

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT
10.25.13

BILL 2

LLS NO. 14-0194.01 Kate Meyer x4348

INTERIM COMMITTEE BILL

Wildfire Matters Review Committee

SHORT TITLE: "Removal Of Trees By Local Govs To Reduce Fire Risk"

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZATION FOR CERTAIN LOCAL GOVERNMENTAL**
102 **ENTITIES TO CAUSE THE REMOVAL OF TREES THAT POSE FIRE**
103 **HAZARDS.**

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>.)

Wildfire Matters Review Committee. Currently, a county or municipality may act within its general police powers to remove, or compel the removal of, weeds and brush from lands within its jurisdiction. The bill includes trees within this power but conditions the

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

removal of trees on a finding that such removal is necessary to mitigate a fire hazard.

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

2 **SECTION 1.** In Colorado Revised Statutes, 30-15-401, **amend**
3 (1) (a) (I.5) (A) and (1) (a) (I.5) (C) as follows:

4 **30-15-401. General regulations - definitions.** (1) In addition to
5 those powers granted by sections 30-11-101 and 30-11-107 and by parts
6 1, 2, and 3 of this article, the board of county commissioners has the
7 power to adopt ordinances for control or licensing of those matters of
8 purely local concern that are described in the following enumerated
9 powers:

10 (a) (I.5) (A) To provide for and compel the removal of TREES,
11 weeds, and brush from lots and tracts of land within the county except
12 agricultural land currently in agricultural use as the term agricultural land
13 is defined in section 39-1-102 (1.6), C.R.S., and from the alleys behind
14 and from the sidewalk areas in front of such property at such time, upon
15 such notice, and in such manner as the board of county commissioners
16 may prescribe by ordinance, including removal performed by the county
17 upon notice to and failure of the property owner to remove such TREES,
18 weeds, and brush, and to assess the reasonable cost thereof, including ten
19 percent for inspection and other incidental costs in connection therewith,
20 upon the property from which such TREES, weeds, AND BRUSH have been
21 removed. Ordinances passed by a board of county commissioners for the
22 removal of TREES, weeds, and brush pursuant to this sub-subparagraph
23 (A) ~~shall~~ MUST include provisions for applying for and exercising an
24 administrative entry and seizure warrant issued by a county or district
25 court having jurisdiction over the property from which TREES, weeds, and

1 brush shall be removed. IN ADDITION, AN ORDINANCE THAT PROVIDES FOR
2 AND COMPELS THE REMOVAL OF TREES PURSUANT TO THIS
3 SUB-SUBPARAGRAPH (A) MUST REQUIRE THAT THE REMOVAL BE BASED ON
4 A REASONABLE DETERMINATION, MADE BY A FIRE CHIEF, FORESTER, OR
5 OTHER PERSON QUALIFIED TO MAKE SUCH DETERMINATIONS, THAT SUCH
6 REMOVAL IS NECESSARY TO MITIGATE A FIRE HAZARD. Any assessment
7 pursuant to this sub-subparagraph (A) shall be a lien against such property
8 until paid and shall have priority based on its date of recording. A county
9 shall not compel the removal of TREES, weeds, and brush pursuant to this
10 sub-subparagraph (A) upon any lot or tract of land within the county
11 during such time that a mortgage or deed of trust secured by the lot or
12 tract of land is being foreclosed upon.

13 (C) A county court or district court having jurisdiction over
14 property from which weeds, TREES, and brush ~~shall~~ WILL be removed
15 pursuant to the ordinances authorized by sub-subparagraph (A) of this
16 subparagraph (I.5) shall issue an administrative entry and seizure warrant
17 for the removal of such weeds, TREES, and brush. Such COURT SHALL
18 ISSUE THE warrant ~~shall be issued~~ upon presentation by a county of
19 ordinance provisions ~~which~~ THAT meet the requirements of
20 sub-subparagraph (A) of this subparagraph (I.5) and a sworn or affirmed
21 affidavit stating the factual basis for such warrant, evidence that the
22 property owner has received notice of the violation and has failed to
23 remove the TREES, weeds, and brush within a reasonable prescribed
24 period of time, a general description of the location of the property which
25 is the subject of the warrant, and the proposed disposal of such TREES,
26 weeds, and brush. Within ten days following the date of issuance of an
27 administrative entry and seizure warrant pursuant to ~~the provisions of this~~

1 sub-subparagraph (C), such warrant shall be executed in accordance with
2 directions by the issuing court, a copy of such issued warrant shall be
3 provided or mailed to the property owner, and proof of the execution of
4 such warrant shall be submitted to the court by the executing authority.

5 **SECTION 2.** In Colorado Revised Statutes, 31-15-401, **amend**
6 (1) (d) (I); and **add** (1) (d) (III) as follows:

7 **31-15-401. General police powers.** (1) In relation to the general
8 police power, the governing bodies of municipalities have the following
9 powers:

10 (d) (I) To provide for and compel the removal of TREES, weeds,
11 brush, and rubbish of all kinds from lots and tracts of land within such
12 municipalities and from the alleys behind and from the sidewalk areas in
13 front of such property at such time, upon such notice, and in such manner
14 as such municipalities prescribe by ordinance, and to assess the whole
15 cost thereof, including five percent for inspection and other incidental
16 costs in connection therewith, upon the lots and tracts of land from which
17 the TREES, weeds, brush, and rubbish are removed. The assessment ~~shall~~
18 ~~be~~ IS a lien against each lot or tract of land until paid and ~~shall have~~ HAS
19 priority over all other liens except general taxes and prior special
20 assessments.

21 (III) AN ORDINANCE THAT PROVIDES FOR AND COMPELS THE
22 REMOVAL OF TREES PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH
23 (d) MUST REQUIRE THAT THE REMOVAL BE BASED ON A REASONABLE
24 DETERMINATION, MADE BY A FIRE CHIEF, FORESTER, OR OTHER PERSON
25 QUALIFIED TO MAKE SUCH DETERMINATIONS, THAT SUCH REMOVAL IS
26 NECESSARY TO MITIGATE A FIRE HAZARD.

27 **SECTION 3. Safety clause.** The general assembly hereby finds,

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