

# STATE and LOCAL FISCAL IMPACT

**Drafting Number:** LLS 13-0115**Date:** January 28, 2013**Prime Sponsor(s):** Sen. Roberts; Nicholson  
Rep. Gerou; Levy**Bill Status:** Senate Judiciary**Fiscal Analyst:** Alex Schatz (303-866-4375)

**TITLE:** CONCERNING THE CREATION OF A PRESCRIBED BURNING PROGRAM UNDER THE DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY, AND, IN CONNECTION THEREWITH, SPECIFYING THE POWERS AND DUTIES OF THE DIVISION AND ITS DIRECTOR WITH RESPECT TO THAT PROGRAM.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
<b>State Revenue</b>		
Cash Funds		
Firefighter, First Responder, Hazardous Materials Responder, and Prescribed Fire Training and Certification Fund		\$90,000
<b>State Expenditures</b>		
Various DNR Cash Funds *		\$15,000
Federal Funds **	88,970**	79,288**
<b>FTE Position Change</b>		
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2013-2014:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

\* Expenditures in the Department of Natural Resources (DNR) are from various cash fund sources. For land management of state parks and wildlife areas, key cash fund sources include the Parks and Outdoor Recreation Cash Fund, the Wildlife Cash Fund, the Great Outdoors Colorado Program, and the Operational Account of the Severance Tax Trust Fund.

\*\* Federal funds are not subject to appropriation and are included for informational purposes only. However, of this amount, \$4,635 must be directed to the Department of Law for legal services in FY 2013-14.

## Summary of Legislation

This bill, recommended by the **Lower North Fork Wildfire Commission**, defines the role of the Division of Fire Prevention and Control in the Department of Public Safety (DPS), and specific duties related to the division. The division is charged with implementing a prescribed burning program; developing appropriate rules and standards; enforcing and directing government efforts to address catastrophic and escaped fire. Minimum prescribed burning standards adopted by rule must include a requirement that a state certified prescribed burn manager or a nationally qualified burn boss be present on site for the duration of any prescribed burn.

With other agencies, including local and federal government, the state, through the division director, may cooperate in multiagency units "to conduct joint prescribed burning operations on wildlands and federal lands."

The prescribed burning program creates specific duties for the division, including:

- training, testing, and certifying prescribed burn managers;
- conducting rulemaking in consultation with affected agencies;
- administering intergovernmental agreement (IGAs) and contracts, including joint prescribed burning operations;
- providing advisory services;
- instituting a public information campaign ("subject to available funding"); and
- investigating escaped prescribed fires.

## **Background**

In 2012, House Bill 12-1283 created the Division of Fire Prevention and Control in the DPS. The division is the result of merging the former Division of Fire Safety in DPS and the wildfire-related functions formerly delegated to the Colorado State Forest Service (CSFS, under Colorado State University). Pursuant to HB 12-1283, the division received a \$293,500 three-year federal grant, applied for by the CSFS earlier in 2012, to develop, implement, and administer the prescribed burning program.

## **State Revenue**

By the end of FY 2014-15, the division must collect and have available in the Firefighter, First Responder, Hazardous Materials Responder, and Prescribed Fire Training and Certification Fund (the DPFC Fund) in the DPS at least \$90,000 annually.

Following rulemaking to set fees, the bill increases cash fund revenue to the DPFC Fund. Fees collected by the division must be sufficient to cover all the division's direct costs associated with training and certification of an estimated 360 prescribed burn managers. For the three-year duration of a federal grant, costs of the prescribed burning program will be covered by federal funds. However, for cash funding to be available for expenditures commencing in FY 2015-16, the fiscal note assumes that fees will be set by rule in FY 2013-14 and collected into the fund commencing in FY 2014-15.

**Fee Impact on Individuals, Families or Business.** Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 1 illustrates the estimated fees for prescribed burn managers, collected beginning in FY 2014-15.

<b>Table 1. Fee Impact on Certified Prescribed Burn Managers</b>				
<b>Type of Fee</b>	<b>Current Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
Prescribed Burn Manager Certification (annual)	n/a	\$250	360	\$90,000
<b>TOTAL</b>				<b>\$90,000</b>

## State Expenditures

**Expenditures under the bill total \$88,970 in FY 2013-14 and \$78,328 in FY 2014-15.**

Table 2 summarizes costs associated with the expansion of the prescribed burning program.

<b>Table 2. New Department of Public Safety Expenditures Under SB 13-083</b>		
<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Personal Services	\$63,385	\$65,378
Operating Expenses	950	950
Program Set-Up (rulemaking, etc.)	20,000	
Other Costs (informational campaign, etc.)		10,455
Legal Services	4,635	1,545
<b>TOTAL</b>	<b>\$88,970</b>	<b>\$78,328</b>

**Department of Public Safety.** Increased costs in the DPS are the result of both one-time costs associated with rulemaking and ongoing increased in workload associated with new applicants for certification and the investigation of escaped prescribed fires. This workload increase creates the need for a General Professional IV or an equivalent, at a current annual salary of \$56,796. The fiscal note assumes that one-time DPS costs to conduct rulemaking, establish form agreements, and other program set-up under the bill will be \$20,000.

**Funding in the DPS.** New workload under the bill has been assigned to existing Division of Fire Prevention and Control personnel based on realignment under HB 12-1283, paid for using the federal grant. However, once federal funding expires, this fiscal note assumes at least one existing staff person must be funded from the division's cash fund pursuant to this bill.

**Department of Law.** The DPS is required to promulgate rules related to the certification of prescribed burn managers, including fees to cover the costs of the certification, and rules establishing minimum prescribed burning standards. The promulgation of rules involves advisement and representation of the division by the Department of Law. Legal counsel is also necessary for the division to enter into IGAs and to develop master agreements and contracts for burn management services. In FY 2013-14, the Department of Law will provide legal services totaling 60 hours (60 hr. \* \$77.25/hr. = \$4,635), to support implementation of the bill. In subsequent fiscal years, the Department of Law will provide 20 hours (20 hr. \* \$77.25/hr. = \$1,545) of ongoing contract review and case monitoring.

**Department of Natural Resources.** To effectively maintain its state lands, the Department of Natural Resources must obtain prescribed burn manager certifications for at least 60 individuals, at a cost of \$15,000 annually.

**Other agencies.** The bill indicates that other departments will consider and provide input relative to programs and rules in the division. For example, the CSFS is expected to be consulted concerning the substance of minimum prescribed burning standards. The Department of Public Health also participates in policy discussions regarding prescribed fire as an air emissions issue. New prescribed burning regulations may incidentally effect the practices of the State Wildland Inmate Fire Team (SWIFT) in the Department of Corrections. Though broad-reaching, the fiscal effects of the bill on other agencies will be minimal and absorbed within affected agencies' current appropriations.

### **Expenditures Not Included**

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 3.

<b>Table 3. Expenditures Not Included Under HB 13-083*</b>		
<b>Costs Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$6,158	\$6,158
Supplemental Employee Retirement Payments	3,891	4,402
<b>TOTAL</b>	<b>\$10,049</b>	<b>\$10,560</b>

\*More information is available at: <http://colorado.gov/fiscalnotes>

### **Local Government Impact**

Local governments will incur costs to provide prescribed burn manager credentials to all qualified and necessary employees serving in this role. This bill may affect many employees of certain rural or large fire departments and fire protection districts. The bill is likely to incur some cost on local governments that own and operate open space properties.

No information is available regarding the number of certified prescribed burn managers required to address existing levels of prescribed burning conducted by local governments, but this fiscal note assumes that at least 300 local government entities manage rights-of-way, open space, parks, wildlands, or other land parcels that may warrant the use of prescribed burning.

The bill does not affect most existing open burning permit systems in Colorado counties.

**State Appropriations**

State expenditures in the Department of Public Safety in FY 2013-14, including \$4,635 for legal services by the Department of Law, are supported by federal funds and are not subject to appropriation.

**Departments Contacted**

Public Safety  
Law  
Corrections  
Agriculture

Personnel and Administration  
Higher Education (CSU-CSFS)  
Transportation

Public Health and Environment  
Natural Resources  
Local Affairs