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**A BILL FOR AN ACT**

RELATING TO A STATE FIRE MARSHAL'S OFFICE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that in 1978 the  
2 legislature repealed the state fire marshal's office and  
3 established the state fire council. The state fire council  
4 comprises the four county fire chiefs, the fire chief of the  
5 state aircraft rescue fire-fighting unit, and a representative  
6 of the division of forestry and wildlife of the department of  
7 land and natural resources. Additionally, the state fire  
8 council functions, for all intents and purposes, as Hawaii's  
9 equivalent to a state fire marshal's office.

10           The legislature further finds that Hawaii is the only state  
11 without a state fire marshal office in the country. The tragic  
12 wildfires of August 8, 2023, in the counties of Hawaii and Maui,  
13 which caused extensive loss of life and damage to the city of  
14 Lahaina, has renewed interest in reestablishing the state fire  
15 marshal position.

16           The purpose of this Act is to reestablish the state fire  
17 marshal's office to provide support to the State and the state

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1 fire council in their efforts to address fire risk assessment  
2 and fire prevention and mitigation efforts.

3 SECTION 2. Section 132, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§132- State fire marshal's office; established. (a)

7 There is established a state fire marshal's office, which shall  
8 be placed within the department of labor and industrial  
9 relations for administrative purposes. The state fire marshal's  
10 office shall consist of the state fire marshal and one staff  
11 position.

12 (b) The state fire marshal shall:

13 (1) Review and assess the fire risk to the State;

14 (2) Review and propose amendments to the state fire code  
15 and submit the proposed amendments to the state fire  
16 council for the state fire council's consideration in  
17 its adoption of or amendments to the state fire code;

18 (3) Review the emergency resources that are available in  
19 the State to be deployed to address fires;

20 (4) Assess whether the State would benefit from a  
21 statewide public fire safety messaging program; and

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1        (5) Prepare an annual report on the state fire marshal's  
2        review or assessment, or both, of the items described  
3        in subsection (b)(1) through (4). The annual report  
4        shall be submitted to the governor and state fire  
5        council no later than November 30 of each calendar  
6        year.

7        (c) The state fire marshal may employ, on a full-time  
8        basis, one staff person to support the state fire marshal's  
9        office.

10       (d) The state fire marshal shall be nominated by the  
11       governor and, by and with the advice and consent of the senate,  
12       appointed by the governor without regard to chapters 76 and 89.

13       (e) The state fire marshal shall hold office for a term to  
14       expire at the end of the term for which the governor was  
15       elected, unless sooner removed by the governor."

16       SECTION 3. Section 76-16, Hawaii Revised Statutes, is  
17       amended by amending subsection (b) to read as follows:

18       "(b) The civil service to which this chapter applies shall  
19       comprise all positions in the State now existing or hereafter  
20       established and embrace all personal services performed for the  
21       State, except the following:

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- 1           (1) Commissioned and enlisted personnel of the Hawaii  
2           National Guard as such, and positions in the Hawaii  
3           National Guard that are required by state or federal  
4           laws or regulations or orders of the National Guard to  
5           be filled from those commissioned or enlisted  
6           personnel;
- 7           (2) Positions filled by persons employed by contract where  
8           the director of human resources development has  
9           certified that the service is special or unique or is  
10          essential to the public interest and that, because of  
11          circumstances surrounding its fulfillment, personnel  
12          to perform the service cannot be obtained through  
13          normal civil service recruitment procedures. Any such  
14          contract may be for any period not exceeding one year;
- 15          (3) Positions that must be filled without delay to comply  
16          with a court order or decree if the director  
17          determines that recruitment through normal recruitment  
18          civil service procedures would result in delay or  
19          noncompliance, such as the Felix-Cayetano consent  
20          decree;
- 21          (4) Positions filled by the legislature or by either house  
22          or any committee thereof;

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- 1           (5) Employees in the office of the governor and office of  
2           the lieutenant governor, and household employees at  
3           Washington Place;
- 4           (6) Positions filled by popular vote;
- 5           (7) Department heads, officers, and members of any board,  
6           commission, or other state agency whose appointments  
7           are made by the governor or are required by law to be  
8           confirmed by the senate;
- 9           (8) Judges, referees, receivers, masters, jurors, notaries  
10          public, land court examiners, court commissioners, and  
11          attorneys appointed by a state court for a special  
12          temporary service;
- 13          (9) One bailiff for the chief justice of the supreme court  
14          who shall have the powers and duties of a court  
15          officer and bailiff under section 606-14; one  
16          secretary or clerk for each justice of the supreme  
17          court, each judge of the intermediate appellate court,  
18          and each judge of the circuit court; one secretary for  
19          the judicial council; one deputy administrative  
20          director of the courts; three law clerks for the chief  
21          justice of the supreme court, two law clerks for each  
22          associate justice of the supreme court and each judge

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1 of the intermediate appellate court, one law clerk for  
2 each judge of the circuit court, two additional law  
3 clerks for the civil administrative judge of the  
4 circuit court of the first circuit, two additional law  
5 clerks for the criminal administrative judge of the  
6 circuit court of the first circuit, one additional law  
7 clerk for the senior judge of the family court of the  
8 first circuit, two additional law clerks for the civil  
9 motions judge of the circuit court of the first  
10 circuit, two additional law clerks for the criminal  
11 motions judge of the circuit court of the first  
12 circuit, and two law clerks for the administrative  
13 judge of the district court of the first circuit; and  
14 one private secretary for the administrative director  
15 of the courts, the deputy administrative director of  
16 the courts, each department head, each deputy or first  
17 assistant, and each additional deputy, or assistant  
18 deputy, or assistant defined in paragraph (16);  
19 (10) First deputy and deputy attorneys general, the  
20 administrative services manager of the department of  
21 the attorney general, one secretary for the  
22 administrative services manager, an administrator and

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1 any support staff for the criminal and juvenile  
2 justice resources coordination functions, and law  
3 clerks;

4 (11) (A) Teachers, principals, vice-principals, complex  
5 area superintendents, deputy and assistant  
6 superintendents, other certificated personnel, no  
7 more than twenty noncertificated administrative,  
8 professional, and technical personnel not engaged  
9 in instructional work;

10 (B) Effective July 1, 2003, teaching assistants,  
11 educational assistants, bilingual/bicultural  
12 school-home assistants, school psychologists,  
13 psychological examiners, speech pathologists,  
14 athletic health care trainers, alternative school  
15 work study assistants, alternative school  
16 educational/supportive services specialists,  
17 alternative school project coordinators, and  
18 communications aides in the department of  
19 education;

20 (C) The special assistant to the state librarian and  
21 one secretary for the special assistant to the  
22 state librarian; and

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- 1 (D) Members of the faculty of the University of  
2 Hawaii, including research workers, extension  
3 agents, personnel engaged in instructional work,  
4 and administrative, professional, and technical  
5 personnel of the university;
- 6 (12) Employees engaged in special, research, or  
7 demonstration projects approved by the governor;
- 8 (13) (A) Positions filled by inmates, patients of state  
9 institutions, persons with severe physical or  
10 mental disabilities participating in the work  
11 experience training programs;
- 12 (B) Positions filled with students in accordance with  
13 guidelines for established state employment  
14 programs; and
- 15 (C) Positions that provide work experience training  
16 or temporary public service employment that are  
17 filled by persons entering the workforce or  
18 persons transitioning into other careers under  
19 programs such as the federal Workforce Investment  
20 Act of 1998, as amended, or the Senior Community  
21 Service Employment Program of the Employment and  
22 Training Administration of the United States

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1 Department of Labor, or under other similar state  
2 programs;

3 (14) A custodian or guide at Iolani Palace, the Royal  
4 Mausoleum, and Hulihee Palace;

5 (15) Positions filled by persons employed on a fee,  
6 contract, or piecework basis, who may lawfully perform  
7 their duties concurrently with their private business  
8 or profession or other private employment and whose  
9 duties require only a portion of their time, if it is  
10 impracticable to ascertain or anticipate the portion  
11 of time to be devoted to the service of the State;

12 (16) Positions of first deputies or first assistants of  
13 each department head appointed under or in the manner  
14 provided in section 6, article V, of the Hawaii State  
15 Constitution; three additional deputies or assistants  
16 either in charge of the highways, harbors, and  
17 airports divisions or other functions within the  
18 department of transportation as may be assigned by the  
19 director of transportation, with the approval of the  
20 governor; one additional deputy in the department of  
21 human services either in charge of welfare or other  
22 functions within the department as may be assigned by

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1 the director of human services; four additional  
2 deputies in the department of health, each in charge  
3 of one of the following: behavioral health,  
4 environmental health, hospitals, and health resources  
5 administration, including other functions within the  
6 department as may be assigned by the director of  
7 health, with the approval of the governor; two  
8 additional deputies in charge of the law enforcement  
9 programs, administration, or other functions within  
10 the department of law enforcement as may be assigned  
11 by the director of law enforcement, with the approval  
12 of the governor; three additional deputies each in  
13 charge of the correctional institutions,  
14 rehabilitation services and programs, and  
15 administration or other functions within the  
16 department of corrections and rehabilitation as may be  
17 assigned by the director of corrections and  
18 rehabilitation, with the approval of the governor; an  
19 administrative assistant to the state librarian; and  
20 an administrative assistant to the superintendent of  
21 education;

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1 (17) Positions specifically exempted from this part by any  
2 other law; provided that:

3 (A) Any exemption created after July 1, 2014, shall  
4 expire three years after its enactment unless  
5 affirmatively extended by an act of the  
6 legislature; and

7 (B) All of the positions defined by paragraph (9)  
8 shall be included in the position classification  
9 plan;

10 (18) Positions in the state foster grandparent program and  
11 positions for temporary employment of senior citizens  
12 in occupations in which there is a severe personnel  
13 shortage or in special projects;

14 (19) Household employees at the official residence of the  
15 president of the University of Hawaii;

16 (20) Employees in the department of education engaged in  
17 the supervision of students during meal periods in the  
18 distribution, collection, and counting of meal  
19 tickets, and in the cleaning of classrooms after  
20 school hours on a less than half-time basis;

21 (21) Employees hired under the tenant hire program of the  
22 Hawaii public housing authority; provided that not

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1 more than twenty-six per cent of the authority's  
2 workforce in any housing project maintained or  
3 operated by the authority shall be hired under the  
4 tenant hire program;

5 (22) Positions of the federally funded expanded food and  
6 nutrition program of the University of Hawaii that  
7 require the hiring of nutrition program assistants who  
8 live in the areas they serve;

9 (23) Positions filled by persons with severe disabilities  
10 who are certified by the state vocational  
11 rehabilitation office that they are able to perform  
12 safely the duties of the positions;

13 (24) The sheriff;

14 (25) A gender and other fairness coordinator hired by the  
15 judiciary;

16 (26) Positions in the Hawaii National Guard youth and adult  
17 education programs;

18 (27) In the state energy office in the department of  
19 business, economic development, and tourism, all  
20 energy program managers, energy program specialists,  
21 energy program assistants, and energy analysts;

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- 1           (28) Administrative appeals hearing officers in the  
2                   department of human services;
- 3           (29) In the Med-QUEST division of the department of human  
4                   services, the division administrator, finance officer,  
5                   health care services branch administrator, medical  
6                   director, and clinical standards administrator;
- 7           (30) In the director's office of the department of human  
8                   services, the enterprise officer, information security  
9                   and privacy compliance officer, security and privacy  
10                  compliance engineer, security and privacy compliance  
11                  analyst, information technology implementation  
12                  manager, assistant information technology  
13                  implementation manager, resource manager,  
14                  community/project development director, policy  
15                  director, special assistant to the director, and  
16                  limited English proficiency project  
17                  manager/coordinator;
- 18          (31) The Alzheimer's disease and related dementia services  
19                  coordinator in the executive office on aging;
- 20          (32) In the Hawaii emergency management agency, the  
21                  executive officer, public information officer, civil  
22                  defense administrative officer, branch chiefs, and

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1 emergency operations center state warning point  
2 personnel; provided that for state warning point  
3 personnel, the director shall determine that  
4 recruitment through normal civil service recruitment  
5 procedures would result in delay or noncompliance;

6 (33) The executive director and seven full-time  
7 administrative positions of the school facilities  
8 authority;

9 (34) Positions in the Mauna Kea stewardship and oversight  
10 authority;

11 (35) In the office of homeland security of the department  
12 of law enforcement, the statewide interoperable  
13 communications coordinator; [and]

14 (36) In the social services division of the department of  
15 human services, the business technology analyst[-];  
16 and

17 (37) In the state fire marshal's office within the  
18 department of labor and industrial relations, the  
19 state fire marshal.

20 The director shall determine the applicability of this  
21 section to specific positions.

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1           Nothing in this section shall be deemed to affect the civil  
2 service status of any incumbent as it existed on July 1, 1955."

3           SECTION 4. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$340,000 or so much  
5 thereof as may be necessary for fiscal year 2024-2025 for the  
6 following:

7           (1) \$150,000 for the establishment of one full-time  
8 equivalent (1.00 FTE) permanent state fire marshal  
9 position;

10          (2) \$90,000 for the establishment of one full-time  
11 equivalent (1.00 FTE) permanent position to support  
12 the state fire marshal; and

13          (3) \$100,000 for training, office supplies, rent, and  
14 other operating and administrative costs to support  
15 the state fire marshal,

16 in carrying out the purposes of this Act.

17          The sum appropriated shall be expended by the department of  
18 labor and industrial relations for the purposes of this Act.

19          SECTION 5. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21          SECTION 6. This Act shall take effect upon its approval;  
22 provided that section 4 shall take effect on July 1, 2024.

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INTRODUCED BY: \_\_\_\_\_

*Sam*

BY REQUEST

JAN 22 2024

# H.B. NO. 2409

**Report Title:**

DLIR; State Fire Marshal; Fire Prevention; Civil Service Exemption; Appropriation

**Description:**

Reestablishes the State Fire Marshal's Office within the Department of Labor and Industrial Relations. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: GOVERNOR

TITLE: A BILL FOR AN ACT RELATING TO A STATE FIRE MARSHAL'S OFFICE.

PURPOSE: Reestablishes the State Fire Marshal's Office within the Department of Labor and Industrial Relations to support the State's fire prevention and mitigation efforts, review and assess the State's fire risk, and advise the Governor and State Fire Council related to statewide fire prevention and mitigation.

MEANS: Add a new section to chapter 132, Hawaii Revised Statutes, and appropriate general funds.

JUSTIFICATION: In 1978, the Legislature eliminated the State Fire Marshal's Office and established the State Fire Council. While the State Fire Council functions, for all intents and purposes, as Hawaii's equivalent to the State Fire Marshal's Office, Hawaii remains the only state in the nation without a designated fire marshal office.

The tragic events of the August 8, 2023, wildfires in the Hawaii and Maui counties, which caused extensive loss of life and damage to the city of Lahaina, reinforced the potential benefits of reestablishing the State Fire Marshal's Office so that there is better coordination among all government agencies related to statewide fire prevention and mitigation.

Impact on the public: Reestablishment of the State Fire Marshal's Office will provide support to the State and State Fire Council related to priorities, policies, initiatives, and other areas related to statewide fire prevention and mitigation.

Impact on the department and other agencies:

The State Fire Marshal's Office would provide support to the State Fire Council and Department of Land and Natural Resources, Division of Forestry and Wildlife.

GENERAL FUND: \$340,000

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: LBR-902/General Administration

OTHER AFFECTED  
AGENCIES: Department of Labor and Industrial Relations; Department of Land and Natural Resources - Division of Forestry and Wildlife; County Fire Chiefs; State Fire Council.

EFFECTIVE DATE: Upon approval, provided that section 4 shall take effect on July 1, 2024.