

# S.B. NO. 1383

JAN 23 2025

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## A BILL FOR AN ACT

RELATING TO FIRE PROTECTION.

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

1           SECTION 1. The legislature finds that in the aftermath of  
2 the August 2023 Lahaina wildfires, the department of the  
3 attorney general initiated an investigation and retained the  
4 independent, third-party Fire Safety Research Institute, part of  
5 UL Research Institutes, to assess the performance of state and  
6 county agencies in preparing for and responding to the August  
7 2023 Lahaina wildfires. The investigation led to three reports  
8 – a "Phase 1" comprehensive timeline report, a "Phase 2"  
9 incident analysis report, and a "Phase 3" forward-looking  
10 report.

11           The "Phase 3" forward-looking report organized these  
12 findings and provided a prioritized list of action items for the  
13 State and all counties for changes to be made to improve  
14 Hawaii's response to wildfires. The report calls for changes  
15 and improvements to the office of the state fire marshal, which  
16 was established by Act 209, Session Laws of Hawaii 2024 – among  
17 them, bolstering statutory authority of the office of the state  
18 fire marshal to address the wide spectrum of fire safety issues,

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1 delineating responsibilities and reporting structures between  
2 the state fire marshal and the state fire council, and creating  
3 an organizational structure to immediately address the State's  
4 fire-safety priorities effectively.

5 Accordingly, the purpose of this Act is to amend the laws  
6 concerning the office of the state fire marshal to best  
7 effectuate the recommendations of the "Phase 3" forward-looking  
8 report.

9 SECTION 2. Chapter 132, Hawaii Revised Statutes, is  
10 amended by adding seventeen new sections to be appropriately  
11 designated and to read as follows:

12 "§132-A Definitions. As used in this chapter, unless the  
13 context otherwise requires:

14 "Defensible space" means a natural or human-made area in  
15 which material capable of supporting the spread of fire has been  
16 treated, cleared, or modified to slow the rate and intensity of  
17 advancing wildfires and allowing space for fire suppression  
18 operations to occur.

19 "Department" means the department of defense.

20 "Fire protection equipment" means any apparatus, machinery,  
21 or appliance intended for use by a fire service unit in fire  
22 prevention or suppression activities.

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1 "Office" means the office of the state fire marshal.

2 §132-B Office of the state fire marshal; established. (a)

3 The office of the state fire marshal is established within the

4 department for administrative purposes. The office shall be

5 headed by the state fire marshal.

6 (b) The state fire marshal may organize and reorganize the

7 administrative structure of the office as the state fire marshal

8 considers appropriate to properly conduct the work of the

9 office.

10 (c) The state fire marshal may divide the functions of the

11 office into administrative divisions. The state fire marshal

12 may appoint an individual to administer each division. Each

13 individual appointed under this subsection shall be well

14 qualified by technical training and experience in the functions

15 to be performed by the individual.

16 §132-C Office of the state fire marshal; powers and duties

17 generally. (a) The office shall:

18 (1) Review and assess the fire risk of the State;

19 (2) Coordinate fire protection efforts among local

20 agencies for the State;

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- 1        (3) Adopt the state fire code, in consultation with and in  
2        consideration of recommendations provided by the state  
3        fire council;
- 4        (4) Review the emergency resources that are available in  
5        the State to be deployed to address fires and other  
6        natural and manmade disasters;
- 7        (5) Develop and adopt statewide training standards for  
8        fire-related matters, including fire prevention, fire  
9        inspection, fire investigation, and fire suppression;
- 10       (6) Coordinate the development of the state fire code and  
11       amendments thereto through consultation with  
12       appropriate stakeholders, including the state fire  
13       council and county fire chiefs;
- 14       (7) Work with the state and county law enforcement  
15       agencies for enforcement of the state fire code;  
16       provided that law enforcement agencies shall have  
17       primary law enforcement jurisdiction;
- 18       (8) Upon request of a local official having enforcement  
19       responsibility and a showing of unusual fire hazard or  
20       other special circumstances, make investigation and  
21       appropriate recommendations. The state fire marshal  
22       may investigate or cause an investigation to be made

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1           to determine the probable cause, origin, and  
2           circumstances of any fire and shall classify the  
3           findings as the state fire marshal may find  
4           appropriate to promote fire protection and prevention.

5           The state fire marshal shall coordinate and consult  
6           with local county authorities in the event that the  
7           state fire marshal needs to summon witnesses related  
8           to a fire investigation;

9           (9) Prescribe standard procedures and forms relating to  
10           inspections, investigations, and reporting of fires;

11           (10) Establish statewide qualifications and procedures for  
12           testing, certifying, and credentialing individuals who  
13           perform maintenance and testing of portable fire  
14           extinguishers, water-based fire protection systems,  
15           other fire protection systems, private fire hydrants,  
16           and fire alarm systems, in conformance with the  
17           adopted state fire code and generally accepted  
18           evidence-based codes and standards. The county fire  
19           department shall administer the qualifications and  
20           procedures and may establish and charge reasonable  
21           certification fees;

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- 1        (11) Oversee the training and certification of fire  
2                    inspectors and investigators in the State; and  
3        (12) Maintain records of all fires in the State, including  
4                    the causes and circumstances.

5        (b) The office shall adopt rules pursuant to chapter 91  
6 necessary to implement this chapter, including rules relating  
7 to:

- 8        (1) The prevention of fires;  
9        (2) The storage and use of combustibles and explosives;  
10       (3) The maintenance and regulation of structural fire  
11                    safety features in occupied structures and overseeing  
12                    the safety of and directing the means and adequacy of  
13                    exit in case of fire from factories, hospitals,  
14                    churches, schools, halls, theaters, stadiums, all  
15                    state-owned buildings, and all other places where  
16                    large numbers of persons work, live, or congregate  
17                    from time to time for any purpose; provided that  
18                    structural changes shall not be required in buildings  
19                    built, occupied, and maintained in conformity with  
20                    state building code regulations applicable at the time  
21                    of construction;

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- 1        (4) Standards for equipment used for fire protection  
2                purposes within this state, including standard thread  
3                for fire hose coupling and hydrant fittings; and  
4        (5) Procedures for developing and amending the state fire  
5                code.

6        All rules adopted under this subsection shall establish  
7 minimum standards of the State. Any rules adopted by a county  
8 fire chief under section 132-2 that do not meet the minimum  
9 standards established by the rules adopted under this subsection  
10 shall be preempted unless exempted pursuant to subsection (d).

11        The office, in making rules establishing minimum standards  
12 for the protection of life and property against fire pursuant to  
13 this chapter, shall consider generally accepted evidence-based  
14 codes and standards. The state fire marshal may request  
15 consideration and recommendation from the county fire chiefs,  
16 the state fire council, and any other entity with relevant  
17 experience before adopting any rules.

18        (c) The state fire marshal and deputies shall have the  
19 powers and perform other duties, as prescribed by law.

20        (d) If, in the opinion of the state fire marshal, the fire  
21 chief of a county has adopted adequate rules generally  
22 conforming to state and national standards concerning fire

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1 prevention, fire safety measures, and building construction  
2 requirements for safety, and if the county provides reasonable  
3 enforcement of its rules, the state fire marshal shall exempt  
4 the county either partially or fully from the statutes and rules  
5 administered by the state fire marshal.

6 (1) Any exemption granted pursuant to this subsection  
7 shall be for a two-year period, and may be renewed  
8 from time to time, but may be canceled by the state  
9 fire marshal following thirty-days' written notice if  
10 the state fire marshal finds that the county's rules  
11 or enforcement thereof are not reasonably sufficient.

12 (2) The state fire marshal shall designate a county fire  
13 chief or any other appropriate person or division  
14 within the county as an approved authority for  
15 exercising functions relating to fire prevention, fire  
16 safety measures, and building construction.

17 (3) The state fire marshal may consult with the state fire  
18 council or the state building code council when  
19 considering an exemption under this subsection.

20 §132-D Office of the state fire marshal; discretionary  
21 powers. The office may:

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- 1        (1) Establish headquarters and county offices of the  
2        office at places the department considers advisable  
3        for the protection of the State;
- 4        (2) Allow the state fire marshal and deputy state fire  
5        marshals to operate authorized emergency vehicles as  
6        defined by section 291C-1;
- 7        (3) Use land and buildings for the accommodation of office  
8        employees and office vehicles and equipment;
- 9        (4) Contract or otherwise cooperate with any person or  
10       public agency for the procurement of necessary  
11       services or property, subject to chapter 103D where  
12       applicable, including by entering into lease  
13       agreements and taking title to real property as  
14       necessary for the performance of the duties of the  
15       office;
- 16       (5) As an emergency services agency, control and regulate  
17       the acquisition, operation, use, maintenance and  
18       disposal of, and access to, motor vehicles and  
19       equipment for official state fire business;
- 20       (6) Accept and transfer gifts, grants, donations, and  
21       funds from any source, including services and  
22       property, to carry out the duties of the office;

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- 1        (7) Provide training, or enter into contracts to obtain  
2        training services, in fire suppression and fire safety  
3        inspection, to departments and agencies that issue  
4        licenses; and
- 5        (8) Explore additional opportunities to reduce wildfire  
6        risk, including engaging with:
- 7            (A) Insurance companies regarding insurance policy  
8            coverage provisions, underwriting standards,  
9            insurance rates, and any other topic relevant to  
10          enhancing the protection of property from  
11          wildfire at a reasonable cost;
- 12          (B) Electric utilities regarding further actions to  
13          protect public safety, reduce risk to electric  
14          company customers, and promote electrical system  
15          resilience to wildfire damage; and
- 16          (C) Federal agencies to expand opportunities for  
17          cost-share partnerships for wildfire mitigation  
18          and develop strategies for improvements to  
19          federal fire management policies applicable to  
20          the State.
- 21        (9) Perform any other duties necessary to discharge its  
22        duties.

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1        §132-E Preparation of statistical reports. Every two  
2 years, the state fire marshal shall cause to be prepared  
3 statistical reports on the history and condition of state fire  
4 defenses, and an analysis of contributing factors of fire causes  
5 for the period of the report. The reports shall be posted on  
6 the office's website and publicly available upon request,  
7 subject to a price not to exceed the cost of printing and  
8 distribution. The reports compiled under this section shall  
9 include a compilation or summary of the county fire chief's  
10 records prepared pursuant to section 132-1(a), in addition to  
11 any other sources the state fire marshal deems appropriate.

12        §132-F Powers and duties relating to wildfire readiness.

13 The office shall increase the State's wildfire readiness  
14 capacity to the extent the department receives funding for the  
15 increase, by means including:

- 16        (1) Increasing fire prevention personnel and fire  
17            administrative support personnel to address planning,  
18            communications, training, deployment, and safety;  
19        (2) Implementing innovative technologies and modernizing  
20            systems to expedite fire resource deployment in an  
21            efficient and safe manner;

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1        (3) Entering into contracts or agreements with federal or  
2        state agencies, other states, political subdivisions,  
3        corporations, and authorities, having fire suppression  
4        jurisdiction for fire prevention, suppression,  
5        coordination, and response; and

6        (4) Coordinating with the Hawaii emergency management  
7        agency.

8        **§132-G Preparation of emergency plans by state fire**  
9        **marshal.** The state fire marshal, in consultation with the  
10       Hawaii emergency management agency, shall provide advice and  
11       counsel to the governor for the most practical utilization of  
12       the fire-fighting resources of the State.

13       **§132-H State fire marshal; terms of employment.** (a) The  
14       state fire marshal shall be the administrator of the office and  
15       shall be appointed by the state fire council to serve for a term  
16       of five years. The appointment of the state fire marshal shall  
17       be made without regard to chapters 76 and 89, and shall not be  
18       subject to the advice and consent of the senate. In the event  
19       of a vacancy, the state fire council shall meet expeditiously to  
20       select and appoint a new state fire marshal to serve the  
21       remainder of the unexpired term.

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1        (b) The state fire marshal shall be qualified to direct  
2 the technical and executive work of the office and shall have  
3 education or training related to the programs of the office and  
4 significant experience in managing fire protection or related  
5 programs.

6        §132-I Deputies and assistants. The state fire marshal  
7 shall appoint two deputy state fire marshals, exempt from  
8 chapters 76 and 89, whose duties shall be to assist in  
9 implementing this chapter. The office may also employ other  
10 assistants and employees and incur other expenses as the state  
11 fire marshal may deem necessary to effectively administer the  
12 office. Each deputy state fire marshal shall be well qualified  
13 by technical training and experience in the functions to be  
14 performed by the individual. The state fire marshal may remove  
15 any deputy state fire marshal for cause.

16        §132-J Salaries and expenses. Excepting the state fire  
17 marshal and deputy state fire marshal positions, all positions  
18 in the office shall be subject to chapter 76. Other expenses of  
19 the office necessary in the performance of the duties imposed  
20 upon the office and state fire marshal shall be paid in the same  
21 manner as the expenses of other offices of the department.

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1        §132-K Recordkeeping. The office shall keep a record of  
2 all fires occurring in the State and of all facts concerning the  
3 same, including statistics as to the extent of the fires and the  
4 damage causes, whether the losses were covered by insurance, and  
5 if so, in what amount. All the records shall be public, except  
6 information protected from disclosure pursuant to chapter 92F.  
7 The records compiled under this section shall be a compilation  
8 of the county fire chief's records prepared pursuant to section  
9 132-1.

10       §132-L Standardization of existing fire protection  
11 equipment; exemption. (a) The standardization of existing fire  
12 protection equipment in the State shall be arranged for and  
13 carried out by or under the direction of the state fire marshal  
14 who may proceed to make the changes necessary to standardize all  
15 existing fire protection equipment in the State. Before making  
16 any such change, the state fire marshal may request  
17 consideration of and recommendation regarding the change from  
18 the state fire council or the county fire departments. The  
19 state fire marshal shall provide the appliances necessary for  
20 carrying out this work and shall proceed with the  
21 standardization as rapidly as possible and complete the work at  
22 the earliest date circumstances permit.

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1        (b) The state fire marshal may exempt from standardization  
2 special purpose fire equipment and existing fire protection  
3 equipment when it is established that the equipment is not  
4 essential to the coordination of public fire protection  
5 operations.

6        **§132-M Private Equipment.** The state fire marshal shall  
7 notify industrial establishments and property owners having  
8 equipment for fire protection purposes, which may be necessary  
9 for a county fire department to use in protecting the property  
10 or putting out fire, of the changes necessary to bring their  
11 equipment up to the requirements of the standard established and  
12 shall render them assistance as may be available in converting  
13 their defective equipment to standard requirements.

14        **§132-N Sale of nonstandard equipment prohibited;**  
15 **exemption.** (a) No person shall sell or offer for sale in the  
16 State any fire hose, hydrant, fire engine, or other equipment  
17 for fire protection purposes unless the equipment is fitted and  
18 equipped with the standard thread for fire hose couplings and  
19 hydrant fittings as required by the standardization adopted by  
20 the state fire marshal under section 132-L.

21        (b) Fire equipment for special purposes or research  
22 programs, or special features of fire protection equipment found

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1 appropriate for uniformity within a particular protection area,  
2 may be exempted from the requirement of subsection (a) by order  
3 of the state fire marshal.

4 (c) Any person who violates this section shall be fined no  
5 more than \$500 or imprisoned no more than thirty days, or both.

6 §132-O Provision of uniforms, response apparatus, motor  
7 vehicles, and all emergency supplies and equipment; uniform  
8 design. (a) The office shall provide office employees with  
9 standard uniforms, response apparatus, motor vehicles, and all  
10 other emergency supplies and equipment necessary to carry out  
11 the duties of the office.

12 (b) The state fire marshal shall specify a pattern and  
13 distinctive design for the uniforms described in subsection (a)  
14 of this section.

15 (c) The state fire marshal may enter into agreements with  
16 other governmental agencies for the purpose of resource sharing  
17 of response apparatus, motor vehicles, and all other emergency  
18 supplies and equipment necessary to carry out the fire safety  
19 and prevention laws of the State.

20 §132-P Application for adjustments or variances. When the  
21 state fire marshal finds that practical difficulties,  
22 unnecessary hardship, or consequences inconsistent with the

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1 general purposes of statutes and rules administered by the state  
2 fire marshal relating to fire protection and fire prevention may  
3 result under the statutes and rules, the state fire marshal may  
4 upon receipt of a verified application from the owner or  
5 occupant of the property affected stating fully the grounds of  
6 the application and facts relied upon, and upon further  
7 investigation, grant adjustments or variances with the  
8 conditions and safeguards as the state fire marshal may  
9 determine in harmony with the general purpose, intent, and  
10 spirit of the fire protection and fire prevention statutes and  
11 rules, so that the public health, safety, and welfare shall be  
12 secured and substantial justice be done. The adjustments or  
13 variances shall be restricted to unique, unusual, or peculiar  
14 circumstances or substitute materials or arrangements. The  
15 state fire marshal may refer the application to the state fire  
16 council for recommendation before making a decision. Except as  
17 otherwise specified by law, the order of the state fire marshal  
18 granting or denying an adjustment or a variance shall be final  
19 and conclusive.

20 §132-Q Minimum defensible space requirements; duties of  
21 the state fire marshal; enforcement powers of local governments;  
22 assistance to local governments. (a) The state fire marshal:

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- 1        (1) Shall consult with the state fire council to establish  
2                    minimum defensible space requirements;
- 3        (2) Shall establish requirements that are consistent with  
4                    and do not exceed the standards pertaining to  
5                    defensible space in generally accepted evidence-based  
6                    codes and standards;
- 7        (3) May consider best practices specific to the State and  
8                    traditional and customary practices relating to  
9                    defensible space to establish the requirements;
- 10       (4) Shall periodically reexamine generally accepted  
11                   evidence-based codes and standards and update the  
12                   requirements to reflect the current best practices,  
13                   which may be conducted in consultation with the state  
14                   fire council;
- 15       (5) Shall enforce the requirements that are applicable to  
16                   state lands within the jurisdiction of a county;
- 17       (6) Shall adopt rules governing administration of the  
18                   requirements;
- 19       (7) May develop, in consultation with the state fire  
20                   council, a graduated fine structure for the counties'  
21                   use in assessing civil penalties on property owners  
22                   for noncompliance with the requirements;

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1       (8) Shall consult with stakeholders, such as local  
2       governments or political subdivisions, on  
3       implementation of the requirements; and

4       (9) May adopt rules concerning reports by local  
5       governments as described in subsection (b).

6       (b) Each county fire chief may adopt and enforce local  
7       requirements for defensible space that are greater than the  
8       minimum defensible space requirements established by the state  
9       fire marshal. Any local requirements that a county fire chief  
10      adopts for defensible space shall be defensible space standards  
11      selected from the framework set forth in generally accepted  
12      evidence-based codes or standards or other best practices suited  
13      to the State.

14      (c) The office may provide financial, administrative,  
15      technical, or other assistance to a county to facilitate the  
16      administration and enforcement of the minimum defensible space  
17      requirements within the jurisdiction of the county. The county  
18      shall expend financial assistance provided by the state fire  
19      marshal under this subsection to give priority to the creation  
20      of defensible space:

21      (1) On lands where members of socially and economically  
22      vulnerable communities, persons with limited

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- 1           proficiency of English, and persons of lower income  
2           reside;  
3           (2) For critical or emergency infrastructure; and  
4           (3) For schools, hospitals, and facilities that serve  
5           seniors."

6           SECTION 3. Section 26-21, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           "**§26-21 Department of defense.** (a) The department of  
9 defense shall be headed by a single executive to be known as the  
10 adjutant general. The adjutant general shall also be the  
11 director of the Hawaii emergency management agency as  
12 established in section 127A-3.

13           The department shall be responsible for the defense of the  
14 State and its people from mass violence, originating from either  
15 human or natural causes.

16           The devolution of command of the military forces in the  
17 absence of the adjutant general shall be within the military  
18 establishment. The devolution of command of the Hawaii  
19 emergency management agency in the absence of the adjutant  
20 general, as director of the agency, shall be within the agency.

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1           (b) The office of veterans' affairs and the advisory board  
2 on veterans' services as constituted by chapter 363 are placed  
3 within the department of defense for administrative purposes.

4           (c) The office of the state fire marshal as constituted by  
5 chapter 132 is placed within the department of defense for  
6 administrative purposes."

7           SECTION 4. Section 76-16, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

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

- 13           (1) Commissioned and enlisted personnel of the Hawaii  
14 National Guard and positions in the Hawaii National  
15 Guard that are required by state or federal laws or  
16 regulations or orders of the National Guard to be  
17 filled from those commissioned or enlisted personnel;
- 18           (2) Positions filled by persons employed by contract where  
19 the director of human resources development has  
20 certified that the service is special or unique or is  
21 essential to the public interest and that, because of  
22 circumstances surrounding its fulfillment, personnel

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- 1 to perform the service cannot be obtained through  
2 normal civil service recruitment procedures. Any  
3 contract may be for any period not exceeding one year;
- 4 (3) Positions that must be filled without delay to comply  
5 with a court order or decree if the director  
6 determines that recruitment through normal recruitment  
7 civil service procedures would result in delay or  
8 noncompliance, such as the Felix-Cayetano consent  
9 decree;
- 10 (4) Positions filled by the legislature or by either house  
11 or any committee thereof;
- 12 (5) Employees in the office of the governor and office of  
13 the lieutenant governor, and household employees at  
14 Washington Place;
- 15 (6) Positions filled by popular vote;
- 16 (7) Department heads, officers, and members of any board,  
17 commission, or other state agency whose appointments  
18 are made by the governor or are required by law to be  
19 confirmed by the senate;
- 20 (8) Judges, referees, receivers, masters, jurors, notaries  
21 public, land court examiners, court commissioners, and

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1 attorneys appointed by a state court for a special  
2 temporary service;  
3 (9) One bailiff for the chief justice of the supreme court  
4 who shall have the powers and duties of a court  
5 officer and bailiff under section 606-14; one  
6 secretary or clerk for each justice of the supreme  
7 court, each judge of the intermediate appellate court,  
8 and each judge of the circuit court; one secretary for  
9 the judicial council; one deputy administrative  
10 director of the courts; three law clerks for the chief  
11 justice of the supreme court, two law clerks for each  
12 associate justice of the supreme court and each judge  
13 of the intermediate appellate court, one law clerk for  
14 each judge of the circuit court, two additional law  
15 clerks for the civil administrative judge of the  
16 circuit court of the first circuit, two additional law  
17 clerks for the criminal administrative judge of the  
18 circuit court of the first circuit, one additional law  
19 clerk for the senior judge of the family court of the  
20 first circuit, two additional law clerks for the civil  
21 motions judge of the circuit court of the first  
22 circuit, two additional law clerks for the criminal

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1 motions judge of the circuit court of the first  
2 circuit, and two law clerks for the administrative  
3 judge of the district court of the first circuit; and  
4 one private secretary for the administrative director  
5 of the courts, the deputy administrative director of  
6 the courts, each department head, each deputy or first  
7 assistant, and each additional deputy, or assistant  
8 deputy, or assistant defined in paragraph (16);

9 (10) First deputy and deputy attorneys general, the  
10 administrative services manager of the department of  
11 the attorney general, one secretary for the  
12 administrative services manager, an administrator and  
13 any support staff for the criminal and juvenile  
14 justice resources coordination functions, and law  
15 clerks;

16 (11) (A) Teachers, principals, vice-principals, complex  
17 area superintendents, deputy and assistant  
18 superintendents, other certificated personnel,  
19 and no more than twenty noncertificated  
20 administrative, professional, and technical  
21 personnel not engaged in instructional work;

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- 1 (B) Effective July 1, 2003, teaching assistants,  
2 educational assistants, bilingual or bicultural  
3 school-home assistants, school psychologists,  
4 psychological examiners, speech pathologists,  
5 athletic health care trainers, alternative school  
6 work study assistants, alternative school  
7 educational or supportive services specialists,  
8 alternative school project coordinators, and  
9 communications aides in the department of  
10 education;
- 11 (C) The special assistant to the state librarian and  
12 one secretary for the special assistant to the  
13 state librarian; and
- 14 (D) Members of the faculty of the [University]  
15 university of Hawaii, including research workers,  
16 extension agents, personnel engaged in  
17 instructional work, and administrative,  
18 professional, and technical personnel of the  
19 university;
- 20 (12) Employees engaged in special, research, or  
21 demonstration projects approved by the governor;



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1 or profession or other private employment and whose  
2 duties require only a portion of their time, if it is  
3 impracticable to ascertain or anticipate the portion  
4 of time to be devoted to the service of the State;  
5 (16) Positions of first deputies or first assistants of  
6 each department head appointed under or in the manner  
7 provided in section 6, article V, of the Hawaii State  
8 Constitution; three additional deputies or assistants  
9 either in charge of the highways, harbors, and  
10 airports divisions or other functions within the  
11 department of transportation as may be assigned by the  
12 director of transportation, with the approval of the  
13 governor; one additional deputy in the department of  
14 human services either in charge of welfare or other  
15 functions within the department as may be assigned by  
16 the director of human services; four additional  
17 deputies in the department of health, each in charge  
18 of one of the following: behavioral health,  
19 environmental health, hospitals, and health resources  
20 administration, including other functions within the  
21 department as may be assigned by the director of  
22 health, with the approval of the governor; two

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1 additional deputies in charge of the law enforcement  
2 programs, administration, or other functions within  
3 the department of law enforcement as may be assigned  
4 by the director of law enforcement, with the approval  
5 of the governor; three additional deputies each in  
6 charge of the correctional institutions,  
7 rehabilitation services and programs, and  
8 administration or other functions within the  
9 department of corrections and rehabilitation as may be  
10 assigned by the director of corrections and  
11 rehabilitation, with the approval of the governor; two  
12 administrative assistants to the state librarian; and  
13 an administrative assistant to the superintendent of  
14 education;

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

17 (A) Any exemption created after July 1, 2014, shall  
18 expire three years after its enactment unless  
19 affirmatively extended by an act of the  
20 legislature; and

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- 1 (B) All of the positions defined by paragraph (9)  
2 shall be included in the position classification  
3 plan;
- 4 (18) Positions in the state foster grandparent program and  
5 positions for temporary employment of senior citizens  
6 in occupations in which there is a severe personnel  
7 shortage or in special projects;
- 8 (19) Household employees at the official residence of the  
9 president of the [University] university of Hawaii;
- 10 (20) Employees in the department of education engaged in  
11 the supervision of students during meal periods in the  
12 distribution, collection, and counting of meal  
13 tickets, and in the cleaning of classrooms after  
14 school hours on a less than half-time basis;
- 15 (21) Employees hired under the tenant hire program of the  
16 Hawaii public housing authority; provided that no more  
17 than twenty-six per cent of the authority's workforce  
18 in any housing project maintained or operated by the  
19 authority shall be hired under the tenant hire  
20 program;
- 21 (22) Positions of the federally funded expanded food and  
22 nutrition program of the [University] university of

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- 1           Hawaii that require the hiring of nutrition program  
2           assistants who live in the areas they serve;
- 3           (23) Positions filled by persons with severe disabilities  
4           who are certified by the state vocational  
5           rehabilitation office that they are able to perform  
6           safely the duties of the positions;
- 7           (24) The sheriff;
- 8           (25) A gender and other fairness coordinator hired by the  
9           judiciary;
- 10          (26) Positions in the Hawaii National Guard youth and adult  
11          education programs;
- 12          (27) In the Hawaii state energy office in the department of  
13          business, economic development, and tourism, all  
14          energy program managers, energy program specialists,  
15          energy program assistants, and energy analysts;
- 16          (28) Administrative appeals hearing officers in the  
17          department of human services;
- 18          (29) In the Med-QUEST division of the department of human  
19          services, the division administrator, finance officer,  
20          health care services branch administrator, medical  
21          director, and clinical standards administrator;

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1           (30) In the director's office of the department of human  
2                    services, the enterprise officer, information security  
3                    and privacy compliance officer, security and privacy  
4                    compliance engineer, security and privacy compliance  
5                    analyst, information technology implementation  
6                    manager, assistant information technology  
7                    implementation manager, resource manager, community or  
8                    project development director, policy director, special  
9                    assistant to the director, and limited English  
10                  proficiency project manager or coordinator;

11           (31) The Alzheimer's disease and related dementia services  
12                  coordinator in the executive office on aging;

13           (32) In the Hawaii emergency management agency, the  
14                  executive officer, public information officer, civil  
15                  defense administrative officer, branch chiefs, and  
16                  emergency operations center state warning point  
17                  personnel; provided that for state warning point  
18                  personnel, the director shall determine that  
19                  recruitment through normal civil service recruitment  
20                  procedures would result in delay or noncompliance;

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- 1           (33) The executive director and seven full-time
- 2                   administrative positions of the school facilities
- 3                   authority;
- 4           (34) Positions in the Mauna Kea stewardship and oversight
- 5                   authority;
- 6           (35) In the office of homeland security of the department
- 7                   of law enforcement, the statewide interoperable
- 8                   communications coordinator;
- 9           (36) In the social services division of the department of
- 10                  human services, the business technology analyst;
- 11   [+] (37) [+] The executive director and staff of the 911 board;
- 12   [+] (38) [+] Senior software developers in the department of
- 13                  taxation;
- 14   [+] (39) [+] In the department of law enforcement, five
- 15                  Commission on Accreditation for Law Enforcement
- 16                  Agencies, Inc., coordinator positions;
- 17   [+] (40) [~~+~~] The In the office of the state fire marshal~~[+]~~, the
- 18                  state fire marshal and deputy state fire marshals; and
- 19   [+] (41) [~~+~~] The administrator for the law enforcement standards
- 20                  board.
- 21           The director shall determine the applicability of this
- 22   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 5. Section 107-26, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "**§107-26 Hawaii state building codes; prohibitions.** In  
6 adopting the Hawaii state building codes, the council shall not  
7 adopt provisions that:

8           (1) Relate to administrative, permitting, or enforcement  
9 and inspection procedures of each county; [e~~r~~]

10           (2) Conflict with chapters 444 and 464[-]; or

11           (3) Are less stringent than the standards or requirements  
12 set by the state fire code."

13           SECTION 6. Section 107-28, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15           "**§107-28. County authority to amend and adopt the Hawaii**  
16 **state building code.** (a) The governing body of each county  
17 shall amend, adopt, and update the Hawaii state building codes  
18 as they apply within their respective jurisdiction, in  
19 accordance with section 46-1.5(13), without approval of the  
20 council[-]; provided that a county shall not amend provisions of  
21 the Hawaii state building codes to render them less stringent  
22 than the standards or requirements set by the state fire codes.

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1 Each county shall amend and adopt the Hawaii state building  
2 codes and standards listed in section 107-25, as the referenced  
3 Hawaii state building codes and standards for its respective  
4 county building code ordinance, no later than two years after  
5 the adoption of the Hawaii state building codes."

6 SECTION 7. Section 132-2, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§132-2 **General power to make rules.** Subject to chapter  
9 91, the fire chief of each county may adopt rules which shall  
10 not be inconsistent with the provisions of any ordinance  
11 relating to the protection of persons and property against fire.  
12 Any rule adopted by the fire chief under this section that is  
13 less stringent than rules adopted by the office pursuant to  
14 section 132-C shall be preempted by the office's rule. Any rule  
15 adopted pursuant to this section shall not lower the standards  
16 or requirements set forth in the state fire code and rules  
17 adopted by the office. Such rules may relate to:

18 (1) Prevention of fires, and the inspection of property,  
19 periodically or otherwise, or for the prevention of or  
20 reduction of loss by fire, or to promote the safety of  
21 persons in case of fire;

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- 1           (2) Manufacture, storage, sale, and use of combustibles  
2                   and explosives;
- 3           (3) Installation and maintenance of automatic, or other  
4                   fire alarm systems, and fire extinguishing equipment;
- 5           (4) Fire escape and other means of exits from or access to  
6                   buildings or parts of buildings or other property in  
7                   case of fire including the exterior approaches to  
8                   exits of places of assembly."

9           SECTION 8. Section 132-3, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           **§132-3 Adoption of state fire code.** The state fire  
12 [~~council~~] marshal shall, [~~pursuant to chapter 92 and~~] exempt  
13 from the requirements of chapter 91, adopt a state fire code  
14 setting forth minimum requirements relative to the protection of  
15 persons and property from fire loss, including without  
16 limitation:

- 17           (1) The storage, handling, and use of hazardous  
18                   substances, materials, and devices; and
- 19           (2) The control of conditions hazardous to life or  
20                   property in the design, use, or occupancy of buildings  
21                   and premises.

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1 The state fire code shall become part of the Hawaii state  
2 building codes as provided in section 107-25. The state fire  
3 code shall provide the minimum standards and requirements and  
4 takes precedence over any conflicting county ordinance or rule  
5 that provides less stringent standards or requirements than the  
6 state fire code. Any county that adopts rules pursuant to this  
7 chapter may provide for greater protection from fire and shall  
8 not provide for less protection than what is provided in the  
9 state fire code. The state fire council shall meet annually  
10 pursuant to chapter 92 to review and [amend] provide  
11 recommendations to the state fire marshal for amendments to the  
12 state fire code[-], if appropriate."

13 SECTION 9. Section 132-4, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§132-4 Investigation of fires; criminal prosecutions.**  
16 The fire chief of the county in which any fire occurs shall  
17 immediately investigate the cause, origin, and circumstances of  
18 fire by which property has been destroyed or damaged and so far  
19 as possible determine whether the fire was the result of  
20 carelessness or design. A county fire chief may request the  
21 office to assist with the investigation of a fire as provided in  
22 section 132-C.

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1           If after any investigation the county fire chief is of the  
2 opinion that the evidence in relation to the fire indicates that  
3 a crime has been committed, the fire chief shall present the  
4 evidence to the prosecuting officer of the county in which the  
5 supposed offense was committed, with the request that the  
6 prosecuting officer institute [~~such~~] criminal proceedings as the  
7 evidence may warrant.

8           In the event that the office is of the opinion that the  
9 evidence in relation to a fire indicates that a crime has been  
10 committed, the office or state fire marshal shall coordinate  
11 with the relevant county fire chief to present the evidence to  
12 the prosecuting officer of the county in which the supposed  
13 offense was committed."

14           SECTION 10. Section 132-4.5, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           " ~~[§]~~132-4.5 ~~[§]~~ **Investigation of fires; immunity for**  
17 **information received from insurers.** (a) The fire chief of each  
18 county or the state fire marshal may require any insurer in  
19 writing to release information relating to any investigation the  
20 insurer has made concerning a loss or potential loss due to fire  
21 of suspicious or incendiary origin which information shall  
22 include but not be limited to:

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- 1           (1) An insurance policy relating to [~~such~~] the loss;  
2           (2) Policy premium records;  
3           (3) History of previous claims; and  
4           (4) Other relevant material relating to [~~such~~] the loss or  
5           potential loss.

6           (b) If any insurer has reason to suspect that a fire loss  
7 to its insured's real or personal property was caused by  
8 incendiary means, the insurer shall furnish the county fire  
9 chief or state fire marshal with all relevant material acquired  
10 during its investigation of the fire loss, cooperate with and  
11 take [~~such~~] action as may be required of it by the county fire  
12 chief[~~r~~] or the state fire marshal, and permit any person  
13 ordered by the court to inspect any of its records pertaining to  
14 the policy and the loss. Such insurer may request the county  
15 fire chief or the state fire marshal to release information  
16 relating to any investigation the fire chief or state fire  
17 marshal has made concerning any [~~such~~] fire loss of suspicious  
18 or incendiary origin.

19           (c) In the absence of fraud, malice, or criminal act, no  
20 insurer or person who furnishes information on its behalf, shall  
21 be liable for damages in a civil action or be subject to  
22 criminal prosecution for any oral or written statement made that

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1 is necessary to supply information required pursuant to this  
2 section.

3 (d) The county fire chief or state fire marshal receiving  
4 any information furnished pursuant to this section shall hold  
5 the information in confidence until such time as its release is  
6 required in furtherance of a criminal or civil proceeding.

7 (e) The county fire chief, in person or by officers or  
8 members of the fire chief's fire department, or the state fire  
9 marshal, in person or by deputies or employees of the office,  
10 may be required to testify as to any information in the fire  
11 chief's or state fire marshal's possession regarding the fire  
12 loss of real or personal property in any civil action in which  
13 any person seeks recovery under a policy against any insurance  
14 company for the fire loss."

15 SECTION 11. Section 132-5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§132-5 Right of entry for inspection; unlawful to**  
18 **obstruct.** The county fire chief [ø], the chief's designees,  
19 the state fire marshal, or the state fire marshal's designees,  
20 at all reasonable hours may enter any buildings, structures, or  
21 premises within the fire chief's jurisdiction, except the  
22 interior of private dwellings, to make any inspection,

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1 investigation, or examination that is authorized to be made  
2 under this chapter. The county fire chief [øx], the chief's  
3 designees, the state fire marshal, or the state fire marshal's  
4 designees may enter any private dwelling whenever the fire chief  
5 [øx], the chief's designees, the state fire marshal, or the  
6 state fire marshal's designees have reason to believe that  
7 dangerous conditions creating a fire hazard exist in the  
8 dwelling. The county fire chief [øx], the chief's designees,  
9 the state fire marshal, or the state fire marshal's designees  
10 may enter any private dwelling when a fire has occurred in the  
11 dwelling. It shall be unlawful to obstruct, hinder, or delay  
12 any person having the right to make the inspection,  
13 investigation, or examination in the performance of duty.

14 The county fire chief [øx], the chief's designees, the  
15 state fire marshal, or the state fire marshal's designees are  
16 authorized to make an inspection of all buildings and  
17 facilities, except state-owned airport facilities, the frequency  
18 of which shall be made in accordance with section 132-6, and  
19 shall make a report to the authorities responsible for the  
20 maintenance of any building or facility when it is found that a  
21 building or facility does not meet minimum standards of fire and  
22 safety protection."

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1 SECTION 12. Section 132-6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§132-6 Duties of county fire chiefs; periodic  
4 inspections; orders to remove fire hazards; appeals. (a) Each  
5 county fire chief, in person or by officers or members of the  
6 fire chief's fire department designated by the fire chief for  
7 that purpose, shall inspect all buildings, premises, and public  
8 thoroughfares, except the interiors of private dwellings and  
9 state-owned airport facilities, for the purpose of ascertaining  
10 and causing to be corrected any conditions liable to cause fire  
11 or any violation of any law, ordinance, rule, or order relating  
12 to fire hazard or to the prevention of fires.

13 (b) The inspection shall be made:

14 (1) At least once each year at all public schools; and

15 (2) At least once every five years, or as often as deemed  
16 practicable or necessary by the county fire chief at  
17 all other buildings and premises to provide fire  
18 prevention and pre-fire planning within the  
19 jurisdiction of the county fire chief.

20 The ~~[State]~~ office of the state fire marshal shall conduct fire  
21 and safety inspections at all state-owned airport facilities at  
22 least once a year.

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1 (c) A written report of each inspection shall be kept on  
2 file in the office of the county fire chief.

3 (d) A copy of any report showing a change in the hazard or  
4 any violation of law, ordinance, rule or order relating to the  
5 fire hazard upon any risk, shall be given by the county fire  
6 chief to any rating bureau making written request of the fire  
7 chief therefor.

8 (e) Each county fire chief [~~is~~] shall be vested with the  
9 power and jurisdiction over, and shall have supervision of,  
10 every building and premises in the county as may be necessary to  
11 enforce any law, ordinances, rule, and order relating to  
12 protection from fire loss; provided that this provision shall  
13 not in any manner limit the jurisdiction or authority which any  
14 other county official may have over [~~such~~] the building or  
15 premises under any other law or ordinance. Whenever as a result  
16 of inspection or upon complaint or otherwise the county fire  
17 chief determines that a law, ordinance, rule or order relating  
18 to protection from fire loss has been violated or that a  
19 condition exists which creates an unreasonable risk of fire  
20 loss, the fire chief shall prepare and serve upon the owner,  
21 occupant, or other person responsible for the building or  
22 premises a written order setting forth the nature of the alleged

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1 violation or condition, the law, ordinance, rule or order  
2 violated, and the protections, safeguards, or other means or  
3 methods required to render the building or premises safe as  
4 required by law, ordinance, or rule. The order shall be  
5 complied with by the owner or occupant or person responsible for  
6 the building or premises within the time therein specified  
7 unless a timely appeal is taken pursuant to subsection (f) of  
8 this section.

9 (f) Owner's appeal to county fire appeals board. The  
10 owner or occupant may, within five days, appeal from any order  
11 made by the county fire chief to the county fire appeals board,  
12 which shall, within thirty days, and after a hearing pursuant to  
13 chapter 91, review the order and file its decision thereon,  
14 modifying, affirming, or revoking the order. Each county shall  
15 by ordinance establish a county fire appeals board and shall  
16 provide for its composition.

17 (g) Notwithstanding the provisions of subsection (e) of  
18 this section where the county fire chief determines that a clear  
19 and immediate risk of fire loss exists, the fire chief may after  
20 notice to the owner or occupant or other person responsible for  
21 the building or premises, and after a hearing pursuant to  
22 chapter 91, order ~~[such]~~ the person to take all actions

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1 reasonably necessary to render the building or premises safe  
2 from fire loss; provided that no notice or hearing shall be  
3 required where the county fire chief determines that the risk of  
4 fire loss is sufficiently immediate that delay would be  
5 dangerous to the public safety and welfare. If any owner,  
6 occupant, or other person responsible for the building or  
7 premises fails to comply with the order of the county fire  
8 chief, the county fire chief may take [~~such~~] action and make  
9 [~~such~~] expenditure as may be necessary and if the owner,  
10 occupant, or other person responsible neglects or refuses to pay  
11 to the county fire chief the expense incurred by the fire chief,  
12 the county shall have a prior lien on the real property as  
13 provided for in section 132-7.

14 (h) To the extent that the office may have similar duties  
15 and responsibilities pursuant to section 132-C as the county  
16 fire departments, the county fire departments and the office  
17 shall have concurrent jurisdiction. This concurrent  
18 jurisdiction shall not relieve either the county fire  
19 departments or the office from performing their lawfully  
20 required duties."

21 SECTION 13. Section 132-9, Hawaii Revised Statutes, is  
22 amended to read as follows:

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1           "§132-9   Submission of building plans for approval.  The  
2 county fire chief shall be authorized by each respective county  
3 to require plans or documentation, or both, to show compliance  
4 with the county's adopted fire code for the following:

5           (1)  Construction, alteration, rehabilitation, or addition  
6               to any building, structure, or facility;

7           (2)  Changes in the use of a building or structure, or a  
8               change in occupancy; and

9           (3)  Installation or alteration of any procedures,  
10               equipment, property, or structure for any life safety  
11               or fire protection systems.

12           No work shall commence without the necessary permits issued  
13 by the jurisdiction having authority.

14           No adjustment or variance from the state fire code in a  
15 building plan shall be approved by a county fire chief unless  
16 the office approves the adjustment or variance pursuant to  
17 section 132-P.

18           This section shall be applicable to the State and the  
19 counties, and other municipal subdivisions, and their officers,  
20 as well as to private persons."

21           SECTION 14.  Section 132-10, Hawaii Revised Statutes, is  
22 amended to read as follows:

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1           "§132-10 Witnesses; fees. The county fire appeals board  
2   ~~[or]~~, the county fire chief, or the state fire marshal shall in  
3   all proceedings have the same powers respecting administering  
4   oaths, compelling the attendance of witnesses and the production  
5   of documentary evidence, and examining witnesses as are  
6   possessed by circuit courts. In case of disobedience by any  
7   person of any order of the county fire appeals board ~~[or]~~, the  
8   county fire chief, or the state fire marshal or of any subpoena  
9   issued by ~~[either]~~ any of them or of the refusal of any witness  
10  to testify to any matter regarding which the witness may be  
11  questioned lawfully, any circuit judge, on application by the  
12  county corporation counsel, shall compel obedience as in case of  
13  disobedience of all requirements of a subpoena issued from a  
14  circuit court or a refusal to testify therein. The fees and  
15  traveling expenses of witnesses shall be the same as are allowed  
16  witnesses in the circuit courts and shall be paid by the  
17  appropriate county out of any appropriation or funds available  
18  for the expenses of the county fire chief~~[or]~~ or, in the case of  
19  a summons by the state fire marshal, shall be paid out of any  
20  appropriation or funds available for the expense of the state  
21  fire marshal."

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1 SECTION 15. Section 132-11, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§132-11 Recorded order of county fire chiefs and state  
4 fire marshal as evidence. A duplicate original of every order  
5 made by each county fire chief shall be filed in the fire  
6 chief's office, and [~~such~~] a duplicate original of every order  
7 made by the state fire marshal shall be filed in the office of  
8 the state fire marshal. An original duplicate shall be  
9 admissible as evidence in any prosecution for the violation of  
10 any of its provisions. Unless an appeal has been instituted and  
11 is pending, the provisions of any order shall be presumed to be  
12 reasonable and lawful and to fix a reasonable and proper  
13 standard and requirement of safety from fire loss."

14 SECTION 16. Section 132-12, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "§132-12 Court aid. Each county fire chief or the state  
17 fire marshal may invoke the aid of any court of competent  
18 jurisdiction to enforce any order or action made or taken by the  
19 fire chief or state fire marshal in pursuance of law."

20 SECTION 17. Section 132-13, Hawaii Revised Statutes, is  
21 amended to read as follows:

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1           "§132-13 **Penalty.** Any owner, occupant, or other person  
2 having control over or charge of any building, structure, or  
3 other premises who violates any provision of this chapter or any  
4 law, ordinance, or rule relating to protection from fire loss or  
5 who fails or refuses to comply with any order of the county fire  
6 chief or any order of the state fire marshal shall be fined not  
7 more than \$500 or imprisoned not more than thirty days, or both.  
8 In addition to the penalty imposed under this section, counties  
9 may assess and collect civil penalties based on the penalty  
10 structure set forth by the state fire marshal pursuant to  
11 section 132-Q."

12           SECTION 18. Section 132-16, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "§132-16. **State fire council; composition; functions.** (a)  
15 There is established a state fire council, which shall be placed  
16 within the department [~~of labor and industrial relations~~] for  
17 administrative purposes. The state fire council shall consist  
18 of the state fire marshal, the fire chiefs of the counties, the  
19 fire chief of the Hawaii state aircraft rescue fire fighting  
20 unit, and a representative of the division of forestry and  
21 wildlife of the department of land and natural resources. The  
22 state fire council may appoint an advisory committee to assist

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1 in carrying out its functions under this chapter. The advisory  
2 committee may include the heads of the various county building  
3 departments, a licensed architect recommended by the Hawaii  
4 Society of the American Institute of Architects, a licensed  
5 electrical engineer and a licensed mechanical engineer  
6 recommended by the Consulting Engineers Council of Hawaii, a  
7 representative of the Hawaii Rating Bureau, a representative of  
8 the Hawaii Fire Fighters Association, a representative of the  
9 county fire departments, a representative of the Hawaii state  
10 aircraft rescue fire fighting unit, a representative of the  
11 division of forestry and wildlife of the department of land and  
12 natural resources, and other members of the public as the state  
13 fire council may determine can best assist it. The state fire  
14 council shall elect a chairperson from among its members.

15 (b) ~~[In addition to adopting a state fire code pursuant to~~  
16 ~~section 132-3, the]~~ The state fire council shall:

17 (1) Administer the requirements for reduced ignition  
18 propensity cigarettes, in accordance with chapter  
19 132C;

20 (2) ~~[Serve as a focal point through which all applications~~  
21 ~~to the federal government for federal grant assistance~~  
22 ~~for fire related projects shall be made. Upon the~~

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- 1           ~~receipt of any such federal grants, the state fire~~  
2           ~~council shall administer those federal grants,]~~  
3           Provide the state fire marshal with recommendations on  
4           the state fire code as provided in section 132-3;  
5           (3) ~~Establish the terms of employment for the position of~~  
6           ~~the state fire marshal; and]~~ Advise the governor on  
7           fire policy issues and serve in an advisory capacity  
8           to the state fire marshal on strategies for the  
9           implementation of fire and life safety issues;  
10          (4) Appoint the state fire marshal[-]; and  
11          (5) Coordinate with the state building code council on  
12          matters pertaining to fire safety.  
13          (c) The state fire council may also:  
14          (1) Appoint advisory committees comprising representatives  
15                from each county fire department, a representative of  
16                the Hawaii state aircraft rescue fire fighting unit,  
17                and a representative of the division of forestry and  
18                wildlife of the department of land and natural  
19                resources to assist in drafting the state fire code  
20                and coordinating statewide training, data collection,  
21                and contingency planning needs for firefighters;

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- 1           (2) Advise and assist the county and state fire  
2           departments where appropriate; [~~may prescribe standard~~  
3           ~~procedures and forms relating to inspections,~~  
4           ~~investigations, and reporting of fires,~~] may approve  
5           plans for cooperation among the county and state fire  
6           departments; and may advise the governor and the  
7           legislature with respect to fire prevention and  
8           protection, life safety, and any other functions or  
9           activities for which the various county and state fire  
10          departments are generally responsible; [~~and]~~
- 11          (3) [~~Establish, in conformance with the adopted state fire~~  
12          ~~code and nationally recognized standards, statewide~~  
13          ~~qualifications and procedures, to be administered by~~  
14          ~~the county fire departments, for testing, certifying,~~  
15          ~~and credentialing individuals who perform maintenance~~  
16          ~~and testing of portable fire extinguishers, water-~~  
17          ~~based fire protection systems, other fire protection~~  
18          ~~systems, private fire hydrants, and fire alarm~~  
19          ~~systems; provided that the county fire departments may~~  
20          ~~establish and charge reasonable certification fees]~~
- 21          Make recommendations to the state fire marshal  
22          concerning any matter referred to the state fire

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1 council by the state fire marshal or any matter  
2 considered by the state fire council on its own motion  
3 relating to fire prevention, protection from fire, or  
4 other safety measures;

5 (4) Review any conflicts that may arise in the adoption,  
6 amendment, or implementation of the state fire codes  
7 at the state and county levels or in the adoption,  
8 amendment, or implementation of rules proposed or  
9 adopted by the office or the counties pursuant to this  
10 chapter;

11 (5) Consider any application for adjustment or variance  
12 made pursuant to section 132-P and referred to the  
13 state fire council by the state fire marshal and make  
14 recommendations on the disposition of the application  
15 to the state fire marshal within thirty days after the  
16 referral. With regard to a referred matter:

17 (A) The state fire council may hold a hearing and  
18 receive testimony during its meeting subject to  
19 chapter 92; and

20 (B) That the state fire marshal indicates is of  
21 statewide importance or may affect a large part  
22 of the island or regional community, the state

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1           fire council shall hold a hearing and receive  
2           testimony during its meeting subject to chapter  
3           92;

4           The recommendation of the state fire council shall be  
5           made in writing to the state fire marshal and shall be  
6           accompanied by a summary of any testimony received,  
7           any documentary or physical evidence received, any  
8           affidavit submitted by the applicant, and a summary of  
9           any special facts found by the state fire council.

10          The recommendation of the state fire council shall be  
11          posted to the department's website; and

12          (6) Hear and consider, and make recommendations to the  
13          state fire marshal concerning any appeal from a state  
14          fire marshal order within thirty days after referral  
15          of the appeal to the state fire council by the state  
16          fire marshal. The recommendation of the state fire  
17          council shall be made in writing to the state fire  
18          marshal and shall be accompanied by a summary of any  
19          testimony received, any documentary or physical  
20          evidence received, and a summary of any special facts  
21          found by the state fire council. The recommendation

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1           of the state fire council shall be posted to the  
2           department's website.

3           (d) The state fire council may adopt rules pursuant to  
4 chapter 91 for purposes of this section."

5           SECTION 19. Section 132-18, Hawaii Revised Statutes, is  
6 amended by amending subsection (c) to read as follows:

7           "(c) The budgetary requirements for conducting meetings  
8 and other related functions of the state fire council, including  
9 the salaries of the administrator and administrative assistant,  
10 shall be included in the budget of the department [~~of labor and~~  
11 ~~industrial relations~~]."

12           SECTION 20. Section 291C-1, Hawaii Revised Statutes, is  
13 amended by amending the definition of "authorized emergency  
14 vehicle" to read as follows:

15           ""Authorized emergency vehicle" includes fire department  
16 vehicles, police vehicles, ambulances, ocean safety vehicles,  
17 law enforcement vehicles, [~~and~~] conservation and resources  
18 enforcement vehicles, and office of the state fire marshal  
19 vehicles authorized and approved pursuant to section 291-31.5  
20 that are publicly owned and other publicly or privately owned  
21 vehicles designated as such by a county council."

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1 SECTION 21. Act 209, Session Laws of Hawaii 2024, is  
2 amended by amending section 2 to read as follows:

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

6 "~~§132 — Office of the state fire marshal,~~  
7 ~~established.~~ (a) ~~There is established the office of the state~~  
8 ~~fire marshal within the department of labor and industrial~~  
9 ~~relations. The office shall be headed by a state fire~~  
10 ~~marshal, who shall be appointed by the state fire council to~~  
11 ~~serve for a term of five years. The appointment of the state~~  
12 ~~fire marshal shall be made without regard to chapters 76 and 89,~~  
13 ~~and shall not be subject to the advice and consent of the~~  
14 ~~senate. In the event of a vacancy, the state fire council shall~~  
15 ~~meet expeditiously to select and appoint a new state fire~~  
16 ~~marshal to serve the remainder of the unexpired term. The state~~  
17 ~~fire marshal may hire staff as necessary.~~

18 (b) ~~The state fire marshal shall have the qualifications,~~  
19 ~~experience, and expertise in fire safety, prevention, and~~  
20 ~~control necessary to successfully perform the duties of the~~  
21 ~~position.~~

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1       ~~(c) The duties of the state fire marshal shall include but~~  
2 ~~not be limited to:~~

3       ~~(1) Coordinating fire protection efforts between local~~  
4       ~~agencies for the State;~~

5       ~~(2) Working with the state fire council on matters~~  
6       ~~relating to fire services in the State;~~

7       ~~(3) Working with state and county law enforcement agencies~~  
8       ~~for enforcement of the state fire code;~~

9       ~~(4) Reviewing and assessing the fire risk of the State;~~

10       ~~(5) Reviewing and proposing amendments to the state fire~~  
11       ~~code and submitting the proposed amendments to the~~  
12       ~~state fire council for the state fire council's~~  
13       ~~consideration in its adoption of or amendments to the~~  
14       ~~state fire code;~~

15       ~~(6) Reviewing the emergency resources that are available~~  
16       ~~in the State to be deployed to address fires;~~

17       ~~(7) Assessing whether the State would benefit from a~~  
18       ~~statewide public fire safety messaging program;~~

19       ~~(8) Assisting in the investigation of fires when requested~~  
20       ~~by a county;~~

21       ~~(9) Conducting inspections of state buildings and~~  
22       ~~facilities to ensure fire safety compliance;~~

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- 1       ~~(10) Providing and coordinating public education and~~  
2           ~~awareness on fire safety;~~
- 3       ~~(11) Overseeing the training and certification of fire~~  
4           ~~inspectors and investigators in the State;~~
- 5       ~~(12) Maintaining records of all fires in the State,~~  
6           ~~including the causes and circumstances;~~
- 7       ~~(13) Assisting in the disbursement of federal grants for~~  
8           ~~structural fire protection purposes to the counties;~~  
9           ~~and~~
- 10       ~~(14) Performing other duties as necessary or delegated by~~  
11           ~~the state fire council.~~

12       ~~(d) In carrying out the duties of this section, the state~~  
13       ~~fire marshal may utilize the services of the state fire council,~~  
14       ~~including its advisory committees and administrative staff, as~~  
15       ~~appropriate." ] Repealed."~~

16       SECTION 22. All rights, powers, functions, and duties of  
17       the department of labor and industrial relations regarding the  
18       state fire council are transferred to the department of defense.  
19       All officers and employees whose functions are transferred by  
20       this Act shall be transferred with their functions and shall  
21       continue to perform their regular duties upon their transfer,  
22       subject to the state personnel laws and this Act. No officer or

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1 employee of the State having tenure shall suffer any loss of  
2 salary, seniority, prior service credit, vacation, sick leave,  
3 or other employee benefit or privilege as a consequence of this  
4 Act, and such officer or employee may be transferred or  
5 appointed to a civil service position without the necessity of  
6 examination; provided that the officer or employee possesses the  
7 minimum qualifications for the position to which transferred or  
8 appointed; and provided that subsequent changes in status may be  
9 made pursuant to applicable civil service and compensation laws.  
10 An officer or employee of the State who does not have tenure and  
11 who may be transferred or appointed to a civil service position  
12 as a consequence of this Act shall become a civil service  
13 employee without the loss of salary, seniority, prior service  
14 credit, vacation, sick leave, or other employee benefits or  
15 privileges and without the necessity of examination; provided  
16 that such officer or employee possesses the minimum  
17 qualifications for the position to which transferred or  
18 appointed. If an office or position held by an officer or  
19 employee having tenure is abolished, the officer or employee  
20 shall not thereby be separated from public employment, but shall  
21 remain in the employment of the State with the same pay and  
22 classification and shall be transferred to some other office or

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1 position for which the officer or employee is eligible under the  
2 personnel laws of the State as determined by the head of the  
3 department or the governor.

4 SECTION 23. All rules, policies, procedures, guidelines,  
5 and other material adopted or developed by the department of  
6 labor and industrial relations to implement provisions of the  
7 Hawaii Revised Statutes that are reenacted or made applicable to  
8 the department of defense by this Act shall remain in full force  
9 and effect until amended or repealed by the department of  
10 defense pursuant to chapter 91, Hawaii Revised Statutes. In the  
11 interim, every reference to the department of labor and  
12 industrial relations or director of labor and industrial  
13 relations in those rules, policies, procedures, guidelines, and  
14 other material is amended to refer to the department of defense  
15 or adjutant general, as appropriate.

16 SECTION 24. All deeds, leases, contracts, loans,  
17 agreements, permits, or other documents executed or entered into  
18 by or on behalf of the department of labor and industrial  
19 relations, pursuant to the provisions of the Hawaii Revised  
20 Statutes, that are reenacted or made applicable to the  
21 department of defense by this Act shall remain in full force and  
22 effect. Upon the effective date of this Act, every reference to

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1 the department of labor and industrial relations or the director  
2 of labor and industrial relations therein shall be construed as  
3 a reference to the department of defense or the adjutant  
4 general, as appropriate.

5 SECTION 25. All appropriations, records, equipment,  
6 machines, files, supplies, contracts, books, papers, documents,  
7 maps, and other personal property heretofore made, used,  
8 acquired, or held by the department of labor and industrial  
9 relations relating to the functions transferred to the  
10 department of defense shall be transferred with the functions to  
11 which they relate.

12 SECTION 26. In codifying the new sections added by section  
13 2 and referenced in sections 12, 13, 17, and 18 of this Act, the  
14 revisor of statutes shall substitute appropriate section numbers  
15 for the letters used in designating the new sections in this  
16 Act.

17 SECTION 27. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 28. This Act shall take effect upon its approval.

20

21

INTRODUCED BY: 

22

BY REQUEST

# S.B. NO. 1383

**Report Title:**

DOD; DLIR; State Fire Marshal; State Fire Council; State Fire Codes

**Description:**

Amends the laws concerning the Office of the State Fire Marshal to best effectuate the recommendations of the "Phase 3" Forward-Looking Report by Fire Safety Research Institute on the August 2023 Maui wildfires.

*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: Defense

TITLE: A BILL FOR AN ACT RELATING TO FIRE PROTECTION.

PURPOSE: To amend the laws concerning the Office of the State Fire Marshal to best effectuate the recommendations of the "Phase 3" Forward-Looking Report by Fire Safety Research Institute on the August 2023 Maui wildfires.

MEANS: Add seventeen new sections to chapter 132, Hawaii Revised Statutes (HRS), and amend sections 26-21, 76-16(b), 107-26, 107-28(a), 132-2, 132-3, 132-4, 132-4.5, 132-5, 132-6, 132-9, 132-10, 132-11, 132-12, 132-13, 132-16, 132-18(c), 291C-1, HRS, and section 2 of Act 209, Session Laws of Hawaii 2024.

JUSTIFICATION: In the aftermath of the August 2023 Lahaina wildfires, the Department of the Attorney General initiated an investigation and retained the independent, third-party Fire Safety Research Institute, part of UL Research Institutes, to assess the performance of state and county agencies in preparing for and responding to the August 2023 Maui wildfires. The investigation led to three reports – a "Phase 1" Comprehensive Timeline report, a "Phase 2" Incident Analysis Report, and a "Phase 3" Forward-Looking Report.

The "Phase 3" Forward-Looking Report organized these findings and provided a prioritized list of action items for the State and all counties for changes to be made to improve Hawaii's response to wildfires. The report calls for changes and improvements to the Office of the State Fire Marshal, which was established by Act 209, Session Laws of Hawaii 2024 – among them, bolstering statutory authority of the Office of the State Fire Marshal to address the wide spectrum of fire safety issues, delineating responsibilities and reporting

structures between the State Fire Marshal and the State Fire Council, and creating an organizational structure to immediately address the State's fire-safety priorities effectively.

Impact on the public: The clarification of the role of the State Fire Marshal and the uniformity of the State Fire Codes compliance will increase the readiness and resilience of the State against fire-related disasters.

Impact on the department and other agencies: The bill will transfer the Office of the State Fire Marshal and the State Fire Council from the Department of Labor and Industrial Relations to the Department of Defense.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: DEF 118.

OTHER AFFECTED AGENCIES: Department of Labor and Industrial Relations; Department of Accounting and General Services; and county fire departments.

EFFECTIVE DATE: Upon approval.