

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 14-1009.01 Kristen Forrestal x4217

SENATE BILL 14-172

SENATE SPONSORSHIP

Tochtrop and Newell,

HOUSE SPONSORSHIP

Kraft-Tharp, McNulty

Senate Committees
Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING EMPLOYER-PAID BENEFITS TO A FIREFIGHTER FOR**
102 **CARDIAC ILLNESSES RESULTING FROM A STRENUOUS WORK**
103 **EVENT, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **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 requires a municipality, special district, fire authority, or county improvement district that employs one or more firefighters to

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.

SENATE
Amended 2nd Reading
April 29, 2014

maintain accident insurance, self-insure, or participate in a self-insurance pool or a multiple employer trust in order to provide benefits for firefighters who suffer from a heart and circulatory malfunction resulting from a work event. The bill sets the minimum and maximum benefits that must be paid to the firefighters.

In order for a firefighter to be eligible to receive benefits:

- ! The firefighter must have had a recent medical examination that found no heart and circulatory malfunction;
- ! The firefighter must have had 5 continuous years of full-time employment as a firefighter; and
- ! The heart and circulatory malfunction must have occurred during or within 48 hours after a stressful or strenuous on-the-job work activity.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 3 to article
3 5 of title 29 as follows:

4 PART 3

5 FIREFIGHTER HEART AND CIRCULATORY

6 MALFUNCTION BENEFITS

7 **29-5-301. Definitions.** AS USED IN THIS PART 3, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "EMPLOYER" MEANS A MUNICIPALITY, SPECIAL DISTRICT, FIRE
10 AUTHORITY, OR COUNTY IMPROVEMENT DISTRICT THAT EMPLOYS ONE OR
11 MORE FIREFIGHTERS. "EMPLOYER" DOES NOT INCLUDE A POWER
12 AUTHORITY CREATED PURSUANT TO SECTION 29-1-204, C.R.S., OR A
13 MUNICIPALLY OWNED UTILITY.

14 (2) "FIREFIGHTER" MEANS A FULL-TIME, ACTIVE EMPLOYEE OF AN
15 EMPLOYER WHO REGULARLY WORKS AT LEAST ONE THOUSAND SIX
16 HUNDRED HOURS IN ANY CALENDAR YEAR AND WHOSE DUTIES ARE
17 DIRECTLY INVOLVED WITH THE PROVISION OF FIRE PROTECTION SERVICES.

18 (3) "HEART AND CIRCULATORY MALFUNCTION" MEANS A SUDDEN

1 AND SERIOUS MALFUNCTION OF THE HEART AND CIRCULATORY SYSTEM AS
2 OCCURS IN A DIAGNOSIS OF CORONARY THROMBOSIS, CEREBRAL
3 VASCULAR ACCIDENT, MYOCARDIAL INFARCTION, OR CARDIAC ARREST
4 AND THAT MEETS THE REQUIREMENTS OF SECTION 29-5-302 (6). "HEART
5 AND CIRCULATORY MALFUNCTION" DOES NOT INCLUDE HYPERTENSION OR
6 ANGINA.

7 (4) "VOLUNTEER FIREFIGHTER" MEANS A VOLUNTEER FIREFIGHTER
8 AS DEFINED IN SECTION 31-30-1102, C.R.S.

9 (5) "WORK EVENT" MEANS STRESSFUL OR STRENUOUS ACTIVITY
10 RELATED TO FIRE SUPPRESSION, RESCUE, HAZARDOUS MATERIAL
11 RESPONSE, EMERGENCY MEDICAL SERVICES, DISASTER RELIEF, OR OTHER
12 EMERGENCY RESPONSE ACTIVITY. "WORK EVENT" INCLUDES A TRAINING
13 ACTIVITY THAT A FIREFIGHTER ENGAGES IN WHILE ON DUTY AND THAT
14 INVOLVES STRESSFUL OR STRENUOUS ACTIVITY.

15 **29-5-302. Required benefits - conditions of receiving benefits.**

16 (1) AN EMPLOYER SHALL MAINTAIN ACCIDENT INSURANCE, SELF-INSURE,
17 OR PARTICIPATE IN A SELF-INSURANCE POOL OR A MULTIPLE EMPLOYER
18 HEALTH TRUST IN ORDER TO PROVIDE THE BENEFITS SPECIFIED IN THIS
19 SECTION FOR ITS FIREFIGHTERS. IN ADDITION, AN EMPLOYER MAY PROVIDE
20 EQUIVALENT BENEFITS FOR VOLUNTEER FIREFIGHTERS.

21 (2) AN EMPLOYER SHALL PROVIDE THE FOLLOWING MINIMUM
22 BENEFITS:

23 (a) (I) A FOUR-THOUSAND-DOLLAR-LUMP-SUM PAYMENT IF A
24 MEDICAL EXAMINATION REVEALS THAT A FIREFIGHTER HAS A HEART AND
25 CIRCULATORY MALFUNCTION; AND

26 (II) A ONE-THOUSAND-FIVE-HUNDRED-DOLLAR PAYMENT PER
27 WEEK, UP TO A MAXIMUM OF SEVEN WEEKS, IF A FIREFIGHTER MADE AN

1 EMERGENCY ROOM VISIT AND WAS HOSPITALIZED FOR UP TO FORTY-EIGHT
2 HOURS FOR A HEART AND CIRCULATORY MALFUNCTION;

3 (b)(I) A TWO-THOUSAND-DOLLAR PAYMENT PER WEEK, UP TO A
4 MAXIMUM OF TWENTY-FIVE WEEKS, IF A FIREFIGHTER MADE AN
5 EMERGENCY ROOM VISIT AND WAS HOSPITALIZED FOR MORE THAN
6 FORTY-EIGHT HOURS FOR A HEART AND CIRCULATORY MALFUNCTION; OR

7 (II) A TWO-THOUSAND-FIVE-HUNDRED-DOLLAR PAYMENT, UP TO
8 A MAXIMUM OF EIGHTY WEEKS, IF A FIREFIGHTER HAS A HEART AND
9 CIRCULATORY MALFUNCTION THAT PROHIBITS THE FIREFIGHTER FROM
10 RETURNING TO EMPLOYMENT TO A POSITION THAT THE FIREFIGHTER IS
11 TRAINED FOR OR REASONABLY COULD BE TRAINED TO PERFORM;

12 (c) A PAYMENT OF UP TO TWENTY-FIVE THOUSAND DOLLARS FOR
13 REHABILITATIVE EMPLOYMENT SERVICES RELATING TO A HEART AND
14 CIRCULATORY MALFUNCTION;

15 (d) A TEN-THOUSAND-DOLLAR PAYMENT IF A FIREFIGHTER INCURS
16 COSMETIC DISFIGUREMENT RESULTING FROM A HEART AND CIRCULATORY
17 MALFUNCTION; AND

18 (e) IF THE COVERED HEART AND CIRCULATORY MALFUNCTION IS
19 DIAGNOSED AS TERMINAL, THE FIREFIGHTER WILL RECEIVE A LUMP SUM
20 PAYMENT OF TWENTY-FIVE THOUSAND DOLLARS AS AN ACCELERATED
21 PAYMENT TOWARD THE BENEFITS DUE IN PARAGRAPHS (a) AND (b) OF THIS
22 SUBSECTION (2).

23 (3) THE RECEIPT OF A PAYMENT PURSUANT TO SUBPARAGRAPH (II)
24 OF PARAGRAPH (a) OR SUBPARAGRAPH (I) OF PARAGRAPH (b) OF
25 SUBSECTION (2) OF THIS SECTION DOES NOT PROHIBIT THE FIREFIGHTER
26 FROM RECEIVING AN ADDITIONAL BENEFIT.

27 (4) IF A FIREFIGHTER RETURNS TO THE SAME POSITION OF

1 EMPLOYMENT AFTER A HEART AND CIRCULATORY MALFUNCTION, THE
2 FIREFIGHTER IS ENTITLED TO THE BENEFITS IN THIS SUBSECTION (2) FOR
3 ANY SUBSEQUENT HEART AND CIRCULATORY MALFUNCTION.

4 (5) THE MAXIMUM AMOUNT THAT MAY BE PAID TO A FIREFIGHTER
5 FOR EACH HEART AND CIRCULATORY MALFUNCTION IS TWO HUNDRED
6 FIFTY THOUSAND DOLLARS.

7 (6) THE BENEFITS AND MAXIMUM PAYMENT AMOUNT IN
8 SUBSECTION (2) OF THIS SECTION ARE INCREASED BY THE SAME
9 PERCENTAGE AND AT THE SAME TIME AS ANY FIRE AND POLICE PENSION
10 ASSOCIATION INCREASE IN THE PENSION BENEFIT PAID TO ITS MEMBERS
11 PURSUANT TO SECTION 31-31-407, C.R.S.

12 (7) (a) THE BENEFITS PAID PURSUANT TO THIS SECTION MUST BE
13 OFFSET BY ANY PAYMENTS MADE:

14 (I) UNDER THE "WORKERS' COMPENSATION ACT OF COLORADO",
15 ARTICLES 40 TO 47 OF TITLE 8, C.R.S.;

16 (I) BY THE FIRE AND POLICE PENSION ASSOCIATION;

17 (III) PURSUANT TO SOCIAL SECURITY OR A RETIREMENT PLAN; OR

18 (IV) AS PART OF ANY OTHER EMPLOYER-PAID INCOME BENEFIT
19 THAT IS MADE AS A RESULT OF A HEART AND CIRCULATORY MALFUNCTION.

20 (b) THE OFFSETS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION
21 (4) APPLY ONLY FROM THE DATE OF THE DETERMINATION OF ENTITLEMENT
22 FOR THE PAYMENTS AND DO NOT REQUIRE THE REPAYMENT OF ANY MONEY
23 RECEIVED PRIOR TO THE DETERMINATION.

24 (8) THE BENEFITS IN THIS SECTION ARE REDUCED BY TWENTY-FIVE
25 PERCENT IF A FIREFIGHTER SMOKED A TOBACCO PRODUCT WITHIN FIVE
26 YEARS IMMEDIATELY PRECEDING THE WORK EVENT.

27 (9) IN ORDER FOR A FIREFIGHTER TO BE ELIGIBLE FOR THE BENEFITS

1 IN SUBSECTION (2) OF THIS SECTION, THE FOLLOWING CONDITIONS MUST
2 BE MET:

3 (a) PRIOR TO THE WORK EVENT THAT RESULTS IN A HEART AND
4 CIRCULATORY MALFUNCTION AND AFTER THE FIREFIGHTER BECAME
5 EMPLOYED BY AN EMPLOYER, THE FIREFIGHTER HAD A MEDICAL
6 EXAMINATION THAT WOULD REASONABLY HAVE FOUND AN ILLNESS OR
7 INJURY THAT COULD HAVE CAUSED THE HEART AND CIRCULATORY
8 MALFUNCTION AND NO ILLNESS OR INJURY WAS FOUND AT THE MOST
9 RECENT MEDICAL EXAMINATION;

10 (b) THE FIREFIGHTER HAS AT LEAST FIVE YEARS OF CONTINUOUS,
11 FULL-TIME EMPLOYMENT WITH AN EMPLOYER; EXCEPT A VOLUNTEER
12 FIREFIGHTER MUST HAVE FIVE YEARS OF CONTINUOUS SERVICE WITH THE
13 SAME EMPLOYER; AND

14 (c) THE HEART AND CIRCULATORY MALFUNCTION OCCURRED
15 DURING OR WITHIN FORTY-EIGHT HOURS AFTER A WORK EVENT.

16 (10) FOR THE PURPOSE OF EMPLOYER POLICIES AND BENEFITS, A
17 HEART AND CIRCULATORY MALFUNCTION IS TREATED AS AN ON-THE-JOB
18 INJURY OR ILLNESS. THIS SUBSECTION (7) DOES NOT AFFECT ANY
19 DETERMINATION AS TO WHETHER THE HEART AND CIRCULATORY
20 MALFUNCTION IS COVERED UNDER THE "WORKERS' COMPENSATION ACT
21 OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S.

22 (11) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
23 FIREFIGHTER BENEFITS CASH FUND. THE FUND CONSISTS OF MONEYS
24 APPROPRIATED FROM THE GENERAL FUND BY THE GENERAL ASSEMBLY.
25 THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY
26 THE GENERAL ASSEMBLY TO THE DEPARTMENT OF LOCAL AFFAIRS FOR THE
27 PURPOSE OF REIMBURSING EMPLOYERS FOR THE DIRECT COSTS OF

1 MAINTAINING ACCIDENT INSURANCE, SELF-INSURANCE, OR PARTICIPATION
2 IN A SELF-INSURANCE POOL OR MULTIPLE EMPLOYER HEALTH TRUST AS
3 REQUIRED BY THIS PART 3.

4 (b) THE DEPARTMENT OF LOCAL AFFAIRS SHALL REIMBURSE
5 EMPLOYERS FOR THE DIRECT COSTS OF MAINTAINING ACCIDENT
6 INSURANCE, SELF-INSURANCE, OR PARTICIPATION IN A SELF-INSURANCE
7 POOL OR MULTIPLE EMPLOYER HEALTH TRUST AS REQUIRED BY THIS PART
8 3.

9 (12) IF, AT ANY TIME, THE FUNDING PROVIDED FOR THE BENEFIT
10 REQUIRED BY THIS SECTION IS INSUFFICIENT TO COVER THE COST OF THE
11 BENEFIT, THEN THE REQUIREMENTS OF THIS SECTION TO MAINTAIN THE
12 BENEFIT SHALL BE COME OPTIONAL PURSUANT TO SECTION 29-1-304.5,
13 C.R.S.

14 **SECTION 2.** In Colorado Revised Statutes, 10-3-903.5, **amend**
15 (7) (b) introductory portion and (7) (b) (I) as follows:

16 **10-3-903.5. Jurisdiction over providers of health care benefits.**

17 (7) (b) A multiple employer health trust is any trust ~~which~~ THAT is:

18 (I) Sponsored, maintained, and funded by one or more entities of
19 state government or political subdivisions of the state organized pursuant
20 to state law and is for the benefit of the entity's employees, INCLUDING A
21 MULTIPLE EMPLOYER HEALTH TRUST ESTABLISHED FOR THE PURPOSES OF
22 PART 3 OF ARTICLE 5 OF TITLE 29, C.R.S.; or

23 **SECTION 3.** In Colorado Revised Statutes, 24-10-115.5, **amend**
24 (9) as follows:

25 **24-10-115.5. Authority for public entities to pool insurance**
26 **coverage.** (9) In addition to liability coverage pursuant to subsection (1)
27 of this section and property coverage pursuant to section 29-13-102,

1 C.R.S., a self-insurance pool authorized by subsection (1) of this section
2 may provide workers' compensation coverage pursuant to section
3 8-44-204, C.R.S., AND FIREFIGHTER HEART AND CIRCULATORY
4 MALFUNCTION BENEFITS PURSUANT TO SECTION 29-5-302, C.R.S.

5 **SECTION 4.** In Colorado Revised Statutes, 29-13-102, **amend**
6 (7) as follows:

7 **29-13-102. Authority for units of local government to pool**
8 **insurance coverage.** (7) In addition to property coverage pursuant to
9 subsection (1) of this section and liability coverage pursuant to section
10 24-10-115.5, C.R.S., a self-insurance pool authorized by subsection (1)
11 of this section may provide workers' compensation coverage pursuant to
12 section 8-44-204, C.R.S., AND FIREFIGHTER HEART AND CIRCULATORY
13 MALFUNCTION BENEFITS PURSUANT TO SECTION 29-5-302.

14 **SECTION 5. Appropriation** (1) In addition to any other
15 appropriation, there is hereby appropriated, out of any moneys in the
16 general fund, not otherwise appropriated, to the department of local
17 affairs, for the fiscal year beginning July 1, 2014, the sum of \$51,639 and
18 0.5 FTE, or so much thereof as may be necessary, to be allocated to the
19 division of local government for the implementation of this act as
20 follows:

21 (a) \$30,497 and 0.5 FTE for personal services and operating
22 expenses;

23 (b) \$20,960 for the purchase of computer center services; and

24 (c) \$182 for the purchase of legal services.

25 (2) In addition to any other appropriation, there is hereby
26 appropriated to the governor - lieutenant governor - state planning and
27 budgeting, for the fiscal year beginning July 1, 2014, the sum of \$20,960,

1 or so much thereof as may be necessary, for allocation to the office of
2 information technology, for the provision of computer center services for
3 the department of local affairs related to the implementation of this act.
4 Said sum is from reappropriated funds received from the department of
5 local affairs out of the appropriation made in paragraph (b) of subsection
6 (1) of this section.

7 (3) In addition to any other appropriation, there is hereby
8 appropriated to the department of law, for the fiscal year beginning July
9 1, 2014, the sum of \$182, or so much thereof as may be necessary, for the
10 provision of legal services for the department of local affairs related to
11 the implementation of this act. Said sum is from reappropriated funds
12 received from the department of local affairs out of the appropriation
13 made in paragraph (c) of subsection (1) of this section.

14 (4) In addition to any other appropriation, for the fiscal year
15 beginning July 1, 2014, there is hereby appropriated, out of any moneys
16 in the general fund not otherwise appropriated, to the firefighters benefits
17 cash fund created in section 29-5-302 (8) (a), Colorado Revised Statutes,
18 the sum of \$850,350, and said sum, or so much thereof as may be
19 necessary, is further appropriated to the department of local affairs, for
20 the implementation of this act.

21 **SECTION 6. Effective date.** This act takes effect January 1,
22 2015.

23 **SECTION 7. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.