

CHAPTER 429

GOVERNMENT - STATE

SENATE BILL 19-040

BY SENATOR(S) Hisey and Fields, Bridges, Coram, Crowder, Danielson, Donovan, Gardner, Ginal, Gonzales, Lundeen, Marble, Pettersen, Rankin, Story, Tate, Todd, Williams A., Winter, Woodward, Garcia;
also REPRESENTATIVE(S) Carver and Roberts, Arndt, Bird, Buckner, Buentello, Cutter, Duran, Esgar, Exum, Galindo, Geitner, Gray, Herod, Hooton, Kipp, Kraft-Tharp, Larson, Lontine, McCluskie, McLachlan, Michaelson Jenet, Singer, Sirota, Snyder, Titone, Valdez A., Valdez D., Will.

AN ACT

CONCERNING THE ESTABLISHMENT OF THE COLORADO FIRE COMMISSION, 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, **add 24-33.5-1233** as follows:

24-33.5-1233. Colorado fire commission - creation - powers and duties - report - legislative declaration - repeal. (1) **Legislative declaration.** (a) **THE GENERAL ASSEMBLY HEREBY FINDS THAT:**

(I) **THE DIVISION HAS ENGAGED IN A TWO-YEAR, STAKEHOLDER-DRIVEN STRATEGIC PLANNING EFFORT TO EVALUATE FIRE PROGRAMS THROUGHOUT THE STATE AND IDENTIFY AREAS IN WHICH THE STATE CAN BETTER SUPPORT ITS PARTNERS;**

(II) **A COMMISSION STRUCTURE WILL ENSURE ACCOUNTABILITY AND CREATE AN EFFICIENT AND STREAMLINED STATEWIDE PROCESS FOR ISSUING RECOMMENDATIONS, DRIVING IMPLEMENTATION OF SPECIFIC ACTIONS AND POLICIES, AND REPORTING ON PROGRESS AND LESSONS LEARNED;**

(III) **A COMMISSION WILL ALSO HELP THE STATE TO BE PROACTIVE ON WILDFIRE ISSUES, AND TO DEVELOP A COMPREHENSIVE APPROACH THAT EMBRACES MITIGATION, PREVENTION, AND PREPAREDNESS; AND**

(IV) **ESTABLISHING A FIRE COMMISSION WILL ALLOW THE STATE TO CONTINUE TO**

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.

DEVELOP LONG-TERM STRATEGIES AND RECOMMENDATIONS ON COMPLEX FIRE ISSUES.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT ESTABLISHING A COLORADO FIRE COMMISSION SERVES THE INTERESTS OF THE STATE AND LOCAL COMMUNITIES IN DEVELOPING EFFECTIVE STRATEGIES FOR FIRE PREVENTION, MITIGATION, PREPAREDNESS, AND SUPPRESSION.

(2) **Commission created.** THERE IS HEREBY CREATED IN THE DIVISION THE COLORADO FIRE COMMISSION, REFERRED TO IN THIS SECTION AS THE "COMMISSION".

(3) **Membership.** (a) THE COMMISSION CONSISTS OF TWENTY-FOUR VOTING MEMBERS AS FOLLOWS:

(I) THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(II) THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE;

(III) THE CHIEF OF THE WILDLAND FIRE MANAGEMENT SECTION IN THE DIVISION, OR THE CHIEF'S DESIGNEE;

(IV) THE STATE FORESTER, OR THE STATE FORESTER'S DESIGNEE, TO INCLUDE RELEVANT INFORMATION PURSUANT TO SECTION 23-31-316;

(V) THE DIRECTOR OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT, OR THE DIRECTOR'S DESIGNEE;

(VI) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES, OR THE EXECUTIVE DIRECTOR'S DESIGNEE; AND

(VII) EIGHTEEN MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR AS FOLLOWS:

(A) TWO MEMBERS APPOINTED FROM NOMINEES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING FIRE CHIEFS, WITH ONE SUCH MEMBER REPRESENTING THE WESTERN SLOPE AND ONE SUCH MEMBER REPRESENTING THE EASTERN PART OF THE STATE;

(B) TWO MEMBERS APPOINTED FROM NOMINEES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING PROFESSIONAL FIREFIGHTERS;

(C) TWO MEMBERS APPOINTED FROM NOMINEES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING VOLUNTEER FIREFIGHTERS;

(D) FOUR MEMBERS APPOINTED FROM NOMINEES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING COUNTY SHERIFFS, WITH AT LEAST ONE SUCH MEMBER REPRESENTING THE WESTERN SLOPE AND AT LEAST ONE SUCH MEMBER REPRESENTING THE EASTERN PART OF THE STATE;

(E) TWO MEMBERS APPOINTED FROM NOMINEES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING COUNTIES, WITH ONE SUCH MEMBER REPRESENTING THE WESTERN SLOPE AND ONE SUCH MEMBER REPRESENTING THE EASTERN PART OF

THE STATE;

(F) TWO MEMBERS APPOINTED FROM NOMINEES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING MUNICIPALITIES;

(G) TWO MEMBERS APPOINTED FROM NOMINEES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING SPECIAL DISTRICTS;

(H) ONE MEMBER APPOINTED FROM NOMINEES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING EMERGENCY MANAGERS; AND

(I) ONE MEMBER OF THE 9-1-1 ADVISORY TASK FORCE ESTABLISHED BY THE PUBLIC UTILITIES COMMISSION.

(b) (I) THE EXECUTIVE DIRECTOR SHALL APPOINT ONE NONVOTING EX OFFICIO MEMBER WHO REPRESENTS A NONPROFIT ORGANIZATION WITH EXPERTISE IN NATIONALLY RECOGNIZED SAFETY STANDARDS.

(II) THE EXECUTIVE DIRECTOR SHALL APPOINT TWO NONVOTING EX OFFICIO MEMBERS WHO REPRESENT WATER PROVIDERS, WITH ONE SUCH MEMBER REPRESENTING THE WESTERN SLOPE AND ONE SUCH MEMBER REPRESENTING THE EASTERN PART OF THE STATE.

(III) THE EXECUTIVE DIRECTOR SHALL APPOINT ONE NONVOTING EX OFFICIO MEMBER WHO REPRESENTS THE INSURANCE INDUSTRY.

(IV) THE EXECUTIVE DIRECTOR MAY, IN THE EXECUTIVE DIRECTOR'S DISCRETION, APPOINT ADDITIONAL NONVOTING EX OFFICIO MEMBERS WITH EXPERTISE IN THE COMMISSION'S AREAS OF STUDY TO AID THE COMMISSION IN FULFILLING ITS DUTIES.

(c) THE COMMISSION INCLUDES THE FOLLOWING NONVOTING EX OFFICIO MEMBERS:

(I) ONE REPRESENTATIVE FROM THE UNITED STATES FOREST SERVICE;

(II) ONE REPRESENTATIVE FROM THE BUREAU OF LAND MANAGEMENT; AND

(III) ONE REPRESENTATIVE FROM THE NATIONAL PARK SERVICE.

(d) THE EXECUTIVE DIRECTOR SHALL MAKE INITIAL APPOINTMENTS NO LATER THAN AUGUST 5, 2019. THE EXECUTIVE DIRECTOR SHALL CONSIDER GEOGRAPHIC REPRESENTATION IN APPOINTING MEMBERS OF THE COMMISSION. THE EXECUTIVE DIRECTOR SHALL ENSURE, TO THE EXTENT PRACTICABLE, THAT THE APPOINTED MEMBERS REPRESENT A BALANCE OF EXPERTISE IN THE AREAS OF FIRE MITIGATION, PREVENTION, PREPAREDNESS, LOCAL COMMUNITY RESILIENCY, AND SUPPRESSION.

(e) THE TERM OF APPOINTMENTS IS FOUR YEARS; EXCEPT THAT THE TERM OF EACH MEMBER INITIALLY APPOINTED PURSUANT TO SUBSECTIONS (3)(a)(VII)(C) TO (3)(a)(VII)(F) OF THIS SECTION IS TWO YEARS. A MEMBER MAY BE REAPPOINTED FOR ADDITIONAL TERMS. THE EXECUTIVE DIRECTOR SHALL FILL ANY VACANCY BY APPOINTMENT FOR THE REMAINDER OF THE UNEXPIRED TERM. AN APPOINTMENT TO

FILL A VACANCY IS SUBJECT TO THE REQUIREMENTS SET FORTH FOR THE VACANT POSITION IN SUBSECTION (3)(a)(VII) OR (3)(b) OF THIS SECTION, AS APPLICABLE.

(f) EACH MEMBER OF THE COMMISSION SERVES WITHOUT COMPENSATION, BUT EACH VOTING MEMBER AND EACH EX OFFICIO MEMBER APPOINTED PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION IS ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY TRAVEL EXPENSES INCURRED IN THE PERFORMANCE OF HIS OR HER DUTIES AS A MEMBER OF THE COMMISSION.

(g) THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE IS THE CHAIR OF THE COMMISSION.

(h) THE COMMISSION SHALL MEET AT LEAST ONCE EVERY THREE MONTHS. THE CHAIR MAY CALL SUCH ADDITIONAL MEETINGS AS ARE NECESSARY FOR THE COMMISSION TO COMPLETE ITS DUTIES.

(4) Powers and duties. (a) THE MISSION OF THE COMMISSION IS TO ENHANCE PUBLIC SAFETY IN COLORADO THROUGH AN INTEGRATED STATEWIDE PROCESS FOCUSED ON THE FIRE SERVICE'S CAPACITY TO CONDUCT FIRE MANAGEMENT AND USE, PREPAREDNESS, PREVENTION, AND RESPONSE ACTIVITIES TO SAFEGUARD LIVES, PROPERTY, INCLUDING UTILITY AND COMMUNICATION INFRASTRUCTURE, AND NATURAL RESOURCES, AND INCREASE THE RESILIENCY OF LOCAL AND REGIONAL COMMUNITIES.

(b) IN FURTHERANCE OF ITS MISSION, THE COMMISSION SHALL CONSIDER THE FOLLOWING ISSUES:

(I) DEVELOPING AN ACCURATE UNDERSTANDING OF COLORADO'S FIRE PROBLEMS, INCLUDING THE NUMBER OF INJURIES AND FATALITIES, OVERALL FIRE LOSSES, AND THE CAUSES AND ORIGINS OF STRUCTURAL AND WILDLAND FIRES;

(II) REVIEWING THE CURRENT EMERGENCY FIRE FUND PROGRAM AND PROVIDING RECOMMENDATIONS TO MAKE IT MORE INCLUSIVE OF COUNTIES THROUGHOUT THE STATE;

(III) EVALUATING FUNDING MECHANISMS FOR EFFECTIVE RESPONSE TO LARGE FIRES, WITH CONSIDERATION GIVEN TO APPROPRIATE COST-SHARE AGREEMENTS, FINANCIAL CONTRIBUTIONS, MITIGATION AND PREPAREDNESS, MUTUAL AID PARTICIPATION, AND LOCAL ACTIONS AND PLANS;

(IV) ASSESSING THE CAPACITY OF THE STATE TO PROVIDE EMERGENCY FIRE SUPPORT AND TECHNICAL EXPERTISE TO LOCAL COMMUNITIES;

(V) DEVELOPING PERFORMANCE MEASURES OF OVERALL RESPONSE EFFECTIVENESS AND IDENTIFYING RECOMMENDED IMPROVEMENT AREAS;

(VI) STRENGTHENING REGIONAL AND STATEWIDE COORDINATION OF MUTUAL AID RESOURCES AND INITIAL ATTACK CAPABILITIES FOR FIRES AND OTHER HAZARDS;

(VII) DEVELOPING BEST PRACTICE RECOMMENDATIONS RELATED TO HIGH-RISK OCCUPANCIES FOR CONSIDERATION BY LOCAL JURISDICTIONS AND COMMUNITIES,

INCLUDING RECOMMENDATIONS RELATED TO MINIMUM COOPERATIVE AGREEMENTS AND MUTUAL AID RESOURCES;

(VIII) IN COOPERATION WITH THE COLORADO STATE FOREST SERVICE AND OTHER AFFECTED STAKEHOLDERS, DEVELOPING AND PUBLISHING AN ASSESSMENT OF FIRE TREATMENT COSTS AND COST DISTRIBUTION, INCLUDING THE COSTS OF MITIGATION UNDER EMERGENT AND NONEMERGENT CIRCUMSTANCES, RETREATMENT COSTS, AND POST-RECOVERY COSTS;

(IX) DEVELOPING METHODOLOGICAL APPROACHES TO AND RECOMMENDATIONS ON COLORADO'S FIRE SERVICE CONCERNS AND ISSUES; AND

(X) FORECASTING UPCOMING FUNDING AND RESOURCE CHALLENGES AND TRENDS THAT AFFECT FIRE SERVICES AND THE ABILITY OF THE STATE AND OF LOCAL JURISDICTIONS TO RESPOND TO FIRE AND MITIGATE HAZARDS IN THE SHORT AND LONG TERM.

(c) (I) THE COMMISSION MAY ESTABLISH TASK FORCES TO STUDY AND MAKE RECOMMENDATIONS TO THE COMMISSION ON SPECIFIC SUBJECT MATTER AREAS WITHIN THE COMMISSION'S AREA OF STUDY.

(II) WHEN ESTABLISHING A TASK FORCE, THE COMMISSION SHALL SET FORTH THE PURPOSE OF THE TASK FORCE AND ITS MEMBERSHIP, AREA OF STUDY, DUTIES, AND DURATION.

(III) THE CHAIR SHALL APPOINT THE MEMBERS OF A TASK FORCE, WITH THE ADVICE AND CONSENT OF THE COMMISSION. THE CHAIR MAY APPOINT INDIVIDUALS WHO ARE NOT MEMBERS OF THE COMMISSION TO SERVE ON A TASK FORCE. MEMBERS OF A TASK FORCE SERVE FOR THE DURATION OF THE TASK FORCE. MEMBERS OF A TASK FORCE WHO ARE NOT VOTING MEMBERS OF THE COMMISSION OR EX OFFICIO MEMBERS OF THE COMMISSION APPOINTED PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION SERVE WITHOUT COMPENSATION AND WITHOUT REIMBURSEMENT FOR EXPENSES.

(5) **Staff support.** THE DIVISION SHALL PROVIDE OFFICE SPACE, EQUIPMENT, AND STAFF SERVICES AS MAY BE NECESSARY TO IMPLEMENT THIS SECTION.

(6) **Reports.** (a) ON OR BEFORE AUGUST 31, 2020, AND ON OR BEFORE AUGUST 31 EACH YEAR THEREAFTER, THE COMMISSION SHALL SUBMIT A WRITTEN REPORT TO THE RURAL AFFAIRS AND AGRICULTURE COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (6)(a) CONTINUES UNTIL THE COMMISSION IS REPEALED.

(b) ON OR BEFORE AUGUST 31, 2020, AND ON OR BEFORE AUGUST 31 EACH YEAR THEREAFTER, THE COMMISSION SHALL REPORT TO THE WILDFIRE MATTERS REVIEW COMMITTEE ON ITS ACTIVITIES AND RECOMMENDATIONS.

(7) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024. BEFORE

ITS REPEAL, THIS SECTION IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

SECTION 2. In Colorado Revised Statutes, 2-3-1203, **add** (15)(a)(IX) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (15) (a) The following statutory authorizations for the designated advisory committees are scheduled for repeal on September 1, 2024:

(IX) THE COLORADO FIRE COMMISSION CREATED IN SECTION 24-33.5-1233.

SECTION 3. Appropriation. For the 2019-20 state fiscal year, \$174,183 is appropriated to the department of public safety for use by the division of fire prevention and control. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.8 FTE. To implement this act, the division may use this appropriation for wildland fire management services.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 3, 2019