

# Summary of Legislation passed in the 2009 Colorado Legislative Session Related to Bark Beetle Epidemic

(source: Digest - Senate & House Bills Enacted by the 67th General Assembly of the State of Colorado - Colorado State Legislature)

**H.B. 09-1162** Intergovernmental agreement between specified local governments and counties to mitigate forest land or wild land fires - components of agreement - division of parks and outdoor recreation - other state agencies - agreement to enter state land for fire mitigation purposes. (Gerou)

On or before July 1, 2011, requires 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 a specified percentage of forest land or land that constitutes a wild land area to 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 such intergovernmental agreement, requires the parties to such agreement to 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. Specifies that the intergovernmental agreement shall address:

- 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;
- The procedures for cooperation and coordination among the parties to the agreement;
- Management objectives for forest land and wild land fire prevention, preparedness, mitigation, suppression, reclamation, or rehabilitation and designation of the local government with fiscal and operational authority for each objective;
- A description of available emergency or mutual aid resources in the event of forest land and wild land fires;
- The specification of reimbursement and billing procedures; and
- 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.

Specifies that nothing in the act 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 the act, including, without limitation, a mutual aid agreement that satisfies the requirements of the act 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. In accordance with existing statutory requirements and pursuant to a contract, intergovernmental agreement, or memorandum of understanding, authorizes the division of parks and outdoor recreation to 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. Specifies permissible activities to be undertaken by a fire department pursuant to this requirement of the act to include prescribed burning as a component of wildfire mitigation or forest or wild land management and exercises to promote the training of firefighting personnel.

Specifies that nothing in the act 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 the act.

**APPROVED** by Governor April 30, 2009. **EFFECTIVE** August 5, 2009.

**NOTE:** This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

**H.B. 09-1199** Wildfire preparedness - Colorado state forest service - community wildfire protection plans - healthy forests and vibrant communities fund - prescribed fire - appropriation. (Gibbs/Scanlan)

Enacts the "Colorado Healthy Forests and Vibrant Communities Act of 2009"

(act). Directs the Colorado state forest service (forest service) to:

- Adopt standards for community wildfire protection plans (CWPPs) adopted by local communities pursuant to the federal "Healthy Forests Restoration Act of 2003" to promote greater consistency among CWPPs and facilitate the adoption of CWPPS by local communities, and to provide technical assistance to such local communities;
- Reduce wildfire risks by supporting the implementation of risk mitigation treatments that focus on protecting lives, homes, and essential community infrastructure and by improving inventory and monitoring of forest conditions, including by implementing a cost-share grant program and by hiring additional temporary field capacity;
- Support communities and land managers in moving from wildfire risk reduction to long-term ecological restoration;
- Support local business development and job creation through the implementation of forest treatments, including by administering a revolving loan fund to support woody biomass utilization, marketing timber products, and supporting the increased use of woody biomass in bio-heating;
- Issue a statewide request for proposals for loans to businesses to provide start-up capital for new facilities or equipment to harvest, remove, use, and market beetle-killed or other timber taken from private, federal, state, county, or municipal forest lands as part of a wildfire risk reduction or fuels mitigation treatment; and
- Improve outreach and technical assistance by adding full-time temporary staff and GIS capacity to assist with risk assessments and planning and by developing a web-based clearinghouse for technical assistance and funding resources.

Creates the healthy forests and vibrant communities fund (fund). For the next 3 fiscal years, transfers \$1,950,000 from the operational account of the severance tax trust fund (account) to the fund for purposes of the act and transfers \$50,000 from the account to the wildland-urban interface training fund for training for directors of fire protection districts. Directs the division of administration in the department of public health and environment to work with key regulatory and management entities, including the forest service, to identify barriers to the increased use of prescribed fire and recommend solutions to address those barriers. Allows the governor to make a one-time transfer of up to \$600,000 from the disaster emergency fund to the wildfire emergency response fund. Appropriates \$50,000 from the wildland-urban interface training fund to the department public safety for allocation to the division of fire safety for the implementation of the act.

**APPROVED** by Governor June 3, 2009. **EFFECTIVE** June 3, 2009.

**S.B. 09-1** Community wildfire protection plans - establishment of guidelines and criteria for preparation of plans - addressing fire hazard areas within unincorporated portions of counties. (Gibbs/Scanlan)

By November 15, 2009, requires the state forester, in collaboration with representatives of the United States forest service, the Colorado department of natural resources, county governments, municipal governments, local fire departments or fire protection districts, electric, gas, and water utility providers in the subject area, and state and local law enforcement agencies, to establish guidelines and criteria for counties to consider in preparing their own community wildfire protection plans (CWPPs) to address wildfires in fire hazard areas within the unincorporated portion of a county. Requires the state forester to send timely notice of the adoption of the guidelines and criteria to the department of local affairs and statewide organizations representing Colorado counties and municipalities and to post such information on the web site of the Colorado state forest service. Requires the board of county commissioners of each county, with the assistance of the state forester, to determine whether there are fire hazard areas within the unincorporated portion of the county. Requires the board of county commissioners, in collaboration with the representatives of the organizations or entities that participated in establishing the guidelines and criteria, to prepare a CWPP to address wildfires in fire hazard areas within the unincorporated portion of the county. In preparing the CWPP, requires the board to consider the guidelines and criteria. Specifies that a county that has already prepared a CWPP as of the effective date of the act and, in connection with such preparation, considered the guidelines and criteria, is not required to prepare a new CWPP to satisfy the requirements of the act. Subject to the CWPP, requires sheriffs, undersheriffs, and deputies to assume charge in the case of wildfires occurring in the unincorporated area of the county.

**APPROVED** by Governor March 19, 2009. **EFFECTIVE** August 5, 2009.

**NOTE:** This act was passed without a safety clause. For further explanation concerning the effective date, see page vi of this digest.

**S.B. 09-105** Firefighting - property tax levy - repeal of cap.

Removes the statutory limit on the amount that may be raised in a single year by a special property tax levied by a board of county commissioners for the purpose of fighting specified types of fires in a county.

**APPROVED** by Governor April 30, 2009. **EFFECTIVE** April 30, 2009.

**S.B. 09-13** Firefighters - volunteer fire departments - immunity - donated equipment - participation in emergency response efforts. (Gibbs/Levy)

Enacts the "Marc Mullenix Volunteer Firefighter Protection Act", providing limited civil immunity for:

- Fire departments and other entities that donate surplus firefighting equipment; and
- Volunteer firefighters, their commanders, and the organizations that direct them in connection with fires and other emergencies.

**APPROVED** by Governor June 3, 2009. **EFFECTIVE** June 3, 2009.

**S.B. 09-20** Prairie, forest, and wild land fire prevention and suppression - fire protection districts - county sheriffs - state forest service - general authority and responsibilities. (Gibbs/Scanlan)

**Wild land fire prevention and suppression**

- Makes the chief of the fire department (fire chief) in each fire protection district (district) in the

state responsible for the management of wild land fires that occur within the boundaries of the district and that are within the capability of the district to control or extinguish. Authorizes the fire chief to utilize mutual aid agreements and unified command with neighboring districts to suppress and control fires that cross or threaten to cross the boundaries of the fire chief's district. Permits the fire chief to transfer any duty or responsibility the fire chief may assume under this section to the county sheriff with the concurrence of the sheriff.

- Makes the sheriff of every county, in addition to his or her other duties, the fire warden of the county and responsible for the planning for, and the coordination of, efforts to suppress wildfires occurring in the unincorporated area of the county outside the boundaries of a district or that exceed the capabilities of the district to control or extinguish.
- In the case of a wildfire that exceeds the capabilities of the district to control or extinguish and that requires mutual aid and outside resources, requires the sheriff to appoint a local incident management team to provide the command and control infrastructure required to manage the fire. Requires the sheriff to assume financial responsibility for fire fighting efforts on behalf of the county, and grants the sheriff the authority to order and monitor resources.
- In the case of a wildfire that exceeds the capability of the county to control or extinguish, makes the sheriff responsible for seeking the assistance of the state by requesting assistance from the forest service. Requires the sheriff and the state forester to enter into an agreement concerning the transfer of authority and responsibility for fire suppression and the retention of responsibilities under a unified command structure.
- Makes the forest service the lead state agency for wild land fire suppression as identified in the Colorado state emergency operations plan and in accordance with the provisions of existing law governing the forest service.
- Specifies additional powers of the forest service in connection with wild land fire prevention and suppression.
- Makes the first emergency response agency to arrive at the scene of a wild land fire, regardless of whether the incident occurs within its jurisdiction, incident commander and responsible for the initial emergency action necessary to control the wild land fire or to protect life or property until the emergency response agency that has jurisdiction over the incident site arrives.

#### **County wildfire preparedness plan.**

Authorizes the sheriff of each county to develop and update as necessary a wildfire preparedness plan for the unincorporated area of the county in cooperation with any district with jurisdiction over such unincorporated area. Specifies required components of the plan. Requires the plan to be agreed upon by all participants in the plan to the extent practicable.

#### **Public funds**

Permits the governor's emergency fund, or other funds available to the Colorado state forest service, to be used for the purpose of preventing and suppressing wild land fires. Duties of the sheriff and other parties in connection with the prevention or suppression of prairie, forest, or wild land fires

- Makes the sheriff responsible for coordinating efforts to suppress prairie and forest in addition to wild land fires occurring in the unincorporated area of the county.
- Makes it the duty of the sheriff to assume the responsibility for coordinating fire suppression efforts in case of any prairie, forest, or wild land fire occurring in the unincorporated area of the county outside the boundaries of a district or that exceed the capabilities of the district to control or extinguish.
- In the case of a prairie, forest, or wild land fire occurring within the boundaries of one or more districts that do not exceed the capabilities of the district to control or extinguish, authorizes the sheriff to assist the fire chief in controlling or extinguishing such fires, and, in connection with such assistance, authorizes the sheriff to solicit such additional assistance from such persons as the sheriff and the fire chief deem necessary. Authorizes the sheriff to assume command of such

incidents with the concurrence of the fire chief.

- In the case of a prairie, forest, or wild land fire that exceeds the capabilities of the district to control or extinguish and that requires mutual aid and outside resources, requires the sheriff to appoint a local incident management team to provide the command and control infrastructure required to manage the fire.
- Requires the sheriff to assume financial responsibility for fire fighting efforts on behalf of the county and the authority for the ordering and monitoring of resources.
- Authorizes the state forester to assume any duty or responsibility given to the sheriff with the concurrence of the sheriff.
- Authorizes the board of county commissioners of any county to allow the sheriff, undersheriffs, deputies, municipal, or county fire departments, districts, fire authorities, and such other persons as may be called upon to assist in controlling or extinguishing a prairie, forest, or wild land fire such compensation and reimbursement for other expenses necessarily incurred as the board deems just.
- Authorizes the board of county commissioners of any county in the state to make such appropriation as it may deem proper for the purpose of controlling fires in its county. Authorizes the board of county commissioners to levy a special tax subject to approval of the voters upon every dollar of valuation of assessment of the taxable property within the county for the purpose of creating a fund that shall be appropriated, after consultation with representatives of fire departments, districts, and fire authorities in the county, to prevent, control, or extinguish such fires anywhere in the county and to fix the rate of levy.

Makes certain provisions contingent upon the passage of Senate Bill 09-001.

**APPROVED** by Governor April 30, 2009. **EFFECTIVE** April 30, 2009.

Note: Senate Bill 09-001 was signed by the governor March 19, 2009.

**S.B. 09-21** Volunteer firefighters - local community college tuition vouchers. (Kopp/Scanlan)

Directs the division of fire safety in the department of public safety (division) to collaborate with the state board for community colleges and occupational education and the boards of trustees of junior college districts to develop a system to provide tuition vouchers to qualified volunteer firefighters who are enrolled in full-time or part-time study and who agree to serve as volunteer firefighters for no less than 4 years after completing their education.

Creates the volunteer firefighter tuition voucher fund (fund) administered by the division and consisting of gifts, grants, or donations from private or public sources that the division is required to seek and accept. Allows the division to pay for the tuition vouchers from existing appropriations if the fund does not have sufficient moneys to pay for the tuition vouchers.

**APPROVED** by Governor June 3, 2009. **EFFECTIVE** August 5, 2009.

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