

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0268.01 Bob Lackner x4350

HOUSE BILL 16-1040

HOUSE SPONSORSHIP

Singer, Becker K., Hamner

SENATE SPONSORSHIP

Holbert,

House Committees

Local Government
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AUXILIARY EMERGENCY COMMUNICATIONS IN THE**
102 **STATE, AND, IN CONNECTION THEREWITH, ESTABLISHING THE**
103 **AUXILIARY EMERGENCY COMMUNICATIONS UNIT IN THE OFFICE**
104 **OF EMERGENCY MANAGEMENT IN THE DEPARTMENT OF PUBLIC**
105 **SAFETY, AND MAKING AN APPROPRIATION.**

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://www.leg.state.co.us/billsummaries>.)

Wildfire Matters Review Committee. Section 1 of the bill contains a nonstatutory legislative declaration.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
May 6, 2016

SENATE
2nd Reading Unamended
May 5, 2016

HOUSE
3rd Reading Unamended
May 4, 2016

HOUSE
Amended 2nd Reading
May 3, 2016

Section 2 of the bill creates the auxiliary emergency communications unit (unit) within the office of emergency management (office) within the division of homeland security and emergency management in the department of public safety. The unit is in the charge of the director of the office. This section specifies the unit's powers and duties and additionally specifies the powers and duties of the director of the office in connection with the powers and duties of the unit.

Sections 3 through 7 of the bill make modifications to existing statutory provisions governing compensation benefits to volunteer civil defense workers. Specifically:

- ! Section 3 of the bill expands the definition of "emergency volunteer service" to include activities undertaken during a training exercise, drill, or class conducted in preparation for a disaster if the exercise, drill, or class is organized or under the direction of the county sheriff, local government, local emergency planning committee, or state agency;
- ! Section 4 of the bill specifies that any credentialed member of the unit is a qualified volunteer and is eligible to receive accompanying protections and benefits under existing statutory provisions;
- ! Section 5 of the bill includes the amateur radio emergency service as a specified volunteer organization authorized to provide emergency services to state and local agencies. This section of the bill also specifies that the amateur radio emergency service is a qualified volunteer.
- ! Section 6 of the bill expands the activities for which a qualified volunteer may be called to service to include a training exercise, drill, or class conducted in preparation for a disaster if the exercise, drill, or class is organized or under the direction of the county sheriff, local government, local emergency planning committee, or state agency. The statutory provisions protecting qualified volunteers do not apply to a training exercise, drill, or class without the express prior consent and approval of the volunteer's employer.
- ! Section 7 of the bill expands the list of activities used to verify that a qualified volunteer provided volunteer services to include an organized training exercise, drill, or class.

Section 8 of the bill increases the size of the public safety communications subcommittee to the homeland security and all-hazards senior advisory committee from 23 to 24 members and makes the section emergency coordinator for the amateur radio emergency service of the Colorado section of the amateur radio relay league or his or her designee a standing member of the subcommittee.

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, determines, and declares that:

4 (a) Amateur radio operators have served their communities, the
5 state, and the nation for over seventy-five years providing emergency and
6 disaster communications;

7 (b) Following World War II, the federal government recognized
8 the need for trained radio operators to assist with civil defense in the
9 event of war and created a branch within the amateur radio service, the
10 Radio Amateur Civil Emergency Service (RACES);

11 (c) The American Radio Relay League, the national association
12 for radio amateurs, created the Amateur Radio Emergency Service
13 (ARES) in 1935 and, since that time, ARES has been the only national
14 organization recruiting and training amateur radio operators to serve in
15 times of emergency;

16 (d) ARES is well established and well organized within Colorado;

17 (e) In many communities ARES and RACES units were combined
18 with ARES members assuming the role of RACES operators when local
19 emergencies were declared. In other communities, separate ARES and
20 RACES organizations were established, thereby diluting the available
21 resources and creating confusion or conflict as to roles and
22 responsibilities.

23 (f) Communication failures have been a defining element of
24 recent disasters, both natural and manmade;

25 (g) The September 11, 2001, attacks on the World Trade Center
26 in New York City, Hurricane Katrina, the 2003 North American blackout,

1 and Hurricane Sandy in 2012 were all disasters where amateur radio
2 provided key communication links when other communication facilities
3 failed;

4 (h) The United States congress recognized the importance of
5 amateur radio communications as a part of the national disaster response
6 framework in 2012 when it directed the Federal Communications
7 Commission (FCC) to conduct a study on the uses and capabilities of
8 amateur radio service communications in emergencies and disaster relief;

9 (i) The FCC report, GN docket no. 12-91 dated August 16, 2012,
10 concluded that "amateur radio can be of great value in emergency
11 response situations. Amateur radio carries with it a wide range of
12 advantages that allow it to supplement other emergency communications
13 activities during disasters. This has been demonstrated time and again in
14 a wide variety of emergency and disaster situations."

15 (j) The FCC report acknowledged that the "value [of amateur
16 radio] could potentially be increased, however, through cooperation
17 among DHS [the United States department of homeland security], public
18 safety, emergency management, and amateur radio communications
19 associations and groups to develop future training protocols." The FCC
20 recommended to congress that DHS work with state, local, and tribal
21 authorities to develop disaster area access policies and qualifications for
22 trained amateur radio operators who provide emergency communications
23 support.

24 (k) In Colorado, amateur radio operators and, in particular, ARES
25 members have a rich history of providing communication expertise during
26 natural or man-made disasters such as the blizzards of December 2006;
27 the Hayman, North Fork, Four Mile Canyon, High Park, Waldo Canyon,

1 and Black Forest wildfires; and the September 2013 floods;

2 (l) Today, amateur radio operators assist the division of homeland
3 security and emergency management of the department of public safety;
4 train side-by-side with their professional counterparts in federal, state,
5 and local government entities; and serve as members of local and regional
6 incident management teams;

7 (m) In recent years amateur radio operators have been called upon
8 by state and local governments to act as communication experts across a
9 broader range of duties and responsibilities that extend beyond traditional
10 amateur radio communication;

11 (n) While maintaining their traditional roles as amateur radio
12 operators, many of these volunteers assist with the establishment and
13 maintenance of communication facilities, assist with programming public
14 safety radios during emergencies, and act as radio operators on public
15 safety channels;

16 (o) During the past year, amateur radio operators have performed
17 tens of thousands of hours of devoted service to the people of Colorado;

18 (p) While ARES has worked closely and cooperatively with the
19 office of emergency management in the division of homeland security and
20 emergency management, it has done so in a largely informal manner,
21 lacking a formal memorandum of understanding between it and the
22 office;

23 (q) Emergency preparedness and disaster response across the state
24 would be improved by a comprehensive integrated and unified
25 communications response framework;

26 (r) The office of emergency communications of the United States
27 department of homeland security (OEC) has provided direct technical

1 assistance to state and local emergency responders and government
2 officials through the development and delivery of training, tools, and
3 onsite assistance to advance public safety interoperable communications
4 capabilities; and

5 (s) The concept of auxiliary emergency communications
6 (auxcomm) is being deployed nationally under the sponsorship of the
7 OEC, and the framework has been embraced by the office of emergency
8 management.

9 (2) Having a uniformly trained and credentialed unit of
10 communication volunteers available for disaster response will materially
11 assist emergency preparedness and disaster response efforts across the
12 state. Accordingly, the general assembly hereby finds, declares, and
13 determines that the matters addressed in this act are a matter of statewide
14 concern.

15 (3) By enacting House Bill 16-1040, the general assembly intends
16 to establish the auxiliary emergency communications unit within the
17 office of emergency management in the division of homeland security and
18 emergency management of the department of public safety as an
19 all-volunteer, unpaid auxiliary unit for the purpose of lending technical
20 and communication assistance to emergency management, firefighting,
21 emergency medical service, search-and-rescue, and law enforcement
22 agencies across the state. The general assembly further intends that the act
23 be liberally construed to promote these objectives.

24 **SECTION 2.** In Colorado Revised Statutes, **add** 24-33.5-705.5
25 as follows:

26 **24-33.5-705.5. Auxiliary emergency communications unit -**
27 **powers and duties of unit and office of emergency management**

1 **regarding auxiliary communications - definitions.** (1) AS USED IN THIS
2 SECTION:

3 (a) "AUXILIARY EMERGENCY COMMUNICATOR" MEANS AN
4 AMATEUR RADIO OPERATOR LICENSED BY THE UNITED STATES FEDERAL
5 COMMUNICATIONS COMMISSION PURSUANT TO 47 CFR 97 WHO MEETS THE
6 TRAINING REQUIREMENTS AND IS CREDENTIALLED BY THE OFFICE. AN
7 AUXILIARY EMERGENCY COMMUNICATOR MEETING THE REQUIREMENTS OF
8 THIS PARAGRAPH (a) SERVES AS AN AUTHORIZED VOLUNTEER OF THE
9 OFFICE FOR PURPOSES OF ARTICLE 10 OF THIS TITLE.

10 (b) "DIVISION" MEANS THE DIVISION OF HOMELAND SECURITY AND
11 EMERGENCY MANAGEMENT CREATED IN SECTION 24-33.5-1603.

12 (c) "OFFICE" MEANS THE OFFICE OF EMERGENCY MANAGEMENT
13 CREATED IN SECTION 24-33.5-705 (1) (a).

14 (d) "UNIT" MEANS THE AUXILIARY EMERGENCY COMMUNICATIONS
15 UNIT OF THE OFFICE.

16 (2) THE AUXILIARY EMERGENCY COMMUNICATIONS UNIT IS
17 HEREBY ESTABLISHED WITHIN THE OFFICE. THE UNIT IS IN THE CHARGE OF
18 THE DIRECTOR OF THE OFFICE.

19 (3) THE UNIT HAS THE FOLLOWING POWERS AND DUTIES:

20 (a) ESTABLISH PROGRAMS FOR THE TRAINING AND CREDENTIALING
21 OF AUXILIARY EMERGENCY COMMUNICATORS ACROSS THE STATE, WHICH
22 TRAINING AND CREDENTIALING IS DECLARED TO BE A MATTER OF
23 STATEWIDE CONCERN. IN CONNECTION WITH SUCH TRAINING AND
24 CREDENTIALING, THE USE OF THE TERM "AUXILIARY EMERGENCY
25 COMMUNICATIONS" WITHIN THE STATE IS LIMITED TO INDIVIDUALS,
26 ENTITIES, ASSOCIATIONS, AND UNITS OF LOCAL GOVERNMENT THAT HAVE
27 BEEN CERTIFIED BY THE DIRECTOR OF THE OFFICE AS MEETING THE

1 TRAINING AND CREDENTIALING REQUIREMENTS ESTABLISHED BY THE
2 DEPARTMENT FOR AUXILIARY EMERGENCY COMMUNICATORS.

3 (b) ASSUME ALL OF THE DUTIES AND POSSESS ALL OF THE
4 AUTHORITY AND RESPONSIBILITIES OF THE RADIO AMATEUR CIVIL
5 EMERGENCY SERVICE, REFERRED TO IN THIS SECTION AS "RACES", 47
6 CFR 97.407, WITHIN THE STATE. ANY REFERENCE TO RACES IN ANY
7 FEDERAL LAW OR REGULATION, AND ANY FEDERAL, STATE, OR LOCAL
8 GOVERNMENT EMERGENCY OR DISASTER PLANS IS TO BE INTERPRETED AS
9 REFERRING TO THE UNIT, AND THE UNIT IS THE SUCCESSOR ENTITY TO ANY
10 STATE RACES ORGANIZATION REFERENCED IN ANY SUCH LAW,
11 REGULATION, OR PLAN. NO OTHER INDIVIDUAL, ENTITY, ASSOCIATION, OR
12 GOVERNMENT AGENCY MAY REPRESENT THAT IT IS A STATE RACES
13 ORGANIZATION.

14 (c) ENSURE THAT AUXILIARY EMERGENCY COMMUNICATORS ARE
15 AUTHORIZED VOLUNTEERS ENTITLED TO THE PROTECTIONS AND BENEFITS
16 OF PART 8 OF THIS ARTICLE WHEN ASSISTING WITH THE INSTALLATION,
17 MAINTENANCE, OR DEMOLITION OF COMMUNICATION FACILITIES OF ANY
18 COUNTY SHERIFF, LOCAL GOVERNMENT, LOCAL EMERGENCY PLANNING
19 COMMITTEE, OR STATE AGENCY, WHETHER OR NOT SUCH ACTIVITIES
20 OCCUR DURING A DISASTER; EXCEPT THAT THE PROVISIONS OF SECTIONS
21 24-33.5-825 AND 24-33.5-826 DO NOT APPLY TO A TRAINING EXERCISE,
22 DRILL, OR CLASS WITHOUT THE EXPRESS PRIOR CONSENT AND APPROVAL
23 OF THE VOLUNTEER'S EMPLOYER.

24 (4) IN CONNECTION WITH THE POWERS AND DUTIES OF THE UNIT AS
25 SPECIFIED IN THIS SECTION, THE DIRECTOR OF THE OFFICE MAY:

26 (a) DEVELOP AND ISSUE A CREDENTIAL THAT IS RECOGNIZED
27 THROUGHOUT THE STATE FOR THE PURPOSE OF GRANTING ACCESS TO

1 GOVERNMENT FACILITIES, INCIDENT COMMAND POSTS, AND DISASTER
2 SCENES;

3 (b) CONDUCT CRIMINAL BACKGROUND INVESTIGATIONS ON
4 CANDIDATES FOR CREDENTIALING AS AUXILIARY EMERGENCY
5 COMMUNICATORS IN ACCORDANCE WITH THE SECURITY NEEDS OF THE
6 DEPARTMENT. THE UNIT MAY DENY CREDENTIALING TO ANY CANDIDATE
7 BASED UPON THE RESULTS OF THAT BACKGROUND CHECK.

8 (c) REIMBURSE AUXILIARY EMERGENCY COMMUNICATORS FOR
9 NECESSARY TRAVEL AND OTHER REASONABLE EXPENSES INCURRED IN THE
10 PERFORMANCE OF THEIR DUTIES, INCLUDING PROJECTS, TRAINING, DRILLS,
11 EXERCISES, AND DISASTER RESPONSE ACTIVITIES;

12 (d) EXPEND STATE MONEYS, INCLUDING BUT NOT LIMITED TO
13 GRANT MONEYS OR MONEYS OTHERWISE BUDGETED TO THE OFFICE, TO
14 ENHANCE THE COMMUNICATION INFRASTRUCTURE AS NECESSARY TO
15 SUPPLEMENT OR REINFORCE THE EXISTING AMATEUR RADIO SYSTEMS AND
16 NETWORKS WITHIN THE STATE FOR THE PURPOSES OF MAXIMIZING
17 DISASTER PREPAREDNESS AND RESPONSE.

18 **SECTION 3.** In Colorado Revised Statutes, 24-33.5-802, **amend**
19 (5) as follows:

20 **24-33.5-802. Definitions.** As used in this part 8, unless the
21 context otherwise requires:

22 (5) "Emergency volunteer service" means all activities authorized
23 and carried out by a volunteer who is a member of a qualified volunteer
24 organization as directed by a county sheriff, local government, local
25 emergency planning committee, or state agency in the event of disaster OR
26 DURING A TRAINING EXERCISE, DRILL, OR CLASS CONDUCTED IN
27 PREPARATION FOR A DISASTER, WHICH EXERCISE, DRILL, OR CLASS IS

1 ORGANIZED OR UNDER THE DIRECTION OF SUCH COUNTY SHERIFF, LOCAL
2 GOVERNMENT, LOCAL EMERGENCY PLANNING COMMITTEE, OR STATE
3 AGENCY.

4 **SECTION 4.** In Colorado Revised Statutes, **add** 24-33.5-806.5
5 as follows:

6 **24-33.5-806.5. Auxiliary emergency communications unit of**
7 **the office of emergency management - qualified volunteers -**
8 **protections and benefits.** NOTWITHSTANDING ANY OTHER PROVISION OF
9 THIS PART 8, ANY CREDENTIALLED MEMBER OF THE AUXILIARY EMERGENCY
10 COMMUNICATIONS UNIT OF THE OFFICE OF EMERGENCY MANAGEMENT
11 CREATED BY SECTION 24-33.5-705 (1) IS A QUALIFIED VOLUNTEER FOR
12 PURPOSES OF THIS PART 8 AND ARTICLE 10 OF THIS TITLE AND IS ELIGIBLE
13 TO RECEIVE THE PROTECTIONS AND BENEFITS SPECIFIED IN THIS PART 8
14 AND IN ARTICLE 10 OF THIS TITLE.

15

16 **SECTION 5.** In Colorado Revised Statutes, 24-33.5-824, **amend**
17 (1) (c) and (2) (a) as follows:

18 **24-33.5-824. Volunteers - provision of emergency services -**
19 **protections - benefits.** (1) A volunteer shall be allowed to receive the
20 benefits and protections specified in this part 8 and pursuant to article 10
21 of this title if the volunteer is determined to be a qualified volunteer
22 pursuant to this section. A volunteer shall be deemed a qualified volunteer
23 if:

24 (c) The volunteer is called to service through the volunteer
25 organization under the authority of the county sheriff, local government,
26 local emergency planning committee, or state agency to volunteer in a
27 disaster OR DURING A TRAINING EXERCISE, DRILL, OR CLASS CONDUCTED

1 IN PREPARATION FOR A DISASTER, WHICH EXERCISE, DRILL, OR CLASS IS
2 ORGANIZED OR UNDER THE DIRECTION OF SUCH COUNTY SHERIFF, LOCAL
3 GOVERNMENT, LOCAL EMERGENCY PLANNING COMMITTEE, OR STATE
4 AGENCY; EXCEPT THAT THE PROVISIONS OF SECTIONS 24-33.5-825 AND
5 24-33.5-826 DO NOT APPLY TO A TRAINING EXERCISE, DRILL, OR CLASS
6 WITHOUT THE EXPRESS PRIOR CONSENT AND APPROVAL OF THE
7 VOLUNTEER'S EMPLOYER; and

8 (2) The executive director of the department or the executive
9 director's designee shall create a system whereby a volunteer may obtain
10 proof to provide to his or her employer that specifies:

11 (a) The volunteer was called to service by a volunteer organization
12 for the purpose of assisting in a disaster OR DURING A TRAINING EXERCISE,
13 DRILL, OR CLASS CONDUCTED IN PREPARATION FOR A DISASTER, WHICH
14 EXERCISE, DRILL, OR CLASS IS ORGANIZED OR UNDER THE DIRECTION OF
15 SUCH COUNTY SHERIFF, LOCAL GOVERNMENT, LOCAL EMERGENCY
16 PLANNING COMMITTEE, OR STATE AGENCY; EXCEPT THAT THE PROVISIONS
17 OF SECTIONS 24-33.5-825 AND 24-33.5-826 DO NOT APPLY TO A TRAINING
18 EXERCISE, DRILL, OR CLASS WITHOUT THE EXPRESS PRIOR CONSENT AND
19 APPROVAL OF THE VOLUNTEER'S EMPLOYER;

20 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-827, **amend**
21 (1) (b) as follows:

22 **24-33.5-827. Procedures.** (1) The office of emergency
23 management shall create procedures for the administration of this part 8.
24 The procedures shall include:

25 (b) A process to verify that a qualified volunteer provided
26 volunteer services during a disaster OR AN ORGANIZED TRAINING
27 EXERCISE, DRILL, OR CLASS, and a method to allow the volunteer to

1 provide proof of such service to his or her employer pursuant to section
2 24-33.5-824 (2).

3

4 **SECTION 7. Appropriation.** For the 2016-17 state fiscal year,
5 \$60,238 is appropriated to the department of public safety for use by the
6 office of emergency management. This appropriation is from the general
7 fund. To implement this act, the office may use this appropriation for
8 program administration.

9 **SECTION 8. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2016 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.