

CHAPTER 221

GOVERNMENT - LOCAL

SENATE BILL 00-023

BY SENATORS Anderson, Phillips, and Powers;
also REPRESENTATIVES Hoppe, Alexander, Coleman, Gagliardi, George, Gotlieb, Larson, and Zimmerman.

AN ACT

CONCERNING CLAIMS FOR REIMBURSEMENT FOR THE COSTS OF HANDLING HAZARDOUS SUBSTANCE INCIDENTS.

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

SECTION 1. 29-22-104 (1), Colorado Revised Statutes, is amended, and the said 29-22-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

29-22-104. Right to claim reimbursement - temporary committee on reimbursement. (1) A public entity, political subdivision of the state, or unit of local government is hereby given the right to claim reimbursement from the ~~parties~~ PERSON or persons ~~responsible for a~~ WHO HAVE CARE, CUSTODY, AND CONTROL OF THE hazardous substance INVOLVED AT THE TIME OF THE incident for the reasonable, NECESSARY, and documented costs resulting from action taken to remove, contain, or otherwise mitigate the effects of such incident. When the action to remove, contain, or otherwise mitigate the effects of such an incident also involves extinguishing a fire, the costs may only include the extraordinary expenses related to the hazardous substance and not any expense related to extinguishing the fire. If the property on which the hazardous substance incident occurred lies within an unincorporated area of a county and not otherwise within a fire protection district, then the costs may include any expense related to the hazardous substance incident or to extinguishing the fire. If any such person is the owner of property upon which the hazardous substance incident occurs, collection of such costs may be made pursuant to section 30-10-513.5 (1), C.R.S.

(6) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL ADOPT RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., TO CREATE A PROCESS BY WHICH A PUBLIC ENTITY, POLITICAL SUBDIVISION OF THE STATE, OR UNIT

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

OF LOCAL GOVERNMENT CLAIMING REIMBURSEMENT PURSUANT TO THIS SECTION SHALL ESTABLISH THAT THE COSTS ATTRIBUTED TO A HAZARDOUS SUBSTANCE INCIDENT ARE REASONABLE, NECESSARY, AND DOCUMENTED. SUCH RULES SHALL PROVIDE FOR CONSIDERATION OF ALL APPROPRIATE COST FACTORS INCLUDING BUT NOT LIMITED TO ACQUISITION AND OPERATION EXPENSES FOR EQUIPMENT, SALARIES AND BENEFITS, THE COST OF EXPENDABLE SUPPLIES, THE COST DIFFERENCES BETWEEN RURAL AND URBAN AREAS, AND THE COST DIFFERENCES BETWEEN RESPONDING ENTITIES THAT UTILIZE PAID STAFF AND ENTITIES THAT USE VOLUNTEERS.

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL CREATE A LIST OF QUALIFIED AND KNOWLEDGEABLE PERSONS WHO ARE WILLING TO PERFORM THE ROLE OF VOLUNTARY OMBUDSMAN, MEDIATOR, OR ARBITRATOR TO RESOLVE DISPUTES REGARDING CLAIMS FOR REIMBURSEMENT MADE PURSUANT TO THIS SECTION AND SHALL ADOPT RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., TO ESTABLISH THE PROCESS BY WHICH THE PARTIES INVOLVED IN SUCH A DISPUTE MAY ACCESS AND ARRANGE FOR THE ASSISTANCE OF PERSONS ON THE LIST. PERSONS ON THE LIST SHALL NOT RECEIVE COMPENSATION FOR THEIR SERVICES FROM THE STATE AND SHALL NOT BE STATE EMPLOYEES. PERSONS ON THE LIST SHALL NOT BE SUBJECT TO CIVIL LIABILITY FOR ANY ACTIONS TAKEN IN GOOD FAITH PURSUANT TO THIS PARAGRAPH (b) OR ANY RULE ADOPTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY IN ACCORDANCE WITH THIS SECTION.

SECTION 2. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 3. 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 26, 2000