

A Bill for an Act Relating to the State Fire Marshal.

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

SECTION 1. The legislature finds that in the aftermath of the Lahaina wildfire, six house of representatives interim working groups were established and charged with evaluating specific topics related to the wildfire and making recommendations for appropriate legislative action in the regular session of 2024. The wildfire prevention working group was tasked to identify the causes of wildfires and preventative action that may be taken to reduce the risk of wildfires throughout the State.

The legislature further finds that Hawaii is the only state without a state fire marshal. In 1979, the position of the state fire marshal was abolished and replaced with the state fire council. The state fire council is now composed of the fire chiefs of the four counties, the state aircraft rescue firefighting unit, and the state protections forester from the department of land and natural resources, division of forestry and wildlife. The state fire council's members serve as non-compensated volunteers as their time allows from their full-time employment. The state fire council has an office staff consisting of two part-time administrative specialists. The legislature further finds that rising global temperatures have increased the risk of fires and dangerous weather conditions in the State and as these risks increase, the State will be better served by having a dedicated state fire marshal.

Accordingly, the purpose of this Act is to re-establish the position of the state fire marshal by establishing the office of the state fire marshal within the department of labor and industrial relations, headed by the state fire marshal.

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

**“§132- Office of the state fire marshal; established.** (a) There is established the office of the state fire marshal within the department of labor and industrial relations. The office shall be headed by a state fire marshal, who shall be appointed by the state fire council to 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. 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. The state fire marshal may hire staff as necessary.

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

(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) Working with the state fire council on matters relating to fire services in the State;
- (3) Working with state and county law enforcement agencies for enforcement of the state fire code;
- (4) Reviewing and assessing the fire risk of 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;
  - (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;
  - (8) Assisting in the investigation of fires when requested by a county;
  - (9) Conducting inspections of state buildings and facilities to ensure fire safety compliance;
  - (10) Providing and coordinating public education and awareness on fire safety;
  - (11) Overseeing the training and certification of fire inspectors and investigators in the State;
  - (12) Maintaining records of all fires in the State, including the causes and circumstances;
  - (13) Assisting in the disbursement of federal grants for structural fire protection purposes to the counties; and
  - (14) Performing other duties as necessary or delegated by the state fire council.
- (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 committees and administrative staff, as appropriate.”

SECTION 3. 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 as such, 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 such 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, 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/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/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 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, 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; an administrative assistant 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 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 not 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 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 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/project development director, policy director, special assistant to the director, and limited English proficiency project manager/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; ~~and~~
  - (36) In the social services division of the department of human services, the business technology analyst[-]; and
  - (37) The state fire marshal.

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 4. 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) Establish the terms of employment for the position of the state fire marshal; and
- (4) Appoint the state fire marshal.”

SECTION 5. The state fire council shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature by November 1, 2024. The report shall include the following, at minimum:

- (1) An organizational plan, including structure and personnel plan, for the office of the state fire marshal;
- (2) A description of the roles and division of responsibilities between the State and the counties, and the office of the state fire marshal and the state fire council, regarding fire prevention and response; and
- (3) Proposed operating budget for the office of the state fire marshal.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$172,000 or so much thereof as may be necessary for fiscal year 2024-2025 for the following:

- (1) \$120,000 for the establishment of one full-time equivalent (1.00 FTE) permanent state fire marshal position;
- (2) \$40,000 for the establishment of one full-time equivalent (1.00 FTE) permanent position to support the state fire marshal; and
- (3) \$12,000 for training, office supplies, rent, and other operating and administrative costs to support the state fire marshal,

in carrying out the purposes of this Act.

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

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2024.

(Approved July 5, 2024.)

#### Note

1. Edited pursuant to HRS §23G-16.5.