

CHAPTER 176

GOVERNMENT - STATE

SENATE BILL 14-164

BY SENATOR(S) Carroll and King, Cadman, Jahn, Aguilar, Balmer, Baumgardner, Brophy, Crowder, Grantham, Guzman, Harvey, Heath, Herpin, Hill, Hodge, Johnston, Jones, Kefalas, Kerr, Lambert, Lundberg, Marble, Newell, Nicholson, Renfroe, Rivera, Roberts, Scheffel, Schwartz, Steadman, Tochtrop, Todd, Ulibarri, Zenzinger;
also REPRESENTATIVE(S) Gardner and McLachlan, Exum, Gerou, Hamner, Hullinghorst, Kraft-Tharp, Melton, Mitsch Bush, Pettersen, Rankin, Rosenthal, Salazar, Schafer, Stephens, Young, Ferrandino.

AN ACT

CONCERNING AERIAL FIREFIGHTING EFFORTS THROUGH THE DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY, AND, IN CONNECTION THEREWITH, IMPLEMENTING RECOMMENDATIONS MADE BY THE DIVISION REGARDING THE COLORADO FIREFIGHTING AIR CORPS.

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

SECTION 1. In Colorado Revised Statutes, 24-33.5-1203.5, **add** (3) as follows:

24-33.5-1203.5. Powers and duties of director - report. (3) COMMENCING IN 2014, THE DIRECTOR SHALL REPORT ANNUALLY TO THE WILDFIRE MATTERS REVIEW COMMITTEE CREATED IN SECTION 2-3-1602, C.R.S., REGARDING THE CURRENT NATURE AND MAGNITUDE OF THE STATE'S WILDFIRE SITUATION, THE STATUS OF WILDFIRE PREPAREDNESS AND PRESCRIBED BURNS IN THE STATE, INCLUDING AVAILABLE RESOURCES, AND THE CHALLENGES TO ADDRESSING THE STATE'S WILDFIRE THREAT. THE REPORT REQUIRED BY THIS SUBSECTION (3) IS EXEMPT FROM THE AUTOMATIC EXPIRATION DESCRIBED IN SECTION 24-1-136 (11).

SECTION 2. In Colorado Revised Statutes, 24-33.5-1228, **amend** (3) (a) and (4); and **add** (2.5), (5), (6), and (7) as follows:

24-33.5-1228. Colorado firefighting air corps - creation - powers - aircraft acquisitions required - center of excellence - Colorado firefighting air corps fund - creation - report - legislative declaration - rules. (2.5) (a) WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE DIVISION SHALL OPERATE A CENTER OF EXCELLENCE FOR ADVANCED TECHNOLOGY

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

AERIAL FIREFIGHTING, ALSO REFERRED TO IN THIS SECTION AS THE "CENTER OF EXCELLENCE", BASED ON THE INNOVATIONS PROPOSED, ANALYZED, REVIEWED, EVALUATED, OR IMPLEMENTED BY THE C-FAC IN THE TECHNOLOGY, TACTICS, AND ECONOMICS OF AERIAL RESOURCES, PARTICULARLY IN CONNECTION WITH THE ACTIVITIES DESCRIBED IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION. THE EXECUTIVE DIRECTOR SHALL INCLUDE IN HIS OR HER ANNUAL REPORT REQUIRED UNDER SECTION 2-7-203, C.R.S., AN UPDATE REGARDING THE CENTER OF EXCELLENCE, INCLUDING THE CENTER'S ACTIVITIES, FINDINGS, AND NEEDS.

(b) THE CENTER OF EXCELLENCE SHALL PERFORM, BUT IS NOT LIMITED TO, THE FOLLOWING FUNCTIONS:

(I) SERVE AS AN INTEGRATED REPOSITORY FOR SCIENCE-BASED EVALUATION OF THE THREE FUNDAMENTAL CONTRIBUTING FACTORS TO SUCCESSFUL AERIAL FIREFIGHTING: EFFECTIVENESS, EFFICIENCY, AND SUSTAINABILITY;

(II) REVIEW CURRENT REGULAR RESEARCH AND ASSESSMENT PROJECTS TO EVALUATE:

(A) NEW AND EXISTING TECHNOLOGIES FOR INTEGRATION INTO TACTICAL FIRE SCENARIOS IN A VARIETY OF SETTINGS, SUCH AS INITIAL ATTACK, NIGHT OPERATIONS, AND OPERATIONS IN WILDLAND URBAN INTERFACE AREAS; AND

(B) SUSTAINABLE CONTRACTING AND VALUE PROPOSITIONS TO DETERMINE WHICH TECHNOLOGIES AND CONTRACT VEHICLES ARE MOST ADVANTAGEOUS AND COST-EFFECTIVE TO ENTITIES PERFORMING OR PROVIDING AERIAL FIREFIGHTING; AND

(III) REVIEW CURRENT DATA AND DOCUMENTATION ON SCIENCE AND TECHNOLOGY RELEVANT TO AERIAL FIREFIGHTING AND MAKE THE RESULTS OF THE CENTER OF EXCELLENCE'S RESEARCH AND ASSESSMENT PROJECTS AVAILABLE TO PERSONS INTERESTED IN AERIAL FIREFIGHTING EFFECTIVENESS, EFFICIENCY, AND SUSTAINABILITY, INCLUDING FIRE MANAGERS, POLICY DECISION-MAKERS, SCIENTISTS, STUDENTS, AND ANY OTHER REQUESTING PERSONS.

(3) (a) The division shall administer the Colorado firefighting air corps fund, which fund is hereby created in the state treasury. The division is authorized to seek and accept gifts, grants, reimbursements, INVESTMENTS, BOND REVENUES, SALES PROCEEDS, COMMISSIONS FOR SERVICES, SPONSORSHIPS, ADVERTISING FEES, LICENSING FEES, PROFITS, or donations from private or public sources for the purposes of this section. The fund consists of all moneys that may be appropriated to the fund by the general assembly, and all private and public funds received through gifts, grants, reimbursements, INVESTMENTS, BOND REVENUES, SALES PROCEEDS, COMMISSIONS FOR SERVICES, SPONSORSHIPS, ADVERTISING FEES, LICENSING FEES, PROFITS, or donations that are transmitted to the state treasurer and credited to the fund. All interest earned from the investment of moneys in the fund are credited to the fund. The moneys in the fund are hereby continuously appropriated for the purposes indicated in paragraph (c) of this subsection (3). Any moneys not expended at the end of the fiscal year remain in the fund.

(4) ~~During the second regular session of the sixty-ninth general assembly, but~~

~~prior to April 1, 2014, the division shall submit a report to the joint budget committee and to the members of the general assembly that sets forth the division's analysis of the feasibility of continuing the C-FAC and whether more efficacious firefighting alternatives to the C-FAC exist. The report shall include the division's recommendations, if any, to enhance the state's ability to conduct aerial firefighting through the C-FAC, including budget requests for direct and indirect costs related to the activities described in paragraph (a) of subsection (2) of this section.~~ THE DIRECTOR SHALL INCLUDE, IN HIS OR HER ANNUAL REPORT TO THE WILDFIRE MATTERS REVIEW COMMITTEE REQUIRED UNDER SECTION 24-33.5-1203.5 (3), AN UPDATE REGARDING THE DIVISION'S ACTIVITIES UNDER THIS SECTION, INCLUDING THE NUMBER AND TYPE OF AERIAL FIREFIGHTING RESOURCES ACQUIRED OR CONTRACTED FOR DURING THE FIRE SEASON IN WHICH THE COMMITTEE MEETS, AN ASSESSMENT OF THE EFFECTIVENESS OF THE AERIAL FIREFIGHTING PROGRAM, AN ESTIMATE OF ANTICIPATED BUDGET AND OTHER RESOURCE NEEDS TO SUSTAIN OR IMPROVE THE C-FAC'S OPERATIONS, AND OTHER INFORMATION RELATED TO AERIAL FIREFIGHTING THAT THE DIRECTOR DEEMS PERTINENT.

(5)(a) AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (5), THE DIVISION SHALL ACQUIRE OR CONTRACT FOR FIREFIGHTING AIRCRAFT FOR USE DURING THE 2014 FIRE SEASON. IN MAKING SUCH ACQUISITIONS OR CONTRACTS, THE DIVISION SHALL ADHERE, AS NEARLY AS FEASIBLE AND APPROPRIATE AND WITHIN AVAILABLE APPROPRIATIONS, TO THE RECOMMENDATIONS MADE IN THE DIVISION'S "SPECIAL REPORT: COLORADO FIREFIGHTING AIR CORPS, REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY ON STRATEGIES TO ENHANCE THE STATE'S AERIAL FIREFIGHTING CAPABILITIES", DATED MARCH 28, 2014; EXCEPT THAT NOTHING IN THIS SUBSECTION (5):

(I) REQUIRES THE DIRECTOR TO CONTRACT FOR EXCLUSIVE USE OF ANY AIRCRAFT; OR

(II) LIMITS THE DIRECTOR'S ABILITY TO DETERMINE THE ACTUAL NUMBER, KIND, TYPE, AND LOCATION OF AVIATION ASSETS BASED ON PREPAREDNESS LEVELS, WILDFIRE RISK AND ACTIVITY, WEATHER, LOCATION OF OTHER AERIAL ASSETS, AVAILABLE APPROPRIATIONS, AND OTHER APPROPRIATE CRITERIA.

(b) NOTHING IN THIS SUBSECTION (5) ABROGATES, REDUCES, OR OTHERWISE AFFECTS THE DIVISION'S POWERS UNDER SUBSECTION (2) OF THIS SECTION WITH REGARD TO SUBSEQUENT FIRE SEASONS, INCLUDING THE AUTHORITY TO OBTAIN OR ARRANGE FOR SUITABLE AIRCRAFT AND ASSOCIATED RESOURCES.

(c) IN ADDITION TO THE ACQUISITIONS OR CONTRACTS MADE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), THE DIVISION MAY USE ANY APPROPRIATIONS FOR THE COLORADO FIREFIGHTING AIR CORPS FOR THE CENTER OF EXCELLENCE DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(6) THE DIVISION SHALL SEEK TO MAXIMIZE ITS AERIAL FIREFIGHTING CAPACITY CONSISTENT WITH THE RECOMMENDATIONS OF THE DIRECTOR AND WITHIN THE DIVISION'S AVAILABLE BUDGET.

(7) THE DIRECTOR MAY ESTABLISH GENERAL STATEMENTS OF POLICY OR PROMULGATE RULES AS HE OR SHE DEEMS NECESSARY OR CONVENIENT TO

IMPLEMENT THIS SECTION, INCLUDING SPECIFYING ADDITIONAL FUNCTIONS TO BE PERFORMED BY, OR METHODS OF OPERATION OF, THE CENTER OF EXCELLENCE CREATED IN SUBSECTION (2) OF THIS SECTION. RULES SHALL BE ADOPTED IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE.

SECTION 3. In Colorado Revised Statutes, 2-3-1602, **add** (1.5) as follows:

2-3-1602. Wildfire matters review committee - creation - repeal of part.

(1.5) (a) IN 2014, IN ADDITION TO ANY OTHER MATTERS IT CONSIDERS, THE COMMITTEE SHALL CONSIDER THE CREATION OF A COLORADO WILDLAND AND PRESCRIBED FIRE ADVISORY COMMISSION UNDER THE DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY, ALSO REFERRED TO IN THIS SUBSECTION (1.5) AS THE "ADVISORY COMMISSION". THE PURPOSE OF THE ADVISORY COMMISSION WILL BE TO ASSIST THE DIRECTOR OF THE DIVISION OF FIRE PREVENTION AND CONTROL IN PERFORMING HIS OR HER DUTIES. THE COMMITTEE SHALL MAKE SPECIFIC FINDINGS AND RECOMMENDATIONS REGARDING THE APPROPRIATE COMPOSITION OF THE ADVISORY COMMISSION, LENGTH OF TERMS, AND THE TYPES OF EXPERTISE AND INTERESTS THAT SHOULD BE REPRESENTED.

(b) ON OR BEFORE DECEMBER 1, 2014, THE COMMITTEE SHALL SUBMIT ITS SPECIFIC RECOMMENDATIONS PERTAINING TO THE ADVISORY COMMISSION TO THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. NOTHING IN THIS PARAGRAPH (b) PREVENTS THE COMMITTEE FROM PROPOSING LEGISLATION REGARDING THE CREATION OF THE ADVISORY COMMISSION.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of public safety, for the fiscal year beginning July 1, 2014, 19.3 FTE, or so much thereof as may be necessary, to be allocated to the division of fire prevention and control for firefighting aircrew and personnel as well as the operation of a center of excellence for advanced technology aerial firefighting.

SECTION 5. 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 12, 2014