

CHAPTER 191

GOVERNMENT - COUNTY

HOUSE BILL 09-1162

BY REPRESENTATIVE(S) Gerou, Curry, Frangas, Kerr J., King S., Liston, Massey, McNulty, Nikkel, Pace, Priola, Ryden, Scanlan, Stephens, Tipton, Todd, Baumgardner, Fischer, Lambert, Looper, Marostica, May, Murray, Roberts, Schafer S., Vaad, Vigil;
also SENATOR(S) Kopp, Boyd, Gibbs, Groff, Harvey, Heath, Kester, King K., Lundberg, Mitchell, Newell, Scheffel, Schwartz, Shaffer B., Williams.

AN ACT**CONCERNING INTERGOVERNMENTAL COOPERATION FOR THE PURPOSE OF MITIGATING WILDFIRES.**

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

SECTION 1. Part 1 of article 20 of title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

29-20-105.5. Intergovernmental cooperation - intergovernmental agreements to address wild land fire mitigation - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) AS WILD LAND FIRES ARE IMPERVIOUS TO THE TERRITORIAL BOUNDARIES OF POLITICAL SUBDIVISIONS, ADEQUATE PROTECTION AGAINST THE HARM AND HAZARDS CAUSED BY SUCH FIRES NECESSITATES THE FULL COOPERATION OF ALL GOVERNMENTAL ENTITIES WITHIN WHOSE CONTIGUOUS TERRITORIAL BOUNDARIES FOREST LANDS OR WILD LAND AREAS ARE LOCATED;

(b) BECAUSE OF THE LIKELY THREAT THAT WILD LAND FIRES MAY CROSS TERRITORIAL BOUNDARIES, PARTICULARLY IF COOPERATIVE FIRE MITIGATION POLICIES ARE NOT ESTABLISHED AND MAINTAINED, PROTECTING THE PUBLIC FROM THE DANGERS OF SUCH FIRES, ESPECIALLY FIRES OCCURRING IN WILD LAND-URBAN INTERFACE AREAS, IS A MATTER OF STATEWIDE CONCERN;

(c) THE PROVISIONS OF THIS SECTION ARE NECESSARY TO PROTECT THE PUBLIC FROM THE DANGERS OF FOREST LAND AND WILD LAND FIRES; AND

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

(d) THE PROVISIONS OF THIS SECTION ARE ENACTED FOR THE PURPOSE OF AUTHORIZING AND REQUIRING INTERGOVERNMENTAL COOPERATION BETWEEN A COUNTY AND ANY LOCAL GOVERNMENTS THAT OWN LAND AREAS LOCATED WITHIN THE COUNTY TO MITIGATE THE HARM CAUSED BY FOREST LAND OR WILD LAND FIRES AFFECTING SUCH CONTIGUOUS LAND AREAS IN THE INTEREST OF PROTECTING THE PUBLIC HEALTH AND SAFETY.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "FIRE DEPARTMENT" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-33.5-1202 (3.5), C.R.S., AND INCLUDES A FIRE DEPARTMENT THAT USES PAID FIREFIGHTERS, VOLUNTEER FIREFIGHTERS, OR BOTH. THE TERM INCLUDES, WITHOUT LIMITATION, A NOT-FOR-PROFIT NONGOVERNMENTAL ENTITY THAT IS ORGANIZED TO PROVIDE FIREFIGHTING SERVICES.

(b) "FOREST LAND" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 39-1-102 (4.3), C.R.S.

(c) "WILD LAND AREA" MEANS AN AREA IN WHICH DEVELOPMENT IS ESSENTIALLY NONEXISTENT, EXCEPT FOR ROADS, RAILROADS, POWER LINES, AND SIMILAR INFRASTRUCTURE, AND IN WHICH STRUCTURES, IF PRESENT, ARE WIDELY SCATTERED.

(d) "WILD LAND FIRE" MEANS AN UNPLANNED OR UNWANTED FIRE IN A WILD LAND AREA, INCLUDING AN UNAUTHORIZED HUMAN-CAUSED FIRE, AN OUT-OF-CONTROL PRESCRIBED FIRE, AND ANY OTHER FIRE IN A WILD LAND AREA WHERE THE OBJECTIVE IS TO EXTINGUISH THE FIRE.

(3) (a) ON OR BEFORE JULY 1, 2011, EACH LOCAL GOVERNMENT THAT OWNS ANY LAND AREA THAT IS LOCATED EITHER ENTIRELY OR PARTIALLY OUTSIDE ITS OWN TERRITORIAL BOUNDARIES AND INSIDE THE TERRITORIAL BOUNDARIES OF A COUNTY AND THAT CONTAINS AT LEAST FIFTY PERCENT FOREST LAND OR LAND THAT CONSTITUTES A WILD LAND AREA SHALL ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY FOR THE PURPOSE OF MITIGATING FOREST LAND OR WILD LAND FIRES AFFECTING THE CONTIGUOUS LAND AREAS OF THE LOCAL GOVERNMENT AND COUNTY. IN ASSOCIATION WITH THE GOVERNMENTAL PARTIES ENTERING INTO ANY INTERGOVERNMENTAL AGREEMENT, THE PARTIES TO SUCH AGREEMENT SHALL CONSULT WITH ANY UTILITY PROVIDERS THAT HAVE FACILITIES IN THE AREAS SUBJECT TO THE AGREEMENTS TO THE EXTENT THE PROVISIONS OF THE AGREEMENTS WILL AFFECT THE PROVIDERS.

(b) THE AGREEMENT REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL ADDRESS, WITHOUT LIMITATION, THE FOLLOWING MATTERS:

(I) THE IDENTIFICATION OF ALL PARTIES TO THE AGREEMENT AND THEIR RESPECTIVE ROLES AND RESPONSIBILITIES WITH RESPECT TO THE MITIGATION OF FOREST LAND AND WILD LAND FIRES;

(II) THE PROCEDURES FOR COOPERATION AND COORDINATION AMONG THE PARTIES TO THE AGREEMENT;

(III) MANAGEMENT OBJECTIVES FOR FOREST LAND AND WILD LAND FIRE

PREVENTION, PREPAREDNESS, MITIGATION, SUPPRESSION, RECLAMATION, OR REHABILITATION AND THE DESIGNATION OF THE LOCAL GOVERNMENT WITH FISCAL AND OPERATIONAL AUTHORITY FOR EACH OBJECTIVE;

(IV) A DESCRIPTION OF AVAILABLE EMERGENCY OR MUTUAL AID RESOURCES IN THE EVENT OF FOREST LAND OR WILD LAND FIRES;

(V) THE SPECIFICATION OF REIMBURSEMENT AND BILLING PROCEDURES; AND

(VI) ACTION THAT MAY BE UNDERTAKEN BY ONE PARTY TO THE AGREEMENT IF ANOTHER PARTY TO THE AGREEMENT FAILS TO SATISFY ITS DUTIES OR RESPONSIBILITIES UNDER THE AGREEMENT.

(c) THE AGREEMENT REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL BE EXECUTED BY ALL PARTIES TO THE AGREEMENT.

(4) NOTHING IN THIS SECTION SHALL REQUIRE ANY LOCAL GOVERNMENT TO ENTER INTO A NEW AGREEMENT IF THE LOCAL GOVERNMENT IS A PARTY TO AN AGREEMENT IN EXISTENCE AS OF THE EFFECTIVE DATE OF THIS SECTION, INCLUDING, WITHOUT LIMITATION, A MUTUAL AID AGREEMENT, THAT SATISFIES THE REQUIREMENTS OF THIS SECTION UNLESS THE TERMS OF ANY SUCH AGREEMENT, INCLUDING A MUTUAL AID AGREEMENT, FAIL TO ADDRESS THE RESPONSIBILITY AMONG LOCAL GOVERNMENTS FOR MITIGATING WILD LAND FIRES IN WILD LAND-URBAN INTERFACE AREAS.

(5) (a) IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 33-10-108 (3) (a), C.R.S., AND PURSUANT TO A CONTRACT, INTERGOVERNMENTAL AGREEMENT, OR MEMORANDUM OF UNDERSTANDING, THE DIVISION OF PARKS AND OUTDOOR RECREATION CREATED IN SECTION 33-10-103 (1), C.R.S., MAY ALLOW FIRE MITIGATION PERSONNEL AND ACCOMPANYING EQUIPMENT AND MATERIAL UNDER THE CONTROL OR SUPERVISION OF A FIRE DEPARTMENT TO ENTER STATE PARKS, STATE RECREATION AREAS, AND NATURAL AREAS FOR THE PURPOSE OF MITIGATING FOREST LAND OR WILD LAND FIRES IN OR AROUND SUCH PARKS, RECREATION AREAS, AND NATURAL AREAS. PERMISSIBLE ACTIVITIES TO BE UNDERTAKEN BY A FIRE DEPARTMENT UNDER THIS PARAGRAPH (a) INCLUDE, WITHOUT LIMITATION, PRESCRIBED BURNING AS A COMPONENT OF WILDFIRE MITIGATION OR FOREST OR WILD LAND MANAGEMENT AND EXERCISES TO PROMOTE THE TRAINING OF FIREFIGHTING PERSONNEL.

(b) NOTHING IN PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL BE CONSTRUED AS AFFECTING THE AUTHORITY OF ANY STATE AGENCY OTHER THAN THE DIVISION OF PARKS AND OUTDOOR RECREATION TO ENTER INTO A CONTRACT, INTERGOVERNMENTAL AGREEMENT, OR MEMORANDUM OF UNDERSTANDING FOR THE PURPOSE OF ALLOWING FIRE MITIGATION PERSONNEL AND ACCOMPANYING EQUIPMENT AND MATERIAL UNDER THE CONTROL OR SUPERVISION OF A FIRE DEPARTMENT TO ENTER LAND AREAS UNDER THE JURISDICTION OF THE STATE AGENCY TO UNDERTAKE THE PERMISSIBLE ACTIVITIES SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (5).

(c) FOR PURPOSES OF THIS SUBSECTION (5), "STATE AGENCY" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-18-102 (9), C.R.S.

SECTION 2. 33-10-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-10-108. Duties of the division of parks and outdoor recreation - definitions. (3) (a) PURSUANT TO A CONTRACT, INTERGOVERNMENTAL AGREEMENT, OR MEMORANDUM OF UNDERSTANDING, THE DIVISION MAY ALLOW FIRE MITIGATION PERSONNEL AND ACCOMPANYING EQUIPMENT AND MATERIAL UNDER THE CONTROL OR SUPERVISION OF A FIRE DEPARTMENT TO ENTER STATE PARKS, STATE RECREATION AREAS, AND NATURAL AREAS FOR THE PURPOSE OF MITIGATING FOREST LAND OR WILD LAND FIRES IN OR AROUND SUCH PARKS, RECREATION AREAS, AND NATURAL AREAS. PERMISSIBLE ACTIVITIES TO BE UNDERTAKEN BY A FIRE DEPARTMENT UNDER THIS PARAGRAPH (a) INCLUDE, WITHOUT LIMITATION, PRESCRIBED BURNING AS A COMPONENT OF WILDFIRE MITIGATION OR FOREST OR WILD LAND MANAGEMENT AND EXERCISES TO PROMOTE THE TRAINING OF FIREFIGHTING PERSONNEL.

(b) AS USED IN THIS SUBSECTION (3):

(I) "FIRE DEPARTMENT" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 29-20-105.5 (2) (a), C.R.S.

(II) "NATURAL AREA" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 33-33-103 (8).

SECTION 3. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 30, 2009