

NOTE: The governor signed this measure on 5/25/2013.

An Act

SENATE BILL 13-288

BY SENATOR(S) Cadman and Morse, Nicholson, Lambert, Aguilar, Baumgardner, Brophy, Carroll, Crowder, Giron, Grantham, Guzman, Harvey, Heath, Hill, Hodge, Hudak, Jahn, Johnston, Jones, Kefalas, Kerr, King, Lundberg, Marble, Newell, Renfroe, Roberts, Scheffel, Schwartz, Steadman, Tochtrop, Todd, Ulibarri, Balmer;
also REPRESENTATIVE(S) Levy and Gerou, Labuda, Young, Ferrandino.

CONCERNING THE PROCESS BY WHICH THE GENERAL ASSEMBLY APPROVES RECOMMENDATIONS MADE BY THE STATE CLAIMS BOARD FOR AN ADDITIONAL PAYMENT TO CLAIMANTS THAT EXCEEDS THE MAXIMUM LIABILITY UNDER THE "COLORADO GOVERNMENTAL IMMUNITY ACT".

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

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

24-10-114. Limitations on judgments - recommendation to general assembly - authorization of additional payment. (5) Notwithstanding the maximum amounts that may be recovered from a public entity set forth in subsection (1) of this section, an amount may be recovered from the state under this article in excess of the maximum

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

amounts only if paragraph (a) or (b) of this subsection (5) applies:

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH (b), the state claims board created in section 24-30-1508 (1), REFERRED TO IN THIS PARAGRAPH (b) AS THE BOARD, acting in accordance with its authority under section 24-30-1515, compromises or settles a claim on behalf of the state for the maximum liability limits under this article and determines, in its sole discretion, to recommend to the general assembly that AN ADDITIONAL PAYMENT BE MADE AND the general assembly, by bill, ~~authorize~~ AUTHORIZES all or any portion of ~~an~~ THE additional payment. In determining whether to make such recommendation, the ~~claims~~ board shall consider interests of fairness, the public interest, and the interests of the state. A recommendation made under this paragraph (b) shall not include payment for noneconomic loss or injury and shall be reduced to the extent the claimant's loss is or will be covered by another source, including, without limitation, any insurance proceeds that have been paid or will be paid, and no insurer ~~shall have~~ HAS a right of subrogation, assignment, or any other right against the claimant or the state for any additional payment or any portion of such payment that is approved by the general assembly. Any additional payment or any portion of such payment approved by the general assembly shall be paid from the general fund. FOR PURPOSES OF THIS PARAGRAPH (b), AN "ADDITIONAL PAYMENT" MEANS THE PAYMENT TO A CLAIMANT IN EXCESS OF THE MAXIMUM LIABILITY LIMITS PURSUANT TO THIS PARAGRAPH (b) THAT MAY BE AUTHORIZED BY THE GENERAL ASSEMBLY UPON A RECOMMENDATION FROM THE BOARD.

(II) IN CONNECTION WITH A RECOMMENDATION MADE BY THE BOARD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) TO MAKE AN ADDITIONAL PAYMENT TO ONE OR MORE CLAIMANTS RESULTING FROM A CLAIM OF AN INJURY ARISING OUT OF THE LOWER NORTH FORK WILDFIRE IN MARCH 2012 THAT IS RECEIVED BY THE GENERAL ASSEMBLY WHILE THE GENERAL ASSEMBLY IS ADJOURNED SINE DIE, UPON CERTIFICATION FROM THE DEPARTMENT OF LAW THAT THE REQUIREMENTS OF THIS PARAGRAPH (b) HAVE BEEN SATISFIED AND ON OR AFTER JULY 1, 2013, THE OFFICE OF THE STATE CONTROLLER MAY PAY ONE OR MORE ADDITIONAL PAYMENTS TO SUCH CLAIMANTS FROM MONEYS PREVIOUSLY APPROPRIATED BY BILL UNTIL SUCH SPECIFICALLY APPROPRIATED MONEYS ARE EXHAUSTED OR REPLENISHED.

(III) IN CONNECTION WITH ANY CLAIM ARISING OUT OF AN INJURY

OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (III) THAT IS NOT DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), WHERE THE BOARD HAS MADE A RECOMMENDATION TO THE GENERAL ASSEMBLY FOR AN ADDITIONAL PAYMENT UNDER THIS PARAGRAPH (b) WHILE THE GENERAL ASSEMBLY IS ADJOURNED SINE DIE, THE PAYMENT IS AUTHORIZED WHERE ALL OF THE MEMBERS OF THE JOINT BUDGET COMMITTEE HAVE VOTED TO AUTHORIZE THE ADDITIONAL PAYMENT; EXCEPT THAT PAYMENT IN ACCORDANCE WITH THE RECOMMENDATION SHALL NOT BE MADE UNTIL THE GENERAL ASSEMBLY HAS RATIFIED BY BILL THE AUTHORIZATION TO MAKE THE PAYMENT.

SECTION 2. Applicability. This act applies to additional payments made on or after January 1, 2013.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

John P. Morse
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO