

ACT 302

H.B. NO. 1064

A Bill for an Act Relating to Fire Protection.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that in the aftermath of the 2023 Maui 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 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 of changes to be made to improve Hawaii’s response to wildfires for the State and all counties. 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.

Accordingly, the purpose of this Act is to:

- (1) Effectuate the recommendations of the “Phase 3” forward-looking report;
- (2) Establish a state fire marshal selection commission; and

- (3) Place the office of the state fire marshal under the department of law enforcement.

SECTION 2. Chapter 132, Hawaii Revised Statutes, is amended by designating sections 132-1 to 132-19 as part I and inserting a title before section 132-1 to read as follows:

“PART I. GENERAL PROVISIONS”

SECTION 3. Chapter 132, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . OFFICE OF THE STATE FIRE MARSHAL

§132-A Definitions. As used in this part:

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

“Office” means the office of the state fire marshal.

“Structure hardening” means the installation, replacement, or retrofitting of building materials, systems, or assemblies used in the exterior design and construction of existing structures with the primary purpose of reducing risk to structures from wildfire and in compliance with the provisions of the state fire code relating to structure or home hardening.

§132-B Office of the state fire marshal; established. (a) The office of the state fire marshal shall be established within the department of law enforcement for administrative purposes. The office shall be headed by the state fire marshal.

(b) The state fire marshal may organize and reorganize the administrative structure of the office as the state fire marshal considers appropriate to properly conduct the work of the office.

(c) The state fire marshal may divide the functions of the office into administrative divisions. The state fire marshal may appoint an individual to administer each division. Each individual appointed under this subsection shall be well-qualified by technical training and experience in the functions to be performed by the individual.

§132-C Powers and duties generally. (a) The office shall:

- (1) Review and assess the fire risk of the State;
- (2) Coordinate fire protection efforts among local agencies for the State;
- (3) Review and propose amendments to the state fire code, in consultation with and in consideration of recommendations provided by the state fire council for the state fire council’s consideration in its adoption of or amendments to the state fire code;
- (4) Review the emergency resources that are available in the State to be deployed to address fires;
- (5) Work with state and county law enforcement agencies for enforcement of the state fire code; provided that law enforcement agencies shall have primary law enforcement jurisdiction;
- (6) Upon request of a county official having enforcement responsibility and a showing of unusual fire hazard or other special circumstances, investigate and make appropriate recommendations. The state fire

marshal may investigate or cause an investigation to be made to determine the probable cause, origin, and circumstances of any fire and shall classify the findings as the state fire marshal may find appropriate to promote fire protection and prevention. The state fire marshal shall coordinate and consult with county authorities in the event that the state fire marshal needs to summon witnesses related to a fire investigation;

- (7) Conduct inspections of state buildings and facilities to ensure fire safety compliance;
 - (8) Oversee the training and certification of fire inspectors and investigators in the State; and
 - (9) Maintain records of all fires in the State, including the causes and circumstances.
- (b) The office shall adopt rules pursuant to chapter 91 necessary to implement this part.

§132-D Discretionary powers. The office may:

- (1) Establish headquarters and county offices of the office at places the office of the governor considers advisable for the protection of the State;
- (2) Allow the state fire marshal and deputy state fire marshals to operate authorized emergency vehicles as defined by section 291C-1;
- (3) Use land and buildings for the accommodation of office employees and office vehicles and equipment;
- (4) Contract or otherwise cooperate with any person or public agency for the procurement of necessary services or property, subject to chapter 103D where applicable, including by entering into lease agreements and taking title to real property as necessary for the performance of the duties of the office;
- (5) As an emergency services agency, control and regulate the acquisition, operation, use, maintenance, and disposal of, and access to, motor vehicles and equipment for official state fire business;
- (6) Accept and transfer gifts, grants, donations, and funds from any source, including services and property, to carry out the duties of the office;
- (7) Provide training, or enter into contracts to obtain training services, in fire suppression and fire safety inspection, to departments and agencies that issue licenses;
- (8) Explore additional opportunities to reduce wildfire risk, including engaging with:
 - (A) The insurance commissioner, as defined in section 431:2-102, regarding insurance policy coverage provisions, underwriting standards, insurance rates, and any other insurance-related topic relevant to enhancing the protection of property from wildfire at a reasonable cost;
 - (B) Electric utilities regarding further actions to protect public safety, reduce risk to electric company customers, and promote electrical system resilience to wildfire damage; and
 - (C) Federal agencies to expand opportunities for cost-share partnerships for wildfire mitigation and develop strategies for improvements to federal fire management policies applicable to the State;

- (9) Oversee the development and maintenance of a comprehensive statewide wildfire hazard map that displays wildfire hazard zones; and
- (10) Perform any other duties necessary to discharge its duties under this part.

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

§132-F Powers and duties relating to wildfire readiness. The office shall increase the State's wildfire readiness capacity to the extent that the office of the governor receives funding for the increase, by means including:

- (1) Increasing the number of fire prevention personnel and fire administrative support personnel to address planning, communications, training, deployment, and safety;
- (2) Implementing innovative technologies and modernizing systems to expedite fire resource deployment in an efficient and safe manner;
- (3) Entering into contracts or agreements with federal or state agencies, counties, other states, corporations, and authorities, having jurisdiction for fire prevention, suppression, coordination, and response; and
- (4) Coordinating with the Hawaii emergency management agency.

§132-G Utilization of firefighting resources. The state fire marshal, in consultation with the Hawaii emergency management agency, shall provide advice and counsel to the governor on the most practical utilization of the firefighting resources of the State.

§132-H State fire marshal; terms of employment. (a) The state fire marshal shall be the administrator of the office. If a state fire marshal has not already been appointed by the state fire council by June 30, 2025, as set forth in Act 209, Session Laws of Hawaii 2024, the state fire marshal shall be appointed by the governor from a list of three names submitted by the state fire council. The state fire marshal shall serve for a term of five years. The appointment of the state fire marshal shall be made without regard to chapters 76 and 89, and shall not be subject to the advice and consent of the senate. If a vacancy occurs, the state fire council shall meet expeditiously to submit a list of three names to the governor for a new state fire marshal to serve the remainder of the unexpired term.

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

§132-I Deputies and assistants. The state fire marshal shall appoint two deputy state fire marshals, exempt from chapters 76 and 89, whose duties shall be to assist in implementing this chapter. The office may also employ other assistants and employees, subject to chapter 76, and incur other expenses as the

state fire marshal may deem necessary to effectively administer the office. Each deputy state fire marshal shall be well-qualified by technical training and experience in the functions to be performed by the individual. The state fire marshal may remove any deputy state fire marshal for cause.

§132-J Salary. The salary of the state fire marshal and deputy state fire marshal shall be equal to the salary of the director and deputy director of human resources development, respectively.

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

§132-L Community risk reduction program. (a) The office may develop and administer a community risk reduction program that:

- (1) Emphasizes education and methods for the prevention of wildfire risk;
 - (2) Encourages cost-effective hardening and retrofitting of structures that creates fire-resistant homes, businesses, and public buildings; and
 - (3) Facilitates vegetation management, the creation and maintenance of defensible space, and other fuel modification activities that provide neighborhood or community-wide benefits against wildfire.
- (b) The counties may opt into the community risk reduction program to provide resources and localized knowledge of the community.
- (c) The office or counties may contract with educational or other non-profit entities to assist with the administration of the community risk reduction program.

§132-M State fire marshal; biennial report; deadline; contents. (a) Beginning with the regular session of 2027, no later than twenty days before the convening in each odd-numbered year of a regular session, the office shall submit to the legislature a report regarding the activities of the state fire marshal and the counties in implementing this chapter.

- (b) The report shall include, at a minimum:
- (1) A status report concerning:
 - (A) Community risk reduction; and
 - (B) The establishment, administration, and enforcement of defensible space requirements;
 - (2) The amount of moneys expended during the previous fiscal biennium for:
 - (A) Community risk reduction;
 - (B) The establishment, administration, and enforcement of defensible space requirements; and
 - (C) Fire suppression; and
 - (3) Any recommendations for the state fire marshal for legislative action, including but not limited to current or future resource and funding needs for:
 - (A) Community risk reduction; and

- (B) The establishment, administration, and enforcement of defensible space requirements.

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

(b) The state fire marshal shall specify a pattern and distinctive design for the uniforms described in subsection (a).

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

§132-O Minimum defensible space requirements; duties of the state fire marshal; enforcement powers of the counties; assistance to the counties. (a) With regard to minimum defensible space requirements, the state fire marshal:

- (1) Shall consult with the state fire council to establish minimum defensible space requirements;
- (2) Shall establish requirements that are consistent with and do not exceed the standards pertaining to defensible space in generally accepted evidence-based codes and standards;
- (3) May consider best practices specific to the State and traditional and customary practices relating to defensible space to establish the requirements;
- (4) Shall periodically reexamine generally accepted evidence-based codes and standards and update the requirements to reflect the current best practices, which may be conducted in consultation with the state fire council;
- (5) Shall enforce the requirements that are applicable to state lands within the jurisdiction of a county;
- (6) Shall adopt rules governing administration of the requirements;
- (7) May develop, in consultation with the state fire council, a graduated fine structure for the counties' use in assessing civil penalties on property owners for noncompliance with the requirements;
- (8) Shall consult with stakeholders, such as the counties, on implementation of the requirements; and
- (9) May adopt rules concerning requirements by the counties as described in subsection (b).

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

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

- (1) On lands where members of socially and economically vulnerable communities, persons with limited proficiency in English, and persons of lower income reside;

- (2) For critical or emergency infrastructure; and
- (3) For schools, hospitals, and facilities that serve seniors.”

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

“§132- State fire marshal selection commission; established. (a) Beginning January 1, 2026, there is established the state fire marshal selection commission, which shall be placed within the department of law enforcement for administrative purposes.

- (b) The state fire marshal selection commission:
 - (1) Shall have the authority to appoint and may remove the state fire marshal;
 - (2) May receive complaints from citizens on the office of the fire marshal and the state fire marshal;
 - (3) Shall evaluate and conduct an annual performance review of the state fire marshal;
 - (4) Shall post its agenda and minutes on a website;
 - (5) Shall be subjected to the state sunshine laws under chapter 92; and
 - (6) May adopt rules pursuant to chapter 91.
- (c) The state fire marshal selection commission shall consist of the following seven members:

- (1) Three members who shall be appointed by the governor subject to advice and consent of the senate and shall be voting members; provided that for the initial year, one member shall serve a one-year term, one member shall serve a two-year term, and one member shall serve a three-year term; provided further that after the initial term, each of the members may serve up to two consecutive terms for up to eight years with each term being four years;
- (2) One member who shall be appointed by the speaker of the house and shall be a voting member; provided that the member shall serve an initial term of four years and may serve up to two consecutive terms for up to eight years with each term being four years;
- (3) One member who shall be appointed by the president of the senate and shall be a voting member; provided that the member shall serve an initial term of four years; provided further that the member may serve up to two consecutive terms for up to eight years with each term being four years;
- (4) The chair of the Hawaii state fire council or the chair’s designee, who shall be an ex officio, nonvoting member; and
- (5) The adjutant general of the Hawaii national guard or the adjutant general’s designee, who shall be an ex officio, nonvoting member.
- (d) All members of the state fire marshal selection commission, both voting and nonvoting, shall elect a chairperson and a vice chairperson of the commission; provided that the chairperson is not an ex officio member.
- (e) Any action taken by the state fire marshal selection commission shall be approved by a simple majority of its members; provided that a majority of the members of the commission shall constitute a quorum to do business.
- (f) The members of the state fire marshal selection commission shall serve without compensation but shall be reimbursed for necessary expenses, including travel expenses, reasonably incurred in the performance of their duties.
- (g) Notwithstanding this section, if a state fire marshal has already been appointed by the state fire council by June 30, 2025, as set forth in Act 209, Session Laws of Hawaii 2024, the state fire marshal selection commission’s

authority to appoint the state fire marshal shall begin upon the expiration of the incumbent state fire marshal's term."

SECTION 5. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) Commissioned and enlisted personnel of the Hawaii National Guard and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each

- department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, and no more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
- (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual or bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational or supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
- (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
- (D) Members of the faculty of the ~~[University]~~ university of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13) (A) Positions filled by inmates, patients of state institutions, and persons with severe physical or mental disabilities participating in the work experience training programs;
- (B) Positions filled with students in accordance with guidelines for established state employment programs; and
- (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;
- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants

- either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy in the department of human services either in charge of welfare or other functions within the department as may be assigned by the director of human services; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; two additional deputies in charge of the law enforcement programs, administration, or other functions within the department of law enforcement as may be assigned by the director of law enforcement, with the approval of the governor; three additional deputies each in charge of the correctional institutions, rehabilitation services and programs, and administration or other functions within the department of corrections and rehabilitation as may be assigned by the director of corrections and rehabilitation, with the approval of the governor; two administrative assistants to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that:
 - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
 - (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
 - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
 - (19) Household employees at the official residence of the president of the [University] university of Hawaii;
 - (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
 - (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that no more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
 - (22) Positions of the federally funded expanded food and nutrition program of the [University] university of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
 - (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
 - (24) The sheriff;
 - (25) A gender and other fairness coordinator hired by the judiciary;
 - (26) Positions in the Hawaii National Guard youth and adult education programs;
 - (27) In the Hawaii state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts;

- (28) Administrative appeals hearing officers in the department of human services;
- (29) In the Med-QUEST division of the department of human services, the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator;
- (30) In the director's office of the department of human services, the enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, security and privacy compliance analyst, information technology implementation manager, assistant information technology implementation manager, resource manager, community or project development director, policy director, special assistant to the director, and limited English proficiency project manager or coordinator;
- (31) The Alzheimer's disease and related dementia services coordinator in the executive office on aging;
- (32) In the Hawaii emergency management agency, the executive officer, public information officer, civil defense administrative officer, branch chiefs, and emergency operations center state warning point personnel; provided that for state warning point personnel, the director shall determine that recruitment through normal civil service recruitment procedures would result in delay or noncompliance;
- (33) The executive director and seven full-time administrative positions of the school facilities authority;
- (34) Positions in the Mauna Kea stewardship and oversight authority;
- (35) In the office of homeland security of the department of law enforcement, the statewide interoperable communications coordinator;
- (36) In the social services division of the department of human services, the business technology analyst;
- (37) The executive director and staff of the 911 board;
- [(38)] Senior software developers in the department of taxation;
- [(39)] In the department of law enforcement, five Commission on Accreditation for Law Enforcement Agencies, Inc., coordinator positions;
- [(40)] The state fire marshal^[;] and deputy state fire marshal in the office of the state fire marshal; and
- [(41)] The administrator for the law enforcement standards board.

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

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

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

"§132-1 County fire chiefs; powers and duties. (a) Records. The fire chief of each county shall keep in the county fire chief's office a record of all fires occurring in the county and of all facts concerning the same, and shall make ~~[such]~~ compilations and statistical investigations ~~[as the fire chief may deem proper,]~~ on an annual basis, all of which shall be kept as permanent records in the fire chief's office. All records shall be public, except that any evidence in any investigation may, in the discretion of the county fire chief, be withheld from the public.

(b) Investigations, generally. The fire chief of each county shall:

- (1) Investigate the cause, origin, and circumstances of fires;
- (2) Supervise and make or cause to be made ~~[periodically],~~ on a bi-ennial basis, a thorough inspection record of all property ~~[which]~~

that might constitute a fire hazard within the county[;] pursuant to subsection (c);

(3) Summon and compel the attendance of witnesses and production of evidence and hold hearings and make orders in any matter under the fire chief's jurisdiction; and

(4) Cooperate with ~~[any and]~~ all other governmental officers or agencies having jurisdiction in the matters.

(c) On January 1 of each year, the fire chief of each county shall transmit the records and statistical investigations compiled pursuant to subsection (a) to the office of the state fire marshal. On January 1 of each alternating year, the fire chief of each county shall transmit the inspection record of property that may constitute a fire hazard within their county compiled pursuant to subsection (b)(2) to the office of the state fire marshal."

SECTION 7. Section 132-4, Hawaii Revised Statutes, is amended to read as follows:

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

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

If the office of the state fire marshal is of the opinion that the evidence in relation to a fire indicates that a crime has been committed, the office of the state fire marshal shall coordinate with the relevant county fire chief to present the evidence to the prosecuting attorney of the county in which the supposed offense was committed."

SECTION 8. Section 132-4.5, Hawaii Revised Statutes, is amended to read as follows:

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

(1) An insurance policy relating to ~~[such]~~ the loss;

(2) Policy premium records;

(3) History of previous claims; and

(4) Other relevant material relating to ~~[such]~~ the loss or potential loss.

(b) If any insurer has reason to suspect that a fire loss to its insured's real or personal property was caused by incendiary means, the insurer shall furnish the county fire chief or state fire marshal with all relevant material acquired during its investigation of the fire loss, cooperate with and take ~~[such]~~ action as may be required of it by the county fire chief~~;~~ or state fire marshal, and permit any person ordered by the court to inspect any of its records pertaining to the policy and the loss. ~~[Such]~~ The insurer may request the county fire chief or state fire marshal to release information relating to any investigation the fire chief or

state fire marshal has made concerning any ~~[such]~~ fire loss of suspicious or incendiary origin.

(c) In the absence of fraud, malice, or criminal act, no insurer or person who furnishes information on its behalf, shall be liable for damages in a civil action or be subject to criminal prosecution for any oral or written statement made that is necessary to supply information required pursuant to this section.

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

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

SECTION 9. Section 132-5, Hawaii Revised Statutes, is amended to read as follows:

"§132-5 Right of entry for inspection; unlawful to obstruct. The county fire chief ~~[or]~~, the chief's designees, the state fire marshal, or the state fire marshal's designees, at all reasonable hours may enter any buildings, structures, or premises within the fire chief's or state fire marshal's jurisdiction, respectively, except the interior of private dwellings, to make any inspection, investigation, or examination that is authorized to be made under this chapter. The county fire chief ~~[or]~~, the chief's designees, the state fire marshal, or the state fire marshal's designees may enter any private dwelling whenever the fire chief ~~[or]~~, the chief's designees, the state fire marshal, or the state fire marshal's designees have reason to believe that dangerous conditions creating a fire hazard exist in the dwelling. The county fire chief ~~[or]~~, the chief's designees, the state fire marshal, or the state fire marshal's designees may enter any private dwelling when a fire has occurred in the dwelling. It shall be unlawful to obstruct, hinder, or delay any person having the right to make the inspection, investigation, or examination in the performance of duty.

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

SECTION 10. Section 132-6, Hawaii Revised Statutes, is amended to read as follows:

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

(b) The inspection shall be made[~~ed~~]:

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

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

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

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

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

(e) Each county fire chief ~~[is]~~ shall be vested with the power and jurisdiction over, and shall have supervision of, every building and premises in the county as may be necessary to enforce any law, ordinances, rule,¹ and order relating to protection from fire loss; provided that this provision shall not in any manner limit the jurisdiction or authority ~~[which]~~ that any other county official may have over ~~[such]~~ the building or premises under any other law or ordinance. Whenever as a result of inspection or upon complaint or otherwise the county fire chief determines that a law, ordinance, rule, or order relating to protection from fire loss has been violated or that a condition exists ~~[which]~~ that creates an unreasonable risk of fire loss, the fire chief shall prepare and serve upon the owner, occupant, or other person responsible for the building or premises a written order setting forth the nature of the alleged violation or condition, the law, ordinance, rule, or order violated, and the protections, safeguards, or other means or methods required to render the building or premises safe as required by law, ordinance, or rule. The order shall be complied with by the owner or occupant or person responsible for the building or premises within the time therein specified unless a timely appeal is taken pursuant to subsection (f) ~~[of this section]~~.

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

(g) Notwithstanding the provisions of subsection (e) ~~[of this section]~~ where the county fire chief determines that a clear and immediate risk of fire loss exists, the fire chief may, after notice to the owner or occupant or other person responsible for the building or premises, and after a hearing pursuant to chapter 91, order ~~[such]~~ the person to take all actions reasonably necessary to render the building or premises safe from fire loss; provided that no notice or hearing shall be required where the county fire chief determines that the risk of fire loss is sufficiently immediate that delay would be dangerous to the public safety and welfare. If any owner, occupant, or other person responsible for the building or premises fails to comply with the order of the county fire chief, the county fire chief may take ~~[such]~~ action and make ~~[such]~~ any expenditure as may be necessary and if the owner, occupant, or other person responsible neglects or refuses to pay to the county fire chief the expense incurred by the fire chief, the county shall have a prior lien on the real property as provided for in section 132-7."

SECTION 11. Section 132-10, Hawaii Revised Statutes, is amended to read as follows:

“§132-10 Witnesses; fees. The county fire appeals board ~~[or]~~, the county fire chief, or the state fire marshal shall in all proceedings have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the county fire appeals board ~~[or]~~, the county fire chief, or the state fire marshal or of any subpoena issued by ~~[either]~~ any of them or of the refusal of any witness to testify to any matter regarding which the witness may be questioned lawfully, any circuit judge, on application by the county corporation counsel, shall compel obedience as in case of disobedience of all requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid by the appropriate county out of any appropriation or funds available for the expenses of the county fire chief~~[-]~~ or, in the case of a summons by the state fire marshal, shall be paid out of any appropriation or funds available for the expenses of the state fire marshal.”

SECTION 12. Section 132-11, Hawaii Revised Statutes, is amended to read as follows:

“§132-11 Recorded order of county fire chiefs and state fire marshal as evidence. A duplicate original of every order made by each county fire chief shall be filed in the fire chief’s office, and ~~[such]~~ a duplicate original of every order made by the state fire marshal shall be filed in the office of the state fire marshal. A duplicate original shall be admissible as evidence in any prosecution for the violation of any of its provisions. Unless an appeal has been instituted and is pending, the provisions of any order shall be presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement of safety from fire loss.”

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

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

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

“§132-13 Penalty. Any owner, occupant, or other person having control over or charge of any building, structure, or other premises who violates any provision of this chapter or any law, ordinance, or rule relating to protection from fire loss or who fails or refuses to comply with any order of the county fire chief or any order of the state fire marshal shall be fined no more than \$2,500 or imprisoned no more than thirty days, or both. Each day that a violation exists or continues to exist shall constitute a distinct and separate offense for which the violator may be punished. Penalties for continuing violations shall be assessed from the earliest known date of the violation. In addition to the penalty imposed under this section, counties may assess and collect civil penalties based on the penalty structure set forth by the state fire marshal pursuant to section 132-O.”

SECTION 15. Section 132-16, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

“(a) There ~~[is]~~ shall be established a state fire council, which shall be placed within the department of ~~[labor and industrial relations]~~ law enforcement for administrative purposes. The state fire council shall consist of the state fire marshal, the fire chiefs of the counties, the fire chief of the Hawaii state aircraft rescue fire fighting unit, and a representative of the division of forestry and wildlife of the department of land and natural resources. The state fire council may appoint an advisory committee to assist it in carrying out its functions under this chapter. The advisory committee may include the heads of the various county building departments, a licensed architect recommended by the Hawaii Society of the American Institute of Architects, a licensed electrical engineer and a licensed mechanical engineer recommended by the Consulting Engineers Council of Hawaii, a representative of the Hawaii Rating Bureau, a representative of the Hawaii Fire Fighters Association, representatives of the county fire departments, a representative of the Hawaii state aircraft rescue fire fighting unit, a representative of the division of forestry and wildlife of the department of land and natural resources, and other members of the public as the state fire council may determine can best assist it. The state fire council shall elect a chairperson from among its members.

(b) In addition to adopting a state fire code pursuant to section 132-3, the state fire council shall:

- (1) Administer the requirements for reduced ignition propensity cigarettes, in accordance with chapter 132C;
- (2) Serve as a focal point through which all applications to the federal government for federal grant assistance for fire-related projects shall be made. Upon the receipt of any ~~[such]~~ federal grants, the state fire council shall administer those federal grants;
- ~~[(3) Establish the terms of employment for the position of the state fire marshal; and~~
- ~~(4) Appoint the state fire marshal.]~~
- (3) Advise the governor and state fire marshal on fire policy issues and serve in an advisory capacity to the state fire marshal on strategies for the implementation of fire and life safety issues; and
- (4) Coordinate with the state building code council on matters pertaining to fire safety.

(c) The state fire council may also:

- (1) Appoint advisory committees comprising representatives from each county fire department, a representative of the Hawaii state aircraft rescue fire fighting unit, and a representative of the division of forestry and wildlife of the department of land and natural resources to assist in drafting the state fire code and coordinating statewide training, data collection, and contingency planning needs for firefighters;
- (2) Advise and assist the county and state fire departments where appropriate; may prescribe standard procedures and forms relating to inspections, investigations, and reporting of fires; may approve plans for cooperation among the county and state fire departments; and may advise the governor and the legislature with respect to fire prevention and protection, life safety, and any other functions or activities for which the various county and state fire departments are generally responsible; ~~[and]~~

- (3) Establish, in conformance with the adopted state fire code and nationally recognized standards, statewide qualifications and procedures, to be administered by the county fire departments, for testing, certifying, and credentialing individuals who perform maintenance and testing of portable fire extinguishers, water-based fire protection systems, other fire protection systems, private fire hydrants, and fire alarm systems; provided that the county fire departments may establish and charge reasonable certification fees[.];
- (4) Review any conflicts that may arise in the adoption, amendment, or implementation of the state fire codes at the state and county levels or in the adoption, amendment, or implementation of rules proposed or adopted by the office or the counties pursuant to this chapter; and
- (5) The state fire council may adopt rules pursuant to chapter 91 for purposes of this section.”

SECTION 16. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of “authorized emergency vehicle” to read as follows:

““Authorized emergency vehicle” includes fire department vehicles, police vehicles, ambulances, ocean safety vehicles, law enforcement vehicles, ~~and~~ conservation and resources enforcement vehicles, and office of the state fire marshal vehicles authorized and approved pursuant to section 291-31.5 that are publicly owned and other publicly or privately owned vehicles designated as such by a county council.”

SECTION 17. Section 132-16.5, Hawaii Revised Statutes, is repealed.

SECTION 18. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,212,000 or so much thereof as may be necessary for fiscal year 2025-2026 and the same sum or so much thereof as may be necessary for fiscal year 2026-2027 in the following manner:

- (1) For fiscal year 2025-2026:
 - (A) \$206,352 for one full-time equivalent (1.0 FTE) position for the state fire marshal;
 - (B) \$189,804 for one full-time equivalent (1.0 FTE) position for one deputy state fire marshal;
 - (C) \$40,248 for one full-time equivalent (1.0 FTE) position for one office assistant IV;
 - (D) \$160,000 for two full-time equivalent (2.0 FTE) positions for fire inspectors;
 - (E) \$240,000 for three full-time equivalent (3.0 FTE) positions for fire investigators; and
 - (F) \$1,375,596 for the operations, costs, equipment, and expenses of the office of the state fire marshal; and
- (2) For fiscal year 2026-2027:
 - (A) \$214,608 for one full-time equivalent (1.0 FTE) position for the state fire marshal;
 - (B) \$197,400 for one full-time equivalent (1.0 FTE) position for one deputy state fire marshal;
 - (C) \$40,248 for one full-time equivalent (1.0 FTE) position for one office assistant IV;
 - (D) \$160,000 for two full-time equivalent (2.0 FTE) positions for fire inspectors;

- (E) \$240,000 for three full-time equivalent (3.0 FTE) positions for fire investigators; and
- (F) \$1,359,744 for the operations, costs, equipment, and expenses of the office of the state fire marshal.

The sums appropriated shall be expended by the department of law enforcement for the purposes of this Act.

SECTION 19. Notwithstanding the establishment of the state fire marshal selection commission on January 1, 2026, pursuant to the new section being added to chapter 132, Hawaii Revised Statutes, in section 4 of this Act, the term of employment of any person occupying the state fire marshal position on January 1, 2026, shall not be affected.

SECTION 20. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 21. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 22. This Act shall take effect on July 1, 2025.

(Approved July 8, 2025.)

Notes

1. Should not be underscored.
2. Edited pursuant to HRS §23G-16.5.