



## Colorado State Fire Chiefs' Association

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### **Senate Bill 09-020** **Concerning the Responsibility for Responding to Wildland Fires** (Sen. Gibbs, Rep. Scanlan)

Senate Bill 09-020 is a product of the Interim Committee on Wildfire Issues in Wildland-Urban Interface Areas and creates a systematic, proactive approach to the management of wildland fire incidents in Colorado, regardless of cause, size, location, or complexity.

#### **Who is in Charge of Wildland Fires?**

This issue has been the subject of discussion for many years and has been the source of both confusion and conflict. Notwithstanding the confusion, both the county sheriff and the fire chief of fire protection districts have statutory responsibilities to fight wildland fires.

- Colorado statutes give county sheriffs the responsibility for managing forest or prairie fires [§30-10-513, C.R.S.]. The same statute provides that the state forester may assume the duty with concurrence of the sheriff.
- § 32-1-1002, C.R.S. states that the chief of the fire department in each fire protection district “. . . shall have authority over the supervision of all fires within the district.”

This apparent conflict in the statute was the subject of a formal Attorney General's Opinion [AGO 01-2, July 23, 2001], which concluded that “the legislature intended to give the fire chiefs authority over fires occurring on private property within their districts.” And, “in the absence of a fire protection district with a duty to fight fires on private property, this function becomes the responsibility of the sheriff. Not everyone agrees with this AGO, so the apparent statutory conflict continues.

The 2001 Report of the Governor's Wildland Urban Interface Working Group contained the recommendation to: “Provide statutory clarification regarding the fire protection responsibilities delegated to county sheriffs versus those held by local fire protection districts.” Both the County Sheriffs Association of Colorado and the Colorado State Fire Chiefs' Association were represented on this Working Group.

The primary purpose of SB09-020 is to provide statutory clarification regarding the fire protection responsibilities delegated to county sheriffs versus those held by local fire protection districts, to encourage planning for wildland fires in all counties and that such planning be conducted cooperatively between the sheriff and the fire chiefs of the county (so everyone that is expected to fight a wildland fire know what their respective responsibilities and liabilities are), and to clarify the role of the Colorado State Forest Service.

**“Serving the Chief Fire Officers of Colorado Since 1968”**

SB09-020 is an attempt to modernize the wildland fire statutes that were enacted in the early 1900's in order to provide a framework for the effective and efficient management of Colorado's wildland fire problem.

### **The "Strike Everything below the Enacting Clause (SEBEC)" Amendment to SB09-020**

The reason for the SEBEC Amendment to SB09-020 is simple. Because of the condensed time frames of the interim committee, not all stakeholders were involved in the drafting or review of the draft legislation. SB09-020, as introduced, expanded the responsibilities of the State Forest Service beyond those they currently have, which would have created a fiscal impact on the agencies. It also would have created new responsibilities on County Commissioners, including mandatory planning efforts.

The "Strike Below" amendment was a collaborative effort between the various stakeholders to address concerns they had with the original bill. It achieves the same goal, without fiscal impact or creating new unfunded mandates on local government.

### **What the Amendment Does**

The "Strike Below" amendment creates a systematic, proactive approach to the management of wildland fire incidents in Colorado, regardless of cause, size, location, or complexity.

**Section 1** – Identifies the legislative intent, defines terms, and describes the basic framework for the planning for and management of wildland fire incidents. This is based on the universally adopted National Incident Management System, which provides a unified approach to incident management; standard command and management structures; and emphasis on preparedness, mutual aid and resource management. Responsibility for incident management and resource coordination transfers as the complexity of the incident and the need for resources increases.

The general framework described in Section 1 of the Amendment is:

- The fire chief of the fire protection district is responsible for all fires, including wildland fires, occurring within the jurisdictional boundaries of the district;
- In the event a wildland fire exceeds the capability of the district fire chief to manage with his/her own and mutual aid resources, the responsibility for the coordination of fire suppression efforts transfers to the county sheriff;
- In these instances, the sheriff would appoint a local incident management team to provide the command and control infrastructure required to manage the fire. The sheriff also assumes financial responsibility for fire fighting efforts on behalf of the county and the authority for the ordering and tracking of resources.
- The sheriff is also responsible for the planning for and the coordination of fire suppression efforts of wildfires which occur in unincorporated areas of the county outside the boundaries of a fire protection district.

- When a wildfire exceeds the capability of the county to control or extinguish, the sheriff shall be responsible for seeking the assistance of the state, by requesting assistance from the Colorado State Forest Service. The sheriff and the state forester shall enter into agreements concerning the transfer of authority and responsibility for fire suppression, and the retention of responsibilities under a unified command structure.
- In case of a wildland fires that exceed the capability of the county to control or extinguish, the Colorado State Forest Service may assist the sheriff in controlling or extinguishing such fires, and may assume command of such incidents with the concurrence of the sheriff, under a unified command structure.
- The Colorado State Forest Service is designated as the lead state agency for wildland fire suppression, and may provide wildland fire management services to other state agencies through memorandum of understanding or other cooperative agreements. The State Forest Service also maintains agreements with the U.S. Forest Service and other federal land management agencies for fires that exceed their management capability.

Section 1 also encourages the sheriff of each county to develop and update as necessary a wildfire preparedness plan for the unincorporated area of the county in cooperation with any fire district with jurisdiction over any unincorporated area of the county. It also identifies what such a plan should include.

**Section 2** – Modifies existing statutes concerning the governor's emergency fund in order to clarify that the fund may be for the purpose of preventing and suppressing wildland fires in addition to forest fires (existing statute reads forest fires).

**Section 3** – Modifies existing statutes concerning the responsibility of the State Forest Service to clarify that it includes wildland fires in addition to forest fires (existing statute reads forest fires).

**Section 4** – Modifies existing statute to clarify that the sheriff is responsible for the coordination of fire suppression efforts in case of prairie, forest, or wildland fires which occur in unincorporated areas of the county outside the boundaries of a fire protection district, or which exceed the capabilities of the fire protection district(s) to control or extinguish.

**Section 5** - Modifies existing statute to specify the duties of the sheriff with respect to the coordination of fire suppression efforts in case of prairie, forest, or wildland fires.

**Section 6** – Modifies existing statute to clarify that the fire chief of the fire protection district is responsible for all fires occurring within the jurisdictional boundaries of the district, and that wildland fires which exceeds the capabilities of the district to control or extinguish shall transfer to the county sheriff.

**Section 7** – Effective date. Specifies that Subsection 29-22.5-104(6) does not take effect unless SB09-01 is enacted.

**Section 8** – Safety clause.