~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 28, 2019

**S. 481**

Introduced by Senator Alexander

S. Printed 3/28/19--S.

Read the first time February 5, 2019.

**THE COMMITTEE ON LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 481) to amend Section 23‑9‑10 of the 1976 Code, relating to the transfer of the Division of the State Fire Marshal to the Department of Labor, Licensing and, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 3, by striking lines 40 through 43 and inserting:

/and the promulgation of regulations, not to include the sale or storage of fireworks as regulated by the State Board of Pyrotechnic Safety, for:

(a) explosives in accordance with Chapter 36, Title 23;

(b) pyrotechnic displays and shooters; /

Renumber sections to conform.

Amend title to conform.

THOMAS C. ALEXANDER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on February 5, 2019**

**State Expenditure**

Section 1 of this bill codifies current practices of LLR and the Office of State Fire Marshal (OSFM). Therefore, this section of the bill will have no expenditure impact.

Section 2 of this bill specifies the jurisdiction and authority of the State Fire Marshal. LLR has been asked to determine if this section adds to the responsibilities of the State Fire Marshal. The expenditure impact of this section is pending, contingent upon a response from LLR.

Section 4 of the bill requires 3 percent of the funds appropriated by the General Assembly for the Volunteer Strategic Assistance and Fire Equipment Program (V-SAFE) to be used for administrative costs associated with the program. V-SAFE is funded through a portion of the Insurance Tax Premium in addition to appropriations by the General Assembly, however, no funds were appropriated by the General Assembly for V-SAFE in FY 2018-19. Appropriations for V-SAFE for FY 2019-20 are unknown. Therefore, the expenditure impact for this section of the bill is undetermined.

Sections 5 through 8 make technical changes and revise the duties of the State Fire Marshal, deputy state fire marshals, and ex officio resident fire marshals. The expenditure impact of this section is pending, contingent upon a response from LLR.

Section 9 allows LLR, in addition to the Forestry Commission, to accept donations of new or used equipment from individuals or organizations and provides guidelines for the use of such equipment. Such donations may result in a cost savings for OSFM because it may reduce expenditures for equipment. Because the benevolence of the general public cannot be anticipated, the expenditure impact of this section is undetermined. However, OSFM has indicated previously that many fire departments have an extensive list of equipment needs. Therefore, even after receiving donations, OSFM may still need to request funding in order to meet their equipment needs.

**State Reve**n**ue**

Section 2 of this bill makes changes to administrative penalties assessed by OSFM. Per current regulations, OSFM may charge up to $2,000 for each violation. This bill will reduce that maximum to $1,000 per violation. In addition, violators may avoid this fine for a first offense if the violation is corrected within the time allotted by OSFM. These fines are to be used to defray the administrative costs associated with the duties of OSFM. The revenue impact of this section is pending, contingent upon a response from LLR.

Section 10 makes changes to fees charged by OSFM. Currently, OSFM charges a firefighter a fee of $5 for a copy of his file. This bill will require OSFM to provide an unofficial copy of the file to the firefighter at no cost. The fee for an official copy of the firefighter’s transcript will be $3. While no definition of transcript is provided in this section, this analysis is provided under the assumption that transcript carries the same meaning as file. The revenue impact of this section is pending, contingent upon a response from LLR.

In addition, Section 10 creates a $5 fee for a reprinted certificate. OSFM awards a variety of certifications through South Carolina Fire Academy upon completion of coursework and examination. The revenue impact of this bill is pending, contingent upon a response from LLR.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 23‑9‑10 OF THE 1976 CODE, RELATING TO THE TRANSFER OF THE DIVISION OF THE STATE FIRE MARSHAL TO THE DEPARTMENT OF LABOR, LICENSING AND REGULATION AND THE STATE FIRE MARSHAL’S DUTIES AND RESPONSIBILITIES, TO DELETE CERTAIN OBSOLETE LANGUAGE, TO MAKE TECHNICAL CHANGES, AND TO PROVIDE THE DIVISION OF FIRE AND LIFE SAFETY’S PROGRAM AREAS; TO AMEND SECTION 23‑9‑20 OF THE 1976 CODE, RELATING TO THE DUTIES OF THE STATE FIRE MARSHAL, TO REVISE HIS DUTIES AND RESPONSIBILITIES; TO AMEND SECTION 23‑9‑25(F)(2) AND (5) OF THE 1976 CODE, RELATING TO THE VOLUNTEER STRATEGIC ASSISTANCE AND FIRE EQUIPMENT PROGRAM, TO REVISE GRANT APPLICATION AND FUNDING PROCEDURES; TO AMEND SECTION 23‑9‑30 OF THE 1976 CODE, RELATING TO RESIDENT FIRE MARSHALS, TO REVISE THEIR DUTIES AND WHO MAY EXERCISE THESE DUTIES AND TO PROVIDE THAT THE STATE FIRE MARSHAL MAY PROMULGATE REGULATIONS REGARDING A FIRE MARSHAL’S TRAINING AND CERTIFICATION; TO AMEND SECTION 23‑9‑45 OF THE 1976 CODE, RELATING TO THE ISSUANCE OF A CLASS D FIRE EQUIPMENT DEALER LICENSE OR A FIRE EQUIPMENT PERMIT, TO PROVIDE FOR THE ISSUANCE OF ADDITIONAL CLASSES OF LICENSES AND QUALIFICATIONS TO OBTAIN THESE LICENSES; TO AMEND SECTION 23‑9‑50 OF THE 1976 CODE, RELATING TO THE STATE FIRE MARSHAL’S AUTHORITY TO INSPECT CERTAIN BUILDINGS AND PREMISES, TO REVISE THE CIRCUMSTANCES UPON WHICH HE MAY ENTER A BUILDING OR PREMISES; TO AMEND CHAPTER 10, TITLE 23 OF THE 1976 CODE, RELATING TO THE “SOUTH CAROLINA FIRE ACADEMY”, TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 23‑49‑120(B) OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA FORESTRY COMMISSION’S ACCEPTANCE OF DONATIONS OF FIRE EQUIPMENT, TO PROVIDE THAT THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, DIVISION OF FIRE AND LIFE SAFETY ALSO MAY ACCEPT DONATIONS OF FIRE EQUIPMENT; TO AMEND SECTION 40‑80‑30(D) OF THE 1976 CODE, RELATING TO A FIREFIGHTER REGISTERING WITH THE STATE FIRE MARSHAL, TO REVISE THE COST AND PROCESS OF OBTAINING CERTAIN INDIVIDUAL FIGHTER RECORDS; AND TO REPEAL SECTIONS 23‑9‑35, 23‑9‑40, 23‑9‑60, 23‑9‑110, AND 23‑9‑130 OF THE 1976 CODE, ALL RELATING TO DUTIES OF THE STATE FIRE MARSHAL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 23‑9‑10 of the 1976 Code is amended to read:

“Section 23‑9‑10. ~~Effective July 1, 1979, the Division of State Fire Marshal is hereby transferred to the Department of Labor, Licensing and Regulation to operate as a division under the Office of Director. The State Fire Marshal shall have all of the duties and responsibilities formerly exercised by the Chief Insurance Commissioner as State Fire Marshal, ex officio. Notwithstanding another provision of law, after January 20, 2011, the~~ The State Fire Marshal shall have a master’s degree from an accredited institution of higher learning and at least four years experience in fire prevention and control or a bachelor’s degree and eight years experience in fire prevention and control. The Governor shall appoint the State Fire Marshal who shall serve as the Deputy Director of the Division of Fire and Life Safety of the Department of Labor, Licensing and Regulation. The Division of Fire and Life Safety, in the alternative, shall be referred to as State Fire and shall consist of the following primary program areas: the Office of the State Fire Marshal, the State Fire Academy and the Emergency Response Task Force.”

SECTION 2. Section 23‑9‑20 of the 1976 Code is amended to read:

“Section 23‑9‑20. (A) The State Fire Marshal shall have jurisdiction and authority statewide, on behalf of the State, in matters including, but not limited to, the following functions and activities:

(1) ~~supervise enforcement of the laws and regulations of the Liquefied Petroleum Gas Board and the South Carolina Hydrogen Permitting Program~~ enforcement of all laws and ordinances of the State with reference to the following:

(a) the prevention of fires; ~~and~~

(b) the storage, sale, and use of combustibles and explosives;

(c) the installation and maintenance of fire alarm systems and fire extinguishing systems and equipment;

(d) the means of egress from all buildings, except for one and two‑family dwellings, unless otherwise required or permitted through law or regulation;

(e) investigation of the cause, origin, and circumstances of a fire;

(f) conformance with the fire prevention and protection codes and standards based upon nationally recognized codes and standards as may be prescribed by law or regulation for the prevention of fires and the protection of life and property;

(g) facilitation of the reporting of fires through the National Fire Incident Reporting System;

(h) collection of information concerning the causes, prevention, and reduction of damage from fire and other forms of community loss. The Office of the State Fire Marshal, from time to time, may disseminate this information in an appropriate manner as needed to aid in public protection or the training of firefighters; and

(i) other fire‑related activities not inconsistent with the mission of State Fire or otherwise prescribed by law; and

(2) ~~shall employ and supervise personnel necessary to carry out the duties of his office~~ enforcement of the laws and regulations of the Liquefied Petroleum Gas Board and the South Carolina Hydrogen Permitting Program;

(3) employment and supervision of personnel necessary to carry out the duties of his office;

(4) implementation of licensing, permitting, and certification programs based upon nationally recognized codes and standards, and the promulgation of regulations for:

(a) explosives;

(b) pyrotechnic displays and shooters, not inconsistent with the powers reserved for the State Board of Pyrotechnic Safety;

(c) fire protection systems and all classes of equipment; and

(d) persons performing fire inspections under the authority of Section 23‑9‑30;

(5) promulgation of fire prevention and protection regulations based upon nationally recognized codes and standards for the protection of life and property of the residents of the State from fire; and

(6) administrative and operational responsibilities for all program areas of State Fire, including the Office of the State Fire Marshal, the State Fire Academy, and the Emergency Response Task Force.

(B) The Office of the State Fire Marshal may issue an administrative citation for any violation of this chapter and fire code. Service of the citation may be in person or by certified mail.

(C) Separate citations may be issued for each violation. However, no more than one thousand dollars in administrative penalties may be assessed for each violation. For a first offense, a written order specifying the code violations that need to be corrected and specifying a time frame for the correction must be issued. The time frame to complete the corrections is thirty days unless a finding is made that the violation impacts the health, safety, and welfare of the public and that an imminent threat of harm exists if the violation is not immediately abated. If the violations are not corrected within the time allotted, then an administrative penalty may be assessed.

(D) An entity or individual assessed an administrative penalty may appeal the penalty to the State Fire Marshal, or his designee, within ten days of receipt of the citation. If no appeal is filed, then the citation is deemed a final order and the penalties must be paid within thirty days of the receipt of the citation. The State Fire Marshal may enforce any order by filing a civil action through the administrative law court, in the name of the State, for injunctive relief against a person who violates this article, a regulation promulgated under this article, or a final order.

(E) All fines collected under this section must be remitted by the Office of the State Fire Marshal and deposited in a special fund established for State Fire to defray the administrative costs associated with this article.

(F) Nothing in this section prohibits the State Fire Marshal from exercising the statutory authority outlined in Section 23‑9‑70.”

SECTION 3. Section 23‑9‑25(F)(2) and (5) of the 1976 Code is amended to read:

“(2) The peer‑review panel shall consist of nine voting members who shall serve without compensation. Seven members must be fire chiefs from each of the seven regions of the State as defined by the State Fire Marshal. The Chairman of the House Ways and Means Committee shall appoint fire chiefs from Regions 1, 2, and 7. The Chairman of the Senate Finance Committee shall appoint fire chiefs from Regions 3, 4, and 6. The Governor shall appoint one fire chief from Region 5 and one fire chief from the State at large. The State Fire Marshal also shall serve as a member. The President of the South Carolina State Firefighters’ Association shall serve as a nonvoting member and chairman of the committee. The peer‑review panel shall have the authority to establish funding priorities, by consensus, for each grant cycle, based on its assessment of the greatest needs of the South Carolina Fire Service and within the purposes established in this section. Funding priorities shall be communicated through an annual Notice of Funding Opportunity, which shall accompany the announcement of the grant application period.

(5) A recipient that completes the approved scope of work prior to the end of the performance period, and still has grant funds available, may:

(a) use the greater of one percent of their award amount or three hundred dollars to continue or expand, the activities for which ~~they~~ he received the award without submitting an application to amend his grant request;

(b) use excess funds to create or expand, a fire or injury prevention program. Excess funds above the amounts discussed in subitem (a) must be used for fire or injury prevention activities or returned to the program. In order to use excess funds for fire or injury prevention activities, a recipient must submit an amendment to its grant. The amendment request must explain fire or injury prevention efforts currently underway within the organization, where the use of excess funds would fit within the existing efforts, the target audience for the fire or injury prevention project and how this audience was identified, and how the effectiveness of the requested fire or injury prevention project will be evaluated;

(c) submit an application to the peer‑review panel to amend his grant request to redirect remaining funds to another eligible project;

(d) use a combination of subitems (a) and (b); or

~~(d)~~(e) return excess funds to the program. To return the excess funds, a recipient must close out its award and state in the final performance report that the remaining funds are not necessary for the fulfillment of grant obligations. The recipient also must indicate that it understands that the funds will be unavailable for future expenses.”

SECTION 4. Section 23‑9‑25 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

“( ) Three percent of these funds shall be retained by the State Fire Marshal for the express purpose of funding costs associated with the administration of the program.”

SECTION 5. Section 23‑9‑30 of the 1976 Code is amended to read:

“Section 23‑9‑30. ~~(a)~~(A) The chief of any organized fire department or county fire marshal is ex officio resident fire marshal; however, this chapter does not repeal, amend, or otherwise affect Chapter 25 ~~of~~, Title 5.

~~(b)~~(B) All ~~powers and~~ duties of investigation, inspection, and enforcement vested in the State Fire Marshal may be exercised or discharged ~~by any deputy state fire marshal, county fire marshal, or resident fire marshal~~ within the area of his service by any deputy state fire marshal, any ex officio resident fire marshal, or any state or local governmental employee certified by the State Fire Marshal ~~whose duties include inspection and enforcement of state or local fire safety codes and standards, acting under the authority of the State Fire Marshal~~.

(C) The State Fire Marshal shall have the authority to promulgate regulations regarding the training, certification, and recertification of fire marshals, and disciplinary procedures, up to and including revocation of certification for cause.”

SECTION 6. Section 23‑9‑45 of the 1976 Code is amended to read:

“Section 23‑9‑45. (A) An applicant for a Class ~~D~~ A, B, C, D, or E fire equipment dealer license or ~~a Class D fire equipment~~ permit, or both, shall provide proof of a current manufacturer’s training certificate for each type of preengineered fire extinguishing system and meet additional fire and life safety requirements as set forth in regulation. However, if the applicant can provide proof of a current manufacturer’s training certificate for at least one type of preengineered fire extinguishing system, the applicant may submit a sworn affidavit for each additional type of preengineered fire extinguishing system for which a license or permit, or both, is requested.

(B) The affidavit shall attest to the applicant’s ability to obtain the proper manufacturer’s installation and maintenance manuals and provide testament that all installations and maintenance shall be performed in compliance with the manufacturer’s installation and maintenance manuals~~, with the exception of the manufacturer’s training certificate, and in compliance with National Fire Protection Association standards 10, 11, 12, 13, 17, 17A, 96, 211, and 2001, as they exist as of January 1, 2006, including the use of replacement parts listed in conformity with National Fire Protection Association standards~~ and codes adopted by the South Carolina Building Codes Council. Any violation of the affidavit is grounds for the revocation of the ~~Class D~~ fire equipment dealer license or the ~~Class D~~ fire equipment permit, or both.

(C) The ~~Division of~~ State Fire Marshal is authorized to charge a license fee for all ~~class~~ classes of fire equipment licenses issued by the ~~Division of~~ State Fire Marshal and a permit fee for all ~~class~~ classes of fire equipment permits issued by the ~~Division of~~ State Fire Marshal. Fees may be set by regulation not more than once each two years and must be based upon the costs of administering the provisions of this chapter and must give due regard to the time spent by division personnel in performing duties. ~~The initial fees established by the State Fire Marshal may not exceed one hundred dollars for licenses and twenty‑five dollars for permits.~~ The qualifications and requirements of licensees and permittees shall be contained in regulations.”

SECTION 7. Section 23‑9‑50 of the 1976 Code is amended to read:

“Section 23‑9‑50. ~~(a)~~(A) The State Fire Marshal shall have authority at all times of the day or night, in the performance of duties imposed by this chapter, to enter upon and examine any building or premises where any fire or explosion has occurred and other adjoining buildings or premises ~~adjoining~~. Provided, that the State Fire Marshal may enter a private dwelling or premise only with the permission of the owner or occupant, ~~unless~~ or if:

(1) there is probable cause to believe that a violation of the provisions respecting fire laws exists;~~, that there exists imminent danger to the occupants thereof or arson~~

(2) there is probable cause to believe there is imminent danger to the occupants of the dwelling or premises; or

(3) a fatality or serious injury has occurred as a result of fire, explosion, or arson.

~~(b)~~(B) The State Fire Marshal shall have authority at any reasonable hour to enter into any public building or premises or any building or premises used for public purposes to inspect for fire hazards.

~~(c)~~(C) Nothing in this section shall restrict the authority of the State Fire Marshal from investigating any premises which has been damaged by a fire of suspicious cause within a reasonable period of time after the occurrence of such fire.”

SECTION 8. Chapter 10, Title 23 of the 1976 Code is amended to read:

“CHAPTER 10

South Carolina State Fire Academy”

Section 23‑10‑10. (A) The State Fire Marshal has the sole responsibility for the operation of the ~~South Carolina~~ State Fire Academy (Academy). The Academy is operated for the express purpose of upgrading the state’s paid, volunteer, and industrial fire service personnel. All buildings, facilities, equipment, property, and instructional materials which are now or become a part of the Academy are assigned to the Academy and may not be integrated with any other local or state agency, association, department, or technical education center, without the consent of the Director of the Department of Labor, Licensing and Regulation or his designee.

(B) There is created the ~~South Carolina~~ State Fire Academy Advisory Committee which shall advise and assist the State Fire Marshal in developing a comprehensive training program based upon the needs of the fire service in this State. Membership on the committee includes:

~~(A)~~(1) the Chairman and appointed members of the ~~Fire School~~ Training and Education Committee of the South Carolina State ~~Firemen’s~~ Firefighters’ Association. The Chairman of the ~~Fire School~~ Training and Education Committee also shall serve as the Chairman of the ~~South Carolina~~ State Fire Academy Advisory Committee;

~~(B)~~(2) one member from the South Carolina State Association of Fire ~~Chief’s~~ Chiefs ~~Association~~ appointed by the president of the association;

~~(C)~~(3) one member from the South Carolina Fire ~~Inspectors~~ Marshal Association appointed by the president of the association;

~~(D)~~(4) one member from the South Carolina Society of Fire Service Instructors ~~Association~~ appointed by the president of the society;

~~(E)~~(5) one member from the Professional Firefighters Association appointed by the president of the association;

~~(F)~~(6) one member from the South Carolina Chapter of International Association of Arson Investigators appointed by the president of the chapter;

~~(G)~~(7) the ~~Director~~ Superintendent of the ~~South Carolina~~ State Fire Academy who shall serve as secretary without voting privileges. Membership from the ~~South Carolina~~ State Fire Academy is limited to the ~~director~~ superintendent only;

~~(H)~~(8) one industrial fire protection representative appointed by the president of the South Carolina Chapter of the American Society of Safety Engineers;

~~(I)~~(9) the Executive Director of the South Carolina State ~~Firemen’s~~ Firefighters’ Association who shall serve as a member ex officio without voting privileges;

~~(J)~~(10) the State Fire Marshal as a member ex officio without voting privileges;

~~(K)~~(11) one member from higher education having experience and training in curriculum development appointed by the Director of the Department of Labor, Licensing and Regulation; and

~~(L)~~(12) one member from the ~~South Carolina Fire and~~ Life Safety Education Section of the South Carolina State Firefighters’ Association appointed by the president of the section.

Section 23-10-20. The South Carolina Department of Labor, Licensing and Regulation is authorized to purchase and issue clothing to the staff of the State Fire Academy.”

SECTION 9. Section 23‑49‑120(B) of the 1976 Code is amended to read:

“(B) The South Carolina Forestry Commission and the Department of Labor, Licensing and Regulation, Division of Fire and Life Safety may accept donations of new or used fire protection, control, and rescue equipment from individuals or organizations. Donated equipment accepted by the commission or department may be retained for use by the commission or department or distributed to county, municipal, or other fire departments in this State or to other state or local emergency service or rescue organizations. A fire department or other organization accepting donated breathing apparatus from the commission or department shall cause the breathing apparatus to be recertified according to the manufacturer’s specifications by the manufacturer or a technician certified by the manufacturer before it is placed into service or used by the fire department or other organization.”

SECTION 10. Section 40‑80‑30(D) of the 1976 Code is amended to read:

“(D) Any registered firefighter may at any time request and obtain a copy of his ~~or her~~ file. An unofficial version of a firefighter’s file is available at no cost by way of secured web addresses. The fee for ~~a~~ an official copy of a firefighter’s ~~file~~ transcript is ~~five~~ three dollars payable to the Office of the State Fire Marshal. The fee for a reprinted certificate is five dollars payable to the Office of the State Fire Marshal.”

SECTION 11. Sections 23‑9‑35, 23‑9‑40, 23‑9‑60, 23‑9‑110, and 23‑9‑130 of the 1976 Code are repealed.

SECTION 12. This act takes effect upon approval by the Governor.

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