

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0188.01 Caroline Martin x5902

SENATE BILL 25-007

SENATE SPONSORSHIP

Cutter and Marchman, Exum

HOUSE SPONSORSHIP

Velasco and Weinberg, Boesenecker, Mauro

Senate Committees

Agriculture & Natural Resources
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING SUPPORT TO INCREASE PRESCRIBED BURNS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Wildfire Matters Review Committee. Section 1 of the bill creates the prescribed fire claims cash fund (fund) in the state treasury and requires the treasurer to transfer \$1 million to the fund. The division of fire prevention and control (division) shall expend money from the fund to pay claims that are certified by the division in accordance with new guidelines as specified in the bill and as adopted by the director of the division. The division shall authorize a payment in the amount certified in a claim; except that the maximum payment that the division

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

may authorize is equal to 10% of the amount of money in the fund at the time the claim is filed.

The division shall certify a claim that meets the following guidelines:

- The claim demonstrates, in sufficient detail, the costs or damages that resulted from the prescribed burn;
- The prescribed burn that resulted in the costs or damages was conducted in full compliance with statutory and regulatory requirements for prescribed burning;
- Before conducting the prescribed burn, the certified prescribed burn manager registered the written prescription plan for the prescribed burn with the division and paid an administrative fee; and
- No more than 60 days have passed between the completion of the prescribed burn and the date upon which costs and damages were incurred.

The bill gives rule-making authority to the director of the division to adopt rules and guidelines for the implementation and administration of the program and permits the division to contract with a third-party to administer, certify, and pay the claims. The bill also requires a claimant who accepts a payment that covers the full amount certified in the claim to waive all future claims related to the prescribed burn.

Sections 2 and 3 expand the definition of a "certified burner" in the state to include an individual who has not completed the Colorado division's training and certification program but who meets reciprocity requirements and possesses a valid Colorado certification number. An individual seeking certification through reciprocity may receive a certification number from the division by:

- Applying for certification to the division, according to the rules and standards of the division, including the payment of any associated fee; and
- Submitting evidence to the division, according to the rules and standards of the division, that the individual holds a valid certification from a state government or other entity.

The director of the division, in consultation with the Colorado state forest service, is required to adopt rules and standards pertaining to the qualification for and the terms and durations of certification, including through reciprocity.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-33.5-1240 as
3 follows:

1 **24-33.5-1240. Prescribed fire claims cash fund - rules -**

2 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
3 OTHERWISE REQUIRES:

4 (a) "CERTIFIED PRESCRIBED BURN MANAGER" MEANS A CERTIFIED
5 BURNER WHO IS REQUIRED BY SECTION 24-33.5-1217 (3)(a) TO ATTEND A
6 PRESCRIBED BURN OR A PERSON QUALIFIED BY NATIONAL WILDFIRE
7 COORDINATING GROUP STANDARDS AS A PRESCRIBED BURN BOSS AT THE
8 LEVEL COMMENSURATE WITH THE COMPLEXITY OF THE BURN WHO IS
9 REQUIRED BY SECTION 24-33.5-1217.5 (1)(c) TO BE PRESENT ON THE SITE
10 OF A PRESCRIBED BURN.

11 (b) "FUND" MEANS THE PRESCRIBED FIRE CLAIMS CASH FUND
12 CREATED IN SUBSECTION (2) OF THIS SECTION.

13 (2) (a) THE PRESCRIBED FIRE CLAIMS CASH FUND IS CREATED IN
14 THE STATE TREASURY. THE FUND CONSISTS OF ANY GIFTS, GRANTS, AND
15 DONATIONS THAT MAY BE RECEIVED FOR CREDITING TO THE FUND, AND
16 ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR
17 TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL
18 INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF
19 MONEY IN THE FUND TO THE FUND. THE DIVISION MAY SEEK, ACCEPT, AND
20 EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES
21 TO IMPLEMENT THIS SECTION.

22

23 **(b)** SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
24 ASSEMBLY, THE DIVISION SHALL EXPEND MONEY FROM THE FUND IN
25 ACCORDANCE WITH THE FOLLOWING GUIDELINES:

26 (I) THE DIVISION SHALL AUTHORIZE A PAYMENT FROM THE FUND
27 TO A CLAIMANT WHO SUBMITS A CLAIM THAT THE DIVISION HAS CERTIFIED

1 IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION;

2 (II) THE DIVISION SHALL AUTHORIZE A PAYMENT IN THE AMOUNT
3 CERTIFIED IN THE CLAIM; EXCEPT THAT THE MAXIMUM PAYMENT THAT THE
4 DIVISION MAY AUTHORIZE FOR A CERTIFIED CLAIM ARISING FROM ANY
5 SINGULAR PRESCRIBED BURN IS EQUAL TO TEN PERCENT OF THE AMOUNT
6 OF MONEY IN THE FUND AT THE TIME THE CLAIM IS FILED; AND

7 (III) THE DIVISION SHALL MAKE EVERY EFFORT TO AUTHORIZE A
8 PAYMENT IN THE AMOUNT CERTIFIED IN THE CLAIM BEFORE ANY OTHER
9 CLAIM RELATED TO THE SAME PRESCRIBED BURN IS PROCESSED BY
10 ANOTHER INSURER.

11 (3) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
12 ASSEMBLY OF SUFFICIENT MONEY FOR THE DIVISION TO ADMINISTER THE
13 FUND, THE DIVISION SHALL CERTIFY A CLAIM RELATED TO A PRESCRIBED
14 BURN THAT MEETS ALL THE FOLLOWING REQUIREMENTS:

15 (a) THE CLAIM DEMONSTRATES, IN SUFFICIENT DETAIL, THE COSTS
16 ASSOCIATED WITH SUPPRESSION AND ANY OTHER COSTS OR DAMAGES
17 THAT RESULTED FROM A PRESCRIBED BURN;

18 (b) THE PRESCRIBED BURN THAT RESULTED IN THE CLAIM WAS
19 CONDUCTED IN FULL COMPLIANCE WITH SECTIONS 24-33.5-1217 AND
20 24-33.5-1217.5 AND WITH ALL OTHER RULES AND STANDARDS ADOPTED
21 BY THE DIRECTOR IN ACCORDANCE WITH THOSE SECTIONS.

22 (c) (I) BEFORE CONDUCTING THE PRESCRIBED BURN, THE
23 CERTIFIED PRESCRIBED BURN MANAGER REGISTERED THE WRITTEN
24 PRESCRIPTION PLAN REQUIRED BY SECTION 24-33.5-1217.5 (1)(a) WITH
25 THE DIVISION AND PAID AN ADMINISTRATIVE FEE OF ONE HUNDRED
26 DOLLARS OR A GREATER AMOUNT AS ESTABLISHED BY THE DIVISION
27 PURSUANT TO SUBSECTION (3)(c)(II) OF THIS SECTION TO THE DIVISION.

1 (II) THE DIVISION MAY INCREASE THE AMOUNT OF THE
2 ADMINISTRATIVE FEE SET FORTH IN SUBSECTION (3)(c)(I) OF THIS SECTION
3 BASED ON THE COMPLEXITY AND UNIQUE CHARACTERISTICS OF A
4 PRESCRIBED BURN. THE DIRECTOR MAY ADOPT RULES OR GUIDELINES TO
5 SET THE AMOUNT OF THE FEE.

6 (d) NO MORE THAN SIXTY DAYS HAVE PASSED BETWEEN THE DATE
7 UPON WHICH THE PRESCRIBED BURN WAS COMPLETED, AS DETERMINED BY
8 THE CERTIFIED PRESCRIBED BURN MANAGER, AND THE DATE UPON WHICH
9 THE RESULTING COSTS AND DAMAGES SPECIFIED IN THE CLAIM WERE
10 INCURRED; EXCEPT THAT THE DIRECTOR MAY ADOPT RULES AND
11 GUIDELINES RELATED TO HOLDOVER FIRES AND OTHER UNIQUE FIRE
12 CHARACTERISTICS.

13 (4) IN ADMINISTERING AND IMPLEMENTING THIS SECTION, THE
14 DIRECTOR:

15 (a) SHALL COLLABORATE WITH CULTURAL FIRE PRACTITIONERS,
16 CERTIFIED PRESCRIBED BURN MANAGERS, THE COLORADO PRESCRIBED
17 FIRE COUNCIL, AND OTHER RELEVANT STATE AGENCIES AND FIRE
18 PRACTITIONERS;

19 (b) MAY ADOPT RULES AND GUIDELINES FOR THE ADMINISTRATION
20 AND IMPLEMENTATION OF THIS SECTION; AND

21 (c) SHALL POST ANY RULES OR GUIDELINES ADOPTED PURSUANT TO
22 SUBSECTION (4)(b) OF THIS SECTION ON THE DIVISION'S PUBLICLY
23 ACCESSIBLE WEBSITE.

24 (5) UPON ACCEPTING A PAYMENT AUTHORIZED BY THE DIVISION
25 THAT COVERS THE FULL AMOUNT OF COSTS AND DAMAGES CERTIFIED IN
26 THE CLAIM, A CLAIMANT SHALL WAIVE ALL FUTURE CLAIMS RELATED TO
27 THE PRESCRIBED BURN AGAINST THE CERTIFIED PRESCRIBED BURN

1 MANAGER THAT CONDUCTED THE BURN; ANY ORGANIZATION, ENTITY, OR
2 INDIVIDUAL WITH WHOM THE CERTIFIED PRESCRIBED BURN MANAGER
3 WORKED TO CONDUCT THE BURN; ANY INDIVIDUAL OR ENTITY THAT
4 PROVIDED FUNDING FOR THE BURN; AND ANY LANDOWNER ON WHOSE
5 BEHALF THE BURN WAS CONDUCTED. NOTHING IN THIS SECTION PREVENTS
6 A CLAIMANT FROM:

7 (a) SUBMITTING AN INSURANCE CLAIM RELATED TO COSTS OR
8 DAMAGES THAT RESULTED FROM A BURN THAT WAS NOT CERTIFIED
9 PURSUANT TO SUBSECTION (3) OF THIS SECTION; OR

10 (b) BRINGING A CLAIM RELATED TO COSTS OR DAMAGES AGAINST
11 A PARTY THAT IS NOT LISTED IN THIS SUBSECTION (5), AS LONG AS THE
12 CLAIM DOES NOT RESULT IN RECOVERY OF COSTS AND DAMAGES THAT ARE
13 RECOVERED PURSUANT TO THIS SECTION.

14 (6) THE DIVISION MAY CONTRACT WITH A THIRD-PARTY TO
15 ADMINISTER, CERTIFY, AND PAY THE CLAIMS.

16 **SECTION 2.** In Colorado Revised Statutes, 24-33.5-1202,
17 **amend** (2.3) as follows:

18 **24-33.5-1202. Definitions.** As used in this part 12, unless the
19 context otherwise requires:

20 (2.3) "Certified burner" means an individual who EITHER
21 successfully completes the division's certified burner training and
22 certification program OR MEETS THE REQUIREMENTS FOR RECIPROCITY
23 DESCRIBED IN SECTION 24-33.5-1217 (2.5) and WHO possesses a valid
24 certification number.

25 **SECTION 3.** In Colorado Revised Statutes, 24-33.5-1217,
26 **amend** (2) introductory portion, (2)(b), (2)(e), (2)(f), (5)(a) introductory
27 portion, (5)(a)(II)(A), and (10); and **add** (2)(g) and (2.5) as follows:

1 **24-33.5-1217. Prescribed burning program - training and**
2 **certification of certified burners - rules - fees.** (2) The training and
3 certification standards adopted under this section ~~shall~~ MUST:

4 (b) Establish requirements for certified burners to conduct lawful
5 activities pursuant to authorization under section 18-13-109 (2)(b)(IV),
6 ~~€R.S.~~, regarding firing of woods or prairie;

7 (e) Establish training standards for certified burners and utilize all
8 means available to make the certified burner training as accessible as
9 possible; ~~and~~

10 (f) Clearly identify preexisting fees, permit requirements,
11 liabilities, liability exemptions, and penalties for prescribed burn
12 personnel and landowners, including those specified in sections 25-7-106
13 (7) and (8) and 25-7-123; ~~€R.S.~~ AND

14 (g) ALLOW FOR AN INDIVIDUAL WHO MEETS THE RECIPROCITY
15 REQUIREMENTS DESCRIBED IN SUBSECTION (2.5) OF THIS SECTION TO
16 APPLY FOR AND RECEIVE A STATE CERTIFICATION NUMBER.

17 (2.5) (a) AN INDIVIDUAL WHO MEETS THE RECIPROCITY
18 REQUIREMENTS DESCRIBED IN THIS SUBSECTION (2.5) MAY QUALIFY FOR
19 CERTIFICATION AS A CERTIFIED BURNER.

20 (b) TO RECEIVE A VALID CERTIFICATION NUMBER FROM THE
21 DIVISION, THE INDIVIDUAL MUST:

22 (I) APPLY FOR CERTIFICATION TO THE DIVISION, ACCORDING TO
23 THE RULES AND STANDARDS OF THE DIVISION, INCLUDING THE PAYMENT
24 OF ANY ASSOCIATED FEE; AND

25 (II) SUBMIT EVIDENCE TO THE DIVISION, ACCORDING TO THE RULES
26 AND STANDARDS OF THE DIVISION, THAT THE INDIVIDUAL HOLDS A VALID
27 CERTIFICATION FROM A STATE GOVERNMENT OR OTHER ENTITY.

1 (5) (a) The director, in consultation with the Colorado state forest
2 service described in part 3 of article 31 of title 23 ~~C.R.S.~~, and in
3 accordance with article 4 of this ~~title~~ TITLE 24:

4 (II) Shall adopt rules and standards:

5 (A) Pertaining to the training and certification of certified burners,
6 including training components; application processes; qualification for
7 and terms and durations of certification, INCLUDING THROUGH
8 RECIPROCITY; types of certification, if applicable; grounds and processes
9 for renewal, suspension, and revocation of certifications; and training,
10 certification, and renewal fees; and

11 (10) Notwithstanding any other provision of law:

12 (a) In performing the duties assigned to ~~him or her~~ THE DIRECTOR
13 under subsections (5) and (6) of this section, the director shall consult
14 with the Colorado state forest service as described in part 3 of article 31
15 of title 23. ~~C.R.S.~~

16 (b) The prescribed burning standards adopted by the director
17 pursuant to ~~sub-subparagraph (B) of subparagraph (II) of paragraph (a)~~
18 ~~of subsection (5)~~ SUBSECTION (5)(a)(II)(B) of this section ~~shall~~ MUST be
19 consistent with existing laws and processes that ban, regulate, or have
20 developed recommendations concerning open burning, including sections
21 18-13-109, 18-13-109.5, 23-31-312, 23-31-313 (6)(a)(II) and (6)(a)(III),
22 25-7-106 (7) and (8), 25-7-123, 29-20-105.5, and 30-11-124. ~~C.R.S.~~

23 (c) Nothing in this section or section 24-33.5-1217.5 or
24 24-33.5-1217.7 ~~shall be construed to affect~~ AFFECTS the authority of a
25 county government to develop or administer an open burning permit
26 system for the purpose of safely disposing of slash in accordance with the
27 provisions of section 30-15-401 (1)(n.5). ~~C.R.S.~~

1 **SECTION 4.** In Colorado Revised Statutes, 40-41-102, **amend**
2 **(7)(a)(III); and add (7)(a)(IV) as follows:**

3 **40-41-102. Definitions.** As used in this article 41, unless the
4 **context otherwise requires:**

5 **(7) (a) "CO-EI costs" means:**

6 **(III) Pretax costs that an electric utility has previously incurred**
7 **related to the commission-approved closure of an electric generating**
8 **facility occurring before May 30, 2019; AND**

9 **(IV) AS APPROVED BY THE COMMISSION, ANY OF THE PRETAX**
10 **COSTS ASSOCIATED WITH THE IMPLEMENTATION OF AN APPROVED**
11 **PROGRAM OR PROJECT TO MITIGATE THE EFFECTS OF EXTREME WEATHER,**
12 **WILDFIRES, CLIMATE CHANGE, OR OTHER HAZARDS, INCLUDING BUT NOT**
13 **LIMITED TO THE COSTS ASSOCIATED WITH AN ELECTRIC UTILITY'S WILDFIRE**
14 **MITIGATION PLAN THAT HAS BEEN APPROVED BY THE COMMISSION.**

15 **SECTION 5.** **Safety clause.** The general assembly finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety or for appropriations for
18 the support and maintenance of the departments of the state and state
19 institutions.