

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 329

H. P. 244

House of Representatives, January 23, 1973

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Stillings of Berwick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Creating the Office of State Fire Marshal.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 25, § 2391, repealed and replaced. Section 2391 of Title 25 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 2391. Election of fire ward; duties and compensation of inspectors

Each municipality not having an organized fire department, at its annual meeting, shall elect at least one fire ward, who shall be a fire inspector. Such fire inspectors shall perform the duties set forth in sections 2392 to 2395. If more than one fire ward is elected by any municipality, one of said fire wards shall be designated as fire inspector of said municipality, and the other fire wards shall, under the direction of the fire inspector, assist in performing the duties imposed upon said fire inspector by said sections. In towns and cities having an organized fire department, the chief of such fire department shall perform the duties of fire inspector. Fire inspectors so elected or designated shall receive reasonable compensation for their services, to be determined by the municipality.

When for any reason the office of fire ward is vacant or the fire ward is incapacitated and there is no organized fire department, the municipal officers may appoint a fire ward to serve until the next ensuing election of officers.

Sec. 2. R. S., T. 25, § 2392, amended. The first sentence of section 2392 of Title 25 of the Revised Statutes, as amended by section 35 of chapter 592 of the public laws of 1971, is further amended to read as follows:

The ~~Commissioner of Public Safety, his deputy or the~~ State Fire Marshal and fire ~~inspector~~ inspectors, upon the complaint of any person or whenever

he or they shall deem it necessary, may inspect or cause to be inspected all buildings and premises within their jurisdiction.

Sec. 3. R. S., T. 25, § 2393, amended. The 2nd and 3rd sentences of section 2393 of Title 25 of the Revised Statutes are amended to read as follows:

After notice and hearing, the court shall make such order, judgment or decree as law and justice may require, or the court may authorize the ~~town~~ **municipality** to cause such building or premises to be forthwith repaired, torn down or demolished and such materials removed and all dangerous conditions remedied, as the case may be, at the expense of the ~~town~~ **municipality** in which such property is situated.

If the owner thereof, within 30 days after notice in writing of the amount of such expense, fails, neglects or refuses to repay said ~~town~~ **municipality** the expense thereby incurred, a special tax may be assessed by the assessors against the land on which said building was located for the amount of such expenses, and such amount shall be included in the next annual warrant to the tax collector of said ~~town~~ **municipality** for collection, and shall be collected in the same manner as other state, county and municipal taxes are collected.

Sec. 4. R. S., T. 25, § 2394, amended. Section 2394 of Title 25 of the Revised Statutes, as amended by section 2 of chapter 377 of the public laws of 1969 and by section 7 of chapter 592 of the public laws of 1971, is further amended to read as follows:

§ 2394. Investigation of fire origin; Attorney General may direct

When property is destroyed or damaged by fire, the municipal ~~officers in cities and towns shall immediately notify a member of the Department of Public Safety who shall notify the Attorney General if arson is suspected~~ **and fire inspector shall investigate the cause, circumstances and origin of the fire, and especially examine whether it was the result of carelessness or of design. The investigation shall be commenced within 3 days after the occurrence of the fire, not including the Lord's Day.** The Attorney General may supervise and direct such investigation whenever he deems it expedient or necessary. If arson is suspected, such municipal fire inspector shall immediately notify the State Fire Marshal or an inspector in his office who shall cause a full investigation thereof to be conducted. The State Fire Marshal and his agents or employees shall have the authority to investigate or cause to be investigated any fire or explosion within the State.

Sec. 5. R. S., T. 25, § 2395, repealed and replaced. Section 2395 of Title 25 of the Revised Statutes, as amended by section 3 of chapter 377 of the public laws of 1969 and by section 8 of chapter 592 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 2395. Filing statement of fire occurrence

The municipal fire inspector shall file a written report with the State Fire Marshal each month on forms provided by his office, setting forth all of the facts relating to the cause, origin and circumstances of fires occurring within his jurisdiction, along with a description of the kind, value and ownership

of the property damage or destruction with such other information as he may require.

Sec. 6. R. S., T. 25, § 2396, repealed and replaced. Section 2396 of Title 25 of the Revised Statutes, as amended by section 4 of chapter 377 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 2396. Office of State Fire Marshal established; appointment

The office of State Fire Marshal is hereby established as a bureau within the Department of Public Safety. The Commissioner of Public Safety is authorized and empowered to appoint, subject to the Personnel Law, a suitable person as State Fire Marshal and such inspectors and other employees as may be necessary. The State Fire Marshal shall carry out all of the duties and responsibilities assigned to his office and such other duties as may be prescribed or delegated by the Commissioner of Public Safety and he shall devote his full time to the duties of his office.

It shall be the duty of the said State Fire Marshal and such inspectors to enforce all of the laws, ordinances, rules and regulations promulgated by the Commissioner of Public Safety or enforceable by him, directed toward and concerned with protection of the public in the following areas:

1. Fires. The prevention of fires;
2. Arson. The suppression of arson and investigation of cause, origin and circumstances of fires;
3. Explosives. The storage, sale and use of combustibles, flammables and explosives;
4. Fire alarm. The installation, maintenance or sale of automatic or other fire alarm systems and fire extinguishing equipment;
5. Fire escapes. The construction, maintenance and regulation of fire escapes;
6. Exits. The means and adequacy of exit, in the case of fire, from factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, dormitories, apartment or rooming houses, hotels, motels and all other places in which numbers of persons work, live or congregate from time to time for any purpose which comes within the scope of the current edition of the National Fire Protection Association No. 101, Life Safety Code;
7. Other duties. The performance of such other duties as are set forth in this and other sections of the statutes and as may be conferred or imposed from time to time by law.

The State Fire Marshal, inspectors and investigators appointed under this Title shall carry out those functions which the Commissioner of Public Safety may direct and in so doing shall have the same enforcement powers and duties throughout the State as sheriffs have in their respective counties. Such enforcement powers are to be limited in scope to enforcement of statutes, ordinances, rules and regulations concerned with fire prevention, arson

and other burnings and enforcement of such other specific areas of responsibility as may by statute be assigned to the office of the State Fire Marshal and to arrest for impersonation of or interference with, the State Fire Marshal, fire investigators or fire inspectors.

Sec. 7. R. S., T. 25, § 2399, amended. Section 2399 of Title 25 of the Revised Statutes, as amended by section 35 of chapter 592 of the public laws of 1971, is further amended to read as follows:

§ 2399. Educational expense

The Commissioner of Public Safety may incur such expense and appoint a Director of State Fire Prevention, an assistant director of state fire prevention and such supervising state fire inspectors, subject to the Personnel Law, as may be necessary to carry out all fire preventive and investigative laws, rules and regulations which he is by law empowered to administer. He may incur reasonable expenses in educating the public in fire prevention and protection. The Director of State Fire Prevention, the assistant director of state fire prevention and supervising state fire inspectors appointed under this section shall carry out those functions which the commissioner may direct. Supervising state fire inspectors shall have the same powers and duties throughout the several counties of the State as sheriffs have in their respective counties relating to fire prevention, arson and other burnings. Their power and duties shall include the duty to inquire into and arrest for violations of any of the provisions of chapters 311 to 321, and to arrest for impersonation of or interference with fire inspectors

Every fire insurance company or association, domestic or foreign, writing general lines of insurance which does business or collects premiums or assessments in the State shall pay to the State Tax Assessor on the first day of May, annually, in addition to the taxes now imposed by law to be paid by such companies or associations, $\frac{1}{2}$ of 1% of the gross direct premiums for all general lines of coverage fire risks written in the State during the preceding calendar year, less the amount of all direct return premiums thereon and all dividends paid to policyholders on direct fire premiums during said calendar year. The State Tax Assessor shall pay over all receipts from such tax to the Treasurer of State daily. Said funds shall be used solely to defray the expenses incurred by the Commissioner of Public Safety in administering this chapter and all fire preventive and investigative laws, rules and regulations and in educating the public in fire safety and are appropriated for such purposes.

Whenever there shall accumulate in the special fund created by this section a surplus sufficient to defray the expenses of such administration for an ensuing period of one year, then, in the discretion of the Commissioner of Public Safety, the foregoing special tax for that year may be omitted, and the Commissioner of Public Safety shall certify to the State Tax Assessor that the special tax is to be omitted and said certification is to be made not later than the 31st day of January of the year in which the tax would otherwise be assessed. The premium tax return shall be made at the same time and in the same manner as provided for insurance premium taxes specified in Title 36, section 2516.

Sec. 8. R. S., T. 25, § 2400, amended. Section 2400 of Title 25 of the Revised Statutes is amended to read as follows:

§ 2400. Municipal officers to keep record of all returns

Municipal officers shall record or cause to be recorded all returns made under ~~sections 2394 to 2399~~ this chapter.

Sec. 9. R. S., T. 25, § 2401, amended. Section 2401 of Title 25 of the Revised Statutes is amended to read as follows:

§ 2401. Violations

Any ~~city or town~~ municipal officer or any insurance company neglecting or refusing to perform any duty required by ~~sections 2394 to 2400~~ this chapter shall be punished by a fine of not less than \$10 nor more than \$100 for each offense.

Sec. 10. R. S., T. 25, § 2453, amended. The 2nd paragraph of section 2453 of Title 25 of the Revised Statutes, as amended by section 35 of chapter 592 of the public laws of 1971, is further amended to read as follows:

No individual, partnership or corporation shall offer for sale in this State, any type of fire escape device or fire alarm systems unless first securing approval of the Commissioner of Public Safety ~~or fire inspector~~.

Sec. 11. R. S., T. 25, § 2451, repealed. Section 2451 of Title 25 of the Revised Statutes is repealed.

Sec. 12. R. S., T. 25, §§ 2454 and 2455, repealed. Sections 2454 and 2455 of Title 25 of the Revised Statutes, as amended by section 35 of chapter 592 of the public laws of 1971, are repealed.

Sec. 13. R. S., T. 25, §§ 2456 to 2460, repealed. Sections 2456 to 2460 of Title 25 of the Revised Statutes are repealed.

Sec. 14. R. S., T. 25, § 2461, repealed. Section 2461 of Title 25 of the Revised Statutes, as amended by section 35 of chapter 592 of the public laws of 1971, is repealed.

Sec. 15. R. S., T. 25, § 2462, repealed. Section 2462 of Title 25 of the Revised Statutes is repealed.

Sec. 16. Personnel. All employees and officials of the former Division of Fire Prevention are transferred to the office of the State Fire Marshal and shall continue in their employment or office after the effective date of this Act without interruption of their state service.

Sec. 17. Appropriation. There is appropriated from the General Fund to the Office of State Fire Marshal, the sum of \$214,285 to carry out the purposes of this Act. The breakdown shall be as follows:

	1973-74	1974-75
OFFICE OF STATE FIRE MARSHAL		
Personal Services	(8) \$ 69,737	(8) \$73,912
All Other	19,478	19,478
Capital Expenditures	31,680	
	<hr/>	<hr/>
TOTAL	\$120,895	\$93,390

FISCAL NOTE

It is estimated \$1,500,000 will be generated to fund this Act.

STATEMENT OF FACT

This legislation creates the office of State Fire Marshal. The State Fire Marshal will take over the duties of the present Division of Fire Prevention in the Department of Public Safety and will do all acts which that division is presently doing plus there will be expanded services such as research into hazardous material, inspection and regulation of storage of flammable liquids and explosives and generally overseeing all other aspects of fire prevention. The intended office is seen as a vital function in government with the capability of establishing a better rapport between the State, municipalities and fire fighters. The office will become increasingly important too in order to better concentrate investigations into fires of suspicious origin. The office of State Fire Marshal was studied by a subcommittee of the Legislative Research Committee and this legislation is a result of the recommendations of that subcommittee.