

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

DRAFT
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BILL 3

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LLS NO. 15-0125.01 Bob Lackner x4350

INTERIM COMMITTEE BILL

Wildfire Matters Review Committee

BILL TOPIC: "Sov Immunity State Employ Prescribed Fire"

A BILL FOR AN ACT

101 **CONCERNING THE EXTENSION OF SOVEREIGN IMMUNITY TO COVER**
102 **STATE EMPLOYEES CONDUCTING PRESCRIBED FIRE ACTIVITY.**

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. The bill grants immunity from liability for tort claims to employee of the state conducting prescribed fire activity where the employee is officially certified or recognized by the state as being able to conduct such activity and is acting within the course and scope of his or her employment except where

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

otherwise provided by law or where the employee's act or failure to act giving rise to the claim of injury was willful or wanton.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-10-106.1, **amend**
3 (1), (2), and (3) as follows:

4 **24-10-106.1. Immunity and partial waiver - claims against the**
5 **state - state employees - injuries from prescribed fire - on or after**
6 **January 1, 2012.** (1) (a) Notwithstanding any other provision of this
7 article, the state ~~shall be~~ IS immune from liability in all claims for injury
8 that lie in tort or could lie in tort regardless of whether that may be the
9 type of action or the form of relief chosen by the claimant except as
10 provided otherwise in this section or section 24-10-106. In addition to any
11 other claims for which the state waives immunity under this article,
12 ~~sovereign immunity is waived by the state~~ WAIVES SOVEREIGN IMMUNITY
13 in an action for injuries resulting from a prescribed fire started or
14 maintained by the state or any of its employees on or after January 1,
15 2012.

16 (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,
17 AN EMPLOYEE OF THE STATE CONDUCTING PRESCRIBED FIRE ACTIVITY IS
18 IMMUNE FROM LIABILITY IN ALL CLAIMS FOR INJURY THAT LIE IN TORT OR
19 COULD LIE IN TORT REGARDLESS OF WHETHER THAT MAY BE THE TYPE OF
20 ACTION OR THE FORM OF RELIEF CHOSEN BY THE CLAIMANT WHERE THE
21 EMPLOYEE IS OFFICIALLY CERTIFIED OR RECOGNIZED BY THE STATE AS
22 BEING ABLE TO CONDUCT SUCH ACTIVITY AND IS ACTING WITHIN THE
23 COURSE AND SCOPE OF HIS OR HER EMPLOYMENT EXCEPT AS PROVIDED
24 OTHERWISE IN THIS SECTION OR SECTION 24-10-106 OR WHERE THE
25 EMPLOYEE'S ACT OR FAILURE TO ACT GIVING RISE TO THE CLAIM OF INJURY

1 WAS WILLFUL OR WANTON.

2 (2) SUBJECT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS
3 SECTION, nothing in this section ~~shall be construed to constitute~~
4 CONSTITUTES a waiver of sovereign immunity if the injury arises from any
5 act, or failure to act, of a state employee if the act is the type of act for
6 which the state employee would be or heretofore has been personally
7 immune from liability.

8 (3) SUBJECT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS
9 SECTION, in addition to the immunity provided under subsection (1) of
10 this section, the state ~~shall also have~~ HAS the same immunity as a state
11 employee for any act or failure to act for which a state employee would
12 be or heretofore has been personally immune from liability.

13 **SECTION 2. Effective date - applicability.** This act takes effect
14 July 1, 2015, and applies to claims asserted on or after said date.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety. **[ASK**
18 **COMMITTEE]**