

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 13-1011.01 Bob Lackner x4350

SENATE BILL 13-288

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A BILL FOR AN ACT

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

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>.)

Current law authorizes a person with tort claims against the state

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
2nd Reading Unamended
May 6, 2013

SENATE
3rd Reading Unamended
May 6, 2013

SENATE
2nd Reading Unamended
May 6, 2013

brought under the "Colorado Governmental Immunity Act" (CGIA) to recover an additional payment against the state where the state claims board (board) compromises or settles a claim on behalf of the state for the maximum liability limits under the CGIA and determines, in its sole discretion, to recommend to the general assembly that the general assembly, by bill, authorize all or any portion of the additional payment.

The bill makes the following modifications to these provisions:

- ! The bill clarifies the existing method for exceeding the CGIA limit based on the board recommendation and authorization through a bill.
- ! In connection with a recommendation made by the board to make a 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 board process has been satisfied and on or after July 1, 2013, the bill authorizes the office of the state controller to pay one or more additional payments to such claimants from moneys previously appropriated by bill until such specifically appropriated moneys are exhausted or replenished.
- ! In connection with any claim arising out of an injury occurring on or after the effective date of the bill that does not arise out of the lower north fork wildfire, where the board has made a recommendation to the general assembly for an additional payment while the general assembly has 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 the bill prohibits payment from being made until the general assembly has ratified by bill the authorization to make the payment.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-10-114, **amend**

3 (5) (b) as follows:

4 **24-10-114. Limitations on judgments - recommendation to**
5 **general assembly - authorization of additional payment.**

6 (5) Notwithstanding the maximum amounts that may be recovered from

1 a public entity set forth in subsection (1) of this section, an amount may
2 be recovered from the state under this article in excess of the maximum
3 amounts only if paragraph (a) or (b) of this subsection (5) applies:

4 (b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (II)
5 AND (III) OF THIS PARAGRAPH (b), the state claims board created in section
6 24-30-1508 (1), REFERRED TO IN THIS PARAGRAPH (b) AS THE BOARD,
7 acting in accordance with its authority under section 24-30-1515,
8 compromises or settles a claim on behalf of the state for the maximum
9 liability limits under this article and determines, in its sole discretion, to
10 recommend to the general assembly that AN ADDITIONAL PAYMENT BE
11 MADE AND the general assembly, by bill, ~~authorize~~ AUTHORIZES all or any
12 portion of ~~an~~ THE additional payment. In determining whether to make
13 such recommendation, the ~~claims~~ board shall consider interests of
14 fairness, the public interest, and the interests of the state. A
15 recommendation made under this paragraph (b) shall not include payment
16 for noneconomic loss or injury and shall be reduced to the extent the
17 claimant's loss is or will be covered by another source, including, without
18 limitation, any insurance proceeds that have been paid or will be paid, and
19 no insurer ~~shall have~~ HAS a right of subrogation, assignment, or any other
20 right against the claimant or the state for any additional payment or any
21 portion of such payment that is approved by the general assembly. Any
22 additional payment or any portion of such payment approved by the
23 general assembly shall be paid from the general fund. FOR PURPOSES OF
24 THIS PARAGRAPH (b), AN "ADDITIONAL PAYMENT" MEANS THE PAYMENT
25 TO A CLAIMANT IN EXCESS OF THE MAXIMUM LIABILITY LIMITS PURSUANT
26 TO THIS PARAGRAPH (b) THAT MAY BE AUTHORIZED BY THE GENERAL
27 ASSEMBLY UPON A RECOMMENDATION FROM THE BOARD.

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

13 (III) IN CONNECTION WITH ANY CLAIM ARISING OUT OF AN INJURY
14 OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH
15 (III) THAT IS NOT DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH
16 (b), WHERE THE BOARD HAS MADE A RECOMMENDATION TO THE GENERAL
17 ASSEMBLY FOR AN ADDITIONAL PAYMENT UNDER THIS PARAGRAPH (b)
18 WHILE THE GENERAL ASSEMBLY IS ADJOURNED SINE DIE, THE PAYMENT IS
19 AUTHORIZED WHERE ALL OF THE MEMBERS OF THE JOINT BUDGET
20 COMMITTEE HAVE VOTED TO AUTHORIZE THE ADDITIONAL PAYMENT;
21 EXCEPT THAT PAYMENT IN ACCORDANCE WITH THE RECOMMENDATION
22 SHALL NOT BE MADE UNTIL THE GENERAL ASSEMBLY HAS RATIFIED BY BILL
23 THE AUTHORIZATION TO MAKE THE PAYMENT.

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

26 **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.