

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0955.01 Bob Lackner x4350

HOUSE BILL 12-1352

HOUSE SPONSORSHIP

Gardner B. and Gerou,

SENATE SPONSORSHIP

Cadman,

House Committees
Judiciary

Senate Committees

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.

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

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.

(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) AS A GENERAL PROPOSITION, THE STATE IS IMMUNE FROM
17 CLAIMS FOR INJURY ASSERTED AGAINST IT THAT LIE IN TORT OR THAT
18 COULD LIE IN TORT PURSUANT TO THE "COLORADO GOVERNMENTAL

1 IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S., REFERRED TO IN THIS
2 PART 17 AS THE "ACT". WITH RESPECT TO THE WILDFIRE, IT IS NOT AT ALL
3 CLEAR THAT THE ACT WOULD PERMIT CLAIMS FOR INJURY TO PERSONS OR
4 PROPERTY OR LOSS OF LIFE ASSERTED AGAINST THE STATE ARISING FROM
5 THE WILDFIRE. THE GENERAL ASSEMBLY ASSERTS NO POSITION ON THE
6 ISSUE OF WHETHER THE ACT PERMITS ANY SUCH CLAIMS, AND NOTHING IN
7 THIS PART 17 SHALL BE CONSTRUED TO SUPPORT SUCH AN ASSERTION.
8 HOWEVER, IT IS APPROPRIATE THAT A MECHANISM BE CREATED WHEREBY
9 TIMELY EVALUATION MAY BE MADE OF POTENTIAL CLAIMS AGAINST THE
10 STATE FOR INJURY TO PERSONS OR PROPERTY OR LOSS OF LIFE ARISING OUT
11 OF THE WILDFIRE AND THAT A PLAN FOR FAIR AND JUST COMPENSATION
12 MAY BE PRESENTED TO THE GENERAL ASSEMBLY CONSISTENT WITH THE
13 AVAILABILITY OF MONEYS FOR SUCH PURPOSES AND THE OVERALL FISCAL
14 CONDITION OF THE STATE.

15 (c) INsofar AS THE ACT APPLIES TO THE CLAIMS FOR INJURY TO
16 PERSONS OR PROPERTY OR LOSS OF LIFE ARISING FROM THE WILDFIRE,
17 PROVISIONS OF THE ACT AND, SPECIFICALLY, SECTION 24-10-114 (1),
18 C.R.S., LIMIT DAMAGE RECOVERIES AGAINST THE STATE FOR ACTIONS
19 LYING IN TORT OR THAT COULD LIE IN TORT TO ONE HUNDRED FIFTY
20 THOUSAND DOLLARS FOR ANY INJURY TO ONE PERSON IN ANY SINGLE
21 OCCURRENCE AND TO SIX HUNDRED THOUSAND DOLLARS FOR AN INJURY
22 TO TWO OR MORE PERSONS IN ANY SINGLE OCCURRENCE. ASSUMING THE
23 GENERAL APPLICABILITY OF THE ACT TO THESE CLAIMS, THESE DAMAGE
24 CAPS FAIL TO PROVIDE DECENT OR MERELY ADEQUATE COMPENSATION TO
25 THE LARGE NUMBER OF PERSONS WHO WOULD BE IN A POSITION TO FILE
26 CLAIMS AGAINST THE STATE FOR THEIR LOSSES OR DAMAGES RESULTING
27 FROM THE WILDFIRE. THE WILDFIRE PRESENTS A UNIQUE SITUATION

1 REQUIRING SPECIAL CONSIDERATION.

2 (d) THE IMPACT ON THE AFFECTED COMMUNITY RESULTING FROM
3 THE WILDFIRE INCLUDES NOT ONLY LOSS OF LIFE AND FINANCIAL
4 DEVASTATION BUT ALSO A LOSS OF CONFIDENCE BY PERSONS AFFECTED IN
5 THE ABILITY OF THE STATE AND OTHER EMERGENCY RESPONDERS TO
6 RESPOND TO THIS OR OTHER DISASTERS THAT MAY OCCUR IN THE FUTURE.
7 ACCORDINGLY, IT IS AN APPROPRIATE USE OF THE PLENARY POWER OF THE
8 GENERAL ASSEMBLY TO EMPOWER A BODY SUCH AS THE COMMISSION
9 CREATED UNDER THIS PART 17 TO INVESTIGATE THE CAUSES OF THE
10 WILDFIRE AND TO MAKE RECOMMENDATIONS FOR LEGISLATIVE OR OTHER
11 ACTION THAT WOULD PREVENT THE OCCURRENCE OF A SIMILAR TRAGEDY.

12 (2) BY THIS PART 17, THE GENERAL ASSEMBLY INTENDS TO CREATE
13 A COMMISSION TO RECOMMEND A PLAN FOR THE FAIR AND JUST
14 COMPENSATION OF PERSONS WHO HAVE SUFFERED PERSONAL OR PROPERTY
15 DAMAGE OR LOSS OF LIFE AS A RESULT OF THE WILDFIRE CONSISTENT WITH
16 THE AVAILABILITY OF MONEYS FOR SUCH PURPOSES AND THE OVERALL
17 FISCAL CONDITION OF THE STATE AND TO PERFORM THE OTHER PURPOSES
18 ASSIGNED TO IT UNDER THIS PART 17. THE PROVISIONS OF THIS PART 17
19 SHALL BE LIBERALLY CONSTRUED TO ACHIEVE THE INTENT OF THE
20 GENERAL ASSEMBLY AS SPECIFIED IN THIS SUBSECTION (2).

21 **2-2-1702. Definition.** AS USED IN THIS PART 17, UNLESS THE
22 CONTEXT OTHERWISE REQUIRES, "STATE" MEANS THE STATE; EVERY
23 EXECUTIVE DEPARTMENT, BOARD, COMMISSION, COMMITTEE, BUREAU,
24 AND OFFICE; EVERY STATE INSTITUTION OF HIGHER EDUCATION, WHETHER
25 ESTABLISHED BY THE STATE CONSTITUTION OR BY LAW, AND EVERY
26 GOVERNING BOARD THEREOF; AND EVERY INDEPENDENT COMMISSION AND
27 OTHER POLITICAL SUBDIVISION OF THE STATE GOVERNMENT EXCEPT THE

1 COURTS.

2 **2-2-1703. Lower north fork wildfire commission - created -**
3 **membership - chair - meetings - quorum - reimbursement of expenses**
4 **- staff assistance - public meetings.** (1) THE LOWER NORTH FORK
5 WILDFIRE COMMISSION, REFERRED TO IN THIS PART 17 AS THE
6 "COMMISSION", IS HEREBY CREATED. THE COMMISSION IS COMPRISED OF
7 THE FOLLOWING SIX MEMBERS:

8 (a) THE CHAIRS OF THE JUDICIARY COMMITTEES OF THE SENATE
9 AND THE HOUSE OF REPRESENTATIVES, OR THEIR DESIGNEES;

10 (b) ONE MEMBER EACH FROM THE SENATE AND THE HOUSE OF
11 REPRESENTATIVES WHO IS SERVING ON THE JUDICIARY COMMITTEE AND IS
12 A MEMBER OF THE MINORITY POLITICAL PARTY IN THE PARTICULAR
13 CHAMBER, AS SELECTED BY THE RESPECTIVE MINORITY LEADER IN THE
14 SENATE AND HOUSE OF REPRESENTATIVES;

15 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
16 SAFETY CREATED IN SECTION 24-33.5-103 (1), C.R.S.; AND

17 (d) THE STATE TREASURER.

18 (2) THE CHAIRS OF THE SENATE AND HOUSE JUDICIARY
19 COMMITTEES, OR THEIR DESIGNEES, SHALL SERVE AS CHAIR AND
20 VICE-CHAIR OF THE COMMISSION. COMMENCING WITH THE EFFECTIVE
21 DATE OF THIS PART 17, THE CHAIR OF THE HOUSE JUDICIARY COMMITTEE
22 SHALL SERVE AS THE INITIAL CHAIR OF THE COMMISSION, AND THE CHAIR
23 OF THE SENATE JUDICIARY COMMITTEE SHALL SERVE AS THE VICE-CHAIR.
24 ON JANUARY 1, 2014, THE CHAIR OF THE SENATE JUDICIARY COMMITTEE
25 SHALL BECOME THE CHAIR OF THE COMMISSION AND THE CHAIR OF THE
26 HOUSE JUDICIARY COMMITTEE SHALL BECOME THE VICE-CHAIR OF THE
27 COMMISSION. THE COMMISSION MAY PROMULGATE AND AMEND RULES

1 GOVERNING ITS PROCEDURES. THE COMMISSION SHALL MEET AT SUCH
2 TIME AND SUCH PLACE AS DESIGNATED BY THE CHAIR; EXCEPT THAT THE
3 FIRST MEETING OF THE COMMISSION SHALL TAKE PLACE NOT LATER THAN
4 JULY 1, 2012. A MAJORITY OF THE MEMBERS OF THE COMMISSION SHALL
5 CONSTITUTE A QUORUM. THE CONCURRENCE OF AT LEAST FOUR MEMBERS
6 OF THE COMMISSION IS NECESSARY FOR THE APPROVAL OF ANY ACTION BY
7 THE COMMISSION.

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

17 (4) SUBJECT TO THE PROVISIONS OF PART 4 OF ARTICLE 6 OF TITLE
18 24, C.R.S., MEETINGS OF THE COMMISSION ARE PUBLIC MEETINGS.

19 (5) ANY STAFF ASSISTANCE REQUIRED BY THE COMMISSION SHALL
20 BE PERFORMED BY EXISTING EMPLOYEES OF THE LEGISLATIVE STAFF
21 AGENCIES OF THE GENERAL ASSEMBLY OR THE DEPARTMENT OF THE
22 TREASURY OR THE DEPARTMENT OF PUBLIC SAFETY WITHIN EXISTING
23 APPROPRIATIONS.

24 **2-2-1704. Investigation of causes of wildfire -**
25 **recommendations for legislative or other action - report to general**
26 **assembly.** (1) IN ADDITION TO ANY OTHER DUTIES AND RESPONSIBILITIES
27 DELEGATED THE COMMISSION UNDER THIS PART 17, DURING THE 2012

1 LEGISLATIVE INTERIM THE COMMISSION SHALL ALSO INVESTIGATE, REPORT
2 ITS FINDINGS, AND MAKE RECOMMENDATIONS FOR LEGISLATIVE OR OTHER
3 ACTION ON ALL MATTERS RELATING TO CAUSES OF THE WILDFIRE,
4 INCLUDING, WITHOUT LIMITATION, THE IMPACT ON THE AFFECTED
5 COMMUNITY CAUSED BY THE WILDFIRE, THE LOSS OF LIFE AND FINANCIAL
6 DEVASTATION INCURRED BY THE COMMUNITY, THE LOSS OF CONFIDENCE
7 BY THE COMMUNITY IN THE RESPONSE TO THE EMERGENCY BY
8 GOVERNMENTAL BODIES AT ALL LEVELS, AND MEASURES TO PREVENT THE
9 OCCURRENCE OF A SIMILAR TRAGEDY. IN CONNECTION WITH THIS DUTY,
10 THE COMMISSION SHALL SOLICIT AND ACCEPT REPORTS AND TAKE
11 TESTIMONY AT ONE OR MORE PUBLIC HEARINGS HELD FOR SUCH PURPOSES.
12 THE COMMISSION MAY SOLICIT OTHER SOURCES, INCLUDING, WITHOUT
13 LIMITATION, REPRESENTATIVES FROM STATE AND LOCAL GOVERNMENTS
14 AND ORGANIZATIONS OF CITIZENS, TO PROVIDE TESTIMONY, WRITTEN
15 COMMENTS, AND OTHER RELEVANT INFORMATION.

16 (2) NOT LATER THAN DECEMBER 31, 2012, THE COMMISSION SHALL
17 SUBMIT A WRITTEN REPORT OF ITS FINDINGS AND ANY RECOMMENDATIONS
18 MADE PURSUANT TO THIS SECTION FOR LEGISLATIVE OR OTHER ACTION TO
19 THE JUDICIARY AND LOCAL GOVERNMENT COMMITTEES OF THE SENATE
20 AND THE HOUSE OF REPRESENTATIVES. UPON THE REQUEST OF ANY
21 MEMBER OF THE COMMISSION, SUMMARIES OF DISSENTING OPINIONS SHALL
22 BE PREPARED AND ATTACHED TO THE FINAL REPORT OF THE COMMISSION'S
23 FINDINGS AND RECOMMENDATIONS. THE FINAL REPORT REQUIRED BY THIS
24 SUBSECTION (2) SHALL SATISFY THE REQUIREMENTS OF SECTION 24-1-136
25 (9), C.R.S.

26 **2-2-1705. Jurisdiction of commission.** THE JURISDICTION OF THE
27 COMMISSION UNDER THIS PART 17 SHALL EXTEND ONLY TO CLAIMS FOR

1 INJURY TO PERSON OR PROPERTY OR LOSS OF LIFE ASSERTED AGAINST THE
2 STATE ARISING OUT OF THE WILDFIRE. THE JURISDICTION OF THE
3 COMMISSION DOES NOT EXTEND TO ANY OTHER CLAIM FOR WHICH A
4 REMEDY IS PROVIDED BY LAW OR THAT IS GOVERNED SPECIFICALLY BY A
5 CONSTITUTIONAL OR OTHER STATUTORY ENACTMENT OR FOR WHICH AN
6 ADMINISTRATIVE HEARING PROCEDURE IS OTHERWISE PROVIDED BY LAW.

7 **2-2-1706. Procedure for asserting a claim with the commission**
8 **- deadline for filing notice of claim - actions on claims - hearings -**
9 **decisions - findings of fact - recommendations for the disposition of**
10 **claims - actions by general assembly on claims.** (1) NOT LATER THAN
11 SEPTEMBER 30, 2012, ANY PERSON CLAIMING TO HAVE SUFFERED AN
12 INJURY AS A RESULT OF THE WILDFIRE SHALL FILE A WRITTEN NOTICE OF
13 THE PERSON'S CLAIM THAT SATISFIES THE REQUIREMENTS OF THIS SECTION.
14 THE NOTICE SHALL CONTAIN A SHORT AND PLAIN STATEMENT OF THE
15 BASIS OF THE CLAIM AND SUCH ADDITIONAL INFORMATION AS MAY BE
16 REQUESTED BY THE COMMISSION. COMPLIANCE WITH THE PROVISIONS OF
17 THIS SUBSECTION (1) SHALL BE A JURISDICTIONAL PREREQUISITE TO FILING
18 A CLAIM WITH THE COMMISSION, AND FAILURE OF COMPLIANCE SHALL
19 FOREVER BAR ANY SUCH ACTION.

20 (2) (a) ANY PERSON ELECTING TO PRESENT A CLAIM AGAINST THE
21 STATE AS AUTHORIZED BY THIS PART 17 SHALL FILE SUCH CLAIM WITH THE
22 COMMISSION IN THE FORM OF A PETITION IN A FORM APPROVED BY THE
23 COMMISSION FOR SUCH PURPOSES. THE PETITION SHALL INCLUDE THE
24 FOLLOWING INFORMATION:

25 (I) THE NAME AND ADDRESS OF THE CLAIMANT; THE NAME AND
26 ADDRESS OF THE CLAIMANT'S PRINCIPAL, IF THE CLAIMANT IS ACTING IN A
27 REPRESENTATIVE CAPACITY; AND THE NAME AND ADDRESS OF THE

1 CLAIMANT'S ATTORNEY IF THE CLAIMANT IS SO REPRESENTED;

2 (II) A CONCISE STATEMENT OF THE BASIS OF THE CLAIM,
3 INCLUDING THE DATE, TIME, PLACE, AND CIRCUMSTANCES OF THE ACTION
4 OR EVENT GIVING RISE TO THE CLAIM;

5 (III) A DETAILED STATEMENT ITEMIZING THE DAMAGES CLAIMED;

6 (IV) A STATEMENT EXECUTED BY THE CLAIMANT
7 ACKNOWLEDGING THAT, BY FILING A CLAIM WITH THE COMMISSION, THE
8 CLAIMANT UNDERSTANDS THAT THE CLAIMANT IS THEREBY WAIVING ANY
9 RIGHT TO FILE A CIVIL ACTION ADDRESSING THE SAME SUBJECT MATTER AS
10 THE CLAIM; AND

11 (V) ANY OTHER INFORMATION PERTINENT TO THE CLAIM AS MAY
12 BE REQUESTED BY THE COMMISSION.

13 (b) ALL CLAIMS FILED WITH THE COMMISSION SHALL BE
14 DESIGNATED BY A UNIQUE FILE NUMBER.

15 (3) EACH CLAIM SHALL BE CONSIDERED BY THE COMMISSION AS
16 SOON AS PRACTICABLE AFTER IT IS FILED. IF THE COMMISSION DEEMS A
17 HEARING TO BE NECESSARY OR ADVISABLE ON ANY CLAIM, THE
18 COMMISSION SHALL GIVE THE CLAIMANT AND THE STATE AGENCY
19 INVOLVED, IF ANY, AT LEAST FIFTEEN DAYS NOTICE BY CERTIFIED MAIL OF
20 THE TIME AND PLACE OF THE HEARING. HEARINGS MAY BE HELD AT ANY
21 AVAILABLE HEARING FACILITY IN THE STATE CAPITOL BUILDING OR AT ANY
22 SUITABLE LOCATION IN THE STATE THAT THE COMMISSION FINDS IS
23 CONVENIENT AND EQUITABLE TO THE CLAIMANT AND THE COMMISSION.
24 NOTHING IN THIS PART 17 SHALL BE CONSTRUED AS REQUIRING AN
25 EVIDENTIARY HEARING IN CONNECTION WITH THE EVALUATION OF ANY
26 PARTICULAR CLAIM IF THE COMMISSION OR SPECIAL MASTER, AS
27 APPLICABLE, DETERMINES THAT THE MATTER CAN BE FAIRLY AND

1 EQUITABLY RESOLVED ON THE BASIS OF THE WRITTEN RECORD.

2 (4) IN CONNECTION WITH ITS INVESTIGATIVE POWERS UNDER
3 SECTION 2-2-1704 (1) OR THE EVALUATION OF ANY CLAIM FILED WITH THE
4 COMMISSION PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE
5 COMMISSION MAY SUMMON WITNESSES, TAKE TESTIMONY UNDER OATH,
6 TO BE ADMINISTERED BY ANY MEMBER, AND ASSEMBLE SUCH RECORDS
7 AND DOCUMENTS AS MAY IN ITS DISCRETION BE DEEMED NECESSARY, WITH
8 THE SAME POWER AND AUTHORITY AS COURTS OF RECORD IN HEARING
9 CIVIL ACTIONS. THE COMMISSION MAY SUBPOENA DOCUMENTS AND
10 WITNESSES TO MAKE STATEMENTS AND PRODUCE DOCUMENTS ON A
11 MOTION TO ISSUE A SUBPOENA THAT HAS BEEN APPROVED BY AT LEAST
12 FOUR MEMBERS OF THE COMMISSION. THE COMMISSION MAY RETAIN AND
13 EMPLOY ONE OR MORE SPECIAL MASTERS AS NECESSARY TO ENABLE IT TO
14 EXECUTE ANY OF THE POWERS DELEGATED TO IT UNDER THIS SECTION.
15 ANY SUCH SPECIAL MASTER SHALL BE EXPERIENCED IN THE EVALUATION
16 OF SIMILAR OR RELATED CLAIMS.

17 (5) IN CONNECTION WITH ANY HEARING IT CONDUCTS UNDER THIS
18 PART 17 ON THE EVALUATION OF A CLAIM, THE COMMISSION IS NOT BOUND
19 BY THE STRICT RULES OF EVIDENCE, EXCEPT AS IT MAY BE PROVIDED BY
20 ITS OWN RULES, BUT SHALL CONDUCT ALL HEARINGS PUBLICLY AND IN A
21 FAIR AND IMPARTIAL MANNER, GIVING THE PARTIES THE FULL
22 OPPORTUNITY FOR THE PRESENTATION OF EVIDENCE, CROSS EXAMINATION
23 OF WITNESSES, AND ARGUMENT. THE COMMISSION SHALL EVALUATE
24 CLAIMS ON ANY REASONABLE BASIS IT FINDS APPROPRIATE UNDER THE
25 TOTALITY OF THE CIRCUMSTANCES.

26 (6) UPON THE COMPLETION OF ITS EVALUATION OF THE CLAIMS
27 BEFORE IT, THE COMMISSION SHALL PREPARE A REPORT CONTAINING A

1 PLAN FOR THE PAYMENT OF CLAIMS. AS SOON AS PRACTICABLE AFTER THE
2 COMMISSION HAS PRODUCED ITS REPORT, THE COMMISSION SHALL FILE THE
3 REPORT WITH THE JOINT BUDGET COMMITTEE, ALONG WITH COPIES OF ANY
4 SUPPORTING DOCUMENTATION THAT WAS USED IN THE PREPARATION OF
5 THE PLAN. ALL SUCH DOCUMENTATION SHALL BE MADE AVAILABLE TO
6 ANY MEMBER OF THE GENERAL ASSEMBLY. SUBJECT TO AVAILABLE
7 APPROPRIATIONS, THE JOINT BUDGET COMMITTEE SHALL EITHER:

8 (a) RECOMMEND THAT THE GENERAL ASSEMBLY APPROVE THE
9 PLAN RECOMMENDED BY THE COMMISSION IN ITS ENTIRETY OR
10 RECOMMEND THAT THE GENERAL ASSEMBLY MODIFY THE PLAN; OR

11 (b) DECLINE THE PLAN RECOMMENDED BY THE COMMISSION AND
12 TAKE NO ACTION THEREON.

13 (7) ANY PLAN APPROVED IN ITS ENTIRETY OR MODIFIED PURSUANT
14 TO PARAGRAPH (a) OF SUBSECTION (6) OF THIS SECTION SHALL BE
15 PRESENTED FOR THE CONSIDERATION OF THE GENERAL ASSEMBLY IN THE
16 FORM OF ONE OR MORE APPROPRIATION BILLS.

17 (8) NOTHING IN THIS PART 17 SHALL BE CONSTRUED TO REQUIRE
18 THE PAYMENT OF ANY CLAIM BY THE STATE.

19 **2-2-1707. Limitations on claims - finality of claim - release.**

20 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

21 (a) ANY AWARD TO BE PAID A CLAIMANT BY THE STATE IN
22 ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 17 SHALL BE
23 REDUCED TO THE EXTENT THE CLAIMANT'S LOSS IS BEING COVERED BY
24 ANOTHER SOURCE, INCLUDING, WITHOUT LIMITATION, ANY INSURANCE
25 PROCEEDS THAT HAVE BEEN PAID, OR WILL BE PAID, TO THE CLAIMANT,
26 AND NO INSURER SHALL HAVE A RIGHT OF SUBROGATION AGAINST THE
27 CLAIMANT FOR ANY AWARD PAID UNDER THIS PART 17.

1 (b) NONECONOMIC LOSS OR INJURY SUFFERED BY A CLAIMANT
2 SHALL NOT BE RECOVERABLE IN AN AWARD PAID UNDER THIS PART 17.

3 (c) NO PORTION OF THE AMOUNT OF ANY AWARD PAID UNDER THIS
4 PART 17 SHALL COVER ANY OF THE CLAIMANT'S ATTORNEY FEES.

5 (d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE
6 A PROSPECTIVE CLAIMANT TO SEEK THE RELIEF AUTHORIZED BY THIS PART
7 17 TO THE EXCLUSION OF ALL OTHER CIVIL REMEDIES PROVIDED BY LAW;
8 EXCEPT THAT A CLAIMANT WHO FILES A CLAIM WITH THE COMMISSION IN
9 ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 17 IS BARRED FROM
10 FILING AN ACTION AGAINST THE STATE ADDRESSING THE SAME SUBJECT
11 MATTER IN A STATE COURT.

12 (e) THE ACCEPTANCE BY A CLAIMANT OF ANY AWARD,
13 COMPROMISE, OR SETTLEMENT ON ANY CLAIM UNDER THE PROVISIONS OF
14 THIS PART 17 SHALL BE FINAL AND CONCLUSIVE ON THE CLAIMANT AND
15 CONSTITUTE A COMPLETE RELEASE OF ANY CLAIM THE CLAIMANT HAS OR
16 MAY HAVE AGAINST THE STATE OR A LOCAL GOVERNMENT, INCLUDING A
17 SPECIAL DISTRICT, OR ANY OF THE EMPLOYEES OF THE STATE OR LOCAL
18 GOVERNMENT, WHOSE ALLEGED ACTION OR OMISSION GAVE RISE TO THE
19 CLAIM.

20 **2-2-1708. Miscellaneous provisions - repeal of part.**

21 (1) NOTHING IN THIS PART 17 IS INTENDED OR SHALL BE CONSTRUED TO
22 ALTER THE PROVISIONS OF THE ACT.

23 (2) THIS PART 17 IS REPEALED, EFFECTIVE JULY 1, 2014.

24 **SECTION 2. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.