

CHAPTER 41

GOVERNMENT - STATE

SENATE BILL 14-047

BY SENATOR(S) Tochtrop and Roberts, Aguilar, Baumgardner, Brophy, Cadman, Crowder, Grantham, Guzman, Heath, Herpin, Hill, Jahn, Johnston, Jones, Kefalas, Kerr, King, Lambert, Lundberg, Marble, Newell, Nicholson, Renfroe, Rivera, Scheffel, Schwartz, Todd, Ulibarri, Zenzinger;
 also REPRESENTATIVE(S) Dore, Buckner, Court, Duran, Exum, Fields, Fischer, Foote, Garcia, Gerou, Ginal, Hamner, Holbert, Hullinghorst, Joshi, Labuda, Lawrence, Lebsock, May, Mitsch Bush, Moreno, Murray, Pettersen, Primavera, Rosenthal, Ryden, Saine, Salazar, Schafer, Singer, Stephens, Vigil, Williams, Wilson, Young.

AN ACT**CONCERNING THE PAYMENT OF DEATH BENEFITS FOR SEASONAL WILDLAND FIREFIGHTERS KILLED IN THE LINE OF DUTY.**

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The number, intensity, and complexity of wildfires in Colorado have been growing exponentially in recent years, and experts predict that this trend is likely to continue for decades;

(b) Wildfire respects no jurisdictional boundaries, and when a large wildland fire occurs, firefighters come from near and far to render assistance;

(c) Many of the firefighters that come to the aid of the state to serve and protect Colorado's residents and visitors are seasonal wildland firefighters who receive few, if any, health or insurance benefits; and

(d) In the event of a line-of-duty death of a seasonal wildland firefighter, there may be burial costs and out-of-pocket expenses that must be borne by survivors of the fallen firefighter.

(2) The general assembly therefore declares that, to honor the service and sacrifice of seasonal wildland firefighters who are killed in the line of duty in

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

Colorado, the state should assist the survivors of the fallen firefighter with burial costs and out-of-pocket expenses by providing a lump-sum death payment.

SECTION 2. In Colorado Revised Statutes, 24-33.5-1202, **add** (12.5) as follows:

24-33.5-1202. Definitions. As used in this part 12, unless the context otherwise requires:

(12.5) "SEASONAL WILDLAND FIREFIGHTER" MEANS A TEMPORARY EMPLOYEE OF A GOVERNING BODY OR A STATE AGENCY, OR A VOLUNTEER MEMBER OF A NONGOVERNMENTAL VOLUNTEER FIRE DEPARTMENT, WHO IS TRAINED AND QUALIFIED AS A WILDLAND FIREFIGHTER AND WHOSE DUTIES INCLUDE RESPONDING TO WILDLAND FIRE EMERGENCY INCIDENTS AND ASSISTING IN WILDLAND FIRE SUPPRESSION.

SECTION 3. In Colorado Revised Statutes, 24-33.5-1203, **add** (1) (v) as follows:

24-33.5-1203. Duties of division. (1) The division shall perform the following duties:

(v) ADMINISTER THE FUNDING AND PAYMENT OF DEATH BENEFITS FOR SEASONAL WILDLAND FIREFIGHTERS IN ACCORDANCE WITH SECTION 24-33.5-1229.

SECTION 4. In Colorado Revised Statutes, **add** 24-33.5-1229 as follows:

24-33.5-1229. Lump-sum death benefits for seasonal wildland firefighters - definition - rules. (1) IF THE DIRECTOR DETERMINES THAT AN ELIGIBLE SEASONAL WILDLAND FIREFIGHTER HAS DIED AS THE DIRECT AND PROXIMATE RESULT OF A PERSONAL INJURY SUSTAINED IN THE LINE OF DUTY IN COLORADO, THE DIVISION SHALL PAY A BENEFIT OF TEN THOUSAND DOLLARS AS FOLLOWS, IF THE PAYEE INDICATED IS LIVING ON THE DATE ON WHICH THE DETERMINATION IS MADE:

(a) IF THERE IS NO CHILD WHO SURVIVED THE SEASONAL WILDLAND FIREFIGHTER, TO THE SURVIVING SPOUSE OF THE SEASONAL WILDLAND FIREFIGHTER;

(b) IF THERE IS AT LEAST ONE CHILD WHO SURVIVED THE SEASONAL WILDLAND FIREFIGHTER AND A SURVIVING SPOUSE OF THE SEASONAL WILDLAND FIREFIGHTER, FIFTY PERCENT TO THE SURVIVING CHILD OR CHILDREN, IN EQUAL SHARES, AND FIFTY PERCENT TO THE SURVIVING SPOUSE;

(c) IF THERE IS NO SURVIVING SPOUSE OF THE SEASONAL WILDLAND FIREFIGHTER, TO THE SURVIVING CHILD OR CHILDREN, IN EQUAL SHARES;

(d) IF THERE IS NO SURVIVING SPOUSE OF THE SEASONAL WILDLAND FIREFIGHTER AND NO SURVIVING CHILD:

(1) TO THE SURVIVING INDIVIDUAL OR INDIVIDUALS DESIGNATED BY THE SEASONAL WILDLAND FIREFIGHTER IN THE MOST RECENTLY EXECUTED DESIGNATION OF BENEFICIARY ON FILE AT THE TIME OF DEATH WITH THE GOVERNING BODY OR STATE AGENCY, APPORTIONED IN ACCORDANCE WITH THE DESIGNATION OF

BENEFICIARY OR, IF APPORTIONMENT IS NOT INDICATED, IN EQUAL SHARES; OR

(II) IF THERE IS NO INDIVIDUAL QUALIFYING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), TO THE SURVIVING BENEFICIARIES UNDER THE MOST RECENTLY EXECUTED LIFE INSURANCE POLICY OF THE SEASONAL WILDLAND FIREFIGHTER ON FILE AT THE TIME OF DEATH WITH THE GOVERNING BODY OR STATE AGENCY, APPORTIONED IN ACCORDANCE WITH THE INSURANCE POLICY OR, IF APPORTIONMENT IS NOT INDICATED, IN EQUAL SHARES;

(e) IF THERE IS NO INDIVIDUAL QUALIFYING UNDER PARAGRAPH (a), (b), (c), OR (d) OF THIS SUBSECTION (1), TO THE SURVIVING PARENT OR PARENTS, IN EQUAL SHARES, OF THE SEASONAL WILDLAND FIREFIGHTER.

(2) (a) ELIGIBILITY FOR PAYMENT IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION ALSO EXTENDS TO THE SURVIVOR OR SURVIVORS OF A SEASONAL WILDLAND FIREFIGHTER WHO DIES AFTER SEPARATION FROM SERVICE WITH THE GOVERNING AGENCY BODY OR STATE AGENCY IF THE DEATH RESULTED FROM AN INJURY SUSTAINED IN THE LINE OF DUTY IN COLORADO.

(b) FOR PURPOSES OF THIS SECTION, NOTWITHSTANDING SECTION 24-33.5-1202 (12.5), WHILE NOT EMPLOYEES OR VOLUNTEERS OF THE DEPARTMENT OF CORRECTIONS OR THE STATE, "SEASONAL WILDLAND FIGHTER" ALSO INCLUDES MEMBERS OF THE COLORADO CORRECTIONAL INDUSTRIES' STATE WILDLAND INMATE FIRE TEAM CREWS, ALSO KNOWN AS "SWIFT" CREWS. ANY COMPENSATION MADE FOR THE DEATH OF A "SWIFT" CREW MEMBER SHALL BE THE EXCLUSIVE REMEDY FROM THE STATE, ANY STATE ENTITY, OR ANY STATE EMPLOYEE FOR THE DEATH.

(3) NO BENEFIT SHALL BE PAID UNDER THIS SECTION IF:

(a) THE FATAL OR CATASTROPHIC INJURY WAS CAUSED BY THE INTENTIONAL MISCONDUCT OF THE SEASONAL WILDLAND FIREFIGHTER OR BY HIS OR HER INTENTION TO BRING ABOUT HIS OR HER OWN DEATH, DISABILITY, OR INJURY; OR

(b) THE SEASONAL WILDLAND FIREFIGHTER WAS VOLUNTARILY INTOXICATED OR UNDER THE INFLUENCE OF AN ILLEGAL SUBSTANCE AT THE TIME OF HIS OR HER FATAL OR CATASTROPHIC INJURY.

(4) (a) THE DIRECTOR MAY MAKE PAYMENTS UNDER THIS SECTION FROM ANY FUND THE DIRECTOR ADMINISTERS, AND THAT FUND WILL BE REIMBURSED BY A REGULAR OR SUPPLEMENTAL APPROPRIATION BY THE GENERAL ASSEMBLY. THE DIVISION IS ALSO AUTHORIZED TO PURCHASE A GROUP LIFE INSURANCE POLICY TO PROVIDE BENEFITS IN ACCORDANCE WITH THIS SECTION.

(b) A PAYMENT UNDER THIS SECTION CANNOT BE USED TO OFFSET OR REDUCE PAYMENTS AVAILABLE FROM ANY OTHER SOURCE, INCLUDING A PUBLIC DISABILITY PLAN OR INSURANCE PLAN, PRIVATE DISABILITY PLAN OR INSURANCE PLAN, OR BENEFITS PROVIDED UNDER COLORADO'S WORKERS' COMPENSATION LAW.

(5) THE DIRECTOR MAY ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SECTION.

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: March 20, 2014