

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 12-0955.01 Bob Lackner x4350

HOUSE BILL 12-1352

HOUSE SPONSORSHIP

Gardner B. and Gerou,

SENATE SPONSORSHIP

Cadman,

House Committees

Judiciary
Appropriations

Senate Committees

State, Veterans & Military Affairs
Legislative Council

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A STATE COMMISSION TO ADDRESS**
102 **MATTERS ARISING OUT OF THE LOWER NORTH FORK WILDFIRE,**
103 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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://www.leg.state.co.us/billsummaries>.)

The bill creates the lower north fork wildfire commission (commission), comprised of 6 members, for the purpose of:

- ! Receiving, hearing, and evaluating claims against the state of persons who have suffered personal or property damage

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
May 2, 2012

HOUSE
Amended 2nd Reading
May 1, 2012

or loss of life as a result of the lower north fork wildfire (wildfire);

- ! Investigating the causes of the wildfire; and
- ! Making recommendations for legislative or other action that would prevent the reoccurrence of this tragedy.

The bill specifies the members of the commission to be:

- ! The chairs of the judiciary committees of the senate and the house of representatives, or their designees;
- ! One member each from the senate and the house of representatives who is serving on the judiciary committee and is a member of the minority political party in the particular chamber, as selected by the respective minority leader in the senate and house;
- ! The executive director of the department of public safety; and
- ! The state treasurer.

The bill specifies administrative procedures of the commission.

In connection with its investigative functions, the bill specifies additional procedures attendant to this power and further requires the commission, not later than December 31, 2012, to submit a written report of its findings and any recommendations for legislative or other action to the judiciary and local government committees of the senate and the house of representatives.

In connection with the evaluation of potential claims, the bill specifies that the jurisdiction of the commission is limited to claims for injury to person or property or loss of life asserted against the state arising out of the wildfire.

The bill specifies procedures for filing a claim with the commission and the commission's powers and duties with respect to the evaluation of claims filed. Not later than September 30, 2012, any person claiming to have suffered an injury as a result of the wildfire is required to file a written notice of the person's claim. The bill specifies the contents of the notice. Compliance with this requirement is a jurisdictional prerequisite to filing a claim with the commission, and failure of compliance forever bars any such action. The bill specifies the required components of the claimant's petition. The bill authorizes the commission to retain special masters to assist in the evaluation of claims.

The bill requires the commission to make its findings of fact and recommendations for the disposition of each claim, including, without limitation, the extent and type of damages sustained, if any.

Upon the completion of its evaluation of the claims before it, the bill requires the commission to prepare a report containing a plan for the payment of claims. As soon as practicable after the commission has produced its report, it is required to file the report with the joint budget committee, along with copies of any supporting documentation used in

the preparation of the plan. All such documentation is to be made available to any member of the general assembly. Subject to available appropriations, the joint budget committee shall either:

- ! Recommend that the general assembly approve the plan recommended by the commission in its entirety or recommend that the general assembly make modifications to the plan; or
- ! Decline the plan recommended by the commission and take no action thereon.

The bill requires that any plan approved in its entirety or modified be presented for the consideration of the general assembly in the form of one or more appropriation bills.

The bill contains additional restrictions on an award that the state may provide a claimant.

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

2 **SECTION 1. In Colorado Revised Statutes, add part 17 to article**
3 **2 of title 2 as follows:**

4 **PART 17**

5 **LOWER NORTH FORK WILDFIRE COMMISSION**

6 **2-2-1701. Legislative declaration. (1) THE GENERAL ASSEMBLY**
7 **HEREBY FINDS, DETERMINES, AND DECLARES THAT:**

8 **(a) IN MARCH 2012, A CONTROLLED BURN CONDUCTED BY THE**
9 **COLORADO STATE FOREST SERVICE IN THE LOWER NORTH FORK AREA OF**
10 **JEFFERSON COUNTY, COLORADO, RESULTED IN A WILDFIRE ON MARCH 26,**
11 **2012, THAT KILLED THREE PEOPLE, DESTROYED HOMES AND OTHER**
12 **STRUCTURES RESULTING IN EXTENSIVE PROPERTY DAMAGE, AND BURNED**
13 **MORE THAN ONE THOUSAND FOUR HUNDRED ACRES SOUTH OF CONIFER,**
14 **COLORADO. THE LOWER NORTH FORK WILDFIRE OCCURRING ON MARCH**
15 **26, 2012, IS REFERRED TO IN THIS PART 17 AS THE "WILDFIRE".**

16 **(b) THE IMPACT ON THE AFFECTED COMMUNITY RESULTING FROM**
17 **THE WILDFIRE INCLUDES NOT ONLY LOSS OF LIFE AND FINANCIAL**

1 DEVASTATION BUT ALSO A LOSS OF CONFIDENCE BY PERSONS AFFECTED IN
2 THE ABILITY OF THE STATE AND OTHER EMERGENCY RESPONDERS TO
3 RESPOND TO THIS OR OTHER DISASTERS THAT MAY OCCUR IN THE FUTURE.
4 ACCORDINGLY, IT IS AN APPROPRIATE USE OF THE PLENARY POWER OF THE
5 GENERAL ASSEMBLY TO EMPOWER A BODY SUCH AS THE COMMISSION
6 CREATED UNDER THIS PART 17 TO INVESTIGATE THE CAUSES OF THE
7 WILDFIRE AND TO MAKE RECOMMENDATIONS FOR LEGISLATIVE OR OTHER
8 ACTION THAT WOULD PREVENT THE OCCURRENCE OF A SIMILAR TRAGEDY.

9 **2-2-1702. Lower north fork wildfire commission - created -**
10 **membership - chair - meetings - quorum - reimbursement of expenses**
11 **- staff assistance - public meetings.** (1) THE LOWER NORTH FORK
12 WILDFIRE COMMISSION, REFERRED TO IN THIS PART 17 AS THE
13 "COMMISSION", IS HEREBY CREATED. THE COMMISSION IS COMPRISED OF
14 THE FOLLOWING FIVE MEMBERS:

15 (a) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE EACH
16 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
17 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

18 (b) TWO MEMBERS OF THE SENATE, ONE EACH APPOINTED BY THE
19 PRESIDENT OF THE SENATE AND THE MINORITY LEADER OF THE SENATE;

20 AND

21 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
22 SAFETY CREATED IN SECTION 24-33.5-103 (1), C.R.S., OR HIS OR HER
23 DESIGNEE.

24 (2) THE COMMISSION SHALL SELECT A CHAIR FROM AMONG ITS
25 MEMBERS. THE COMMISSION SHALL MEET AT SUCH TIME AND SUCH PLACE
26 AS DESIGNATED BY THE CHAIR; EXCEPT THAT THE FIRST MEETING OF THE
27 COMMISSION SHALL TAKE PLACE NOT LATER THAN JULY 1, 2012. A

1 MAJORITY OF THE MEMBERS OF THE COMMISSION CONSTITUTE A QUORUM.

2 (3) MEMBERS OF THE COMMISSION SHALL RECEIVE NO
3 COMPENSATION FOR SERVING ON THE COMMISSION; EXCEPT THAT
4 COMMISSION MEMBERS ARE ENTITLED TO REIMBURSEMENT FOR THEIR
5 ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF
6 THEIR OFFICIAL DUTIES. IN THE CASE OF THE LEGISLATIVE MEMBERS OF
7 THE COMMISSION, IN CONNECTION WITH THEIR NECESSARY ATTENDANCE
8 AT MEETINGS OF THE COMMISSION, SUCH MEMBERS ARE ENTITLED TO
9 RECEIVE THE AMOUNT SPECIFIED IN SECTION 2-2-307 (3) (a) (I) FOR
10 NECESSARY ATTENDANCE AT A MEETING OF AN INTERIM COMMITTEE.

11 (4) SUBJECT TO THE PROVISIONS OF PART 4 OF ARTICLE 6 OF TITLE
12 24, C.R.S., MEETINGS OF THE COMMISSION ARE PUBLIC MEETINGS.

13 (5) ANY STAFF ASSISTANCE REQUIRED BY THE COMMISSION SHALL
14 BE PERFORMED BY EXISTING EMPLOYEES OF THE LEGISLATIVE STAFF
15 AGENCIES OF THE GENERAL ASSEMBLY OR THE DEPARTMENT OF PUBLIC
16 SAFETY WITHIN EXISTING APPROPRIATIONS.

17 **2-2-1703. Investigation of causes of wildfire -**
18 **recommendations for legislative or other action - report to general**
19 **assembly.** (1) DURING THE 2012 LEGISLATIVE INTERIM THE COMMISSION
20 SHALL INVESTIGATE, REPORT ITS FINDINGS, AND MAKE
21 RECOMMENDATIONS FOR LEGISLATIVE OR OTHER ACTION ON ALL MATTERS
22 RELATING TO THE WILDFIRE, INCLUDING, WITHOUT LIMITATION, CAUSES OF
23 THE WILDFIRE, THE IMPACT ON THE AFFECTED COMMUNITY CAUSED BY THE
24 WILDFIRE, THE LOSS OF LIFE AND FINANCIAL DEVASTATION INCURRED BY
25 THE COMMUNITY, THE LOSS OF CONFIDENCE BY THE COMMUNITY IN THE
26 RESPONSE TO THE EMERGENCY BY GOVERNMENTAL BODIES AT ALL
27 LEVELS, AND MEASURES TO PREVENT THE OCCURRENCE OF A SIMILAR

1 TRAGEDY. IN CONNECTION WITH THIS DUTY, THE COMMISSION SHALL
2 SOLICIT AND ACCEPT REPORTS AND TAKE TESTIMONY AT ONE OR MORE
3 PUBLIC HEARINGS HELD FOR SUCH PURPOSES. THE COMMISSION MAY
4 SOLICIT OTHER SOURCES, INCLUDING, WITHOUT LIMITATION,
5 REPRESENTATIVES FROM STATE AND LOCAL GOVERNMENTS AND
6 ORGANIZATIONS OF CITIZENS, TO PROVIDE TESTIMONY, WRITTEN
7 COMMENTS, AND OTHER RELEVANT INFORMATION.

8 (2) NOT LATER THAN DECEMBER 31, 2012, THE COMMISSION
9 SHALL SUBMIT A WRITTEN REPORT OF ITS FINDINGS AND ANY
10 RECOMMENDATIONS MADE PURSUANT TO THIS SECTION FOR LEGISLATIVE
11 OR OTHER ACTION TO THE JUDICIARY AND LOCAL GOVERNMENT
12 COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES. UPON
13 THE REQUEST OF ANY MEMBER OF THE COMMISSION, SUMMARIES OF
14 DISSENTING OPINIONS SHALL BE PREPARED AND ATTACHED TO THE FINAL
15 REPORT OF THE COMMISSION'S FINDINGS AND RECOMMENDATIONS. THE
16 FINAL REPORT REQUIRED BY THIS SUBSECTION (2) IS SUBJECT TO THE
17 REQUIREMENTS OF SECTION 24-1-136 (9), C.R.S.

18 **2-2-1704. Repeal of part.** THIS PART 17 IS REPEALED, EFFECTIVE
19 JULY 1, 2014.

20 **SECTION 2. Appropriation.** In addition to any other
21 appropriation, there is hereby appropriated, out of any moneys in the
22 general fund not otherwise appropriated, to the legislative department, for
23 the fiscal year beginning July 1, 2012, the sum of \$25,832 and 0.4 FTE,
24 or so much thereof as may be necessary, for the implementation of this
25 act.

26 **SECTION 3. Safety clause.** The general assembly hereby

- 1 finds,determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.