

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 14-1096.01 Bob Lackner x4350

SENATE BILL 14-223

SENATE SPONSORSHIP

Nicholson and Cadman, Carroll, Heath, Steadman

HOUSE SPONSORSHIP

Gerou and Young,

Senate Committees
Appropriations

House Committees
Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE PAYMENT BY THE STATE OF LEGAL CLAIMS ARISING**
102 **IN CONNECTION WITH THE LOWER NORTH FORK WILDFIRE, AND,**
103 **IN CONNECTION THEREWITH, MAKING AND REDUCING**
104 **APPROPRIATIONS.**

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>.)

Section 1 of the bill directs the state claims board (board) to compromise or settle claims brought by certain claimants who have

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 7, 2014

HOUSE
Amended 2nd Reading
May 6, 2014

SENATE
Amended 3rd Reading
May 5, 2014

SENATE
Amended 2nd Reading
May 2, 2014

suffered damages or other losses in connection with the lower north fork wildfire (wildfire) in March 2012 to reimburse them for their economic and noneconomic losses as well as interest on such amounts. The bill specifies that the total amount of the moneys paid to each claimant reflects the amount of money in excess of the liability limitations under current law for which the board recommended the claimant recover, any additional damages that the arbiters recommended the state pay these claimants in pending state court litigation, and interest on such amounts.

Upon approval by the board of the payments of the total claims, the office of the state controller is required to make payment to the claimants from the general fund no later than September 1, 2014.

In accepting the payment, a claimant agrees to release the state from any future claims arising out of the wildfire.

Section 2 of the bill specifies the total amount to be paid to each claimant by the state.

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

2

3 **SECTION 1. In Colorado Revised Statutes, 24-10-114, amend**
4 **(5) (a) as follows:**

5 **24-10-114. Limitations on judgments - recommendation to**
6 **general assembly - authorization of additional payment - lower north**
7 **fork wildfire claims - legislative declaration. (5) Notwithstanding the**
8 **maximum amounts that may be recovered from a public entity set forth**
9 **in subsection (1) of this section, an amount may be recovered from the**
10 **state under this article in excess of the maximum amounts only if**
11 **paragraph (a) or (b) of this subsection (5) applies:**

12 **(a) The general assembly acting by bill authorizes payment of**
13 **all or a portion of any judgment against the state that exceeds the**
14 **maximum amount. Any claimant may present EITHER proof of judgment**
15 **OR AN ORDER OF A DISTRICT COURT GRANTING A CLAIMANT'S REQUEST FOR**
16 **ENTRY OF JUDGMENT IN THE AMOUNT OF AN AWARD OF DAMAGES**
17 **RECOMMENDED BY A SPECIAL MASTER OR A COMPARABLE ORDER to the**

1 general assembly and request payment of that portion of the judgment
2 which OR ORDER THAT exceeds the maximum amount. Any portion of a
3 SUCH judgment OR ORDER approved for payment by the general assembly
4 shall be paid from the general fund.

5 **SECTION 2. Payment to claimants in connection with**
6 **lower north fork wildfire.** (1) Pursuant to section 24-10-114 (5) (a),
7 Colorado Revised Statutes, the general assembly hereby approves
8 payment of the total claims specified in the table contained in subsection
9 (5) of this section. Upon enactment of Senate Bill 14-223 and the
10 satisfaction of the conditions specified in this section, the office of the
11 state controller shall make such payment from the total claims to be paid
12 each claimant specified in the table no later than September 1, 2014.

13 (2) No insurer has a right of subrogation, assignment, or any other
14 right against the claimant for any payment or any portion of the payment
15 that is approved by the general assembly under this section.

16 (3) In accepting the payment for such claims authorized to be paid
17 pursuant to subsection (1) of this section, the claimant and any of the
18 claimant's successors, agents, heirs, and assigns, collectively referred to
19 as the "claimant", hereby forever release and discharge the state and any
20 of its officers, employees, and agents from any and all matters, claims,
21 complaints, charges, demands, damages, causes of action, debts,
22 liabilities, controversies, judgements, and suits of every kind and nature
23 whatsoever arising out of the lower north fork wildfire in March 2012, as
24 of the effective date of Senate Bill 14-223, whether foreseen or
25 unforeseen, known or unknown.

26 (4) Insofar as the compromise and settlement effected by Senate
27 Bill 14-223 addresses all outstanding claims arising out of the lower north

1 fork wildfire in a just and reasonable manner, the general assembly
 2 hereby strongly encourages the department of law to refrain from
 3 appealing the order dated April 24, 2014, regarding homeowners' requests
 4 for entry of judgement in the litigation entitled *In re the Lower North*
 5 *Fork Fire Litigation in Jefferson County District Court*, case no. 12 CV
 6 2550.

7 (5) The total amount of claims to be paid to each claimant is
 8 specified in the following table:

| Name of Claimant | Total Amount of Claim |
|---|-----------------------|
| Scott Appel, individually and on behalf of the heirs and estate of Ann Appel | \$4,779,480 |
| Joanne Baldwin, individually and her minor children and the Richard and Janet Pierce Family Trust | \$126,793 |
| Dan Brubaker and Patricia Brubaker | \$473,315 |
| John Campbell and Catherine Campbell | \$419,152 |
| Bruce Ellis, Mary Ann Ellis, and Bee Group, Inc. | \$364,439 |
| James M. Fildey and F. Jill Fildey | \$952,473 |
| Douglas Gulick, Kim Olson, for themselves and on behalf of their children, Rhoanabella, Quillan, and Kaleb | \$487,257 |
| Morey Gustafson and Denise Gustafson | \$62,866 |
| Andrew Hoover and Jean Hoover | \$2,560,811 |
| Kenneth Kobs and Susanne Kobs | \$425,923 |
| Maria Kuehster, Christine Kuehster, and Edward Kuehster | \$464,786 |
| Samuel Lucas, Jr., and Linda White, individually and as personal representatives of the estates of Samuel Lucas, Sr., and Linda Moaneti Lucas | \$1,360,895 |

| | | |
|----|---|--------------|
| 1 | Coe Meyer | \$775,867 |
| 2 | Jack Ogg and Mary Ogg | \$200,965 |
| 3 | Dennis and Nancy Pappas | \$1,187,500 |
| 4 | Thomas Scanlan, Sharon Scanlan, and Scanlan | |
| 5 | Associates Ltd. | \$906,761 |
| 6 | George and Claire Schmidt | \$184,670 |
| 7 | Jon Shirley, Amy Shirley, Sara Shirley, | |
| 8 | individually and on behalf of her minor children, | |
| 9 | Joshua and Ashley Warfel | \$1,649,510 |
| 10 | James Spoon and Aileen Spoon | \$165,500 |
| 11 | Mountain Area Land Trust (MALT) | \$87,590 |
| 12 | Total of all claims | \$17,636,554 |

13 **SECTION 3.** In Colorado Revised Statutes, 24-75-302, amend
14 **as added by House Bill 14-1342 (2) (aa) as follows:**

15 **24-75-302. Capital construction fund - capital assessment fees**
16 **- calculation.** (2) On July 1 of each year through July 1, 2014, the state
17 treasurer and the controller shall transfer a sum as specified in this
18 subsection (2) out of the general fund and into the capital construction
19 fund as moneys become available in the general fund during the fiscal
20 year beginning on said July 1. Transfers between funds pursuant to this
21 subsection (2) are not appropriations subject to the limitations of section
22 24-75-201.1. The amounts transferred pursuant to this subsection (2) are
23 as follows:

24 (aa) On July 1, 2014, two hundred twenty-four million ~~nine~~
25 ~~hundred ninety-three~~ THREE HUNDRED FIFTY-THREE thousand four
26 hundred sixty-five dollars.

27 **SECTION 4.** In Colorado Revised Statutes, 24-75-220 (4), as
28 **amended by House Bill 14-1342, add (4) (a) (III.3) and (4) (a) (III.4) as**

1 follows:

2 **24-75-220. State education fund - transfers - surplus -**
3 **legislative declaration.** (4) (a) Notwithstanding any provision of law to
4 the contrary, following the release of the preliminary certification by the
5 state controller for the fiscal year 2013-14 as specified in section
6 24-77-106.5 (1) (b), the director of research of the legislative council
7 shall work with the state controller to determine a preliminary figure
8 representing the estimated general fund surplus designated in accordance
9 with section 24-75-201 (1) for the fiscal year 2013-14. The state
10 controller shall provide such preliminary figure to the state treasurer, the
11 director of the office of state planning and budgeting, and the director of
12 the joint budget committee before September 15, 2014. On September 15,
13 2014, an amount equal to ninety percent of that preliminary figure is
14 allocated in the following order of priority:

15 (III.3) THE STATE TREASURER SHALL TRANSFER SIX HUNDRED
16 FORTY THOUSAND DOLLARS TO THE EMERGENCY CONTROLLED
17 MAINTENANCE ACCOUNT CREATED IN SECTION 24-75-302 (3.2);

18 (III.4) THE STATE TREASURER SHALL TRANSFER ONE MILLION
19 DOLLARS TO THE ECONOMIC DEVELOPMENT FUND CREATED IN SECTION
20 24-46-105 (1);

21 **SECTION 5. Appropriation to the department of human**
22 **services for the fiscal year beginning July 1, 2013.** In Session Laws of
23 Colorado 2013, **amend** section 2 of chapter 231, (SB 13-266), as section
24 2 is amended by section 3 of House Bill 14-1238, and as section 2 is
25 further amended by section 17 of House Bill 14-1336, as follows:

26 Section 2. **Appropriation.** (1) In addition to any other
27 appropriation, there is hereby appropriated, out of any moneys in the

1 general fund, not otherwise appropriated, to the department of human
2 services, for the fiscal year beginning July 1, 2013, the sum of \$5,660,072
3 \$1,378,179 and 0.9 FTE, or so much thereof as may be necessary, to be
4 allocated to behavioral health services for the implementation of this act
5 as follows:

6 (a) \$4,828,419 \$600,000 for co-occurring behavioral health
7 services, crisis response system–crisis stabilization units, mobile crisis
8 response, respite services, and marketing;

9 (b) \$758,720 \$705,246 for co-occurring behavioral health
10 services, crisis response system–telephone hotlines;

11 (c) \$67,280 and 0.9 FTE for administration, personal services; and

12 (d) \$5,653 for administration, operating expenses.

13 **SECTION 6. Appropriation.** In addition to any other
14 appropriation, there is hereby appropriated, out of any moneys in the
15 general fund not otherwise appropriated, to the department of personnel,
16 for the fiscal year beginning July 1, 2013, the sum of \$6,547,560, or so
17 much thereof as may be necessary, for allocation to the division of human
18 resources, risk management services, risk management program
19 administrative costs, for payment of all or any portion of any judgment
20 against the state that exceeds the maximum amount pursuant to section
21 24-10-114 (5) (a), Colorado Revised Statutes, as enacted by Senate Bill
22 14-223, enacted in 2014, related to the implementation of this act. Any
23 moneys appropriated in this section not expended prior to July 1, 2014,
24 are further appropriated to the department for the fiscal year beginning
25 July 1, 2014, for the same purposes.

26 **SECTION 7. Appropriation - adjustments to 2014 long bill.**

27 (1) For the implementation of this act, appropriations made in the annual

1 general appropriation act to the governor - lieutenant governor - state
2 planning and budgeting for the fiscal year beginning July 1, 2014, are
3 adjusted as follows:

4 (a) The general fund appropriation for economic development
5 programs, economic development commission - general economic
6 incentives and marketing, is decreased by \$1,000,000.

7 (b) The cash funds appropriation from the Colorado economic
8 development fund created in section 24-46-105 (1), Colorado Revised
9 Statutes, for economic development programs, economic development
10 commission - general economic incentives and marketing, is increased by
11 \$1,000,000. Said sum is conditioned upon the transfer of general fund
12 surplus to the Colorado economic development fund as specified in
13 section 24-75-220 (4) (a), Colorado Revised Statutes, as amended in
14 House Bill 14-1342.

15 (2) For the implementation of this act, appropriations made in the
16 annual general appropriation act for capital construction for the fiscal year
17 beginning July 1, 2014, are adjusted as follows:

18 (a) The cash funds appropriation from the capital construction
19 fund created in section 24-75-302 (1), Colorado Revised Statutes, for
20 controlled maintenance, department of personnel, emergency controlled
21 maintenance is decreased by \$640,000.

22 (b) The cash funds appropriation from the emergency controlled
23 maintenance account created in section 24-75-302 (3.2), Colorado
24 Revised Statutes, for controlled maintenance, department of personnel,
25 emergency controlled maintenance is increased by \$640,000. Said sum is
26 conditioned upon the transfer of general fund surplus to the emergency
27 controlled maintenance account as specified in section 24-75-220 (4) (a),

1 Colorado Revised Statutes, as amended in House Bill 14-1342.
2 (3) For the implementation of this act, the general fund
3 appropriation made in the annual general appropriation act to the
4 controlled maintenance trust fund created in section 24-75-302.5 (2) (a),
5 Colorado Revised Statutes, for the fiscal year beginning July 1, 2014, is
6 decreased by \$589,099.

7 **SECTION 8. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.