

CHAPTER 272

GOVERNMENT - COUNTY

HOUSE BILL 00-1283

BY REPRESENTATIVES Sinclair, Johnson, Kester, Mace, Ragsdale, Smith, Tapia, Webster, Alexander, George, Hoppe, McKay, Mitchell, Piffner, Spradley, Stengel, Taylor, and Young;
also SENATOR Wattenberg.

AN ACT

CONCERNING FIRE MANAGEMENT BY CERTAIN GOVERNMENTAL AGENCIES, AND, IN CONNECTION THEREWITH, MODIFYING A SHERIFF'S AUTHORITY TO CONTROL FIRES, SPECIFYING THE AUTHORITY OF COUNTIES TO IMPLEMENT FIRE MANAGEMENT PLANS, AND MODIFYING GOVERNMENTAL POLICIES AND OBJECTIVES REGARDING FIRE.

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that the use of fire is an effective and appropriate resource management tool. The general assembly further finds and declares that it is necessary and desirable to improve the health of Colorado's forest, rangeland, and prairie ecosystems and to mitigate the fire danger in the wild-urban interface. It is the intent of this legislation to encourage pre-suppression activities through the harvest of materials where practicable. It is also the intent of this legislation to foster better cooperation between private land owners and local, state, and federal government agencies in the establishment of fire management strategies and policies.

SECTION 2. 23-30-204, Colorado Revised Statutes, is amended to read:

23-30-204. Forest fires - duty of sheriff to report. It is the duty of the sheriffs of the various counties of the state to report as soon as practicable the occurrence of any fire in any forest in the state, either on private or public lands, to the board or its authorized agent, and, upon receiving notice from any source of a fire in any forest, it is the duty of the agent of the board to aid and assist in CONTROLLING OR extinguishing the same, if necessary.

SECTION 3. 23-30-301, Colorado Revised Statutes, is amended to read:

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

23-30-301. Legislative declaration. It is the public policy of this state to ~~prevent and control forest fires on or threatening~~ ENCOURAGE THE HEALTH OF FOREST ECOSYSTEMS THROUGH RESPONSIBLE MANAGEMENT OF the forest land of the state, INCLUDING THE USE OF PRESCRIBED AND NATURAL IGNITION FIRES AND OTHER PRE-SUPPRESSION ACTIVITIES, SUCH AS THE HARVEST OF MATERIALS, in order to preserve forest and other natural resources, enhance the growth and maintenance of forests, conserve forest cover on watersheds, protect recreational, wildlife, and other values, promote stability of forest-using industries, and prevent loss of life and damage to property from wildfires and other conflagrations.

SECTION 4. 23-30-304, Colorado Revised Statutes, is amended to read:

23-30-304. State responsibility determined. The state forester shall determine, in consultation with local authorities and with the approval of the governor, geographic areas of the state, INCLUDING WILD LAND-URBAN INTERFACE AREAS, in which the state has a financial responsibility for ~~preventing and suppressing~~ MANAGING forest fires. The ~~prevention and suppression~~ MANAGEMENT of fires in all other areas is primarily the responsibility of local or federal agencies, as the case may be. The state forester may exclude all lands owned or controlled by the federal government or any agency thereof, and ~~he~~ THE STATE FORESTER shall exclude all lands within the exterior boundaries of incorporated cities or towns.

SECTION 5. 23-30-305, Colorado Revised Statutes, is amended to read:

23-30-305. Cooperation by counties. The boards of county commissioners may, in their discretion, cooperate with the governing bodies of organized fire districts, fire departments, and municipal corporations, with private parties, with other counties, and with the state forester in the ~~prevention and suppression~~ MANAGEMENT of forest fires. Such boards of county commissioners are authorized to participate in the organization and training of rural fire-fighting groups, in the payment for the operation and maintenance of fire-fighting equipment, and in sharing the cost of ~~suppressing~~ MANAGING fires.

SECTION 6. 30-10-513, Colorado Revised Statutes, is amended to read:

30-10-513. Sheriff in charge of forest or prairie fire - expenses. It is the duty of the sheriff, undersheriffs, and deputies, in case of any forest or prairie fire, to assume charge thereof or to assist other governmental authorities in such emergencies for controlling ~~and~~ OR extinguishing such fires, and, for assisting in so doing, they may call to their aid such person as they may deem necessary. The state forester may assume the duty with concurrence of the sheriff. The board of county commissioners of any county may allow the sheriff, undersheriffs, deputies, municipal or county fire departments, fire protection districts, fire authorities, and such other persons as may be called to assist in controlling ~~and~~ OR extinguishing such fires such compensation and other expenses necessarily incurred as it may deem just. The board of county commissioners of any county in this state may make such appropriation as it may deem proper for the purpose of controlling fires in its county. The board of county commissioners is authorized to levy a special tax subject to approval of the voters upon every dollar of valuation of assessment of the taxable property within the county for the purpose of creating a fund that shall be appropriated, after consultation with representatives of fire departments, fire protection districts, and fire authorities in the

county, to prevent, control, or extinguish such fires anywhere in the county and to fix the rate of levy; except that the amount raised from the levy in any one year is limited to the amount raised by one mill or five hundred thousand dollars, whichever is less.

SECTION 7. 30-10-513.5 (1) (a), Colorado Revised Statutes, is amended to read:

30-10-513.5. Authority of sheriff relating to fires within unincorporated areas of county - liability for expenses. (1) (a) The sheriff of any county may request assistance from a fire protection district or municipality in controlling ~~and~~ OR extinguishing a fire occurring on private property if, in the judgment of such sheriff, the fire constitutes a danger to the health and safety of the public or a risk of serious damage to property. Except as provided in subsection (3) of this section, any fire protection district or municipality assisting in controlling ~~and~~ OR extinguishing such fire is entitled to reimbursement from the property owner on whose property the fire occurred or from the party responsible for the occurrence of such fire for the reasonable and documented costs resulting from such assistance. The fire protection district or municipality may recover the costs incurred in a civil action against the property owner or the responsible party or may, by resolution of its board or governing body adopted at a public hearing after notice to the affected parties, certify to the county treasurer the amount of any costs incurred ~~which~~ THAT remains uncollected after diligent effort for a period greater than one hundred eighty days. Such certification is subject to the appeal process and all other remedies, if any, provided in the "State Administrative Procedure Act", article 4 of title 24, C.R.S. If the fire protection district or municipality prevails, the amount certified shall be collected by the treasurer in the same manner as taxes are authorized to be collected pursuant to section 39-10-107, C.R.S. To defray the costs of collection, the treasurer shall be authorized to charge an amount equal to ten percent of the amount collected.

SECTION 8. Part 1 of article 11 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

30-11-124. Fire planning authority. (1) THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY IN THE STATE, SUBJECT TO THE REQUIREMENTS OF SECTION 25-7-123, C.R.S., MAY PREPARE, ADOPT, AND IMPLEMENT A COUNTY FIRE MANAGEMENT PLAN THAT DETAILS INDIVIDUAL COUNTY POLICIES ON FIRE MANAGEMENT FOR PRESCRIBED BURNS, FUELS MANAGEMENT, OR NATURAL IGNITION BURNS ON LANDS OWNED BY THE STATE OR COUNTY. SUCH PLANS SHALL BE DEVELOPED IN COORDINATION WITH THE COUNTY SHERIFF, THE COLORADO STATE FOREST SERVICE, AND THE APPROPRIATE STATE AND LOCAL GOVERNMENTAL ENTITIES. ALL INTERESTED PARTES SHALL HAVE THE OPPORTUNITY TO COMMENT ON THE PLAN PRIOR TO ITS ADOPTION AND IMPLEMENTATION.

(2) COUNTY FIRE MANAGEMENT PLANS CREATED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL:

(a) CLEARLY DEFINE APPROPRIATE RESPONSES IN ORDER TO MITIGATE IMMEDIATE THREATS TO PUBLIC SAFETY; AND

(b) SET FORTH THE CONDITIONS UNDER WHICH PRESCRIBED OR NATURAL IGNITION FIRES SHALL BE MANAGED.

(3) ANY COUNTY THAT ADOPTS AND ADHERES TO A COUNTY FIRE MANAGEMENT PLAN SHALL BE ACCORDED LIABILITY PROTECTION PURSUANT TO ARTICLE 10 OF TITLE 24, C.R.S.

(4) FEDERAL GOVERNMENT AGENCIES, SUBJECT TO THE PROVISIONS OF SECTIONS 25-7-106 (7) AND (8) AND 25-7-114.7 (2) (a) (III), C.R.S., AND PRIVATE LANDOWNERS MAY ENTER INTO MEMORANDA OF UNDERSTANDING WITH THE BOARD OF COUNTY COMMISSIONERS TO INCLUDE PUBLIC OR PRIVATE LANDS THAT ARE WITHIN THE BOUNDARIES OF THE COUNTY UNDER THE COUNTY FIRE MANAGEMENT PLAN. COUNTIES MAY PURCHASE AN INDEMNIFICATION INSURANCE POLICY AND PRIVATE LANDOWNERS WHO ENTER INTO MEMORANDA OF UNDERSTANDING WITH THE BOARD SHALL HAVE THE OPPORTUNITY TO OPT INTO SUCH POLICY.

(5) NOTHING IN THIS SECTION SHALL INFRINGE UPON OR OTHERWISE AFFECT THE ABILITY OF AGRICULTURAL PRODUCERS TO CONDUCT BURNING ON THEIR PROPERTY.

SECTION 9. 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