

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

**Senate Committees on Labor and Technology and Public Safety and Intergovernmental
and Military Affairs**

Friday, February 9, 2024

3:00 p.m.

State Capitol, Conference Room 224 and Videoconference

With Comments

Senate Bill No. 2085, Relating to the State Fire Marshal

Chairs Aquino and Wakai, Vice Chairs Moriwaki and Elefante, and Members on the Senate Committees on Labor and Technology, and Public Safety and Intergovernmental and Military Affairs:

The Office of the Governor provides the following comments on S.B. No. 2085, Relating to the State Fire Marshal. This bill would reestablish the position of the State Fire Marshal.

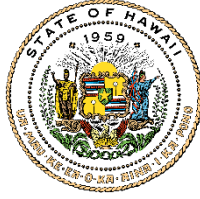
The Maui wildfire resulted in unbearable loss of lives, homes, infrastructure, and businesses. This tragic event is a wake-up call that due to climate changes, the risk of catastrophic wildfires, along with other natural disasters in Hawaii has increased.

While we support the intent of this bill to re-establish a State Fire Marshal, the Office of the Governor would respectfully ask that the Legislature considers Senate Bill No. 3098, which would also reestablish the State Fire Marshal's Office within the Department of Labor and Industrial Relations. S.B. No. 3098 would allow the Governor to nominate the State Fire Marshal and would also provide the State Fire Marshal with among other responsibilities, reviewing and assessing the fire risk to the State, reviewing the emergency resources that are available in the State to be deployed to address fires, and provide the State Fire Marshal's Office with one full-time staffer to support the office.

Thank you very much for the opportunity to provide testimony on this measure.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

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LAND
STATE PARKS

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the Senate Committees on
LABOR AND TECHNOLOGY
and
PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS**

**Friday, February 9, 2024
3:00 PM
State Capitol, Conference Room 224 and Via Videoconference**

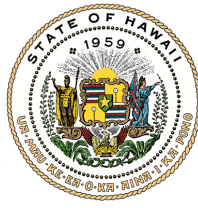
**In consideration of
SENATE BILL 2085
RELATING TO THE STATE FIRE MARSHAL**

Senate Bill 2085 proposes to re-establish the position of the State Fire Marshal. **The Department of Land and Natural Resources (Department) supports this measure with comments.**

While the Department appreciates the intent of this bill, the Department suggests using the language from House Bill 1843 in lieu of the proposed language. House Bill 1843 expands the duties of the State Fire Marshal along the lines of what the State Fire Council expects of the position.

Mahalo for the opportunity to provide testimony in support of this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



JORDAN LOWE
DIRECTOR

MICHAEL VINCENT
Deputy Director
Administration

JARED K. REDULLA
Deputy Director
Law Enforcement

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF LAW ENFORCEMENT

Ka 'Oihana Ho'okō Kānāwai

715 South King Street
Honolulu, Hawai'i 96813

TESTIMONY ON SENATE BILL 2085
RELATING TO THE STATE FIRE MARSHAL

Before the Senate Committee on Public Safety and Intergovernmental and Military
Affairs and the Committee on Labor and Technology

Friday, February 9, 2024; 3:00 p.m.

State Capitol Conference Room 224, Via Videoconference

Testifiers:

Chairs Wakai and Aquino, Vice Chairs Elefante and Moriwaki, and members of the
Committees:

The Department of Law Enforcement (DLE) **supports** Senate Bill (SB) 2085
which proposes to re-establish the position of the State Fire Marshal.

The DLE notes that Section 2 of SB 2085 describes the duties and
responsibilities of the State Fire Marshal lists the duties and responsibilities of the State
Fire Marshal including:

1. Leading fire and arson investigations; and
2. Making arrests pertaining to arson;

There are two conceptual models for a State Fire Marshal. The first is the
traditional Hawaii model of code inspection, plans review, permitting, investigation,
prevention, and safety education. The other model encompasses the traditional duties
practiced in Hawaii, but also includes a vigorous criminal enforcement program for the
investigation of fires and arson. As proposed here, SB 2085 would reinvent the State
Fire Marshal's Office in Hawaii as a viable, fully functioning, all-encompassing State Fire
Marshal's Office with a full range of traditional regulatory and safety duties, as well as
new criminal enforcement responsibilities. This new re-invention is a model often used
across the nation where fire investigations and inspections are accomplished by law
enforcement officers with a background of firefighting, inspection, or investigation

experience. Examples of states that have State Fire Marshal's Offices with criminal enforcement responsibilities include: California, Nevada, Texas, and Louisiana. The DLE believes that fire and arson investigations, and making arrests pertaining to arson would be a smart re-invention for the future of fire and arson investigations in Hawai'i.

The DLE also notes that with the proposed law enforcement duties listed in Section 2, the State Fire Marshal would effectively become a new state law enforcement agency. Consequently, the DLE would also offer that to support the State Fire Marshal in carrying out such law enforcement duties proposed in Section 2, the Legislature could position the State Fire Marshal within the DLE so that the DLE could support the State Fire Marshal with its law enforcement training, law enforcement policies and procedures, law enforcement infrastructure, access to law enforcement records and databases, and emergency communications.

As well, the DLE offers that in addition to arson and fire investigations, a common duty of arson and fire investigators is also the investigation of explosives and fireworks. Currently, the DLE manages the State's Illegal Fireworks Task Force. Under the current model, the Fireworks Task Force utilize staff from DLE's Narcotics Enforcement Division, Criminal Investigation Division, Sheriff Division, and outside federal and county law enforcement agencies. Since the investigation of explosives and fireworks are also duties well-associated with fire investigative agencies like the proposed State Fire Marshal, the DLE respectfully submits that the State Fire Marshal would be an appropriate agency to take on a permanent, full-time focus on the illegal fireworks problem in Hawaii.

Finally, the DLE offers that the proposed duties of State Fire Marshal would require that the Legislature specifically empower the State Fire Marshal and the Marshal's employees to have the full powers and authority of a police officer or deputy sheriff, including the powers of arrest and the authorities to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of the State, as well as the authority to carry firearms. Those authorities are necessary because the proposed investigation of fires and arson, and the arrest of those responsible, can be dangerous. Moreover, the

authority to execute warrants and other documents is needed to efficiently conduct investigations.

If the Legislature wishes to consider positioning the State Fire marshal within the DLE, then DLE offers the following language to support consideration:

SECTION __. Chapter 353C, The Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

[\$353C-__] State fire marshal; establishment; appointment; powers; duties; police powers; responsibilities. (a) There is established within the department of law enforcement, a division of the state fire marshal, that shall be administered by a state fire marshal, who shall be appointed by the director, after referral and mutual agreement between the director and the state fire council. The appointment of the state fire marshal shall be made without regard to chapter 76 and shall not be subject to the advice and consent of the senate. In the event of a vacancy, the state fire council and the director shall meet expeditiously to select and appoint a new state fire marshal. To facilitate the appointment of the state fire marshal, the director shall establish the terms of employment for the position of state fire marshal.

(b) The state fire marshal shall have the same powers and authority as county fire chiefs under sections 132D-4, 132D16.6, and 132D-16.7, and this chapter.

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

- (1) Coordinating fire protection efforts between local agencies for the State;

- (2) Leading fire and arson investigations;
- (3) Making arrests pertaining to arson; and
- (4) Working with the state fire council on matters relating to fire services in the State.

(d) In carrying out the duties of this section, the state fire marshal may utilize the services of the state fire council, including its advisory committee and administrative staff, as appropriate.

(e) Any officer or employee of the division of the state fire marshal designated by the director of law enforcement may:

- (1) Carry firearms in the performance of the officer's or employee's official duties;
- (2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this State;
- (3) Make arrests without warrant for any offense related to arson, explosives, fireworks, or any other criminal offense committed in the officer's or employee's presence, or if the officer or employee has probable cause to believe that the person to be arrested has committed or is committing any offense related to arson, explosives, fireworks, or any other criminal offense;
- (4) Make seizures of property pursuant to this chapter; or
- (5) Perform other law enforcement duties as the director of law enforcement designates.

SECTION ~~[3]~~__. Section 132-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(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; ~~[and]~~
- (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) Collaborate with the director of law enforcement to establish the terms of employment for the position of the state fire marshal; and
- (4) Collaborate with the director of law enforcement to appoint the state fire marshal."

Thank you for the opportunity to testify in support of this bill.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHAHA

February 9, 2023

To: The Honorable, Henry J.C. Aquino, Chair,
The Honorable Sharon Y. Moriwaki, Vice Chair, and
Members of the Senate Committee on Labor & Technology

To: The Honorable Glen Wakai, Chair,
The Honorable Brandon J.C. Elefante, Vice Chair, and
Members of the Senate Committee on Public Safety and
Intergovernmental and Military Affairs

Date: Friday, February 9, 2024

Time: 3:00 p.m.

Place: Conference Room 224, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. 2085 RELATING TO THE STATE FIRE MARSHAL

Chairs Aquino and Wakai, Vice Chairs Moriwaki and Elefante, and Members of the Senate Committee on Labor & Technology, and Members of the Senate Committee on Public Safety and Intergovernmental and Military Affairs:

The DLIR **supports the intent** to re-establish a State Fire Marshal and respectfully requests that the Legislature consider SB3098, which would also re-establish the State Fire Marshal's Office within the DLIR but allow the Governor to nominate the State Fire Marshal along with resources and responsibilities to carry out the State Fire Marshal's Office. SB3098 would allow the State Fire Marshal to review and assess the fire risk to the State and review the emergency resources that are available in the State to be deployed to address fires.

Currently, the State Fire Council is administratively attached to the department through a Memorandum of Agreement (MOA) between the DLIR and the City and County of Honolulu. The DLIR is unaware as to why the State Fire Council is administratively attached to the department. The DLIR supports attaching the State Fire Marshall's Office to the DLIR at this time, but suggests further research and recommendations be derived for the appropriate, permanent placement of this office and this function within the Executive Branch.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2085, RELATING TO THE STATE FIRE MARSHAL.

BEFORE THE:

SENATE COMMITTEES ON LABOR AND TECHNOLOGY AND ON PUBLIC SAFETY
AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

DATE: Friday, February 9, 2024 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 224 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Jack W. Relf, Deputy Attorney General

Chairs Aquino and Wakai and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill.

The purpose of this bill is to re-establish the position of the State Fire Marshal, provide the State Fire Marshal with the same powers and authority as county fire chiefs, and establish the duties of the State Fire Marshal, including the duty to make arrests pertaining to arson.

Giving the State Fire Marshal the same powers and authority as the county fire chiefs without further clarification could cause confusion and conflict in the application of the laws. Some examples are provided as follows:

- Section 132-2, Hawaii Revised Statutes (HRS), provides county fire chiefs with the power to adopt rules relating to the protection of persons and property against fire. It is unclear whether the State Fire Marshal has the authority to adopt another set of rules and to whom such rules would apply. It is similarly unclear what would happen if the State Fire Marshal's rules conflicted with rules adopted by a county fire chief.
- Section 132-6(e), HRS, vests in the county fire chiefs the power and jurisdiction over every building and premises in the county as may be

- necessary to enforce any law, ordinances, rule, and order relating to protection from fire loss. It is not clear whether the State Fire Marshal has this power and jurisdiction in all of the counties.
- Section 132-10, HRS, provides county fire chiefs with the same powers respecting administering oaths, compelling attendance of witnesses and the production of documentary evidence, and examining witnesses as are possessed by circuit courts. To administer those powers, the section provides that the county corporation counsel can petition a circuit judge to compel obedience and that the fees and traveling expenses of witnesses shall be paid by the appropriate county out of any funds available for the expenses of the county fire chief. If the State Fire Marshal exercises this power as made available by the bill, it is not clear from the text of the bill which entity could petition a circuit judge for an order compelling obedience and which entity should bear the fees and traveling expenses of witnesses.
 - Section 132-13, HRS, establishes a penalty for disobeying an order of a fire chief, but it is not clear whether there is a penalty for disobeying a similar order of the State Fire Marshal.
 - Section 132D-4, HRS, provides that a county fire chief may extend the time period for the display of fireworks for special events, but it is unclear whether the county fire chief or the State Fire Marshal would be the final decision maker regarding such extensions.
 - Section 132D-16.6, HRS, authorizes county fire chiefs to conduct inspections of fireworks display sites for compliance with the applicable county code and provides that an inspection fee shall be assessed by the county in which the display will occur and shall be used to defray the cost of the official conducting the investigation. If the State Fire Marshal exercises this authority, the fee assessed would go to the county and would not defray the State Fire Marshal's inspection costs. Further, it is similarly unclear which rules the State Fire Marshal would

be required to apply in an inspection and whether the State Fire Marshal or the county fire chief would be the final decision maker.

- Section 132D-16.7, HRS, authorizes a county fire chief to revoke or suspend a permit issued within the fire chief's county. It is not clear whether the State Fire Marshal has this authority in all of the counties.

We recommend amending the bill to clarify the above points and indicate that where chapters 132 and 132D provide power or authority to the county fire chiefs in their respective counties, whether such power and authority is provided to the State Fire Marshal in all counties and whether or in which matters the State Fire Marshal or the county fire chief is the final decision maker. We recommend making clear how conflicts between the State Fire Marshal's decisions or rules and a county fire chief's are to be resolved. We are available to work with the Committee on possible amendments.

With respect to the duty to make arrests pertaining to arson, it is not clear what power to arrest would be possessed by the State Fire Marshal, because neither chapter 132 nor 132D, HRS, provide the county fire chiefs with arrest powers, and the State Fire Marshal is not clearly an officer of justice with arrest powers conferred under chapter 803, HRS. We recommend amending the bill to either remove the reference to the State Fire Marshal performing arrests or to clarify the authority and scope of the State Fire Marshal's arrest powers.

Next, the bill provides that the State Fire Marshal is to be appointed without regard to chapter 76, HRS, but because chapter 89 (Collective Bargaining in Public Employment) could also apply, we recommend the bill be amended to also indicate that the State Fire Marshal position is to be appointed without regard to chapter 89. Also, if the intent is to exempt the position from chapter 76 for longer than three years, section 76-16(b), HRS, would need to be amended. (See section 76-16(b)(17)(A), HRS).

Finally, the bill does not appropriate funds for the State Fire Marshal's salary, which could cause confusion as to the source of the funds. We recommend amending the bill to add an appropriation of funds for the State Fire Marshal's salary or otherwise clarify from where the position is to be funded.

Thank you for the opportunity to provide these comments.

Council Chair
Alice L. Lee

Vice-Chair
Yuki Lei K. Sugimura

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Tom Cook
Gabe Johnson
Tamara Paltin
Keani N.W. Rawlins-Fernandez
Shane M. Sinenci
Nohelani U'u-Hodgins



Director of Council Services
David M. Raatz, Jr., Esq.


Deputy Director of Council Services
Richelle K. Kawasaki, Esq.

COUNTY COUNCIL

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 5, 2024

TO: The Honorable Senator Henry J.C. Aquino, Chair, and
Members of the Senate Committee on Labor and Technology
The Honorable Senator Glenn Wakai, Chair, and Members of the Senate
Committee on Public Safety and Intergovernmental and Military Affairs

FROM: Alice L. Lee
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 9, 2024; TESTIMONY IN SUPPORT OF
SB2085, RELATING TO THE STATE FIRE MARSHAL**

Thank you for the opportunity to testify in support of this measure to re-establish the State Fire Marshal position to direct statewide efforts to protect persons and property against fire loss.

I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. This proposal emerges following the August 8, 2023, Lahaina wildfires, as a common-sense means of providing dedicated support for statewide wildfire prevention and protection that already exists in every other state across the nation.
2. The centralized coordination the State Fire Marshal would provide is a health and safety priority. The measure acknowledges that re-establishing this position would fill gaps in state and local enforcement, provide leadership in fire and arson investigations, and ensure mitigation of wildfire risk.
3. Maui has experienced firsthand the devastating effects to life, property, safety, and security of the recent wildfires. Re-establishing the State Fire Marshal position is a reasonable and cost-effective step that can be taken to increase safeguards and protect the State's residents and visitors.

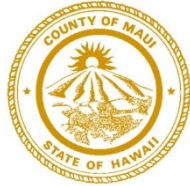
For the foregoing reasons, I **support** this measure.

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director

BRADFORD K. VENTURA
Fire Chief

GAVIN L.M. FUJIOKA
Deputy Fire Chief



DEPARTMENT OF FIRE & PUBLIC SAFETY
COUNTY OF MAUI
200 DAIRY ROAD
KAHULUI, MAUI, HAWAII 96732
www.mauicounty.gov

February 7, 2024

The Honorable Henry Aquino, Chair
Committee on Labor and Technology
The State Senate
State Capitol, Room 204
Honolulu, Hawaii 96813

The Honorable Glenn Wakai, Chair
Committee on Public Safety and
Intergovernmental and Military Affairs
The State Senate
State Capitol, Room 407
Honolulu, Hawaii 96813

Dear Chairs Aquino and Wakai,

**SUBJECT: SENATE BILL (SB) 2085 RELATING TO THE STATE FIRE
MARSHAL**

I am Bradford K. Ventura, member of the Hawaii State Fire Council (SFC) and Fire Chief of the Maui Fire Department. The SFC supports and recommends amendments to SB 2085, which re-establishes the position of the State Fire Marshal.

The SFC was established by the Hawaii State (State) Legislature in 1979 to replace the State Fire Marshal's office. It is currently comprised of the four county Fire Chiefs, State of Hawaii, a representative from the Hawaii State Aircraft Fire Fighting Unit (ARFF); and a representative from the Division of Forestry and Wildlife, Department of Land and Natural Resources (DOFAW), and is administratively attached to the State Department of Labor and Industrial Relations (DLIR).

In accordance with Hawaii Revised Statutes §132, the SFC's primary functions are to adopt a state fire code, administer the requirements for reduced ignition propensity cigarettes, and serve as a focal point for federal grants. The SFC may advise and assist the county fire departments where appropriate; prescribe standard procedures and forms related to inspections, investigations, and reporting of fires; and advise the Governor and State Legislature on issues relating to fire

prevention and protection and life safety. The SFC promotes the standardization of fire service reporting, training, sharing of technology, resources, and best management practices.

The SFC is limited in the actions it can take because it has a relatively small budget and is staffed with only a few part-time employees. The re-establishment of the State Fire Marshal will create a permanent, full-time position to address fire service issues that occur statewide. This can include statewide enforcement of the fire code, for both state buildings and wildland fire areas, in light of the August 2023 Lahaina fires.

The SFC recommends that language regarding the leading of fire and arson investigations and making arrests pertaining to fire is not appropriate for the implementation of the State Fire Marshal at this time and should be deleted. Amendments that should be included would be responsibilities to review and propose amendments to the state fire code, review of the emergency resources available in the state for fire response, and assessment of a statewide public fire safety messaging program.

The recommended language by the SFC is as follows:

"§132- State fire marshal; establishment; appointment; powers; duties; responsibilities. (a) There is established within the department of labor and industrial relations a state fire marshal who shall be appointed by the state fire council, without regard to chapter 76. The appointment shall not be subject to the advice and consent of the senate. In the event of a vacancy, the state fire council shall meet expeditiously to select and appoint a new state fire marshal to serve the remainder of the unexpired term.

(b) The state fire marshal shall have the same powers and authority as county fire chiefs under sections 132D-4, 132D-16.6, and 132D-16.7, and this chapter.

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

- (1) Coordinating fire protection efforts between local agencies for the State;
- (2) Leading fire and arson investigations;
- ~~(3) Making arrests pertaining to arson; and~~
- (3) Reviewing and assessing the fire risk to the State;
- (4) Working with the state fire council on matters relating to fire services in the State;
- (5) Reviewing and proposing amendments to the state fire code and submitting the proposed amendments to the state fire council for the state fire council's consideration in its adoption of or amendments to the state fire code;

The Honorable Henry Aquino, Chair

The Honorable Glenn Wakai, Chair

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

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

(8) Preparing an annual report on the state fire marshal's review or assessment, or both, of the items described in subsection (c)(1) through (7). The annual report shall be submitted to the governor and state fire council no later than November 30 of each calendar year.

(d) In carrying out the duties of this section, the state fire marshal may utilize the services of the state fire council's ~~including its~~ advisory committee and administrative staff, as appropriate. The state fire marshal may employ, on a full-time basis, one staff person to support the state fire marshal's office."

This bill will allow the SFC and State Fire Marshal to more properly serve as a comprehensive fire service emergency management network for the protection of life, property, and the environment for the State. The SFC urges the committee's approval of SB 2085 with proposed deletions and amendments.

If you have questions, please contact SFC Administrative Specialist Gary Lum at (808) 723- 7169 or glum@honolulu.gov.

Sincerely,



BRADFORD K. VENTURA
Fire Chief

**HONOLULU FIRE DEPARTMENT
KA 'OIHANA KINAI AHI O HONOLULU
CITY AND COUNTY OF HONOLULU**

636 SOUTH STREET • HONOLULU, HAWAII 96813
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RICK BLANGIARDI
MAYOR
MEIA



SHELDON K. HAO
FIRE CHIEF
LUNA NUI KINAI AHI

JASON SAMALA
DEPUTY FIRE CHIEF
HOPE LUNA NUI KINAI AHI

February 7, 2024

The Honorable Henry Aquino, Chair
Committee on Labor and Technology
The State Senate
State Capitol, Room 204
Honolulu, Hawai'i 96813

The Honorable Glenn Wakai, Chair
Committee on Public Safety and
Intergovernmental and Military Affairs
The State Senate
State Capitol, Room 407
Honolulu, Hawai'i 96813

Dear Chairs Aquino and Wakai:

Subject: Senate Bill (SB) 2085 Relating to the State Fire Marshal

I am Sheldon K. Hao, Fire Chief of the Honolulu Fire Department (HFD). The HFD supports and recommends amendments to SB 2085, which reestablishes the position of the State Fire Marshal.

The State Fire Council (SFC) was established by the Hawaii State (State) Legislature in 1979 to replace the State Fire Marshal's office. The SFC is comprised of the four county Fire Chiefs and representatives from the State Aircraft Rescue Fire Fighting Unit and the Department of Land and Natural Resources' Division of Forestry and Wildlife and administratively attached to the State Department of Labor and Industrial Relations.

In accordance with Hawaii Revised Statutes §132, the SFC's primary functions are to adopt a state fire code, administer the requirements for reduced ignition propensity cigarettes, and serve as a focal point for federal grants. The SFC may advise and assist the county fire departments where appropriate; prescribe standard procedures and forms related to inspections, investigations, and reporting of fires; and advise the Governor and State legislature on issues relating to fire prevention and protection and

The Honorable Henry Aquino
The Honorable Glenn Wakai
Page 2
February 7, 2024

life safety. The SFC promotes the standardization of fire service reporting, training, technology sharing, resources, and best management practices.

The SFC's actions are limited, as it has a relatively small budget and is staffed with only a few part-time employees. The reestablishment of the State Fire Marshal will create a permanent, full-time position to address fire service issues that occur statewide. This can include statewide enforcement of the fire code for State buildings and wildland fire areas in light of the August 2023 Lahaina fires.

The HFD recommends that language regarding the leading of fire and arson investigations and making arrests pertaining to fire is not appropriate for the implementation of the State Fire Marshal at this time and should be deleted. Amendments that should be included would be responsibilities to review and propose amendments to the state fire code, review of the emergency resources available in the State for fire response, and assessment of a statewide public fire safety messaging program.

The HFD recommends the following language:

"§132- State fire marshal; establishment; appointment; powers; duties; responsibilities. (a) There is established within the department of labor and industrial relations a state fire marshal who shall be appointed by the state fire council, without regard to chapter 76. The appointment shall not be subject to the advice and consent of the senate. In the event of a vacancy, the state fire council shall meet expeditiously to select and appoint a new state fire marshal to serve the remainder of the unexpired term.

(b) The state fire marshal shall have the same powers and authority as county fire chiefs under sections 132D-4, 132D-16.6, and 132D-16.7, and this chapter.

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

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

(2) Leading fire and arson investigations;

(3) Making arrests pertaining to arson; and

(3) Reviewing and assessing the fire risk to the State;

(4) Working with the state fire council on matters relating to fire services in the State;

The Honorable Henry Aquino
The Honorable Glenn Wakai
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(5) Reviewing and proposing amendments to the state fire code and submitting the proposed amendments to the state fire council for the state fire council's consideration in its adoption of or amendments to the state fire code;

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

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

(8) Preparing an annual report on the state fire marshal's review or assessment, or both, of the items described in subsection (c)(1) through (7). The annual report shall be submitted to the governor and state fire council no later than November 30 of each calendar year.

(d) In carrying out the duties of this section, the state fire marshal may utilize the services of the state fire council's ~~including its advisory committee and administrative staff, as appropriate.~~ The state fire marshal may employ, on a full-time basis, one staff person to support the state fire marshal's office."

This bill will allow the SFC and State Fire Marshal to more properly serve as a comprehensive fire service emergency management network for the protection of life, property, and the environment for the State.

The HFD urges your committees' approval of SB 2085 with the abovementioned proposed deletions and amendments.

Should you have questions, please contact Administrative Specialist Gary Lum at 723-7169 or glum@honolulu.gov.

Sincerely,

SHELDON K. HAO
Fire Chief

SKH/GL:cn



TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII

SENATE COMMITTEES ON LABOR AND TECHNOLOGY and PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

FEBRUARY 9, 2024

SB 2085, RELATING TO THE STATE FIRE MARSHAL

POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** SB 2085, relating to the state fire marshal. Pursuant to the “Public Safety and Disaster and Emergency Preparedness” section of the Democratic Party of Hawai'i platform, the party supports “policy that protects the people of Hawai'i and their property against natural and man-made disasters,” and “believes that climate change is real, affirms human activity as its primary cause and main driver, and supports emergency preparedness and planning efforts to mitigate its impacts.”

Last year, we witnessed the impact of the climate emergency on our shores. On August 8, 2023, wildfires swept across Maui and killed at least 100 people, making it one of the nation's deadliest natural disasters. The spread of the fires has been attributed to climate change conditions, such as unusually dry landscapes and the confluence of a strong high-pressure system to the north and Hurricane Dora to the south.

The wildfires destroyed over 2,200 structures, including numerous residential buildings, historic landmarks, and school facilities. In September

2023, a report from the United States Department of Commerce estimated the total economic damage of the wildfires to be roughly \$5.5 billion. According to a report issued by the University of Hawaii Economic Research Organization on September 22, 2023, the unemployment rate on Maui was expected to soar above 11 percent by the end of 2023 and remain above 4 percent through 2026. A total of 10,448 new claims for unemployment in Maui County were filed in the four weeks following the wildfires, about 9,900 more than the preceding four weeks. Displaced families and workers who lost their jobs are still attempting to recover from the disaster, with a full recovery expected to take many years to achieve.

Accordingly, we must do all we can to prevent tragedies like this from recurring on our shores, including by re-establishing the position of the state fire marshal to help mitigate future emergencies. The Hawai'i Emergency Management Agency released an updated State Hazard Mitigation Plan last November, in which the state's wildfire risk level soared 74 percent to 6.6 from its prior level of 3.8 in the 2018 draft of the report.

The updated hazard mitigation plan contains statistics on how many people by county are at risk from wildfire hazards. For Honolulu, 427,293 people could potentially be affected by wildfires, which was listed as the highest risk with a risk factor of 5.7. Maui County also has wildfires as its highest emergency risk with a score of 5.8 and 81,424 people at risk. On Kaua'i, wildfires carry a 5.6 risk level and threaten 27,604 people. Hawai'i Island has a wildfire risk score of 4.6 and 32,080 people at risk.

Wildfires are now designated as the top hazard in the state according to the updated HIEMA report. It is incumbent upon policymakers to respond with urgency to keep our communities safe.

Mahalo nui loa,

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SB-2085

Submitted on: 2/7/2024 3:36:16 PM

Testimony for LBT on 2/9/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Greg Misakian	Individual	Support	Written Testimony Only

Comments:

It's hard to believe that the State of Hawaii currently has no State Fire Marshal, but when I look at how many things are not handled properly within State Government, it's just another on a long list.

Please pass SB2085, and please ensure that the person who is appointed as the Fire Marshal is qualified, and not friend's & family.

Mahalo,

Greg Misakian