

WILDLAND FIRE POLICY UPDATES

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Joel K. Briscoe

LONG TITLE

General Description:

This bill modifies procedures surrounding the management of wildland fire.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a municipality to abate uncontrolled wildfire on private or municipality-owned land within its boundaries, under certain circumstances;
- ▶ authorizes a city, town, county, or certain special districts to enter into a cooperative agreement with the Division of Forestry, Fire, and State Lands;
- ▶ states that a city, town, county, or special district that enters into a cooperative agreement may be eligible to have the costs of catastrophic wildland fire suppression paid by the state;
- ▶ states that a city, town, county, or special district that does not enter into a cooperative agreement shall be responsible for wildland fire suppression costs within its jurisdiction;
- ▶ describes the requirements to enter into a cooperative agreement; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

- 31 11-7-1, as last amended by Laws of Utah 1986, Chapter 175
- 32 15A-5-203, as last amended by Laws of Utah 2015, Chapter 158
- 33 65A-1-1, as last amended by Laws of Utah 2013, Chapter 413
- 34 65A-3-3, as last amended by Laws of Utah 2013, Chapter 237
- 35 65A-8-101, as last amended by Laws of Utah 2008, Chapter 20
- 36 65A-8-103, as last amended by Laws of Utah 2015, Chapter 33
- 37 65A-8-201, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 38 65A-8-202, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 39 65A-8-203, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 40 65A-8-204, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 41 65A-8-206, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 42 65A-8-207, as last amended by Laws of Utah 2008, Chapter 382
- 43 65A-8-209, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 44 65A-8-210, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 45 65A-8-211, as renumbered and amended by Laws of Utah 2007, Chapter 136

46 ENACTS:

- 47 65A-8-202.5, Utah Code Annotated 1953
- 48 65A-8-203.1, Utah Code Annotated 1953
- 49 65A-8-203.2, Utah Code Annotated 1953
- 50 65A-8-209.1, Utah Code Annotated 1953

51 REPEALS:

- 52 65A-8-103.5, as enacted by Laws of Utah 2015, Chapter 33
- 53 65A-8-205, as last amended by Laws of Utah 2011, Chapter 342
- 54 65A-8-208, as renumbered and amended by Laws of Utah 2007, Chapter 136



56 *Be it enacted by the Legislature of the state of Utah:*

57 Section 1. Section 11-7-1 is amended to read:

58 **11-7-1. Cooperation with other governmental units -- Burning permits --**

59 **Contracts.**

60 (1) The governing body of every incorporated municipality and the board of
61 commissioners or county council of every county shall:

62 (a) provide adequate fire protection within their own territorial limits; and ~~shall~~

63 (b) cooperate with all contiguous counties, municipal corporations, private
64 corporations, fire districts, state agencies, or federal governmental agencies to maintain
65 adequate fire protection within their territorial limits.

66 (2) Every incorporated municipality and every county may:

67 (a) require that persons obtain a burning permit before starting a fire on any forest,
68 wildland urban interface, brush, range, grass, grain, stubble, or hay land, except that a
69 municipality or county may not require a burning permit for the burning of fence lines on
70 cultivated lands, canals, or irrigation ditches, provided that the individual notifies the nearest
71 fire department of the approximate time that the burning will occur;

72 (b) maintain and support a fire-fighting force or fire department for its own protection;

73 (c) contract to furnish fire protection to any proximate county, municipal corporation,
74 private corporation, fire district, state agency, or federal agency;

75 (d) contract to receive fire protection from any contiguous county, municipal
76 corporation, private corporation, fire district, state agency, or federal governmental agency;

77 (e) contract to jointly provide fire protection with any contiguous county, municipal
78 corporation, private corporation, fire district, state agency, or federal governmental agency; or

79 (f) contract to contribute toward the support of a fire-fighting force, or fire department
80 in any contiguous county, municipal corporation, private corporation, fire district, state agency,
81 or federal governmental agency in return for fire protection.

82 Section 2. Section **15A-5-203** is amended to read:

83 **15A-5-203. Amendments and additions to IFC related to fire safety, building, and**
84 **site requirements.**

85 (1) For IFC, Chapter 5, Fire Service Features:

86 (a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as
87 follows: "An authority having jurisdiction over a structure built in accordance with the
88 requirements of the International Residential Code as adopted in the State Construction Code,
89 may require an automatic fire sprinkler system for the structure only by ordinance and only if

90 any of the following conditions exist:

91 (i) the structure:

92 (A) is located in an urban-wildland interface area as provided in the Utah Wildland
93 Urban Interface Code adopted as a construction code under the State Construction Code; and

94 (B) does not meet the requirements described in Utah Code, Subsection
95 ~~[65A-8-203(3)(a)]~~ 65A-8-203(4)(a) and Utah Administrative Code, R652-122-200, Minimum
96 Standards for Wildland Fire Ordinance;

97 (ii) the structure is in an area where a public water distribution system with fire
98 hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main
99 Design;

100 (iii) the only fire apparatus access road has a grade greater than 10% for more than 500
101 continual feet; or

102 (iv) (A) the water supply to the structure does not provide at least 500 gallons fire flow
103 per minute for a minimum of 30 minutes, if the total square foot living space of the structure is
104 equal to or less than 5,000 square feet;

105 (B) the water supply to the structure does not provide at least 750 gallons per minute
106 fire flow for a minimum of 30 minutes, if the total square foot living space exceeds 5,000
107 square feet, but is equal to or less than 10,000 square feet; or

108 (C) the water supply to the structure does not provide at least 1,000 gallons per minute
109 fire flow for a minimum of 30 minutes, if the total square foot living space exceeds 10,000
110 square feet."

111 (b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as
112 follows: "Where access to or within a structure or an area is restricted because of secured
113 openings or where immediate access is necessary for life-saving or fire-fighting purposes, the
114 fire code official, after consultation with the building owner, may require a key box to be
115 installed in an approved location. The key box shall contain keys to gain necessary access as
116 required by the fire code official. For each fire jurisdiction that has at least one building with a
117 required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating
118 rule or policy that creates a process to ensure that each key to each key box is properly
119 accounted for and secure."

120 (c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings,

121 is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling
122 when the authority having jurisdiction over the dwelling determines that the development of a
123 full fire-flow requirement is impractical."

124 (d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as
125 follows "Total water supply requirements shall not exceed the fire flows described in Section
126 501.5(iv) for the largest one- or two-family dwelling, protected by an automatic fire sprinkler
127 system, on a subdivision lot platted before December 31, 1980, unless the municipality or
128 county in which the lot is located provides the required fire flow capacity."

129 (e) In IFC, Chapter 5, Section 510.1, Emergency Responder Radio Coverage in New
130 Buildings, is amended by adding: "When required by the fire code official," at the beginning of
131 the first paragraph.

132 (2) For IFC, Chapter 6, Building Services and Systems:

133 (a) In IFC, Chapter 6, Section 605.11.3.3.1, Access, is deleted and rewritten as follows:
134 "There shall be a minimum three foot wide (914 mm) clear perimeter around the edges of the
135 roof."

136 (b) In IFC, Chapter 6, Section 605.11.3.3.2, Pathways, is deleted and rewritten as
137 follows: "The solar installation shall be designed to provide designated pathways. The
138 pathways shall meet the following requirements:

139 1. The pathway shall be over areas capable of supporting the live load of fire fighters
140 accessing the roof.

141 2. The centerline axis pathways shall be provided in both axes of the roof. Centerline
142 axis pathways shall run where the roof structure is capable of supporting the live load of fire
143 fighters accessing the roof.

144 3. Smoke and heat vents required by Section 910.2.1 or 910.2.2 of this Code, shall be
145 provided with a clear pathway width of not less than three feet (914 mm) to vents.

146 4. Access to roof area required by Section 504.2 or 1009.16 of this Code, shall be
147 provided with a clear pathway width of not less than three feet (914 mm) around access
148 opening and at least three feet (914 mm) clear pathway to parapet or roof edge."

149 (c) In IFC, Chapter 6, Section 605.11.3.2, Residential Systems for One and Two
150 Family Dwellings, is deleted and rewritten as follows: "Access to residential systems for one
151 and two family dwellings shall be provided in accordance with Sections 605.11.3.2.1 through

152 605.11.3.2.4.

153 Exception: Reduction in pathways and clear access width shall be permitted where
154 shown that a rational approach has been used and that such reductions are warranted when
155 approved by the Fire Code Official."

156 (d) In IFC, Chapter 6, Section 605.11.3.3.3, Smoke Ventilation, is deleted and
157 rewritten as follows: "The solar installation shall be designed to meet the following
158 requirements:

159 1. Arrays shall be no greater than 150 feet (45.720 mm) by 150 feet (45.720 mm) in
160 distance in either axis in order to create opportunities for fire department smoke ventilation
161 operations.

162 2. Smoke ventilation options between array sections shall be one of the following:

163 2.1. A pathway six feet (1829 mm) or greater in width.

164 2.2. A three foot (914 mm) or greater in width pathway and bordering roof skylights or
165 smoke and heat vents when required by Section 910.2.1 or Section 910.2.2 of this Code.

166 2.3. Smoke and heat vents designed for remote operation using devices that can be
167 connected to the vent by mechanical, electrical, or any other suitable means, shall be protected
168 as necessary to remain operable for the design period. Controls for remote operation shall be
169 located in a control panel, clearly identified and located in an approved location."

170 (e) In IFC, Chapter 6, Section 607.4, Elevator Key Location, is deleted and rewritten as
171 follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or
172 similar box with corresponding key system that is adjacent to the elevator for immediate use by
173 the fire department. The key box shall contain one key for each elevator, one key for lobby
174 control, and any other keys necessary for emergency service. The elevator key box shall be
175 accessed using a 6049 numbered key."

176 (f) In IFC, Chapter 6, Section 609.1, General, is amended as follows: On line three,
177 after the word "Code", add the words "and NFPA 96".

178 (3) For IFC, Chapter 7, Fire-Resistance-Rated Construction, IFC, Chapter 7, Section
179 703.2, is amended to add the following: "Exception: In Group E Occupancies, where the
180 corridor serves an occupant load greater than 30 and the building does not have an automatic
181 fire sprinkler system installed, the door closers may be of the friction hold-open type on
182 classrooms' doors with a rating of 20 minutes or less only."

183 Section 3. Section **65A-1-1** is amended to read:

184 **65A-1-1. Definitions.**

185 As used in this title:

186 (1) "Division" means the Division of Forestry, Fire, and State Lands.

187 (2) "Initial attack" means action taken by the first resource to arrive at a wildland fire
188 incident, including evaluating the wildland fire, patrolling, monitoring, holding action, or
189 aggressive suppression action.

190 [~~(2)~~] (3) "Multiple use" means the management of various surface and subsurface
191 resources in a manner that will best meet the present and future needs of the people of this
192 state.

193 [~~(3)~~] (4) "Public trust assets" means those lands and resources, including sovereign
194 lands, administered by the division.

195 [~~(4)~~] (5) "Sovereign lands" means those lands lying below the ordinary high water
196 mark of navigable bodies of water at the date of statehood and owned by the state by virtue of
197 its sovereignty.

198 [~~(5)~~] (6) "State lands" means all lands administered by the division.

199 [~~(6)~~] (7) "Sustained yield" means the achievement and maintenance of high level
200 annual or periodic output of the various renewable resources of land without impairment of the
201 productivity of the land.

202 [~~(7)~~] (8) "Wildland" means an area where:

203 (a) development is essentially non-existent, except for roads, railroads, powerlines, or
204 similar transportation facilities; and

205 (b) structures, if any, are widely scattered.

206 [~~(8)~~] (9) "Wildland fire" means a fire that consumes:

207 (a) wildland; or

208 (b) wildland-urban interface, as defined in Section [65A-8a-102](#).

209 Section 4. Section **65A-3-3** is amended to read:

210 **65A-3-3. Enforcement of laws -- City, county, or district attorney to prosecute.**

211 (1) It is the duty of the division, county sheriffs, their deputies, peace officers, and
212 other law enforcement officers within the law enforcement jurisdiction to enforce the
213 provisions of this chapter and to investigate and gather evidence that may indicate a violation

214 under this chapter.

215 (2) The city attorney, county attorney, or district attorney, as appropriate under
216 Sections 10-3-928, 17-18a-202, and 17-18a-203, shall:

217 (a) prosecute any criminal violations of this chapter; and

218 (b) initiate a civil action to recover suppression costs incurred by the city, county, fire
219 district, or state for suppression of fire on private land.

220 Section 5. Section **65A-8-101** is amended to read:

221 **65A-8-101. Division responsibilities for fire management and the conservation of**
222 **forest, watershed, and other lands -- Reciprocal agreements for fire protection.**

223 (1) The division shall determine and execute the best method for protecting private and
224 public property by:

225 (a) except as provided by Subsection (1)~~(e)~~(d), preventing, preparing for, or
226 mitigating the origin and spread of fire on nonfederal forest, range, ~~[or]~~ watershed, or wildland
227 urban interface land in ~~[an unincorporated area of]~~ the state;

228 ~~[(b) protecting a nonfederal forest or watershed area using conservation principles;]~~

229 ~~(e)~~ (b) encouraging a ~~[private]~~ landowner to ~~[preserve]~~ conserve, protect, and manage
230 forest or other land throughout the state;

231 ~~(d)~~ (c) taking action the division considers appropriate to ~~[control]~~ manage wildland
232 fire and protect life and property on ~~[the]~~ nonfederal forest, range, ~~[or]~~ watershed, or wildland
233 urban interface land within ~~[an unincorporated area of]~~ the state; and

234 ~~(e)~~ (d) implementing a limited fire suppression strategy, including allowing a fire to
235 burn with limited or modified suppression, if the division determines that the strategy is
236 appropriate for a specific area or circumstance.

237 (2) The division may:

238 (a) enter into an agreement with a public or private agency or individual:

239 (i) for the purpose of protecting, managing, or rehabilitating land owned or managed by
240 the agency or individual; and

241 (ii) establishing a predetermined fire suppression plan, including a limited fire
242 suppression strategy, for a specific fire management area; and

243 (b) enter into a reciprocal agreement with a fire protection organization, including a
244 federal agency, to provide fire protection for land, and an improvement on land, for which the

245 organization normally provides fire protection.

246 Section 6. Section **65A-8-103** is amended to read:

247 **65A-8-103. Forestry and fire control funds.**

248 (1) The division shall use money available to it to meet the costs of:

249 (a) [~~controlling~~] managing forest, range, [~~and~~] watershed, and wildland urban interface
250 fires;

251 (b) [~~controlling~~] managing insect and disease epidemics;

252 (c) rehabilitating or reforesting nonfederal forest, range, and watershed lands;

253 (d) promoting wildfire preparedness, wildfire mitigation, and wildfire prevention; [~~and~~]

254 (e) restoring and maintaining landscapes ensuring landscapes across the state are
255 resilient to wildfire-related disturbances, in accordance with fire management objectives;

256 (f) creating fire-adapted communities, ensuring that human populations and

257 infrastructure can withstand a wildfire without loss of life or property;

258 (g) improving wildfire response, ensuring that all political subdivisions can participate
259 in making and implementing safe, effective, and efficient risk-based wildfire management
260 decisions;

261 (h) reducing risks to wildlife such as the greater sage grouse; and

262 [~~e~~] (i) carrying on the purposes of this chapter.

263 (2) All money available to the division to meet the costs of Subsections (1)(a) through
264 [~~e~~] (i) is nonlapsing and available to the division until expended.

265 (3) (a) The collection and disbursement of all money made available to the division
266 shall be in accordance with the rules of the Division of Finance.

267 (b) Money collected by the division from fees, rentals, sales, contributions,
268 reimbursements, and other such sources shall be deposited in the appropriate account.

269 Section 7. Section **65A-8-201** is amended to read:

270 **65A-8-201. Uncontrolled fire is a public nuisance.**

271 Any fire on forest, range, [~~or~~] watershed, or wildland urban interface land in the state

272 burning uncontrolled and without proper and adequate action being taken to [~~control or prevent~~

273 ~~its spread~~] manage it is a public nuisance.

274 Section 8. Section **65A-8-202** is amended to read:

275 **65A-8-202. Fire control -- County responsibilities.**

276 (1) [~~Counties~~] A county shall abate the public nuisance caused by [~~uncontrolled fire~~
 277 wildfire on unincorporated, privately owned or county owned forest, range, [~~and~~] watershed,
 278 and wildland urban interface lands within its boundaries.

279 (2) [~~Counties, or other political subdivisions of the state as determined to be~~
 280 ~~appropriate by the state forester,]~~ A county may participate in the wildland fire protection
 281 system of the division and become eligible for assistance from the state by agreement under the
 282 provisions of this chapter.

283 (3) A county shall:

284 (a) reduce the risk of wildfire on unincorporated, privately owned or county owned
 285 forest, range, watershed, and wildland urban interface land within its boundaries through
 286 appropriate wildfire prevention, preparedness, and mitigation actions; and

287 (b) ensure effective wildfire initial attack on privately owned or county owned forest,
 288 range, watershed, and wildland urban interface land within its boundaries.

289 (4) A county may contract the responsibilities described in Subsections (1) and (3) to a
 290 fire service provider.

291 [~~(3)~~] (5) The state forester shall make certain that appropriate action is taken to control
 292 wildland fires on nonfederal forest, range, [~~and~~] watershed, and wildland urban interface lands.

293 [~~(4) The actual costs of suppression action taken by the division on privately owned~~
 294 ~~lands shall be a charge against the county in which the lands lie, unless otherwise provided by~~
 295 ~~cooperative agreement.]~~

296 Section 9. Section **65A-8-202.5** is enacted to read:

297 **65A-8-202.5. City and town responsibilities.**

298 (1) As used in this section, "municipality" means a city or town.

299 (2) A municipality shall abate the public nuisance caused by wildfire on forest, range,
 300 watershed, and wildland urban interface land within the boundaries of the municipality if the
 301 land is:

302 (a) privately owned; or

303 (b) owned by the municipality.

304 (3) A municipality may participate in the wildland fire protection system of the
 305 division and become eligible for assistance from the state by agreement under the provisions of
 306 this chapter.

307 (4) A municipality shall:

308 (a) reduce the risk of wildfire on privately owned and municipality owned forest,
 309 range, watershed, and wildland urban interface land within its boundaries through appropriate
 310 wildfire prevention, preparedness, and mitigation actions; and

311 (b) ensure effective wildfire initial attack on forest, range, watershed, and wildland
 312 urban interface land within its boundaries that is:

313 (i) privately owned; or

314 (ii) owned by the municipality.

315 (5) A municipality may contract the responsibilities described in Subsections (2) and
 316 (4) to a fire service provider.

317 (6) The state forester shall make certain that appropriate action is taken to control
 318 wildland fires on nonfederal forest, range, watershed, and wildland urban interface lands.

319 Section 10. Section **65A-8-203** is amended to read:

320 **65A-8-203. Cooperative fire protection agreements with counties, cities, towns, or**
 321 **special service districts.**

322 (1) As used in this section, "eligible entity" means a county, a municipality, or a special
 323 service district with:

324 (a) wildland fire suppression responsibility; and

325 (b) taxing authority for a specific geographic jurisdiction.

326 ~~[(1)]~~ (2) (a) The [county legislative] governing body of any [county] eligible entity may
 327 enter into a cooperative agreement with the division to receive financial and [supervisory]
 328 wildfire management cooperation and assistance from the division.

329 (b) A cooperative agreement shall last for a term of no more than five years and be
 330 renewable if the eligible entity continues to meet the requirements of this chapter.

331 ~~[(2) A county]~~ (3) (a) An eligible entity may not receive financial cooperation or
 332 financial assistance under Subsection ~~[(1)]~~ (2)(a) until a cooperative agreement is executed by
 333 the [county legislative body] eligible entity and the division.

334 (b) The state may assume an eligible entity's cost of suppressing catastrophic wildfire
 335 as defined in the cooperative agreement if the eligible entity has entered into a cooperative
 336 agreement with the division, as described in this section.

337 (c) An eligible entity that does not enter into a cooperative agreement with the division,

338 as described in this section, shall be responsible for wildland fire costs within its jurisdiction,
 339 as described in Section 65A-8-203.2.

340 ~~[(3)]~~ (4) In order to ~~[be eligible to]~~ enter into a cooperative agreement with the
 341 division, the ~~[county]~~ eligible entity shall:

342 (a) if the eligible entity is a county, adopt and enforce a wildland fire ordinance based
 343 upon minimum standards established by the division or Utah Code Council;

344 (b) require that the ~~[county]~~ fire department or equivalent ~~[private]~~ fire service provider
 345 under contract with the ~~[county]~~ eligible entity meet minimum standards for wildland fire
 346 training, certification, and ~~[wildland fire]~~ suppression equipment based upon nationally
 347 accepted standards as specified by the division; ~~[and]~~

348 (c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the
 349 division, that will reduce the eligible entity's risk of catastrophic wildfire;

350 ~~[(c)]~~ (d) file with the division ~~[a budget for fire suppression]~~ an annual accounting of
 351 wildfire prevention, preparedness, mitigation actions, and associated costs[-];

352 (e) return the financial statement described in Subsection (6), signed by the chief
 353 executive of the eligible entity, to the division on or before the date set by the division; and

354 (f) if the eligible entity is a county, have a designated fire warden.

355 ~~[(4) A county that chooses not to enter into a cooperative agreement with the division~~
 356 ~~may not be eligible to receive financial assistance from the division.]~~

357 (5) (a) The state forester may execute ~~[the agreements and may divide the state into fire~~
 358 ~~protection districts. (6) These districts shall provide efficient and economical fire protection~~
 359 ~~within the area defined. (7) The districts may comprise one or more counties, or portions of~~
 360 ~~counties to be specified in the cooperative agreements.]~~ a cooperative agreement with the
 361 eligible entity.

362 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
 363 Administrative Rulemaking Act, governing the:

364 (i) form of the cooperative agreements described in this section;

365 (ii) manner in which an eligible entity shall provide proof of compliance with
 366 Subsection (3);

367 (iii) manner by which the division may revoke a cooperative agreement if an eligible
 368 entity ceases to meet the requirements described in this section;

369 (iv) accounting system for determining suppression costs; and
370 (v) manner in which the division shall determine the eligible entity's participation
371 commitment.

372 (6) (a) The division shall send a financial statement to each eligible entity participating
373 in a cooperative agreement that details the eligible entity's participation commitment for the
374 coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to
375 under Subsection (4)(c).

376 (b) Each eligible entity participating in a cooperative agreement shall:

377 (i) have the chief executive of the eligible entity sign the financial statement,
378 confirming the eligible entity's participation for the upcoming year; and

379 (ii) return the financial statement to the division, on or before a date set by the division.

380 (c) A financial statement shall be effective for one calendar year, beginning on the date
381 set by the division, as described in Subsection (6)(b).

382 ~~[(8) Under the terms of the cooperative agreements, the state forester shall file annual~~
383 ~~budgets for operation of the cooperative districts with each participating county.]~~

384 ~~[(9) If the county approves a budget mutually acceptable to the county and the state~~
385 ~~forester, and budgets an amount for actual fire suppression costs determined to be normal by~~
386 ~~the state forester, the agreement shall commit the state to pay 1/2 of the actual suppression~~
387 ~~costs that exceed the stated normal costs.]~~

388 (7) (a) An eligible entity may revoke a cooperative agreement before the end of the
389 cooperative agreement's term by:

390 (i) informing the division, in writing, of the eligible entity's intention to revoke the
391 cooperative agreement; or

392 (ii) failing to sign and return its annual financial statement, as described in Subsection
393 (6)(b), unless the director grants an extension.

394 (b) An eligible entity may not revoke a cooperative agreement before the end of the
395 term of a signed annual financial statement, as described in Subsection (6)(c).

396 Section 11. Section **65A-8-203.1** is enacted to read:

397 **65A-8-203.1. Delegation of fire management authority.**

398 (1) As used in this section, "delegation of fire management authority" means the
399 acceptance by the division of responsibility for:

400 (a) managing a wildfire; and

401 (b) the cost of fire suppression, as described in Section [65A-8-203](#).

402 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
403 Administrative Rulemaking Act, governing the process for delegation of fire management
404 authority.

405 (3) Upon delegation of fire management authority, the division and its named designee
406 becomes the primary incident commander.

407 Section 12. Section **65A-8-203.2** is enacted to read:

408 **65A-8-203.2. Billing eligible entities without a cooperative agreement --**
409 **Calculating cost of wildfire suppression.**

410 (1) As used in this section, "eligible entity" means the same as that term is defined in
411 Section [65A-8-203](#).

412 (2) The division shall bill an eligible entity that does not enter into a cooperative
413 agreement with the division, as described in Section [65A-8-203](#), for the cost of wildfire
414 suppression within the boundaries of that eligible entity accrued by the state.

415 (3) The cost of wildfire suppression to an eligible entity that does not enter into a
416 cooperative agreement with the division, as described in Section [65A-8-203](#), shall be calculated
417 by determining the number of acres burned within the borders of an eligible entity, dividing
418 that number by the total number of acres burned by a wildfire, and multiplying the resulting
419 percentage by the state's total cost of wildfire suppression for that wildfire.

420 (4) An eligible entity that receives a bill from the division, pursuant to this section,
421 shall pay the bill, or make arrangements to pay the bill, within 90 days of receipt of the bill.

422 Section 13. Section **65A-8-204** is amended to read:

423 **65A-8-204. Wildland Fire Suppression Fund created.**

424 (1) There is created a private-purpose trust fund known as the "Wildland Fire
425 Suppression Fund."

426 (2) The fund shall be administered by the division to pay [~~fire~~] wildfire suppression
427 [~~and presuppression~~] costs on eligible lands [~~within unincorporated areas of counties~~],
428 including for an eligible entity that has entered into a cooperative agreement, as described in
429 Section [65A-8-203](#).

430 (3) The contents of the fund shall include:

431 ~~[(a) payments by counties pursuant to written agreements made under Section~~
432 ~~65A-8-205;]~~

433 ~~[(b)]~~ (a) interest and earnings from the investment of fund money; ~~[and]~~
434 ~~[(c)]~~ (b) money appropriated by the Legislature[-];
435 (c) costs recovered from successful investigations;
436 (d) federal funds received by the division for wildfire management costs;
437 (e) suppression costs billed to an eligible entity that does not participate in a
438 cooperative agreement;

439 (f) suppression costs paid to the division by another state agency;
440 (g) costs recovered from settlements and civil actions related to wildfire suppression;
441 and

442 (h) restitution payments ordered by a court following a criminal adjudication.

443 (4) Fund money shall be invested by the state treasurer with the earnings and interest
444 accruing to the fund.

445 (5) ~~[(a)]~~ A maximum level of \$8,000,000 is established for the fund.

446 ~~[(b) (i) Except as provided in Subsection (5)(b)(ii), if the amount of money in the fund~~
447 ~~equals or exceeds \$8,000,000 on March 31, no assessments may be charged for the following~~
448 ~~year.]~~

449 ~~[(ii) The waiver of assessments provided in Subsection (5)(b)(i) does not apply to any~~
450 ~~equity payment required by Section 65A-8-205.]~~

451 Section 14. Section **65A-8-206** is amended to read:

452 **65A-8-206. Disbursements from the Wildland Fire Suppression Fund.**

453 (1) Disbursements from the fund created in Section 65A-8-204 shall be made only
454 upon written order of the state forester or ~~[his]~~ the state forester's authorized representative.

455 (2) If the state forester determines money in the fund may be insufficient to cover
456 eligible costs in a program year, the state forester may:

457 (a) delay making disbursements from the fund until the close of the program year~~[-, at~~
458 ~~which time available money shall be prorated among those entitled to payments at less than~~
459 ~~100%.]~~; and

460 (b) request supplemental appropriations from the Legislature.

461 Section 15. Section **65A-8-207** is amended to read:

462 **65A-8-207. Division to administer Wildland Fire Suppression Fund --**
463 **Rulemaking -- Procedures.**

464 [(+) By following the procedures and requirements of Title 63G, Chapter 3, Utah
465 Administrative Rulemaking Act, the division shall make rules to administer the Wildland Fire
466 Suppression Fund~~[-including rules:].~~

467 ~~[(a) requiring documentation for: (i) the number of acres of privately or county-owned
468 land in the unincorporated area of a participating county; and (ii) an acre or real property
469 exempt in Subsection 65A-8-205(2)(b); (b)]~~

470 ~~[describing the method or formula for determining: (i) normal fire suppression costs;
471 and (ii) equity payments required by Section 65A-8-205; and (c)]~~

472 ~~[specifying fire suppression and presuppression costs that may be paid with
473 disbursements from the fund.]~~

474 ~~[(2) By following the procedures and requirements of Title 63G, Chapter 4,
475 Administrative Procedures Act, the division shall determine whether an acre or real property is
476 eligible for the exemption provided in Subsection 65A-8-205(2)(b).]~~

477 Section 16. Section **65A-8-209** is amended to read:

478 **65A-8-209. Responsibilities of county sheriffs and fire wardens in controlling**
479 **fires.**

480 (1) In ~~[those counties not directly participating in the state wildland fire protection~~
481 ~~organization by]~~ a county that has not entered into a cooperative agreement as [provided in this
482 chapter] described in Section 65A-8-203, the county sheriff shall take appropriate action to
483 suppress ~~[uncontrolled fires]~~ wildfires on state or private lands.

484 (2) In all cases the county sheriff shall:

485 (a) report, as prescribed by the state forester, on wildland fire control action;

486 (b) investigate and report ~~[fire]~~ wildfire causes; and

487 (c) enforce the provisions of this chapter either independently or in cooperation with
488 the state forester.

489 (3) In ~~[those counties participating in the state wildland fire protection organization by]~~
490 an eligible entity that has entered into a cooperative agreement, as described in Section
491 65A-8-203, the primary responsibility for ~~[fire control is delegated to the district fire warden,~~
492 who is designated by the state forester] wildfire management is the division, upon the

493 delegation of fire management authority, as described in Section 65A-8-203.1.

494 (4) The county sheriff and [his] the county sheriff's organization shall maintain
495 cooperative support of the fire [control] management organization.

496 Section 17. Section **65A-8-209.1** is enacted to read:

497 **65A-8-209.1. County fire warden.**

498 (1) Each county that participates in a cooperative agreement with the division, as
499 described in Section 65A-8-203, shall be represented by a county fire warden at a minimum
500 during the closed fire season, as described in Section 65A-8-211, except as provided in
501 Subsection (1)(b).

502 (a) A county of the fifth class that, as of January 1, 2015, is cost-sharing a fire warden
503 with an adjacent county may continue to do so with the approval of the state forester.

504 (b) A county of the sixth class may cost-share a county fire warden with an adjacent
505 county, with the approval of the state forester.

506 (2) The salary and benefits paid to a county fire warden shall be:

507 (a) divided by the division and the county; or

508 (b) paid partly by the division with the remainder shared by agreement between all the
509 counties the county fire warden represents.

510 (3) (a) The division shall employ all county fire wardens.

511 (b) An individual who is employed by a county as a county fire warden on or before
512 January 1, 2016, is not subject to the requirement to be employed by the division.

513 Section 18. Section **65A-8-210** is amended to read:

514 **65A-8-210. Fire control on state-owned lands -- Responsibilities of state agencies.**

515 (1) The division shall abate the public nuisance caused by [~~uncontrolled fire~~] wildfire
516 on state-owned forest, range, [and] watershed, and wildland urban interface lands.

517 (2) [~~(a)~~] State agencies responsible for the administration of state-owned lands shall
518 recognize the need for providing wildland fire protection and the responsibility for [~~sharing the~~
519 ~~costs.~~] (b) ~~Those agencies shall annually allocate funds to the division in amounts as are~~
520 ~~determined to be fair and equitable proportionate costs for providing a basic level of fire~~
521 ~~protection.~~ (c) ~~The amount of protection costs shall be negotiated by the respective land~~
522 ~~agencies and the division.] reducing the risk of wildfire through appropriate wildfire
523 prevention, preparedness, and mitigation actions.~~

524 Section 19. Section **65A-8-211** is amended to read:

525 **65A-8-211. Closed fire season -- Notice -- Violations -- Burning permits --**

526 **Personal liability -- Exemptions from burning permits.**

527 (1) (a) The period from June 1 to October 31 of each year is a closed fire season
528 throughout the state.

529 (b) The state forester may advance or extend the closed season wherever and whenever
530 that action is necessary.

531 (c) The alteration of the closed season is done by posting the appropriate proclamation
532 in the courthouse of each county seat for at least seven days in advance of the date the change
533 is effective.

534 (2) During the closed season it is a class B misdemeanor to set on fire, or cause to be
535 set on fire, any flammable material on any forest, brush, range, grass, grain, stubble, or hay land
536 without:

537 (a) first securing a written permit from the state forester or a designated deputy; and

538 (b) complying fully with the terms and conditions prescribed by the permit.

539 (3) The ~~[district] county~~ fire warden ~~[appointed by the state forester]~~, or the county
540 sheriff ~~[in nonparticipating counties]~~ in a county that has not entered into a cooperative
541 agreement as described in Section [65A-8-203](#), shall issue burning permits using the form
542 prescribed by the division.

543 (4) (a) The burning permit does not relieve an individual from personal liability due to
544 neglect or incompetence.

545 (b) A fire escaping control of the permittee that necessitates fire control action or does
546 injury to the property of another is prima facie evidence that the fire was not safe.

547 (5) The state forester, ~~[his deputies]~~ the state forester's designees, and the county
548 sheriffs may refuse, revoke, postpone, or cancel permits when they find it necessary in the
549 interest of public safety.

550 (6) (a) A burning permit is not required for the burning of fence lines on cultivated
551 lands, canals, or irrigation ditches if:

552 (i) the burning does not pose a threat to forest, range, or watershed lands;

553 (ii) due care is used in the control of the burning; and

554 (iii) the individual notifies the nearest fire department of the approximate time the

555 burning will occur.

556 (b) Failure to notify the nearest fire department of the burning as required by this
557 section is a class B misdemeanor.

558 (7) A burning conducted in accordance with Subsection (6) is not a reckless burning
559 under Section 76-6-104 unless the fire escapes control and requires fire control action.

560 Section 20. **Repealer.**

561 This bill repeals:

562 Section 65A-8-103.5, **Wildland fire policy -- Report.**

563 Section 65A-8-205, **Agreements for coverage by the Wildland Fire Suppression**
564 **Fund -- Eligible lands -- County and state obligations -- Termination -- Revocation.**

565 Section 65A-8-208, **Presuppression costs -- Disbursements from fund -- Credit**
566 **against assessment -- Limited by appropriation.**

567 Section 21. **Effective date.**

568 This bill takes effect on January 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel