys in the wildfire emergency response fund to provide funding or reimbursement for:

(a) The first aerial tanker flight or the first hour of a firefighting helicopter to a wildfire at the request of any county sheriff, municipal fire department, or fire protection district; AND

(b) THE EMPLOYMENT OF WILDFIRE HAND CREWS TO FIGHT A WILDFIRE FOR THE FIRST TWO DAYS OF A WILDFIRE AT THE REQUEST OF ANY COUNTY SHERIFF, MUNICIPAL FIRE DEPARTMENT, OR FIRE PROTECTION DISTRICT, WITH A PREFERENCE FOR THE USE OF WILDFIRE HAND CREWS FROM THE INMATE DISASTER RELIEF PROGRAM CREATED IN SECTION 17-24-124, C.R.S.

(3) (a) To effectively implement the provisions of this section and to provide recommendations to the governor related to use of the disaster emergency fund pursuant to section 24-32-2106, C.R.S., AND THE WILDFIRE PREPAREDNESS FUND CREATED IN SUBSECTION (4) OF THIS SECTION, the state forester, a representative of

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

the county sheriffs of Colorado, a representative of the Colorado state fire chiefs' association, the director of the ~~office~~ DIVISION of emergency management, and the adjutant general or his or her designee shall collaborate to develop ~~an initial aerial attack~~ A WILDFIRE PREPAREDNESS plan designed to address ~~the availability of appropriate aerial firefighting resources for the initial aerial attack of a wildfire.~~ The ~~initial aerial attack plan shall include recommendations that address the following:~~

(I) The amount of aerial firefighting resources necessary for the state of Colorado at times of high and low wildfire risk;

(II) The availability of appropriate aerial firefighting equipment and personnel at times of high fire risk to respond to a wildfire; ~~and~~

(III) THE AVAILABILITY OF STATE WILDFIRE ENGINES AND STAFFING OF THE ENGINES AT DIFFERENT LEVELS OF WILDFIRE RISK;

(IV) THE AVAILABILITY OF STATE INMATE WILDFIRE HAND CREWS AT DIFFERENT LEVELS OF WILDFIRE RISK; AND

~~(HH)~~ (V) A process for ordering and dispatching aerial firefighting equipment and personnel that is consistent with, and supportive of, the statewide mobilization plan prepared pursuant to section 24-33.5-1210, C.R.S.

(b) The ~~initial aerial attack~~ WILDFIRE PREPAREDNESS plan recommendations developed pursuant to paragraph (a) of this subsection (3) shall be completed no later than ~~September 1, 2004~~ DECEMBER 1, 2006, and updated each ~~September~~ DECEMBER 1 thereafter. The state forester shall submit a written report of the ~~initial aerial attack~~ WILDFIRE PREPAREDNESS plan to the governor and the members of the general assembly no later than ~~September 15, 2004~~ DECEMBER 15, 2006, and by each ~~September~~ DECEMBER 15 thereafter.

(c) The state forester, the representative of the county sheriffs of Colorado, the representative of the Colorado state fire chiefs' association, the director of the ~~office~~ DIVISION of emergency management, and the adjutant general or his or her designee shall not receive additional compensation for the collaboration required by this subsection (3) for the development of the ~~initial aerial attack~~ WILDFIRE PREPAREDNESS plan.

(4) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE WILDFIRE PREPAREDNESS FUND. THE FUND SHALL CONSIST OF ALL MONEYS THAT MAY BE APPROPRIATED THERETO BY THE GENERAL ASSEMBLY, ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, REIMBURSEMENTS, OR DONATIONS THAT ARE TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE FUND, AND ALL MONEYS TRANSFERRED TO THE FUND PURSUANT TO SECTION 34-63-102 (5) (a) (I), C.R.S. ALL INTEREST EARNED FROM THE INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. THE MONEYS IN THE FUND ARE HEREBY CONTINUOUSLY APPROPRIATED FOR THE PURPOSES INDICATED IN THIS SUBSECTION (4). ANY MONEYS NOT EXPENDED AT THE END OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO OR REVERT TO THE GENERAL FUND.

(b) BY EXECUTIVE ORDER OR PROCLAMATION, THE GOVERNOR MAY ACCESS AND DESIGNATE MONEYS IN THE WILDFIRE PREPAREDNESS FUND FOR WILDFIRE PREPAREDNESS ACTIVITIES. THE COLORADO STATE FOREST SERVICE SHALL IMPLEMENT THE DIRECTIVES SET FORTH IN SUCH EXECUTIVE ORDER OR PROCLAMATION.

(c) THE COLORADO STATE FOREST SERVICE MAY USE THE MONEYS IN THE WILDFIRE PREPAREDNESS FUND TO PROVIDE FUNDING OR REIMBURSEMENT FOR THE PURCHASE OF FIRE SHELTERS BY VOLUNTEER FIRE DEPARTMENTS IN ORDER TO COMPLY WITH APPLICABLE FEDERAL REQUIREMENTS.

(5) NO LATER THAN JANUARY 1, 2008, THE STATE FORESTER SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, ON THE USE OF MONEYS IN THE WILDFIRE PREPAREDNESS FUND, THE STATUS OF THE WILDFIRE PREPAREDNESS PLAN, AND THE STATUS OF THE INTERSTATE COMPACT.

SECTION 2. Article 60 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 32
INTERSTATE COMPACT FOR THE PREVENTION
AND CONTROL OF FOREST FIRES

24-60-3201. Execution of compact. THE GOVERNOR MAY ENTER INTO A COMPACT ON BEHALF OF THE STATE WITH ANY OTHER STATE OR STATES LEGALLY JOINING THEREIN IN THE FORM SUBSTANTIALLY AS FOLLOWS:

ARTICLE I

THE PURPOSE OF THIS COMPACT IS TO PROMOTE EFFECTIVE PREVENTION AND CONTROL OF FOREST FIRES IN THE GREAT PLAINS REGION OF THE UNITED STATES BY THE MAINTENANCE OF ADEQUATE FOREST FIRE FIGHTING SERVICES BY THE MEMBER STATES, AND BY PROVIDING FOR RECIPROCAL AID IN FIGHTING FOREST FIRES AMONG THE COMPACTING STATES OF THE REGION, INCLUDING SOUTH DAKOTA, NORTH DAKOTA, WYOMING, COLORADO, AND ANY ADJOINING STATE OF A CURRENT MEMBER STATE.

ARTICLE II

THIS COMPACT IS OPERATIVE IMMEDIATELY AS TO THOSE STATES RATIFYING IT IF ANY TWO OR MORE OF THE MEMBER STATES HAVE RATIFIED IT.

ARTICLE III

IN EACH STATE, THE STATE FORESTER OR OFFICER HOLDING THE EQUIVALENT POSITION WHO IS RESPONSIBLE FOR FOREST FIRE CONTROL MAY ACT AS COMPACT ADMINISTRATOR FOR THAT STATE, CONSULT WITH LIKE OFFICIALS OF THE OTHER MEMBER STATES, AND IMPLEMENT COOPERATION BETWEEN THE STATES IN FOREST

FIRE PREVENTION AND CONTROL. THE COMPACT ADMINISTRATORS OF THE MEMBER STATES MAY ORGANIZE TO COORDINATE THE SERVICES OF THE MEMBER STATES AND PROVIDE ADMINISTRATIVE INTEGRATION IN CARRYING OUT THE PURPOSES OF THIS COMPACT. EACH MEMBER STATE MAY FORMULATE AND PUT IN EFFECT A FOREST FIRE PLAN FOR THAT STATE.

ARTICLE IV

IF THE STATE FOREST FIRE CONTROL AGENCY OF A MEMBER STATE REQUESTS AID FROM THE STATE FOREST FIRE CONTROL AGENCY OF ANY OTHER MEMBER STATE IN COMBATING, CONTROLLING, OR PREVENTING FOREST FIRES, THE STATE FOREST FIRE CONTROL AGENCY OF THAT STATE MAY RENDER ALL POSSIBLE AID TO THE REQUESTING AGENCY, CONSONANT WITH THE MAINTENANCE OF PROTECTION AT HOME.

ARTICLE V

(1) IF THE FORCES OF ANY MEMBER STATE ARE RENDERING OUTSIDE AID PURSUANT TO THE REQUEST OF ANOTHER MEMBER STATE UNDER THIS COMPACT, THE EMPLOYEES OF THE STATE SHALL, UNDER THE DIRECTION OF THE OFFICERS OF THE STATE TO WHICH THEY ARE RENDERING AID, HAVE THE SAME POWERS (EXCEPT THE POWER OF ARREST), DUTIES, RIGHTS, PRIVILEGES, AND IMMUNITIES AS COMPARABLE EMPLOYEES OF THE STATE TO WHICH THEY ARE RENDERING AID.

(2) NO MEMBER STATE OR ITS OFFICERS OR EMPLOYEES RENDERING OUTSIDE AID PURSUANT TO THIS COMPACT IS LIABLE ON ACCOUNT OF ANY ACT OR OMISSION ON THE PART OF SUCH FORCES WHILE SO ENGAGED, OR ON ACCOUNT OF THE MAINTENANCE OR USE OF ANY EQUIPMENT OR SUPPLIES IN CONNECTION WITH RENDERING THE OUTSIDE AID.

(3) ALL LIABILITY, EXCEPT AS OTHERWISE PROVIDED IN THIS COMPACT, THAT MAY ARISE EITHER UNDER THE LAWS OF THE REQUESTING STATE OR UNDER THE LAWS OF THE AIDING STATE OR UNDER THE LAWS OF A THIRD STATE ON ACCOUNT OF OR IN CONNECTION WITH A REQUEST FOR AID, SHALL BE ASSUMED AND BORNE BY THE REQUESTING STATE.

(4) ANY MEMBER STATE RENDERING OUTSIDE AID PURSUANT TO THIS COMPACT SHALL BE REIMBURSED BY THE MEMBER STATE RECEIVING THE AID FOR ANY LOSS OR DAMAGE TO, OR EXPENSE INCURRED IN THE OPERATION OF, ANY EQUIPMENT USED IN ANSWERING A REQUEST FOR AID, AND FOR THE COST OF ALL MATERIALS, TRANSPORTATION, WAGES, SALARIES, AND MAINTENANCE OF EMPLOYEES AND EQUIPMENT INCURRED IN CONNECTION WITH THE REQUEST. HOWEVER, NOTHING IN THIS COMPACT PREVENTS ANY ASSISTING MEMBER STATE FROM ASSUMING THE LOSS, DAMAGE, EXPENSE, OR OTHER COST, FROM LOANING THE EQUIPMENT, OR FROM DONATING THE SERVICES TO THE RECEIVING MEMBER STATE WITHOUT CHARGE OR COST.

(5) EACH MEMBER STATE SHALL ASSURE THAT WORKERS COMPENSATION BENEFITS IN CONFORMITY WITH THE MINIMUM LEGAL REQUIREMENTS OF THE STATE ARE AVAILABLE TO ALL EMPLOYEES AND CONTRACT FIREFIGHTERS SENT TO A REQUESTING STATE PURSUANT TO THIS COMPACT.

(6) FOR THE PURPOSES OF THIS COMPACT, THE TERM "EMPLOYEE" INCLUDES ANY VOLUNTEER OR AUXILIARY LEGALLY INCLUDED WITHIN THE FOREST FIRE FIGHTING FORCES OF THE AIDING STATE UNDER THE LAWS OF THE AIDING STATE.

(7) THE COMPACT ADMINISTRATORS MAY FORMULATE PROCEDURES FOR CLAIMS AND REIMBURSEMENT UNDER THE PROVISIONS OF THIS ARTICLE IN ACCORDANCE WITH THE LAWS OF THE MEMBER STATES.

ARTICLE VI

(1) RATIFICATION OF THIS COMPACT DOES NOT AFFECT ANY EXISTING STATUTE SO AS TO AUTHORIZE OR PERMIT CURTAILMENT OR DIMINUTION OF THE FOREST FIGHTING FORCES, EQUIPMENT, SERVICES, OR FACILITIES OF ANY MEMBER STATE.

(2) NOTHING IN THE COMPACT AUTHORIZES OR PERMITS ANY MEMBER STATE TO CURTAIL OR DIMINISH ITS FOREST FIRE FIGHTING FORCES, EQUIPMENT, SERVICES, OR FACILITIES. EACH MEMBER STATE SHALL MAINTAIN ADEQUATE FOREST FIRE FIGHTING FORCES AND EQUIPMENT TO MEET DEMANDS FOR FOREST FIRE PROTECTION WITHIN ITS BORDERS IN THE SAME MANNER AND TO THE SAME EXTENT AS IF THIS COMPACT WERE NOT OPERATIVE.

(3) NOTHING IN THIS COMPACT LIMITS OR RESTRICTS THE POWERS OF ANY STATE RATIFYING THE COMPACT TO PROVIDE FOR THE PREVENTION, CONTROL, AND EXTINGUISHMENT OF FOREST FIRES, OR TO PROHIBIT THE ENACTMENT OR ENFORCEMENT OF STATE LAWS, RULES, OR REGULATIONS INTENDED TO AID IN THE PREVENTION, CONTROL, AND EXTINGUISHMENT IN THE STATE.

(4) NOTHING IN THIS COMPACT AFFECTS ANY EXISTING OR FUTURE COOPERATIVE RELATIONSHIP OR ARRANGEMENT BETWEEN THE UNITED STATES FOREST SERVICE AND A MEMBER STATE OR STATES.

ARTICLE VII

REPRESENTATIVES OF THE UNITED STATES FOREST SERVICE MAY ATTEND MEETINGS OF THE COMPACT ADMINISTRATORS.

ARTICLE VIII

THE PROVISIONS OF ARTICLES IV AND V OF THIS COMPACT THAT RELATE TO RECIPROCAL AID IN COMBATING, CONTROLLING, OR PREVENTING FOREST FIRES ARE OPERATIVE AS BETWEEN ANY STATE PARTY TO THIS COMPACT AND ANY OTHER STATE WHICH IS PARTY TO THIS COMPACT AND ANY OTHER STATE THAT IS PARTY TO A REGIONAL FOREST FIRE PROTECTION COMPACT IN ANOTHER REGION IF THE LEGISLATURE OF THE OTHER STATE HAS GIVEN ITS ASSENT TO THE MUTUAL AID PROVISIONS OF THIS COMPACT.

ARTICLE IX

THIS COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING ON EACH STATE RATIFYING IT UNTIL THE LEGISLATURE OR THE GOVERNOR OF THE STATE TAKES ACTION TO WITHDRAW FROM THE COMPACT. SUCH ACTION IS NOT EFFECTIVE UNTIL

SIX MONTHS AFTER NOTICE OF THE WITHDRAWAL HAS BEEN SENT BY THE CHIEF EXECUTIVE OF THE STATE DESIRING TO WITHDRAW TO THE CHIEF EXECUTIVES OF ALL STATES THEN PARTIES TO THE COMPACT.

SECTION 3. 34-63-102 (5) (a) (I), Colorado Revised Statutes, is amended to read:

34-63-102. Creation of mineral leasing fund - distribution - advisory committee. (5) (a) (I) The remaining fifteen percent of all moneys described in paragraph (a) of subsection (1) of this section, any moneys received pursuant to subparagraph (II) of paragraph (b) of subsection (3) of this section, and any moneys received pursuant to subparagraph (II) of paragraph (c) of subsection (3) of this section shall, upon receipt, be paid into the local government mineral impact fund, which is hereby created. The executive director of the department of local affairs shall distribute moneys from such fund pursuant to subsection (3) of this section; except that the remainder provided for in this paragraph (a) shall be distributed in accordance with the purposes and priorities described in subsection (1) of this section. Notwithstanding any other provision of this paragraph (a) to the contrary, the executive director shall distribute moneys from such fund to the uranium mill tailings remedial action program fund in accordance with the provisions of section 39-29-116 (3), C.R.S. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PARAGRAPH (a), IN THE FISCAL YEARS COMMENCING JULY 1, 2006, JULY 1, 2007, JULY 1, 2008, JULY 1, 2009, AND JULY 1, 2010, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SHALL TRANSFER THREE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS OF THE MONEYS IN THE FUND TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEYS TO THE WILDFIRE PREPAREDNESS FUND CREATED IN SECTION 23-30-310 (4), C.R.S.

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

Approved: May 18, 2006