

# DRAFT STATE FIRE MARSHAL LANGUAGE



## 476.020

- (1.) The Department of the State Fire Marshal is established. The department is under the supervision and control of the State Fire Marshal.
- (2.) The Governor shall appoint the State Fire Marshal, who holds the office at the pleasure of the Governor. The appointment of the State Fire Marshal is subject to confirmation by the Senate.
- (3.) The State Fire Marshal shall be qualified to direct the technical and executive work of the department as determined by the Governor and shall have education or training related to the programs of the department and significant experience in managing fire protection or related programs.
- (4.) The State Fire Marshal shall be paid a salary as provided by law or, if not so provided, as prescribed by the Governor.
- (5.) Subject to the approval of the Governor, the State Fire Marshal may organize and reorganize the administrative structure of the department as the State Fire Marshal considers appropriate to properly conduct the work of the department.
- (6.) The State Fire Marshal may divide the functions of the department into administrative divisions. Subject to the approval of the Governor, the State Fire Marshal may appoint an individual to administer each division. The administrator of each division serves at the pleasure of the State Fire Marshal. Each individual appointed under this subsection must be well qualified by technical training and experience in the functions to be performed by the individual.
- (1.) Except as otherwise provided in this section, statutory references to the Department of the State Fire Marshal shall be construed to mean the office of the State Fire Marshal in the Department of State Police.
- (2.) Duties, functions and powers conferred on the Department of the State Fire Marshal are conferred on the office of the State Fire Marshal in the Department of State Police.
- (3.) Moneys appropriated to the Department of the State Fire Marshal shall be construed as appropriations to the Department of State Police for purposes of the office of the State Fire Marshal.

**Sec. 96.** The State Fire Marshal on the operative date specified in section \_\_\_\_ of this year Act [Start Date] shall serve as the initial State Fire Marshal at the pleasure of the Governor and without the need for confirmation by the Senate.

## 476.030 Powers and duties of marshal and deputies generally

- (1.) The State Fire Marshal shall enforce all statutes, and make rules relating to:
  - (a) The prevention of fires
  - (b) The storage and use of combustibles and explosives.
  - (c) The maintenance and regulation of structural fire safety features in occupied structures
- (2.) The State Fire Marshal and deputies shall have such powers and perform such other duties as are prescribed by law.
- (3.) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has enacted adequate regulations generally conforming to state and national standards concerning fire prevention, fire safety measures and building construction requirements for safety, and if the governmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal may exempt the area subject to such regulation either partially or fully from the statutes, rules and regulations administered by the State Fire

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Marshal. The State Fire Marshal shall designate a person or division within such governmental subdivision as an approved authority for exercising functions relating to fire prevention, fire safety measures and building construction. Upon request of a local official having enforcement responsibility and a showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make investigation and appropriate recommendations.

- (4.) The State Fire Marshal may investigate or cause an investigation to be made to determine the probable cause, origin and circumstances of any fire and shall classify such findings as the State Fire Marshal may find appropriate to promote fire protection and prevention.
- (5.) The State Fire Marshal shall provide training in fire safety inspection

**476.033 Discretionary powers of State Fire Marshal.** The State Fire Marshal may:

- (1.) Contract or otherwise cooperate with any person or public agency for the procurement of necessary services or property.
- (2.) Accept and distribute gifts, grants, donations, and funds from any source, including services and property, to carry out the duties of the State Fire Marshal; and
- (3.) Perform such other duties as required by law.

**476.040 Deputies and assistants.** The State Fire Marshal shall appoint a chief deputy state fire marshal and deputy state fire marshals whose duties shall be to assist in carrying into effect the provisions of \_\_\_\_\_. The State Fire Marshal may also employ such other assistants and employees and incur such other expenses as the State Fire Marshal may deem necessary in carrying into effect these provisions. The State Fire Marshal may remove any deputies or assistants for cause.

**476.050 Payment of salaries and expenses.** The salary of the chief deputy state fire marshal, deputy state fire marshals, compensation of clerks and other assistants and other expenses of the Department of the State Fire Marshal necessary in the performance of the duties imposed upon the State Fire Marshal shall be paid in the same manner as are other state officers and the expenses of other state departments, and shall not exceed the amount paid to the State Treasurer for the maintenance of the Department of the State Fire Marshal.

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**476.055 State Fire Marshal Fund; uses.**

- (1.) All moneys received by the Department of the State Fire Marshal shall be paid into the State Treasury and shall be placed by the State Treasurer to the credit of the State Fire Marshal Fund, except those moneys received and accounted for under the provisions of **state statute**.
- (2.) Except as otherwise provided by this section, moneys in the State Fire Marshal Fund shall be available and constitute a continuing appropriation for the payment of any expense of the department and for the payment of expenses of the Department of Public Safety Standards and Training and the Board on Public Safety Standards and Training relating to training programs concerning fire services and accreditation of fire service professionals. The Department of the State Fire Marshal shall keep on file an itemized statement of

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all expenses incurred by the department and shall approve all disbursements as submitted for payment. Administrative expenditures made from the State Fire Marshal Fund shall not exceed a reasonable amount for the services performed.

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## **476.060 Local officers and constables as assistants to State Fire Marshal.**

- (1.) All fire marshals in those governmental subdivisions having such officers, and where no such officer exists, the chief of the fire department of every city or rural fire protection district in which a fire department is established, the marshal or chief of police, officer of any city in which no fire department exists, and constables, if any, shall be, by virtue of the offices held by them, assistants to the State Fire Marshal without additional recompense, subject to the duties and obligations imposed by law, and shall be subject to the direction of the State Fire Marshal.
- (2.) In addition to other duties under subsection (1) of this section, an individual designated as an assistant to the State Fire Marshal shall aid in the administration and enforcement.

**476.070 Entering buildings and premises.** The State Fire Marshal, the deputies, or assistants of the State Fire Marshal, or any of them, may:

- (1.) At all reasonable hours may enter upon and examine any building or premises wherein fire has occurred, and other buildings or premises adjoining or near the same.
- (2.) For just cause and for the purpose of examination, enter, at all reasonable hours, in and upon all buildings and premises within their jurisdiction.

## **476.090 Records of fires.**

- (1.) The Department of the State Fire Marshal shall keep a record of all fires occurring in this state and of all facts concerning the same, including statistics as to the extent of such fires and the damage caused, whether such losses were covered by insurance, and if so, in what amount. All such records shall be public, except any testimony, information or other evidence taken in an investigation under state statute, which shall be considered investigatory information as described in state statute.

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**476.110 State police to enforce fire laws.** The Department of State Police shall employ a sufficient number of state police who shall perform the duties of enforcement of criminal laws and other statutes of **STATE** with reference to the suppression and punishment of arson and fraudulent claims and practices in connection with fire laws.

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**476.120 Minimum standards for protection of life and property.** The State Fire Marshal, in making rules and regulations establishing minimum standards for the protection of life and property against fire, shall consider as evidence of generally accepted standards the applicable standards prescribed from time to time by the National Fire Protection Association. The State Fire Marshal may request consideration and recommendations from the Department of Public Safety Standards and Training before adopting any such regulations.

**476.130 Statistical reports; price; sale; deposit of proceeds.**

- (1.) The State Fire Marshal may from time to time prepare statistical reports on the history and condition of state fire defenses, and an analysis of contributing factors of fire causes for the period of the report. Such reports may be printed at the expense of the Department of the State Fire Marshal and sold at a price not to exceed the cost of printing and distribution. Receipts from the sale of such material shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund.
- (2.) The State Fire Marshal may fix a sale price for each copy of any publication of the department supplied to private persons interested therein, when such publication has been approved as provided by law.

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**476.132 Wildfire readiness and response capacity.**

- (1.) The office of the State Fire Marshal shall increase the office's wildfire readiness and response capacity to the extent the office receives funding for the increase, by means including:
  - (a) Increasing fire prevention and response personnel and fire administrative support personnel to address planning, communications, training, deployment, and safety.
  - (b) Implementing innovative technologies and modernizing systems to expedite fire resource deployment in an efficient and safe manner.
- (2.) The State Fire Marshal may:
  - (a) Designate funding intended for the **STATE** fire mutual aid system to support prepositioning of resources and costs.
  - (b) Enter into contracts with federal or state agencies, other states, political subdivisions, corporations, and authorities having fire suppression jurisdiction for fire prevention, suppression, coordination and response. [2021 c.592 §30b]

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## PROTECTION OF LIFE AND PROPERTY FROM FIRE IN CASE OF EMERGENCY

**476.510 Short title.** **State statute** 476.510 to 476.610 shall be known as the Emergency Conflagration Act.

**476.515 Other officers authorized to act when Governor unavailable.** If the Governor is unavailable to make timely exercise of the authority under **state statute**, the Superintendent of State Police may exercise such authority, and if that individual is unavailable the State Fire Marshal may exercise such authority. Any orders, rules or regulations issued by the Superintendent of State Police or the State Fire Marshal pursuant to this section have the same force and effect as if issued by the Governor.

**476.520 Governor authorized to assign fire-fighting forces and equipment.** The Governor may assign and make available for use and duty in any county, city, or district, under the direction and command of an officer designated by the Governor for the purpose, any part of the fire-fighting forces and equipment of any fire-fighting organization in this state other than an organization that possesses only one self-propelled pumping unit. The Governor may make fire-fighting forces and equipment available under this section in response to fire, a heightened danger of fire or a significant reduction in available fire-fighting resources.

**476.530 Chief executive of political subdivision to assign forces and equipment; federal equipment.** The chief executive of any county, city or fire protection district or the head of any fire department of any political subdivision, including agencies of this state, if so ordered by the Governor, shall assign and make available for duty and use in any county, city or fire district under the direction and command of such officer as may be designated by the Governor for the purpose, any part of the fire-fighting forces and equipment under the control of the chief executive or the head of the fire department, provided that any equipment made available by loan, or otherwise, to any county, city or fire district or this state by the United States or any agency thereof, shall at all times be subject to the order of the United States or such agency in accordance with the terms and conditions upon which the equipment is made available.

**476.540 Powers and duties of fire-fighting forces.** Whenever the fire-fighting forces of any county, city or fire district are rendering outside aid pursuant to 476.520 or 476.530, the officers and members of such fire-fighting forces shall have the same powers, duties, rights, privileges, and immunities as though they were performing their duties in the political subdivision in which they are normally employed.

**476.550 Loss or damage to equipment.** When any equipment is used pursuant to 476.520 or 476.530 the state shall be liable for any loss thereof or damage thereto and shall pay any expense incurred in the operation or maintenance thereof. No claim for any such loss, damage or expense shall be allowed unless, within 60 days after it has been sustained or incurred, or within such extension of such time as may have been obtained from the Department of State Police, an itemized notice of such claim, under oath, is served by mail or personally upon the Department of State Police and such loss, damage or expense shall be payable from the Emergency Fund of the state.

**476.560 Reimbursement for aid.** Whenever aid is supplied pursuant to 476.520 to 476.590, the state shall reimburse the political subdivision supplying such aid for the compensation paid to employees supplied under ORS 476.520 to 476.590 during the time the rendition of such aid prevents them from performing their duties in the political subdivision by which they are employed and shall defray the actual traveling and maintenance expenses of such employees while they are rendering such aid. "Employee" as used herein means, and the provisions of 476.520 to 476.610 apply with equal effect to, all firefighters, whether paid, volunteer or call.



**476.610** The State Fire Marshal shall prepare plans for the effective carrying out of the provisions of 476.520 to 476.610 and provide advice and counsel to the Governor for the most practical utilization under 476.520 to 476.610 of the fire-fighting resources of this state.