

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
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BILL 1

LLS NO. 09-0121.01 John Hershey

INTERIM COMMITTEE BILL

**Interim Committee on Wildfire Issues
in Wild Land-Urban Interface Areas**

SHORT TITLE: "Wild Land-Urban Fire Chain Of Command"

A BILL FOR AN ACT

101 **CONCERNING THE RESPONSIBILITY FOR RESPONDING TO WILD LAND**
102 **FIRES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Wildfire Issues in Wild Land-Urban Interface Areas. Directs the governing body of each municipality and county to designate one or more emergency response authorities for wild land fires in the jurisdiction. States that the fire authority of a municipality or the sheriff of a county shall be emergency response authority of the respective municipality or county unless otherwise designated by the municipality or county.

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Designates the Colorado state forest service (forest service) as the emergency response authority for wild land fires on state-owned land, and allows the forest service to delegate the authority to another public entity with the approval of the entity's governing body. States that the forest service:

- Shall locate its emergency response resources according to its assessment of the wild land fire response needs of various areas of the state, to the extent practicable;
- Shall coordinate its emergency response capabilities with local emergency response authorities; and
- May assist an emergency response authority in its planning activities.

Requires an emergency response authority to create a plan for the response to wild land fires in its jurisdiction that includes a description of response capabilities and tactics and the incident command structure. Specifies that the emergency response authority is not required to provide and maintain the capability for the response described in the plan but may do so directly or through agreements with other federal, state, and local agencies.

States that regardless of jurisdiction, the first emergency response authority or designated public agency to arrive at the scene of a wild land fire shall act as incident commander and be responsible for the initial emergency response until the emergency response authority that has jurisdiction over the site arrives.

Directs the board of county commissioners of each county to develop and annually update a wildfire preparedness plan for the unincorporated area of the county, in coordination with each emergency response authority and fire district with jurisdiction over the unincorporated area of the county. Requires the plan to:

- Identify the emergency response authority for wild land fires in the unincorporated area of the county;
- Identify all participants in the plan and their roles and responsibilities;
- Describe the procedures for cooperation among various emergency response authorities;
- List management objectives for wild land fire prevention, preparedness, mitigation, suppression, reclamation or rehabilitation and specify the authority with fiscal and operational responsibility for each objective;
- Describe available emergency response resources and mutual aid and other agreements related to the plan; and
- Specify reimbursement and billing procedures.

Clarifies that county sheriffs exercise authority over forest, prairie, or wild land fires in the unincorporated areas of the county in accordance with the plan prepared by the emergency response authority. Clarifies

that the fire chiefs of fire protection districts exercise their authority over wild land fires in the jurisdiction in accordance with the plan prepared by the emergency response authority.

Makes a legislative declaration. Defines terms.

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

2 **SECTION 1.** Title 29, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 22.5**

5 **Wild Land Fire Planning**

6 **29-22.5-101. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY FINDS AND DECLARES THAT:

8 (a) PROTECTING THE PUBLIC FROM THE DANGERS OF WILD LAND
9 FIRES, ESPECIALLY FIRES OCCURRING IN WILD LAND-URBAN INTERFACE
10 AREAS, IS A MATTER OF STATEWIDE CONCERN;

11 (b) THE PROVISIONS OF THIS ARTICLE ARE NECESSARY TO PROTECT
12 THE PUBLIC FROM THE DANGERS OF WILD LAND FIRES; AND

13 (c) THE PROVISIONS OF THIS ARTICLE ARE ENACTED IN THE
14 EXERCISE OF THE POLICE POWERS OF THIS STATE FOR THE PURPOSE OF
15 PROTECTING THE PEACE, HEALTH, SAFETY, AND WELFARE OF THE PEOPLE
16 OF THIS STATE.

17 **29-22.5-102. Definitions.** (1) AS USED IN THIS ARTICLE, UNLESS
18 THE CONTEXT OTHERWISE REQUIRES:

19 (a) "FOREST SERVICE" MEANS THE COLORADO STATE FOREST
20 SERVICE IDENTIFIED IN SECTION 23-31-302, C.R.S.

21 (b) "MUTUAL AID AGREEMENT" MEANS A WRITTEN AGREEMENT
22 BETWEEN FEDERAL, STATE, AND LOCAL AGENCIES IN WHICH THE AGENCIES
23 AGREE TO ASSIST ONE ANOTHER UPON REQUEST BY FURNISHING

1 RESOURCES SUCH AS PERSONNEL AND EQUIPMENT.

2 (c) "PRESCRIBED FIRE" MEANS ANY FIRE IGNITED BY FEDERAL,
3 STATE, OR LOCAL FOREST OR LAND MANAGERS OR PRIVATE PROPERTY
4 OWNERS TO MEET SPECIFIC FIRE PROTECTION OR MITIGATION OBJECTIVES.

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

9 (e) "WILD LAND FIRE" MEANS AN UNPLANNED OR UNWANTED FIRE
10 IN A WILD LAND AREA, INCLUDING UNAUTHORIZED HUMAN-CAUSED FIRES,
11 OUT-OF-CONTROL PRESCRIBED FIRES, AND ALL OTHER FIRES IN WILD LAND
12 AREAS WHERE THE OBJECTIVE IS TO EXTINGUISH THE FIRE.

13 **29-22.5-103. Wild land fires - emergency response authorities**

14 **- designation.** (1) AN EMERGENCY RESPONSE AUTHORITY DESIGNATED
15 IN OR PURSUANT TO THIS SECTION SHALL BE RESPONSIBLE FOR CREATING
16 A PLAN FOR THE RESPONSE TO WILD LAND FIRES OCCURRING WITHIN ITS
17 JURISDICTION, INCLUDING A DESCRIPTION OF RESPONSE CAPABILITIES,
18 RESPONSE TACTICS, AND THE INCIDENT COMMAND STRUCTURE. THE
19 OBLIGATION TO PLAN THE RESPONSE DOES NOT REQUIRE AN EMERGENCY
20 RESPONSE AUTHORITY TO PROVIDE AND MAINTAIN THE CAPABILITY FOR
21 THE RESPONSE. AN EMERGENCY RESPONSE AUTHORITY MAY PROVIDE AND
22 MAINTAIN RESPONSE CAPABILITY AS DESCRIBED IN THE PLAN DIRECTLY OR
23 THROUGH MUTUAL AID OR OTHER AGREEMENTS.

24 (2) (a) THE GOVERNING BODY OF EACH TOWN, CITY, AND CITY AND
25 COUNTY SHALL DESIGNATE BY ORDINANCE OR RESOLUTION ONE OR MORE
26 EMERGENCY RESPONSE AUTHORITIES FOR WILD LAND FIRES OCCURRING
27 WITHIN THE CORPORATE LIMITS OF THE TOWN, CITY, OR CITY AND COUNTY.

1 UNLESS OTHERWISE DESIGNATED BY ORDINANCE OR RESOLUTION, THE
2 FIRE AUTHORITY HAVING RESPONSIBILITY FOR FIRES WITHIN THE
3 CORPORATE LIMITS OF THE TOWN, CITY, OR CITY AND COUNTY SHALL BE
4 THE DESIGNATED EMERGENCY RESPONSE AUTHORITY.

5 (b) THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY
6 SHALL DESIGNATE BY ORDINANCE OR RESOLUTION ONE OR MORE
7 EMERGENCY RESPONSE AUTHORITIES FOR WILD LAND FIRES OCCURRING
8 WITHIN THE UNINCORPORATED AREA OF THE COUNTY. UNLESS OTHERWISE
9 DESIGNATED BY ORDINANCE OR RESOLUTION, THE COUNTY SHERIFF SHALL
10 BE THE DESIGNATED EMERGENCY RESPONSE AUTHORITY FOR WILD LAND
11 FIRES OCCURRING IN THE UNINCORPORATED AREA OF THE COUNTY.

12 (3) (a) THE FOREST SERVICE SHALL BE THE EMERGENCY RESPONSE
13 AUTHORITY FOR WILD LAND FIRES OCCURRING ON STATE-OWNED LAND.

14 (b) THE FOREST SERVICE MAY DELEGATE ITS AUTHORITY UNDER
15 THIS SUBSECTION (3) TO AN EMERGENCY RESPONSE AUTHORITY
16 DESIGNATED PURSUANT TO SUBSECTION (2) OF THIS SECTION OR TO ANY
17 PUBLIC ENTITY CAPABLE OF PERFORMING THE ROLE OF EMERGENCY
18 RESPONSE AUTHORITY WITH THE APPROVAL OF THE GOVERNING BODY OF
19 THE ENTITY TO WHICH THE AUTHORITY IS DELEGATED.

20 (c) IN PERFORMING ITS DUTIES UNDER THIS SUBSECTION (3), THE
21 FOREST SERVICE SHALL, WHEN PRACTICABLE, LOCATE ITS EMERGENCY
22 RESPONSE RESOURCES ACCORDING TO ITS ASSESSMENT OF THE WILD LAND
23 FIRE RESPONSE NEEDS OF VARIOUS AREAS OF THE STATE.

24 (d) THE FOREST SERVICE SHALL COORDINATE ITS EMERGENCY
25 RESPONSE CAPABILITIES AND PLANS WITH LOCAL EMERGENCY RESPONSE
26 AUTHORITIES.

27 (e) THE FOREST SERVICE MAY ASSIST AN EMERGENCY RESPONSE

1 AUTHORITY IN ITS PLANNING ACTIVITIES.

2 (4) SUBJECT TO THE PROVISIONS OF LOCAL OR REGIONAL MUTUAL
3 AID AGREEMENTS OR PLANS FOR WILD LAND FIRE RESPONSE, THE FIRST
4 EMERGENCY RESPONSE AUTHORITY, OR ITS PUBLIC AGENCY DESIGNEE
5 THROUGH A MUTUAL AID AGREEMENT OR OTHERWISE, TO ARRIVE AT THE
6 SCENE OF A WILD LAND FIRE, REGARDLESS OF WHETHER THE INCIDENT
7 OCCURS WITHIN ITS JURISDICTION, SHALL ACT AS INCIDENT COMMANDER
8 AND BE RESPONSIBLE FOR THE INITIAL EMERGENCY ACTION NECESSARY TO
9 CONTROL THE WILD LAND FIRE OR TO PROTECT LIFE OR PROPERTY UNTIL
10 THE EMERGENCY RESPONSE AUTHORITY THAT HAS JURISDICTION OVER THE
11 INCIDENT SITE ARRIVES.

12 **29-22.5-104. County wildfire preparedness plan - expenses -**
13 **property tax levy.** (1) THE BOARD OF COUNTY COMMISSIONERS OF EACH
14 COUNTY SHALL DEVELOP AND ANNUALLY UPDATE A WILDFIRE
15 PREPAREDNESS PLAN FOR THE UNINCORPORATED AREA OF THE COUNTY IN
16 COOPERATION WITH EACH EMERGENCY RESPONSE AUTHORITY DESIGNATED
17 PURSUANT TO SECTION 29-22.5-103 (2) AND ANY FIRE DISTRICT WITH
18 JURISDICTION OVER ANY UNINCORPORATED AREA OF THE COUNTY, WHICH
19 PLAN SHALL:

20 (a) IDENTIFY THE EMERGENCY RESPONSE AUTHORITY FOR WILD
21 LAND FIRES OCCURRING WITHIN THE UNINCORPORATED AREA OF THE
22 COUNTY;

23 (b) IDENTIFY ALL PARTICIPANTS IN THE PLAN AND THEIR WILD
24 LAND FIRE ROLES AND RESPONSIBILITIES;

25 (c) DESCRIBE THE PROCEDURES FOR COOPERATION AND
26 COORDINATION AMONG FEDERAL, STATE, COUNTY, AND LOCAL
27 EMERGENCY RESPONSE AUTHORITIES;

1 (d) LIST MANAGEMENT OBJECTIVES FOR WILD LAND FIRE
2 PREVENTION, PREPAREDNESS, MITIGATION, SUPPRESSION, RECLAMATION
3 OR REHABILITATION AND SPECIFY THE AUTHORITY WITH FISCAL AND
4 OPERATIONAL RESPONSIBILITY FOR EACH OBJECTIVE;

5 (e) DESCRIBE AVAILABLE EMERGENCY RESPONSE RESOURCES AND
6 MUTUAL AID AND OTHER AGREEMENTS RELATED TO THE PLAN; AND

7 (f) SPECIFY REIMBURSEMENT AND BILLING PROCEDURES.

8 (2) THE PLAN DEVELOPED PURSUANT TO SUBSECTION (1) OF THIS
9 SECTION SHALL BE SIGNED BY ALL PARTICIPANTS.

10 (3) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY MAY
11 PAY COMPENSATION AND OTHER EXPENSES TO THE COUNTY SHERIFF,
12 UNDERSHERIFFS, DEPUTIES, FIRE DEPARTMENTS, FIRE PROTECTION
13 DISTRICTS, FIRE AUTHORITIES, AND OTHER PERSONS WHO ASSIST IN
14 CONTROLLING OR EXTINGUISHING A WILD LAND FIRE. THE BOARD OF
15 COUNTY COMMISSIONERS OF A COUNTY MAY MAKE SUCH APPROPRIATIONS
16 AS IT MAY DEEM PROPER FOR THE PURPOSE OF CONTROLLING FIRES WITHIN
17 THE COUNTY.

18 (4) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY MAY
19 LEVY A SPECIAL FIRE PROTECTION TAX, SUBJECT TO APPROVAL BY THE
20 VOTERS OF THE COUNTY, UPON EVERY DOLLAR OF VALUATION FOR
21 ASSESSMENT OF THE TAXABLE PROPERTY WITHIN THE COUNTY. REVENUE
22 FROM THE TAX MAY BE APPROPRIATED, AFTER CONSULTATION WITH
23 REPRESENTATIVES OF FIRE DEPARTMENTS, FIRE PROTECTION DISTRICTS,
24 AND FIRE AUTHORITIES IN THE COUNTY, TO PREVENT, CONTROL, AND
25 EXTINGUISH FIRES IN THE COUNTY. THE BOARD OF COUNTY
26 COMMISSIONERS OF A COUNTY MAY DETERMINE THE RATE OF THE TAX;
27 EXCEPT THAT THE AMOUNT OF REVENUE RAISED FROM THE TAX IN A

1 PROPERTY TAX YEAR MAY NOT EXCEED THE AMOUNT RAISED BY ONE MILL
2 OR FIVE HUNDRED THOUSAND DOLLARS, WHICHEVER IS LESS.

3 **SECTION 2.** 23-31-303 (1), Colorado Revised Statutes, is
4 amended to read:

5 **23-31-303. Funds available.** (1) The governor's emergency
6 fund, or other funds available to the Colorado state forest service, may be
7 used for the purpose of preventing and suppressing forest AND WILD LAND
8 fires, in accordance with the provisions of part 21 of article 32 of title 24,
9 C.R.S.

10 **SECTION 3.** 23-31-304, Colorado Revised Statutes, is amended
11 to read:

12 **23-31-304. State responsibility determined.** The state forester
13 shall determine, in consultation with local authorities and with the
14 approval of the governor, geographic areas of the state, including wild
15 land-urban interface areas, in which the state has a financial responsibility
16 for managing forest AND WILD LAND fires. The management of fires in all
17 other areas is primarily the responsibility of local or federal agencies, as
18 the case may be. The state forester may exclude all lands owned or
19 controlled by the federal government or any agency thereof, and the state
20 forester shall exclude all lands within the exterior boundaries of
21 incorporated cities or towns.

22 **SECTION 4.** 30-10-512, Colorado Revised Statutes, is amended
23 to read:

24 **30-10-512. Sheriff to act as fire warden.** The sheriff of every
25 county, in addition to other duties, shall act as fire warden of his OR HER
26 respective county in case of prairie, or forest, OR WILD LAND fires IN
27 ACCORDANCE WITH THE PLANS PREPARED BY THE EMERGENCY RESPONSE

1 AUTHORITY PURSUANT TO ARTICLE 22.5 OF TITLE 29, C.R.S.

2 **SECTION 5.** 30-10-513, Colorado Revised Statutes, is amended
3 to read:

4 **30-10-513. Sheriff in charge of forest, prairie, or wild land fire**
5 **- expenses.** IN ACCORDANCE WITH THE PLANS PREPARED BY THE
6 EMERGENCY RESPONSE AUTHORITY PURSUANT TO ARTICLE 22.5 OF TITLE
7 29, C.R.S., it is the duty of the sheriff, undersheriffs, and deputies, in case
8 of any forest, ~~or~~ prairie, OR WILD LAND fire OCCURRING IN THE
9 UNINCORPORATED AREA OF THE COUNTY, to assume charge thereof or to
10 assist other governmental authorities in such emergencies for controlling
11 or extinguishing such fires, and, for assisting in so doing, they may call
12 to their aid such person as they may deem necessary. The state forester
13 may assume the duty with concurrence of the sheriff. ~~The board of~~
14 ~~county commissioners of any county may allow the sheriff, undersheriffs,~~
15 ~~deputies, municipal or county fire departments, fire protection districts,~~
16 ~~fire authorities, and such other persons as may be called to assist in~~
17 ~~controlling or extinguishing such fires such compensation and other~~
18 ~~expenses necessarily incurred as it may deem just. The board of county~~
19 ~~commissioners of any county in this state may make such appropriation~~
20 ~~as it may deem proper for the purpose of controlling fires in its county.~~
21 ~~The board of county commissioners is authorized to levy a special tax~~
22 ~~subject to approval of the voters upon every dollar of valuation of~~
23 ~~assessment of the taxable property within the county for the purpose of~~
24 ~~creating a fund that shall be appropriated, after consultation with~~
25 ~~representatives of fire departments, fire protection districts, and fire~~
26 ~~authorities in the county, to prevent, control, or extinguish such fires~~
27 ~~anywhere in the county and to fix the rate of levy, except that the amount~~

1 raised from the levy in any one year is limited to the amount raised by one
2 mill or five hundred thousand dollars, whichever is less.

3 **SECTION 6.** 32-1-1002 (3) (a), Colorado Revised Statutes, is
4 amended to read:

5 **32-1-1002. Fire protection districts - additional powers and**
6 **duties.** (3) (a) The chief of the fire department in each fire protection
7 district in the state of Colorado, by virtue of such office so held by him,
8 shall have authority over the supervision of all fires within the district;
9 ~~except as otherwise provided by law,~~ EXCEPT THAT THE CHIEF SHALL
10 SUPERVISE THE RESPONSE TO WILD LAND FIRES, BOTH WITHIN AND
11 OUTSIDE THE DISTRICT, IN ACCORDANCE WITH THE PLANS PREPARED BY
12 THE EMERGENCY RESPONSE AUTHORITY PURSUANT TO ARTICLE 22.5 OF
13 TITLE 29, C.R.S., subject to the duties and obligations imposed by this
14 subsection (3). ~~and~~ THE CHIEF shall be vested with such other express
15 authority as is contained in this subsection (3), including commanding the
16 fire department of such district.

17 **SECTION 7. Effective date.** This act shall take effect at 12:01
18 a.m. on the day following the expiration of the ninety-day period after
19 final adjournment of the general assembly that is allowed for submitting
20 a referendum petition pursuant to article V, section 1 (3) of the state
21 constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009);
22 except that, if a referendum petition is filed against this act or an item,
23 section, or part of this act within such period, then the act, item, section,
24 or part, if approved by the people, shall take effect on the date of the
25 official declaration of the vote thereon by proclamation of the governor.