

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4644

FISCAL
NOTE

BY DELEGATES MAYNARD, CAMPBELL, MILLER, WILLIAMS,

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[Introduced January 31, 2020; Referred to the
Committee on Fire Departments and Emergency
Medical Services then Government Organization]

1 A BILL to repeal §29-3-1, §29-3-2, §29-3-3, §29-3-4, §29-3-5, §29-3-5a, §29-3-5b, §29-3-5c, §29-
2 3-5d, §29-3-5e, §29-3-5f, §29-3-6, §29-3-7, §29-3-8, §29-3-9, §29-3-10, §29-3-11, §29-3-
3 12, §29-3-12a, §29-3-12b, §29-3-13, §29-3-14, §29-3-15, §29-3-16, §29-3-16a, §29-3-
4 16b, §29-3-16c, §29-3-16d, §29-3-17, §29-3-18, §29-3-19, §29-3-21, §29-3-22, §29-3-27,
5 §29-3-28, §29-3-29, §29-3-30, and §29-3-32 of the Code of West Virginia 1931, as
6 amended; to amend said code by adding thereto a new article, designated §15A-9-1,
7 §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, §15A-9-7, §15A-9-8, §15A-9-9,
8 §15A-9-10, §15A-9-11, §15A-9-12, §15A-9-13, §15A-9-14, §15A-9-15, §15A-9-16, §15A-
9 9-17, §15A-9-18, §15A-9-19, §15A-9-20, §15A-9-21, §15A-9-22, §15A-9-23, §15A-9-24,
10 §15A-9-25; and to amend said code by adding thereto a new article, designated §15A-
11 10-1, §15A-10-2, §15A-10-3, §15A-10-4, §15A-10-5, §15A-10-6, §15A-10-7, §15A-10-8,
12 §15A-10-9, §15A-10-10, and §15A-10-11, all relating to separating the Fire Marshal from
13 the Fire Commission; transferring the Fire Marshal from the State Fire Commission to the
14 Department of Military Affairs and Public Safety; setting forth the appointment process for
15 the Fire Marshal, setting forth qualifications, salary, and responsibilities of the State Fire
16 Marshal; allowing the Fire Marshal to hire employees; allowing the Fire Marshal to hire a
17 Deputy, and setting the qualifications of the Deputy; requiring new Fire Marshal 1, 2, 3,
18 and Deputies to become certified law-enforcement officers; setting forth powers and duties
19 of the State Fire Marshal; setting forth additional powers and duties relating to law
20 enforcement, statewide contracts, penalties, and authority to carry firearms; creating
21 enforcement standards for the state building and fire codes; creating rule-making
22 authority; allowing the appointment of advisory boards; setting forth the responsibilities of
23 insurance companies in fire loss investigations; allowing the Fire Marshal to set fees;
24 requiring an annual report; setting forth maintenance of fire hazard standards; allowing
25 orders for repair or demolition; allowing orders to contain notice to comply and a right to
26 appeal; providing standards for service of repair or demolition orders; clarifying who is

27 responsible for cost of work or demolition; allowing an action to recover cost; requiring
28 smoke detectors in one and two family dwellings; requiring carbon monoxide detectors in
29 residential units, schools, and day care facilities and setting forth penalties; allowing the
30 use of live trees in public buildings under certain circumstances; setting forth safety
31 standards for bed and breakfast establishments; setting forth standards for installation of
32 propane gas systems; setting forth parameters to abate fire hazards; setting forth license
33 denial, limitation, suspension and revocation standards; creating an independent informal
34 dispute process for licensees upon appeal; establishing demonstration building and
35 equipment standards for educational instruction for fire protection and prevention and
36 abatement; creating crime of false alarm of fires and setting forth penalties; creating tax
37 on insurance companies; setting forth general criminal penalties for violation; setting forth
38 that the parts of the article are construed liberally; creating a severability section; allowing
39 the Fire Marshal to award service weapons to retiring employees under certain conditions;
40 allowing the Fire Marshal to dispose of unused firearms; continuing the Fire Commission,
41 setting forth composition, qualifications, appointment, terms of office, removal, vacancies,
42 and compensation and expenses; establishing chairperson, vice chairperson, meeting
43 and quorum requirements; creating rule making authority for fire code, building code, and
44 general rule making authority; continuing the hazardous response training program;
45 requiring public hearing and notice prior to promulgation of fire code; setting forth
46 commission's powers and conduct of public hearing; setting forth commission's powers
47 duties and authority; setting forth authority over volunteer fire department training, and
48 equipment, and creating rule-making authority for such; continuing courtesy certification
49 of firefighters in surrounding states to serve as volunteer firefighters; continuing the Fire
50 Service Equipment and Training Fund.

Be it enacted by the Legislature of West Virginia:

CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY.

ARTICLE 9. FIRE MARSHAL.

§15A-9-1. State Fire Marshal and Office of the State Fire Marshal transferred to Department of Military Affairs and Public Safety; appointment of State Fire Marshal; removal; salary; qualifications; responsibilities; employees; equipment.

1 (a) The State Fire Marshal and the Office of the State Fire Marshal, heretofore existing in
2 this code, are hereby continued in all respects except that all powers and duties exercised by the
3 State Fire Commission with respect to the State Fire Marshal and the Office of the State Fire
4 Marshal are terminated and all such powers and duties are hereby transferred to and vested in
5 the Department of Military Affairs and Public Safety except as provided otherwise in this article.

6 (b) When a vacancy occurs in the position of State Fire Marshal, the Fire Commission, at
7 the request of the Governor, shall submit a list of not more than three names to the Governor from
8 which the Governor shall make the appointment. The Governor shall appoint a State Fire Marshal,
9 from a list of names submitted by the Fire Commission. The State Fire Marshal serves at the will
10 and pleasure of the Governor and is exempt from coverage under the classified civil service
11 system.

12 (c) The State Fire Marshal shall have a baccalaureate degree from an accredited four-
13 year college or university, or equivalent experience, and six years of full-time or part-time
14 equivalent paid or volunteer experience in fire prevention or fire safety including two years in a
15 supervisory capacity in fire prevention and fire safety.

16 (d) The State Fire Marshal, shall have full responsibility for the enforcement of fire and life
17 safety programs in this state designated to minimize fire hazards and disaster and loss of life and
18 property from these causes. These responsibilities include, but are not limited to, the
19 establishment and enforcement of fire safety practices throughout the state, preventive inspection

20 and correction activities, coordination of fire safety programs with volunteer and paid fire
21 departments, and critical analysis and evaluation of West Virginia's fire loss statistics for
22 determination of problems and solutions.

23 (e) The State Fire Marshal may employ such technical, clerical, stenographic and other
24 personnel and fix their compensation and may incur such expenses as may be necessary in the
25 performance of the duties of his or her office within the appropriation therefor. Employees of the
26 Fire Marshal's office shall be members of the state civil service system and all appointments of
27 the office shall be a part of the classified service under the civil service system.

28 (f) The State Fire Marshal may employ a chief deputy fire marshal, who shall be classified
29 exempt. The deputy shall have a baccalaureate degree from an accredited four-year college or
30 university, or equivalent experience, and six years of full-time or part-time equivalent paid or
31 volunteer experience in fire prevention or fire safety including two years in a supervisory capacity
32 in fire prevention and fire safety.

33 (g) Any individual who is employed by the State Fire Marshal to conduct criminal
34 investigations or who may become actively involved in matters of a criminal nature shall first be
35 required to pass a civil service examination testing his or her competency and proficiency in the
36 law of arrest, search and seizure, and other criminal procedures relating to the powers granted to
37 the State Fire Marshal pursuant to the provisions of this article: *Provided*, That all new hires to
38 sworn positions of Fire Marshal 1, 2, or 3 and Deputy Fire Marshal, excluding the Chief Deputy
39 as described in subdivision (f) of this section, shall comply with the law enforcement certification
40 requirements set forth in § 30-29-1 *et seq.*

41 (h) The State Fire Marshal and other personnel of the State Fire Marshal's Office shall be
42 provided with appropriate office space, furniture, equipment, supplies, stationery and printing in
43 the same manner as provided for other state agencies.

§15A-9-2. Powers, duties and authority of State Fire Marshal.

1 (a) The State Fire Marshal may employ personnel, fix their compensation and, within funds

2 available to do so, incur expenses as necessary in the performance of the duties of his or her
3 office.

4 (b) The State Fire Marshal is responsible for the enforcement of fire programs within this
5 state, training, uniform standards and certification, finance, and planning and fire prevention.

6 (c) The State Fire Marshal shall ensure that state and area training and education in fire
7 service are operated throughout the state at a level consistent with needs identified by the State
8 Fire Commission.

9 (d) The State Fire Marshal shall perform any such duties as necessary to assist the State
10 Fire Commission in performing its duties and responsibilities as provided in §15A-10-1 et seq. of
11 this code. This shall include, but not be limited to, performing inspections on fire departments,
12 making recommendations on fire department boundary lines, making recommendations on
13 applications for new fire departments, making recommendations on closures or suspensions of
14 fire departments, and any other act or assistance to the State Fire Commission as may be
15 necessary. The Fire Marshal may, in the case of imminent danger, issue immediate cease and
16 desist orders on behalf of the State Fire Commission without their prior approval. In that case,
17 the State Fire Commission shall act further upon said order at their next regular meeting.

18 (e) The State Fire Marshal may accept, on behalf of the Office of the State Fire Marshal,
19 or on behalf of the State Fire Commission, gifts, grants, court ordered civil forfeiture proceedings
20 and bequests of funds or property from individuals, foundations, corporations, the federal
21 government, governmental agencies and other organizations or institutions. Moneys from gifts,
22 grants, civil forfeiture proceedings and bequests received by the State Fire Marshal shall be
23 deposited into the special account set forth in §15A-9-7 of this code, and the State Fire Marshal,
24 has the authority to make expenditures of, or use of any tangible property, in order to effectuate
25 the purposes of this article.

26 (f) Beginning July 1, 2020, applicants for certification or licensure in accordance with the
27 education and training programs under the respective jurisdictions of State Fire Marshal shall be

28 permitted to apply training hours earned via career technical education provided by West Virginia
29 public schools or an apprenticeship program or employer-sponsored training program towards
30 the requirements for certification and/or licensure by the State Fire Marshal as applicable. The
31 State Fire Marshal shall, after consultation with the State Superintendent of Schools, propose
32 rules for legislative approval, in accordance with the provisions of §29A-3-1 et seq. of this code,
33 for the implementation and enforcement of these provisions. The rules shall provide at least the
34 following:

35 (1) Standards and procedures for recognizing training hours acquired through career
36 technical education provided by West Virginia public schools and applying those hours to
37 requirements for testing and/or certification and/or licensure; and

38 (2) Standards and procedures for recognizing training hours acquired through
39 apprenticeship programs and employer-sponsored training programs and applying those hours
40 to requirements for testing and/or certification and/or licensure.

41 As used in this subsection:

42 “Apprentice” means someone who is enrolled in an apprenticeship program.

43 “Apprenticeship program” means a program offered by an employer to provide supervised
44 on-the-job training to employees approved by the United States Department of Labor.

45 “Employer sponsored training program” means a program approved in accordance with a
46 rule promulgated by the State Fire Commission or the State Fire Marshal under their respective
47 authorities established in this code.

48 “License” means a valid and current certification or license issued by State Fire
49 Commission or the State Fire Marshal for satisfactory completion of education and training
50 programs under their respective jurisdictions.

51 “Career technical education” means programs of study, clusters, and pathways approved
52 by the West Virginia Board of Education pursuant to state board policy.

53 (g) Notwithstanding any other provisions of this code, beginning on July 1, 2020, the State

54 Fire Commission has no enforcement authority for violations of the fire code, or the building code,
55 all enforcement authority previously held by the Fire Commission regarding these two rules is
56 hereby transferred and solely vests in the Office of the State Fire Marshal.

57 (h) Notwithstanding any provision of this code to the contrary, on July 1, 2020, all power
58 and authority for the licensing or certifications programs of “Home Inspectors”, and “Municipal,
59 County, and Other Public Sector Building Code Officials, Building Code Inspectors and Plans
60 Examiners”, are hereby transferred to the Office of the State Fire Marshal, and the State Fire
61 Marshal shall have full authority over said programs, licenses, certifications, and all
62 responsibilities thereof. Whenever in this code a reference is made to the State Fire Commission
63 in relation to these Licensing or Certification Programs, it shall be construed to mean the State
64 Fire Marshal.

§15A-9-3. Additional powers, duties and authority of State Fire Marshal relating to law enforcement; statewide contracts; penalties; authority to carry firearms.

1 (a) Enforcement of laws. — The State Fire Marshal, and any of his or her assistant fire
2 marshals or deputy fire marshals, are fully authorized to enforce the fire code, the building code,
3 this article, article 10 of this chapter, and any laws over of the state having to do with:

4 (1) Prevention of fire;

5 (2) The storage, sale, and use of any explosive, combustible, or other dangerous article
6 or articles in solid, flammable liquid, or gas form;

7 (3) The installation and maintenance of equipment of all sorts intended to extinguish,
8 detect, and control fires;

9 (4) The means and adequacy of exit, in case of fire, from buildings and all other places in
10 which persons work, live, or congregate, from time to time, for any purpose, except buildings used
11 wholly as dwelling houses for no more than two families;

12 (5) The suppression of arson; and

13 (6) Any other thing necessary to carry into effect the provisions of this article and article

14 10 of this chapter including, but not limited to, confiscating any materials, chemicals, items, or
15 personal property owned, possessed, or used in direct violation of the State Fire Code.

16 (b) Assistance upon request. — Upon request, the State Fire Marshal shall assist any
17 chief of any recognized fire company or department. Upon the request of any federal law-
18 enforcement officer, State Police officer, Natural Resources police officer, or any county or
19 municipal law-enforcement officer, the State Fire Marshal, any deputy state fire marshal, or
20 assistant state fire marshal employed pursuant to the provisions of this article and any person
21 deputized pursuant to subsection (j) of this section may assist in the lawful execution of the
22 requesting officer's official duties: Provided, That the State Fire Marshal, or other person
23 authorized to act under this subsection, shall at all times work under the direct supervision of the
24 requesting officer.

25 (c) Enforcement of rules. — The State Fire Marshal shall enforce the rules promulgated
26 by the State Fire Commission as authorized by this article and article 10 of this chapter.

27 (d) Inspections generally. — The State Fire Marshal shall inspect all structures and
28 facilities, other than one- and two-family dwelling houses, subject to the State Fire Code and this
29 article, including, but not limited to, state, county, and municipally owned institutions, all public
30 and private schools, health care facilities, theaters, churches, and other places of public assembly
31 to determine whether the structures or facilities are in compliance with the State Fire Code.

32 (e) Right of entry. — The State Fire Marshal may, at any hour necessary, enter any
33 building or premises, other than dwelling houses, for the purpose of making an inspection which
34 he or she may consider necessary under the provisions of this article. The State Fire Marshal and
35 any deputy state fire marshal or assistant state fire marshal approved by the State Fire Marshal
36 may enter upon any property, or enter any building, structure or premises, including dwelling
37 houses during construction and prior to occupancy, for the purpose of ascertaining compliance
38 with the conditions set forth in any permit or license issued by the office of the State Fire Marshal
39 pursuant to §15A-9-7 or §29-3B-1 et seq. of this code.

40 (f) Investigations. — The State Fire Marshal may, at any time, investigate as to the origin
41 or circumstances of any fire or explosion or attempt to cause fire or explosion occurring in the
42 state. The State Fire Marshal has the authority at all times of the day or night, in performance of
43 the duties imposed by the provisions of this article, to investigate where any fires or explosions or
44 attempt to cause fires or explosions may have occurred, or which at the time may be burning.
45 Notwithstanding the above provisions of this subsection, prior to entering any building or premises
46 for the purposes of the investigation, the State Fire Marshal shall obtain a proper search warrant:
47 Provided, That a search warrant is not necessary where there is permissive waiver or the State
48 Fire Marshal is an invitee of the individual having legal custody and control of the property, building
49 or premises to be searched.

50 (g) Testimony. — The State Fire Marshal, in making an inspection or investigation when
51 in his or her judgment the proceedings are necessary, may take the statements or testimony
52 under oath of all persons who may be cognizant of any facts or have any knowledge about the
53 matter to be examined and inquired into and may have the statements or testimony reduced to
54 writing; and shall transmit a copy of the statements or testimony so taken to the prosecuting
55 attorney for the county wherein the fire or explosion or attempt to cause a fire or explosion
56 occurred. Notwithstanding the above, no person may be compelled to testify or give any statement
57 under this subsection.

58 (h) Arrests; warrants. — The State Fire Marshal, any full-time deputy fire marshal, or any
59 full-time assistant fire marshal employed by the State Fire Marshal pursuant to this article is
60 hereby authorized and empowered and any person deputized pursuant to this article may be
61 authorized and empowered by the State Fire Marshal:

62 (1) To arrest any person anywhere within the confines of the State of West Virginia, or
63 have him or her arrested, for any violation of the arson-related offenses of §61-3-1 et seq. of this
64 code or of the explosives-related offenses of §61-3E-1 et seq. of said code: Provided, That any
65 and all persons so arrested shall be forthwith brought before the magistrate or circuit court;

66 Provided, however, That the State Fire Marshal, any full-time deputy fire marshal or any full-time
67 assistant fire marshal is authorized to arrest persons for violations of §61-5-17 of this code.

68 (2) To make complaint in writing before any court or officer having jurisdiction and obtain,
69 serve, and execute an arrest warrant when knowing or having reason to believe that anyone has
70 committed an offense under any provision of this article, of the arson-related offenses of §61-3-1
71 et seq. of this code or of the explosives-related offenses of §61-3E-1 et seq. of this code. Proper
72 return shall be made on all arrest warrants before the tribunal having jurisdiction over the violation.

73 (3) To make a complaint in writing before any court or officer having jurisdiction and obtain,
74 serve, and execute a warrant for the search of any premises that may possess evidence or
75 unlawful contraband relating to violations of this article, of the arson-related offenses of §61-3-1
76 et seq. of this code or of the explosives-related offenses of §61-3E-1 et seq. of said code. Proper
77 return shall be made on all search warrants before the tribunal having jurisdiction over the
78 violation.

79 (4) Any member of the West Virginia State Police, Natural Resources Police Officer, or
80 any county or municipal law-enforcement officer may assist, upon request, the State Fire Marshal
81 or any of his or her employees authorized to enforce the provisions of this section in any duties
82 for which the State Fire Marshal has jurisdiction.

83 (i) Witnesses and oaths. — The State Fire Marshal may issue subpoenas and subpoenas
84 duces tecum to compel the attendance of persons before him or her to testify in relation to any
85 matter which is, by the provision of this article, a subject of inquiry and investigation by the State
86 Fire Marshal and cause to be produced before him or her such papers as he or she may require
87 in making the examination. The State Fire Marshal may administer oaths and affirmations to
88 persons appearing as witnesses before him or her. False swearing in any matter or proceeding
89 is considered perjury and is punishable as perjury.

90 (j) Deputizing members of fire departments in this state. — The State Fire Marshal may
91 deputize a member of any fire department, duly organized and operating in this state, who is

92 approved by the chief of his or her department and who is properly qualified to act as his or her
93 assistant for the purpose of making inspections with the consent of the property owner or the
94 person in control of the property and the investigations as may be directed by the State Fire
95 Marshal, and the carrying out of orders as may be prescribed by him or her, to enforce and make
96 effective the provisions of this article and any and all rules promulgated by the State Fire
97 Commission under authority of this article: *Provided*, That in the case of a volunteer fire
98 department, only the chief thereof or his or her single designated assistant may be so deputized.

99 (k) *Written report of examinations.* — The State Fire Marshal shall, at the request of the
100 county commission of any county or the municipal authorities of any incorporated municipality in
101 this state, make to them a written report of the examination made by him or her regarding any fire
102 happening within their respective jurisdictions.

103 (l) *Report of losses by insurance companies.* — Each fire insurance company or
104 association doing business in this state, within 10 days after the adjustment of any loss sustained
105 by it that exceeds \$1,500, shall report to the State Fire Marshal information regarding the amount
106 of insurance, the value of the property insured, and the amount of claim as adjusted. This report
107 is in addition to any information required by the State Insurance Commissioner. Upon the request
108 of the owner or insurer of any property destroyed or injured by fire or explosion, or in which an
109 attempt to cause a fire or explosion may have occurred, the State Fire Marshal shall report in
110 writing to the owner or insurer the result of the examination regarding the property.

111 (m) *Issuance of permits and licenses.* — The State Fire Marshal may issue permits,
112 documents, and licenses in accordance with the provisions of this article or §29-3B-1 *et seq.* of
113 this code: *Provided*, That unless otherwise provided, the State Fire Marshall shall take final action
114 upon any completed permit applications within 30 days of receipt if the application is uncontested,
115 or within 90 days if the application is contested. The State Fire Marshal may require any person
116 who applies for a permit to use explosives, other than an applicant for a license to be a pyrotechnic
117 operator under §29-3E-6 of this code, to be fingerprinted and to authorize the State Fire Marshal

118 to conduct a criminal records check through the Criminal Identification Bureau of the West Virginia
119 State Police and a national criminal history check through the Federal Bureau of Investigation.
120 The results of any criminal records or criminal history check shall be sent to the State Fire Marshal.

121 (n) Issuance of citations for fire and life safety violations. — The State Fire Marshal, any
122 deputy fire marshal, and any assistant fire marshal employed pursuant to this article, and any
123 person deputized pursuant to subsection (j) of this section may be authorized by the State Fire
124 Marshal to issue citations, in his or her jurisdiction, for fire and life safety violations of the State
125 Fire Code and as provided for by the rules promulgated by the State Fire Commission in
126 accordance with §15A-10-1 et seq. of this code: *Provided*, That a summary report of all citations
127 issued pursuant to this section by persons deputized under subsection (j) of this section shall be
128 forwarded monthly to the State Fire Marshal in the form and containing information as he or she
129 may by rule require, including the violation for which the citation was issued, the date of issuance,
130 the name of the person issuing the citation, and the person to whom the citation was issued. The
131 State Fire Marshal may at any time revoke the authorization of a person deputized pursuant to
132 subsection (j) of this section to issue citations, if in the opinion of the State Fire Marshal, the
133 exercise of authority by the person is inappropriate.

134 Violations for which citations may be issued include, but are not limited to:

135 (1) Overcrowding places of public assembly;

136 (2) Locked or blocked exits in public areas;

137 (3) Failure to abate a fire hazard;

138 (4) Blocking of fire lanes or fire department connections; and

139 (5) Tampering with, or rendering inoperable except during necessary maintenance or
140 repairs, on-premise firefighting equipment, fire detection equipment, and fire alarm systems.

141 (o) *Required training; liability coverage.* — No person deputized pursuant to subsection (j)
142 of this section may be authorized to issue a citation unless that person has satisfactorily
143 completed the mandatory training as described in section 1 of this article, or a law-enforcement

144 officer training course designed specifically for fire marshals. The course shall be approved by
145 the Law-enforcement Training Subcommittee of the Governor's Committee on Criminal Justice
146 and Highway Safety and the State Fire Commission. In addition, no person deputized pursuant
147 to subsection (j) of this section may be authorized to issue a citation until evidence of liability
148 coverage of the person has been provided, in the case of a paid municipal fire department, by the
149 municipality wherein the fire department is located, or in the case of a volunteer fire department,
150 by the county commission of the county wherein the fire department is located or by the
151 municipality served by the volunteer fire department and that evidence of liability coverage has
152 been filed with the State Fire Marshal.

153 (p) *Statewide contracts.* — The State Fire Marshal may cooperate with the Department of
154 Administration, Purchasing Division, to establish one or more statewide contracts for equipment
155 and supplies utilized by fire companies and departments in accordance with §5A-3-1 et seq. of
156 this code.

157 (1) Any statewide contract established hereunder shall be made available to any fire
158 company and department in this state, as well as any other state agency or political subdivision
159 that has a need for the equipment or supplies included in those contracts.

160 (2) The State Fire Marshal may develop uniform standards for equipment and supplies
161 used by fire companies and departments in accordance with §5A-3-1 et seq. of this code.

162 (3) The State Fire Commission shall propose legislative rules for promulgation in
163 accordance with §29A-3-1 et seq. of this code to effectuate the provisions of this subsection.

164 (q) *Penalties for violations.* — Any person who violates any fire and life safety rule of the
165 State Fire Code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less
166 than \$100 nor more than \$1,000, or confined in jail not more than 90 days, or both fined and
167 confined. Every day during which any violation of the provisions of this article continues after
168 knowledge or official notice that it is illegal is a separate offense.

169 (r) The State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire

170 marshal employed by the State Fire Marshal pursuant to this article may carry a firearm while
171 acting in the course of his or her official duties, if he or she has successfully completed a firearms
172 training and certification program equivalent to that provided to officers attending the entry level
173 law-enforcement certification course provided at the West Virginia State Police Academy. The
174 person shall thereafter successfully complete an annual firearms qualification course equivalent
175 to that required of certified law-enforcement officers as established by legislative rule. The State
176 Fire Marshal may reimburse the person for the cost of the training and requalification.

§15A-9-4. Enforcement standards.

1 (a) In the enforcement of the State Building Code and State Fire Code, the State Fire
2 Marshal: Shall provide compliance alternatives for historic structures as provided for in §29-1-5
3 of this code, which compliance alternatives shall take into account the historic integrity of the
4 historic structures; and shall coordinate with the Director of the Archives and History Division the
5 application of the rules of that division.

6 (b) In interpretation and application, the State Fire Code shall be held to be the minimum
7 requirements for the safeguarding of life and property from the hazards of fire and explosion:
8 Provided, That the State Fire Marshal shall provide compliance alternatives for historic structures
9 and sites as provided in §29-1-5 of this code, which compliance alternatives shall take into
10 account the historic integrity of the historic structures and sites. Whenever any other state law,
11 county or municipal ordinance or regulation of any agency thereof is more stringent or imposes a
12 higher standard than is required by the State Fire Code, the provisions of the state law, county or
13 municipal ordinance or regulation of any agency thereof governs, if they are not inconsistent with
14 the laws of West Virginia and are not contrary to recognized standards and good engineering
15 practices: Provided, That, on and after July 1, 2010, if a municipal or county fire ordinance or
16 regulation of any agency thereof is more stringent or imposes a higher standard than is required
17 by the State Fire Code, it must be presented for review and approval and sanctioned for use by
18 the State Fire Commission. In any question, the decision of the State Fire Commission determines

19 the relative priority of any such state law, county or municipal ordinance or regulation of any
20 agency thereof and determines compliance with state fire rules by officials of the state, counties,
21 municipalities and political subdivisions of the state.

§15A-9-5. General rule-making authority; appointment of advisory boards.

1 (a) The State Fire Marshal may propose rules for legislative approval, in accordance with
2 the provisions of §29A-3-1 et seq. of this code, establishing state standards and fee schedules
3 for the licensing, registration, certification, regulation and continuing education of persons which
4 will conduct inspections relating to the State Building Code, which include, but are not limited to,
5 building code officials, inspectors, plans examiners and home inspectors.

6 (b) The State Fire Marshal shall propose rules for legislative approval requiring applicants
7 for home inspector licensing, registration or certification to submit to a state and national criminal
8 history record check as set forth in this section and may deny licensing, registration or certification
9 based upon the results of the criminal history record check.

10 (c) The State Fire Marshal may establish advisory boards as it considers appropriate to
11 encourage representative participation in subsequent rulemaking from groups or individuals with
12 an interest in any aspect of the rules promulgated by the Fire Marshal.

§15A-9-6. Responsibilities of insurance companies in fire loss investigation.

1 (a) The State Fire Marshal or any deputy or assistant fire marshals under the authority of
2 the fire marshal may request any insurance company investigating a fire loss of real or personal
3 property to release any information in its possession relative to that loss. The company shall
4 release the information and cooperate with any official authorized to request such information
5 pursuant to this section. The information shall include, but is not limited to:

- 6 (1) Any policy in force;
- 7 (2) Any application for a policy;
- 8 (3) Premium payment records;
- 9 (4) History of previous claims; and

10 (5) Material relating to the investigation of the loss, including statements of any person,
11 proof of loss and any other relevant evidence.

12 (b) Any insurance company shall notify the State Fire Marshal, if it has reason to believe,
13 based on its investigation of a fire loss to real or personal property, that the fire was caused by
14 other than accidental means. The company shall furnish the State Fire Marshal with pertinent
15 information acquired during its investigation and cooperate with the courts and administrative
16 agencies of the state, and any official mentioned, or referred to, in subsection (a) of this section.

17 (c) In the absence of fraud, no insurance company or person who furnishes information
18 on its behalf, shall be liable for any oral or written statement or any other action necessary to
19 supply information required pursuant to this section.

20 (d) Any information furnished pursuant to this section shall be held in confidence, and is
21 exempt from the provisions of §29B-1-1 et seq. of this code, until such time as its release may be
22 required pursuant to a criminal proceeding.

23 (e) Any official mentioned, or referred to, in subsection (a) of this section may be required
24 to testify as to any information in his or her possession regarding the fire loss of real or personal
25 property in any civil action in which any person seeks recovery under a policy against an insurance
26 company for the fire loss.

§15A-9-7. Fees.

1 (a) The State Fire Marshal is authorized to propose rules for legislative authorization
2 pursuant to §29A-3-1 et seq. of this code to establish fees in accordance with the following:

3 (1) For blasting;

4 (2) For inspections of schools or day-care facilities;

5 (3) For inspections of hospitals or nursing homes;

6 (4) For inspections of personal care homes or board and care facilities;

7 (5) For inspections of residential occupancies;

8 (6) For inspections of mercantile occupancies;

9 (7) For business occupancies; and

10 (8) For inspections of assembly occupancies;

11 For purposes of this subdivision, an “assembly occupancy” includes, but is not limited to,
12 all buildings or portions of buildings used for gathering together 50 or more persons for such
13 purposes as deliberation, worship, entertainment, eating, drinking, amusement or awaiting
14 transportation. For purposes of this section, a “Class C assembly facility” is one that
15 accommodates 50 to 300 persons; a “Class B facility” is one which accommodates more than 300
16 persons but less than 1,000 persons; and a “Class A facility” is one which accommodates more
17 than 1,000 persons.

18 (b) The State Fire Marshal may collect fees for the fire safety review of plans and
19 specifications for new and existing construction. Fees shall be paid by the party or parties
20 receiving the review.

21 (1) Structural barriers and fire safety plans review;

22 (2) Sprinkler system review;

23 (3) Fire alarm systems review;

24 (4) Range hood extinguishment system review;

25 (5) Carpet specifications;

26 (c) All fees authorized and collected pursuant to this article, §29-3B-1 et seq., §29-3C-1
27 et seq., and §29-3D-1 et seq. of this code shall be paid to the State Fire Marshal and thereafter
28 deposited into the special account in the State Treasury known as the “Fire Marshal Fees Fund”.
29 Expenditures from the fund shall be for the purposes set forth in this article and §29-3B-1 et seq.,
30 §29-3C-1 et seq., and §29-3D-1 et seq. of this code and are not authorized from collections but
31 are to be made only in accordance with appropriation by the Legislature and in accordance with
32 the provisions of §12-3-1 et seq. of this code and upon fulfillment of the provisions of §5A-2-1 et
33 seq. of this code. Any balance remaining in the special account at the end of any fiscal year shall
34 be reappropriated to the next fiscal year.

35 (d) If the owner or occupant of any occupancy arranges a time and place for an inspection
36 with the State Fire Marshal and is not ready for the occupancy to be inspected at the appointed
37 time and place, the owner or occupant thereof shall be charged the inspection fee provided in this
38 section unless at least 48 hours prior to the scheduled inspection the owner or occupant requests
39 the State Fire Marshal to reschedule the inspection. In the event a second inspection is required
40 by the State Fire Marshal as a result of the owner or occupant failing to be ready for the inspection
41 when the State Fire Marshal arrives, the State Fire Marshal shall charge the owner or occupant
42 of the occupancy the inspection fees set forth above for each inspection trip required.

§15A-9-8. Annual reports.

1 The State Fire Marshal shall transmit annually to the Governor an annual report, pursuant
2 to §5-1-20 of this code. Said annual report shall include the activities of the State Fire Commission
3 which are reportable pursuant to §5-1-20 of this code.

§15A-9-9. Maintenance of fire hazard; order for repair or demolition; order to contain notice
to comply and right to appeal.

1 (a) No person shall erect, construct, reconstruct, alter, maintain or use any building,
2 structure or equipment or use any land in such a way to endanger life or property from the hazards
3 of fire or explosion, or in violation of any regulation, rule, or any provision or any change thereof
4 promulgated by the State Fire Marshal or State Fire Commission.

5 (b) Whenever the State Fire Marshal determines that any building or structure has been
6 constructed, altered or repaired in a manner violating the State Building Code, or State Fire Code,
7 prior to the commencement of such construction, alteration or repairs; or whenever he or she may
8 determine that any building or structure constitutes a fire hazard by reason of want of repair, age
9 or dilapidated or abandoned condition, or otherwise, and is so situated as to endanger other
10 buildings and property; or whenever he or she may find in any building or upon any premises any
11 combustible, flammable or explosive substance or material, or other conditions dangerous to the
12 safety of persons occupying the building or premises and adjacent premises or property, he or

13 she may make reasonable orders in writing, directed to the owner of such building, structure or
14 premises, for the repair or demolition of such building or structure, or the removal of the
15 combustible, flammable or explosive substance or material, as the case may be, and the
16 remedying of any conditions found to be in violation of a regulation promulgated as aforesaid or
17 to be dangerous to the safety of persons or property.

18 A true copy of every order of the State Fire Marshal as provided for in this section shall be
19 filed in the county where the premises are totally or partially located, with the county clerk who
20 shall index and record the order in the general lien book. Upon filing, the order constitutes notice
21 of such proceedings to all persons or parties thereafter having dealings involving said property.

22 A statement of the expenses and administrative charges shall also be filed with the county
23 clerk, recorded and indexed in the general lien book and upon filing, shall become a lien against
24 the property. Thereafter a court supervised sale of the property to enforce the collection of the
25 expenses and administrative charges may be prosecuted at the request of the State Fire Marshal,
26 or the Attorney General.

27 Every order provided for in this section shall contain a notice that compliance therewith
28 shall be required within a period of 30 days from the date of issuance thereof and also that any
29 person desiring to contest the validity of any such order may enter an appeal from such order to
30 the State Fire Marshal and then to the circuit court in the county where the premises are totally or
31 partially located as provided in this article.

§15A-9-10. Service of repair or demolition order.

1 The written order of the State Fire Marshal made pursuant to §15A-9-9 of this code shall
2 be served by delivering a true copy thereof to such owner, or, if the owner is absent from the state
3 or his or her whereabouts be unknown to the State Fire Marshal, by mailing a true copy thereof
4 by certified mail to the said owner's last known post-office address, or if no such address be
5 known, then by certified mail to said owner in care of general delivery at the post office serving
6 the community in which said premises lie; the delivering or mailing of such order to be

7 accomplished within five days from the date of the issuance of such order. And in the event it is
8 necessary to mail a copy of such order as aforesaid, the officer mailing the same shall also, within
9 five days from the date of issuance of such order, post a true copy thereof in a conspicuous place
10 on the door or other prominent entrance to said premises.

**§15A-9-11. Work to be done at expense of owner or occupant upon failure to comply with
repair or demolition order; action to recover.**

1 In the event any owner of any building or premises served with a copy of an order as
2 provided in §15A-9-9 and §15A-9-10 of this code shall fail substantially to comply with such order
3 within 30 days from the date of issuance thereof, or within 30 days after any appeal from such
4 order has been affirmed by the State Fire Marshal or by the court, the State Fire Marshal, or his
5 or her designee, may enter into and upon the premises affected by such order and cause the
6 building, structure or premises to be repaired, torn down, materials removed and all dangerous
7 conditions to be remedied, as the case may be, at the expense of the owner and with any
8 administrative charges as established by the State Fire Marshal also being borne by the owner,
9 and if such person shall fail or neglect to repay the State Fire Marshal the expense and
10 administrative charge thereby incurred by him or her, within 30 days after written demand shall
11 have been delivered or mailed to the said owner as provided in §15A-9-10 of this code, the State
12 Fire Marshal is hereby authorized to bring an action in the name of the state to recover such
13 expenses, with interest, and any administrative charge as established by the commission, in any
14 court of competent jurisdiction.

15 Upon a determination by the State Fire Marshal that the provisions of §15A-9-9 and §15A-
16 9-10 of this code have not been met, and that such property constitutes a hazard to health or
17 public safety, in lieu of initiating an order as therein provided, the State Fire Marshal may notify
18 the county commission or the county health officer in order that they may perform their duties
19 pursuant to section §7-1-3ff of this code. The State Fire Marshal may also, in lieu thereof, notify
20 the municipality where the property is located so that the municipality may perform its duties

21 pursuant to §8-12-14 of this code.

22 The State Fire Marshal may designate, pursuant to this section, a designee to accomplish
23 the building, structure or premises to be repaired, torn down, materials removed, and all
24 dangerous conditions to be remedied, as the case may be. The designee may include an
25 employee of the Fire Marshal, an agent of the Fire Marshal, a vendor, a Fire Department and its
26 employees or agents, or a governmental entity and its employees or agents. Any contract entered
27 into, pursuant to this section is exempt from the requirements of § 5A-3 -1 et seq. of this code.

§15A-9-12. Smoke detectors in one- and two-family dwellings; carbon monoxide detectors
in residential units, schools, and daycare facilities; penalty.

1 (a) An operational smoke detector shall be installed in the immediate vicinity of each
2 sleeping area within all one- and two-family dwellings, including any “manufactured home” as that
3 term is defined in §21-9-2(j) of this code. The smoke detector shall be capable of sensing visible
4 or invisible particles of combustion and shall meet the specifications and be installed as provided
5 in the current edition of the State Fire Code, and in the manufacturer’s specifications. When
6 activated, the smoke detector shall provide an alarm suitable to warn the occupants of the danger
7 of fire.

8 (b) The owner of each dwelling described in subsection (a) of this section shall provide,
9 install, and replace the operational smoke detectors required by this section. To assure that the
10 smoke detector continues to be operational, in each dwelling described in subsection (a) of this
11 section which is not occupied by the owner of the dwelling, the tenant in any dwelling shall perform
12 routine maintenance on the smoke detectors within the dwelling.

13 (c) Where a dwelling is not occupied by the owner and is occupied by an individual who is
14 deaf or hard of hearing, the owner shall, upon written request by or on behalf of the individual,
15 provide and install a smoke detector with a light signal sufficient to warn the deaf or hard of hearing
16 individual of the danger of fire.

17 (d) An automatic fire sprinkler system installed in accordance with the current edition of

18 the State Fire Code and the State Building Code may be provided in lieu of smoke detectors.

19 (e) After investigating a fire in any dwelling described in subsection (a) of this section, the
20 local investigating authority shall issue to the owner a smoke detector installation order in the
21 absence of the required smoke detectors.

22 (f) An operational single station carbon monoxide detector with a suitable alarm or a
23 combination smoke detector and carbon monoxide detector, which shall be alternating current
24 (AC) powered, either plugged directly in to an electrical outlet that is not controlled by a switch or
25 hardwired into an alternating current (AC) electrical source, with battery backup, shall be installed,
26 maintained, tested, repaired, or replaced, if necessary, in accordance with the manufacturer's
27 direction:

28 (1) In any newly constructed residential unit which has a fuel-burning heating or cooking
29 source including, but not limited to, an oil or gas furnace or stove;

30 (2) In any residential unit which is connected to a newly constructed building, including,
31 but not limited to, a garage, storage shed, or barn, which has a fuel-burning heating or cooking
32 source, including, but not limited to, an oil or gas furnace or stove;

33 (3) In either a common area where the general public has access or all rooms in which a
34 person will be sleeping that are adjoining to and directly below and above all areas or rooms that
35 contain permanently installed fuel-burning appliances and equipment that emit carbon monoxide
36 as a byproduct of combustion located within all apartment buildings, boarding houses,
37 dormitories, long-term care facilities, adult or child care facilities, assisted living facilities, one- and
38 two-family dwellings intended to be rented or leased, hotels and motels.

39 (g) All single station carbon monoxide detectors with a suitable alarm or a combination
40 smoke detector and carbon monoxide detectors shall be hardwired into an alternating current
41 (AC) electrical source, with battery backup, when installed in all newly constructed apartment
42 buildings, boarding houses, dormitories, hospitals, long-term care facilities, adult or child care
43 facilities, assisted living facilities, one- and two-family dwellings intended to be rented or leased,

44 hotels and motels.

45 (h) In any long-term care facility that is staffed on a 24-hour, seven day a week basis, the
46 single station carbon monoxide detector with a suitable alarm or a combination smoke detector
47 and carbon monoxide detector is only required to be installed in an area of the facility that permits
48 the detector to be audible to the staff on duty.

49 (i) Carbon monoxide detectors shall be installed in every public or private school or
50 daycare facility that uses a fuel-burning heating system or other fuel-burning device that produces
51 combustion gases. A carbon monoxide detector shall be located in each area with a fuel-burning
52 heating system or other fuel-burning device that produces combustion gases.

53 (j) Any person installing a carbon monoxide detector in a residential unit shall inform the
54 owner, lessor, or the occupant or occupants of the residential unit of the dangers of carbon
55 monoxide poisoning and instructions on the operation of the installed carbon monoxide detector.

56 (k) When repair or maintenance work is undertaken on a fuel-burning heating or cooking
57 source or a venting system in an existing residential unit, the person making the repair or
58 performing the maintenance shall inform the owner, lessor, or the occupant or occupants of the
59 unit being served by the fuel-burning heating or cooking source or venting system of the dangers
60 of carbon monoxide poisoning and recommend the installation of a carbon monoxide detector.

61 (l) Any person who violates any provision of this section is guilty of a misdemeanor and,
62 upon conviction thereof, for a first offense, shall be fined \$250. For a second offense, the person
63 is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$750. For a third and
64 subsequent offenses, the person is guilty of a misdemeanor and, upon conviction thereof, shall
65 be fined \$2000.

66 (m) A violation of this section may not be considered to constitute evidence of negligence
67 or contributory negligence or comparative negligence in any civil action or proceeding for
68 damages.

69 (n) A violation of this section may not constitute a defense in any civil action or proceeding

70 involving any insurance policy.

71 (o) Nothing in this section shall be construed to limit the rights of any political subdivision
72 in this state to enact laws imposing upon owners of any dwelling or other building described in
73 subsection (a) or (f) of this section a greater duty with regard to the installation, repair, and
74 replacement of the smoke detectors or carbon monoxide detectors than is required by this section.

§15A-9-13. Use of live trees in public buildings; exceptions.

1 Notwithstanding any other provision of law to the contrary, live trees may be displayed in
2 public buildings if the trees are decorated with U/L/ approved miniature lights, or are not decorated
3 with electrical lights. The provisions of this section do not apply to public buildings used for
4 education, health care, nursing homes or correctional facilities.

§15A-9-14. Safety standards for bed and breakfast establishments; findings.

1 (a) Findings. -- Bed and breakfast establishments provide a unique and important
2 contribution to the state, allowing visitors the opportunity to enjoy many of the aspects of our
3 communities and state not available at hotels and motels and often provide vacationers access
4 to overnight accommodation in areas of this state that would not otherwise be available. These
5 operations continue to grow in number and importance in our state's economy and must be
6 promoted and encouraged by state and local government. Most of these facilities are older
7 residences being converted to this use, and in many cases have architectural and historical
8 significance, and, as with most small businesses, are begun with limited capital available for
9 investment. Any fire safety code standards applicable to these facilities must be sensitive to this
10 distinction and avoid placing a large financial burden on persons operating or planning to operate
11 these facilities. Further, the personal safety of those who live in and visit these facilities is of
12 paramount importance and requires that consideration be made to assure that adequate safety
13 requirements are placed on these facilities to provide for the safety of visitors, residents and, in
14 an emergency, responding firefighters and rescue workers.

15 (b) Definition. -- For the purposes of this section, the term "bed and breakfast

16 establishment” means a building occupied as a one-family dwelling unit that provides sleeping
17 accommodations and breakfast to transient guests for a single fee and does not offer more than
18 six guest rooms to no more than 12 guests.

19 (c) Fire code standards. -- Notwithstanding any provision of this code to the contrary, every
20 bed and breakfast establishment shall be exempt from provisions of fire safety code requirements
21 which are contrary to the following standards:

22 (1) Each bed and breakfast shall have operational smoke alarms in all common areas,
23 guest rooms and hallways and heat detectors as otherwise required by this code or rule of the
24 Fire Commission. Battery-powered smoke alarms shall be permitted where the establishment has
25 demonstrated that the testing, maintenance and battery replacement procedures will ensure
26 reliable power to the smoke alarms. Notwithstanding any provision of this code to the contrary,
27 no smoking will be allowed inside a bed and breakfast establishment.

28 (2) Each bed and breakfast shall have operational hard-wired, battery-powered or plug-in
29 emergency lighting that indicate available means of egress. Battery-powered or plug-in
30 emergency lighting devices shall be permitted where the establishment has demonstrated that
31 the testing, maintenance and battery replacement procedures will ensure reliable power to the
32 emergency lighting devices.

33 (3) The State Fire Marshal shall permit bed and breakfast establishments that cannot
34 readily comply with the requirements of a legislative rule, which may mandate the installation of
35 a secondary means of escape or a sprinkler system, one year per floor of the establishment to
36 comply with the requirements.

37 (4) All other provisions of the state fire safety code not inconsistent with this section and
38 rules promulgated pursuant to subsection (d) of this section are applicable to bed and breakfast
39 establishments.

40 (d) Legislative rules. -- The State Fire Commission shall promulgate or amend an existing
41 legislative rule, in accordance with the provisions of §29A-3-1 et seq. of this code, to effectuate

42 the provisions of this section. The rule shall include a mechanism for the Fire Marshal to grant
43 individual variances to bed and breakfast establishments which cannot otherwise meet provisions
44 of the state fire safety code due to the historic and architectural significance of the establishment
45 with due consideration of the economic limitations inherent in the operation of this type of small
46 business.

47 (e) *Historic preservation review.* -- The owner of a bed and breakfast may request the
48 historical preservation section of the Division of Culture and History, pursuant to section eight,
49 article one of this chapter, to consult with the owner and provide a recommendation to the Fire
50 Marshal regarding the historic character of the structures used or proposed to be used as a bed
51 and breakfast and any objections or concerns regarding any renovations or other changes
52 required by the Fire Marshal. If an appeal regarding a decision made by the Fire Marshal is made
53 as provided by section eighteen of this article, the Marshal shall consider the recommendation of
54 the historical preservation section when making a determination regarding the variance as
55 provided for in subsection (d) of this section.

§15A-9-15. Performance of installation of propane gas systems.

1 (a) Notwithstanding any statutory or regulatory provisions to the contrary, any person who
2 installs, fuels, maintains or services any fuel gas system to a one or two family dwelling shall
3 comply with rules promulgated by the Fire Commission relating to fuel gas systems.

4 (b) This section does not apply to any person who performs this work on a single family
5 dwelling owned or leased, and occupied by that person. The personal exemption provided in this
6 subsection is the same as the personal exemption provided in §29-3D-1, et seq of this code.

§15A-9-16. Additional remedies to abate, etc., fire hazards.

1 In case any building, structure or equipment is or is proposed to be erected, constructed,
2 reconstructed, altered, maintained or used, or any land is or is proposed to be used in such a way
3 to endanger life or property from the hazards of fire or explosion or in violation of this article,
4 Article 10, the Fire Code or the Building Code, the State Fire Marshal or the Attorney General

5 may, in addition to other remedies provided by law, institute injunction, *mandamus*, abatement or
6 any other appropriate action or actions, proceedings to prevent, enjoin, abate or remove such
7 unlawful erection, construction, reconstruction, alteration, maintenance or use.

§15A-9-17. License denial, limitation, suspension, or revocation.

1 (a) The State Fire Marshal shall deny, limit, suspend, or revoke a license issued if the
2 provisions of this article, or if the rules promulgated pursuant to this article or article 10 of this
3 chapter are violated

4 (b) Before any such license is denied, limited, suspended, or revoked, however, written
5 notice shall be given to the licensee, stating the grounds for such denial, limitation, suspension,
6 or revocation.

7 (c) An applicant or licensee has 10 working days after receipt of the order denying,
8 limiting, suspending, or revoking a license to request a formal hearing contesting the denial,
9 limitation, suspension, or revocation of a license under this article. If a formal hearing is requested,
10 the applicant or licensee and the secretary shall proceed in accordance with the provisions of
11 §29A-5-1 et seq. of this code.

12 (d) If the license is denied, limited, suspended, or revoked, the license or certification
13 holder shall cease and desist practices of their profession as of the effective date of the denial,
14 limitation, suspension, or revocation. Any administrative appeal of such denial, limitation,
15 suspension, or revocation shall not stay the denial, limitation, suspension, or revocation.

16 (e) A party aggrieved by a decision by the State Fire Marshal, may appeal such final
17 decision to the Office of Hearing Examiner, or may choose independent informal dispute
18 resolution, as set forth in this article.

§15A-9-18. Independent informal dispute resolution.

1 (a) A license or certification holder adversely affected by an order or citation of a deficient
2 practice issued pursuant to this article, may request the independent informal dispute resolution
3 process. A license or certificate holder may contest a cited deficiency as contrary to law or

4 unwarranted by the facts or both.

5 (b) The State Fire Marshal has the authority to establish conference panels composed of
6 three persons of the licensed or certified skill to decide the outcome of the independent informal
7 dispute resolution process. One member shall be selected by the State Fire Marshal, one
8 member shall be selected by the licensee or certificate holder, and one member shall be selected
9 by agreement of both. If a vacancy occurs on the panel, the replacement for that member shall
10 be made by the original individual who had selected such member. The members of the panel
11 shall serve without compensation. This panel shall hear the matter and render a decision. The
12 licensee or certificate holder may not be accompanied by counsel during the independent informal
13 dispute resolution conference.

14 (c) Upon appeal of a decision rendered by the State Fire Marshal, the panel shall hold an
15 informal conference affirming, modifying or vacating an order of the State Fire Marshal, or issuing
16 an order in the name of the State Fire Marshal. The panel shall forthwith notify the parties of its
17 decision and as soon as practicable send written notices of its decision to the parties. The
18 decision of the panel is final. The independent informal dispute resolution process is not a formal
19 evidentiary proceeding

20 (d) A party aggrieved by a decision of a panel may appeal pursuant to 29A-5-1 et seq. of
21 this code.

22 (e) The State Fire Marshal shall promulgate a procedural rule to carry out the provisions
23 of this section.

§15A-9-19. Establishment of demonstration buildings and equipment for educational instruction in fire prevention and protection; payment therefor.

1 The State Fire Marshal is authorized to establish for educational purposes in public and
2 private schools and state educational institutions, demonstration buildings and equipment for fire
3 prevention and protection, and such expenditures therefor shall be made from the funds
4 appropriated therefor to the office of the State Fire Marshal.

§15A-9-20. False alarm of fire; penalties.

1 No person shall make, report, or disclose, by any means of written or verbal
2 communication, aid or abet in such, any alarm of fire which he or she knows to be false at the
3 time of making or turning in the alarm.

§15A-9-21. Tax on insurance companies.

1 Every insurance company doing business in this state, except Farmers' Mutual Fire
2 Insurance companies, shall pay to the State Insurance Commissioner annually on or before
3 March 1, in addition to the taxes now required by law to be paid by the companies, one half of
4 one percent of the taxable premiums of the companies on insurance against the hazard of fire
5 and on that portion of all other taxable premiums reasonably applicable to insurance against the
6 hazard of fire which are included in other coverages, and received by it for insurance on property
7 or risks in this state during the calendar year next preceding as shown by their annual statement
8 under oath to the insurance department. The money so received by the State Insurance
9 Commissioner is paid by him or her into the treasury and credited to the special revenue fund
10 created in §15A-9-7 of this code.

§15A-9-22. Penalties.

1 (a) Any person who violates any regulations promulgated by the State Fire Commission
2 as provided in article 10 of this chapter, or by the State Fire Marshal as provided in this article, is
3 guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100 or
4 confined in the county jail not more than 90 days, or both.

5 Each day during which any illegal erection, construction, reconstruction, alteration,
6 maintenance or use continues after knowledge or official notice that it is illegal is a separate
7 offense.

8 (b) Except as provided by the provisions of subsection (c) of this section, any person who
9 violates the provisions of §15A-9-20 of this code shall be guilty of a misdemeanor and, upon
10 conviction thereof, shall be fined for a first offense not more than \$100 or confined in jail for not

11 more than 30 days or both fined and confined and for a second and each subsequent offense
12 fined not less than \$100 nor more than \$500 or confined in jail for not less than 90 days nor more
13 than one year, or both.

14 (c) Any person who violates the provisions of §15A-9-20 of this code with the intent to
15 cause injury to the person of another, to cause destruction of the property of another or to divert
16 the attention of law enforcement or fire personnel to help effectuate the commission of another
17 crime shall be guilty of a felony and, upon conviction thereof, shall be confined in a state
18 correctional facility for not less than one nor more than three years, or fined not more than \$500,
19 or both.

20 (d) Any officer who knowingly and willfully fails to perform any duty required of him or her
21 by this article or who violates any of its provisions is guilty of a misdemeanor and, upon conviction
22 thereof, shall be fined not less than \$25 nor more than \$50 for each failure or violation.

23 (e) Any person who violates any other provision of this article is guilty of a misdemeanor
24 and, upon conviction thereof, shall be fined not more than \$100 or confined in jail not more than
25 90 days, or both.

§15A-9-23. Construction.

1 Being in the interest of public safety, the provisions of this article shall be liberally
2 construed.

§15A-9-24. Severability.

1 If any section, subsection, subdivision, subparagraph, sentence or clause of this article is
2 adjudged to be unconstitutional or invalid, such invalidation shall not affect the validity of the
3 remaining portions of this article, and, to this end, the provisions of this article are hereby declared
4 to be severable.

§15A-9-25. Awarding service weapon upon retirement of fire marshal or service weapon.

1 (a) Upon the retirement of a State Fire Marshal, any full-time deputy fire marshal or any
2 full-time assistant fire marshal employed by the State Fire Marshal pursuant to this article, shall

3 award to the retiring member his or her service weapon, without charge, upon determining:

4 (1) That the retiring employee is retiring honorably with at least 20 years of service; or

5 (2) The retiring employee is retiring with less than 20 years of service based upon a
6 determination that the employee is totally physically disabled as a result of his or her service with
7 the State Fire Marshal.

8 (b) Notwithstanding the provisions of subsection (a) of this section, the State Fire Marshal
9 may not award a service weapon to any employee whom the State Fire Marshal knows is
10 prohibited from possessing a fire arm, finds to be mentally incapacitated, or who constitutes a
11 danger to any person or the community.

12 (c) If a service weapon is taken out of service due to routine wear, the State Fire Marshal
13 may offer the service weapon for sale to any active or retired State Fire Marshal, assistant State
14 Fire Marshal or deputy State Fire Marshal, at fair market value, with the proceeds from any sales
15 used to offset the cost of new service weapons. The disposal of service weapons pursuant to this
16 subsection does not fall within the jurisdiction of the Purchasing Division of the Department of
17 Administration.

ARTICLE 10. FIRE COMMISSION.

§15A-10-1. State Fire Commission continued; composition; qualifications; appointment;
terms of office; removal; vacancies; compensation and expenses.

1 (a) The Fire Commission is hereby continued, which shall consist of 13 voting members,
2 with the Fire Marshal sitting as an *ex-officio* nonvoting member. The voting members shall be
3 qualified by experience and training to deal with the matters which are the responsibilities of the
4 commission. All current members of the commission are continued in their respective term. The
5 officers of the West Virginia Fire Chiefs Association, the West Virginia Firemen’s Association, the
6 West Virginia Professional Fire Fighters Association, the West Virginia Professional Fire Chiefs
7 Association, the West Virginia Manufacturers Association, the Professional Independent
8 Insurance Agents of West Virginia, and the West Virginia Society of Architects shall submit a list

9 of names of persons recommended by each of these associations to the Governor for
10 consideration in appointing the State Fire Commission. The West Virginia Professional Fire
11 Fighters Association and the West Virginia Professional Fire Chiefs Association shall recommend
12 the names of two persons from full-time paid fire departments. The West Virginia Fire Chiefs
13 Association and the West Virginia Firemen's Association shall each recommend the names of
14 three persons from volunteer fire departments. The West Virginia Manufacturers Association shall
15 recommend the names of three persons to represent business and industry. The Professional
16 Independent Insurance Agents of West Virginia shall recommend the names of two persons to
17 represent the fire insurance industry. The West Virginia Society of Architects shall recommend
18 the names of two persons to represent registered architects. Appointments to the commission
19 shall be made by the Governor, by and with the advice and consent of the Senate, from the lists
20 of qualified persons recommended by the organizations. Three members shall be appointed to
21 represent full-time paid fire departments, one member shall be appointed to represent the full-
22 time paid fire chiefs, three members shall be appointed to represent volunteer fire departments
23 and two members shall be appointed to represent the volunteer fire chiefs. Two members shall
24 be appointed to represent business and industry and one member shall be appointed to represent
25 the fire insurance industry. One member shall be appointed to represent registered architects.
26 The term of office of the members shall be staggered five-year terms. Vacancies shall be filled in
27 the same manner as the original appointment but only for the remainder of a term. All members
28 serve at the will and pleasure of the Governor, and may be removed for any or no reason.

29 (b) The members of the State Fire Commission shall serve without compensation but shall
30 be reimbursed for their reasonable and necessary expenses actually incurred in the performance
31 of their duties.

32 (c) All costs incidental to the administration of the commission shall be paid from the
33 special fund by the State Fire Marshal established in §15A-9-7 of this code.

§15A-10-2. Chairperson; vice chairperson; meetings; quorum.

1 (a) The State Fire Commission shall select a chairperson and vice chairperson from
2 among its members and shall hold regular meetings at least once every two months and special
3 meetings when called by its chairman. In the absence of the chairman, the vice chairman shall
4 exercise the powers and duties of the chairman.

5 (b) No business shall be transacted by the State Fire Commission in the absence of a
6 quorum which shall be seven members, one of whom must be the chairperson or vice
7 chairperson.

§15A-10-3. Promulgation of rules and State Fire Code.

1 (a) Pursuant to the provisions of § 29A-3- 1 et seq. of this code, the State Fire Commission
2 shall propose and promulgate comprehensive rules for the safeguarding of life and property from
3 the hazards of fire and explosion to be known as the State Fire Code. Rules embodied in the
4 State Fire Code shall be in accordance with standard safe practice as embodied in widely
5 recognized standards of good practice for fire prevention and fire protection and have the force
6 and effect of law in the several counties, municipalities and political subdivisions of the state. The
7 rule shall include, but not be limited to, standard safe practices for the design, construction,
8 location, installation, maintenance and operation of liquefied petroleum gas systems, and training
9 standards and qualifications for persons who install or maintain liquefied petroleum gas systems.

10 (b) The State Fire Commission may establish work groups and seek input in the
11 rulemaking process from groups or individuals with an interest in any aspect of the fire code.

§15A-10-4. Hazardous substance emergency response training programs.

1 (a) The State Fire Commission shall promulgate rules pursuant to § 29A-3-1 et seq. of
2 this code establishing criteria for qualified training programs in hazardous substance emergency
3 response activities and procedures for such qualified training programs to be certified by the State
4 Fire Marshal.

5 (b) For the purposes of this section, “hazardous substance” means any hazardous
6 substance as defined in chapter 88, Acts of the Legislature, regular session, 1985, any “chemical

7 substances and materials” listed in the rules promulgated by the Commissioner of Labor pursuant
8 to §21-3-8 of this code, and any “hazardous waste” as defined in §22-18-1 et seq. of this code.

§15A-10-5. Promulgation of rules and statewide building code.

1 (a) The State Fire Commission shall propose rules for legislative approval in accordance
2 with the provisions of §29A-3-1 et seq. of this code to safeguard life and property and to ensure
3 the quality of construction of all structures erected or renovated throughout this state through the
4 adoption of a State Building Code. The rule may include provisions regarding building
5 construction, renovation and all other aspects as related to the construction and mechanical
6 operations of a structure. The rule shall include building energy codes. The rules shall be in
7 accordance with standard safe practices so embodied in widely recognized standards of good
8 practice for building construction and all aspects related thereto and have force and effect in those
9 counties and municipalities adopting the State Building Code: *Provided*, That each county or
10 municipality may adopt the code to the extent that it is only prospective and not retroactive in its
11 application.

12 (b) The State Fire Commission may establish advisory boards as it considers appropriate
13 to encourage representative participation in subsequent rulemaking from groups or individuals
14 with an interest in any aspect of the State Building Code or related construction or renovation
15 practices.

16 (c) For the purpose of this section, the term “building code” is intended to include all
17 aspects of safe building construction and mechanical operations and all safety aspects related
18 thereto. Whenever any other state law, county or municipal ordinance or regulation of any agency
19 thereof is more stringent or imposes a higher standard than is required by the State Building
20 Code, the provisions of the state law, county or municipal ordinance or regulation of any agency
21 thereof governs if they are not inconsistent with the laws of West Virginia and are not contrary to
22 recognized standards and good engineering practices. In any question, the decision of the State
23 Fire Commission determines the relative priority of any such state law, county or municipal

24 ordinance or regulation of any agency thereof and determines compliance with State Building
25 Code by officials of the state, counties, municipalities and political subdivisions of the state.

26 (d) Enforcement of the provisions of the State Building Code is the responsibility of the
27 respective local jurisdiction. Also, any county or municipality may enter into an agreement with
28 any other county or municipality to provide inspection and enforcement services: *Provided, That*
29 any county or municipality may adopt the State Building Code with or without adopting the BOCA
30 National Property Maintenance Code.

31 (e) After the State Fire Commission has promulgated rules as provided in this section,
32 each county or municipality intending to adopt the State Building Code shall notify the State Fire
33 Marshal of its adoption.

34 (f) The State Fire Commission may conduct public meetings in each county or municipality
35 adopting the State Building Code to explain the provisions of the rules.

36 (g) The provisions of the State Building Code relating to the construction, repair, alteration,
37 restoration and movement of structures are not mandatory for existing buildings and structures
38 identified and classified by the State Register of Historic Places under the provisions of §29-1-8
39 of this code or the National Register of Historic Places, pursuant to 16 U. S. C. §470a. Prior to
40 renovations regarding the application of the State Building Code, in relation to historical
41 preservation of structures identified as such, the authority having jurisdiction shall consult with the
42 Division of Culture and History, State Historic Preservation Office. The final decision is vested in
43 the State Marshal. Additions constructed on a historic building are not excluded from complying
44 with the State Building Code.

§15A-10-6. Public hearings and notice.

1 Prior to the promulgation of a State Fire Code, or any amendments thereto, as provided
2 in this article, the State Fire Commission shall hold at least one public hearing on the proposed
3 regulations contained therein, notice of which shall be the same as the notice for a hearing as
4 provided in the Administrative Procedure Act, §29A-1 *et seq.* of this code.

§15A-10-7. Commission's powers in conduct of public hearing.

1 For the purposes of any public hearing under this article, the State Fire Commission is
2 empowered and authorized to issue subpoenas and subpoenas *duces tecum*, to take testimony
3 and to administer oaths to any witness in any proceeding or examination instituted before it or
4 conducted by it with reference to any matter within its jurisdiction. In all hearings or proceedings
5 before the State Fire Commission the evidence of witnesses and the production of documentary
6 evidence may be required at any designated place of hearing; and in case of disobedience to a
7 subpoena or other process the State Fire Commission or any party to the proceedings before the
8 commission may invoke the aid of any circuit court in requiring the evidence and testimony of
9 witnesses and the production of papers, books and documents. And such court, in case of refusal
10 to obey the subpoena issued to any person subject to the provisions of this chapter, shall issue
11 an order requiring such person to appear before the State Fire Commission and produce all books
12 and papers, if so ordered, and give evidence touching the matter in question.

§15A-10-8. Powers, duties and authority of State Fire Commission.

1 (a) All state and area training and education in fire service shall be coordinated by the
2 State Fire Commission. The State Fire Marshal shall ensure that these programs are operated
3 throughout the state at a level consistent with needs identified by the commission.

4 (b) The State Fire Commission may make recommendations to the State Insurance
5 Commissioner regarding town classifications for fire insurance rates.

6 (c) The formation of any new fire department, including volunteer fire departments,
7 requires the concurrence of the State Fire Commission. The State Fire Commission shall develop
8 a method of certification which can be applied to all fire departments and volunteer fire
9 departments.

10 (d) The State Fire Commission shall develop a plan for fire prevention and control which
11 shall include, but not be limited to, the following areas: Manpower needs; location of training
12 centers; location of fire prevention and control units; communications; fire fighting facilities; water

13 sources; vehicular needs; public education and information; public participation; standardization
14 in record keeping; evaluation of personnel; reporting of fire hazards; programs on mutual aid;
15 location of public safety agencies; outline of fire prevention programs; and accessibility of fire
16 prevention information.

17 (e) The State Fire Commission shall establish fire protection areas and at such times as
18 funds are available shall establish field offices for inspection, planning and certification.

19 (f) The State Fire Marshal may accept, on behalf of the State Fire Commission, gifts,
20 grants, court ordered civil forfeiture proceedings and bequests of funds or property from
21 individuals, foundations, corporations, the federal government, governmental agencies and other
22 organizations or institutions. The State Fire Marshal, acting on behalf of the State Fire
23 Commission, may enter into, sign and execute any agreements and do and perform any acts that
24 may be necessary, useful, desirable or convenient to effectuate the purposes of this article.
25 Moneys from gifts, grants, civil forfeiture proceedings and bequests received by the State Fire
26 Marshal shall be deposited into the special account set forth in §15A-9-7 of this code, and the
27 State Fire Marshal, with the approval of the State Fire Commission, has the authority to make
28 expenditures of, or use of any tangible property, in order to effectuate the purposes of this article.

29 (g) The State Fire Commission shall establish standards and procedures for fire
30 departments to implement the provisions of this section with regard to the following:

31 (1) Fire prevention and control;

32 (2) Uniform standards of performance, equipment and training;

33 (3) Certification;

34 (4) Training and education in fire service, subject to the rule-making requirements set forth
35 in section five-d of this article; and

36 (5) The creation, operation and responsibilities of fire departments throughout the state.

37 (h) The State Fire Commission may establish advisory boards as it considers appropriate
38 to encourage representative participation in subsequent rulemaking from groups or individuals

39 with an interest in any aspect of the State Fire or Building Code or related construction or
40 renovation practices.

41 (i) The State Fire Commission may deny, suspend, or revoke certification of any fire
42 department in the State of West Virginia if a fire department is not in compliance with all applicable
43 laws, rules and regulations.

44 (j) Appeals from any final decision of the Fire Commission shall be heard by the Office of
45 Administrative Hearings pursuant to this chapter.

§15A-10-9. Volunteer firefighters' training and equipment.

1 (a) The State Fire Commission shall maintain oversight and authority over training,
2 equipment requirements, and performance standards for volunteer fire departments and its
3 members, establishing and maintaining said requirements pursuant to legislative rule, in
4 accordance with the provisions of §29A-3-1 et seq. of this code, to establish training requirements
5 for firefighters which:

6 (1) Provide for:

7 (A) Minimum training levels for rescue and fire fighting;

8 (B) Minimum levels of equipment needed to protect life and property within fire service
9 areas;

10 (C) Minimum performance standards the departments must meet in response times,
11 communications, levels of water flow and pressure; and

12 (D) Other performance measures as considered necessary to meet the overall goals of
13 improved fire prevention and control;

14 (2) Allow the training to be offered in segments, blocks or modules: *Provided*, That no
15 firefighter may engage in firefighting activities, except in response to wildland fires, until he or she
16 has completed all firefighter one training: *Provided, however*, That support members may provide
17 ancillary assistance to firefighters as defined by the rule;

18 (3) Provide for online training;

19 (4) Allow testing to be done in person or online; and

20 (5) Establish the testing requirements which include:

21 (A) If the individual is required to test in person, then the tests must be given regionally at
22 various times throughout the year; or

23 (B) If the individual is authorized to test online, then the requirements for online testing
24 must be established.

25 (b) Notwithstanding any provision of this code to the contrary, the State Fire Commission
26 may establish or continue a pilot project program which implements changes to standards
27 imposed on volunteer firefighting that address problems facing volunteer fire departments in the
28 state, including issues related to training, recruitment and retention.

29 (1) The State Fire Commission may limit the number of participating volunteer fire
30 departments in the pilot project program.

31 (2) The State Fire Commission shall set the rules and conditions for participating volunteer
32 fire departments by policies adopted and ratified by the commission.

33 (3) On July 1 of each year, the State Fire Commission shall annually provide a full
34 summary report of the status of the program to the Joint Committee on Government and Finance.

§15A-10-10. Courtesy certification of firefighters in surrounding states to serve as
volunteer firefighter.

1 (a) It is the intention of the Legislature to permit individuals who have been certified as
2 professional or volunteer firefighters in a state bordering West Virginia to serve as volunteer
3 firefighters in West Virginia.

4 (b) Beginning July 1, 2020, the State Fire Commission shall establish a process by which
5 a courtesy certification to serve as a volunteer firefighter in this state may be issued to any person
6 who satisfies the following requirements:

7 (1) Is a certified professional or volunteer firefighter in good standing in a state bordering
8 West Virginia;

9 (2) Complies with the application process and procedures established by the State Fire
10 Commission; and

11 (3) Submits any required fee.

12 (c) Issuance of a courtesy certification shall not be withheld by the State Fire Commission
13 based on an individual’s failure to satisfy the training requirements for volunteer firefighters set
14 forth in legislative rules promulgated pursuant to §15A-10-9 of this code.

15 (d) The State Fire Commission shall propose rules for legislative approval in accordance
16 with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this section.

17 (e) Any courtesy certification issued pursuant to this section may be revoked at any time
18 if the individual’s certification in the bordering state is restricted, revoked, or otherwise expires.

19 (f) Any courtesy certification issued pursuant to this section must be renewed biennially.

20 (g) The State Fire Commission may deny, suspend, or revoke a courtesy certification if
21 the certificate holder is, or has acted, not in compliance with all applicable laws, rules and
22 regulations.

23 (h) Appeals from any final decision of the Fire Commission shall be heard by the Office
24 of Administrative Hearings pursuant to this chapter.

**§15A-10-11. Fire Service Equipment and Training Fund; creation of fire service equipment
and training grant; reports of ineligibility to State Fire Marshal.**

1 (a) Definitions. — For the purposes of this section:

2 “Equipment and training grant” means a grant of money to a volunteer fire company or a
3 part-volunteer fire department from the Fire Service Equipment and Training Fund created in
4 §15A-10-11 of this code;

5 “Formula distribution” means a distribution of money to volunteer and part-volunteer fire
6 companies or departments made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code;
7 and

8 “State funds account” means a bank account established by a volunteer or part-volunteer

9 fire company or department and maintained for the exclusive use and accounting of money from
10 formula distributions and equipment and training grants.

11 (b) Filing required documentation. — Every volunteer and part-volunteer fire company or
12 department seeking to receive formula distributions or an equipment and training grant shall file
13 copies of bank statements and check images from the company's or department's state funds
14 account for the previous calendar year with the Legislative Auditor on or before February 1 of
15 each year.

16 (c) Reviews and audits. — The Legislative Auditor is authorized to conduct regular reviews
17 or audits of deposits and expenditures from formula distribution and equipment and training grant
18 funds by volunteer and part-volunteer fire companies or departments. The Legislative Auditor may
19 assign an employee or employees to perform audits or reviews at his or her direction. The State
20 Treasurer shall provide the Legislative Auditor information, in the manner designated by the
21 Legislative Auditor, concerning formula distributions and equipment and training grants paid to
22 volunteer or part-volunteer fire companies and departments. The volunteer or part-volunteer fire
23 company or department shall cooperate with the Legislative Auditor, the Legislative Auditor's
24 employees, and the State Auditor in performing their duties under the laws of this state.

25 (d) State Auditor. — Whenever the State Auditor performs an audit of a volunteer or part-
26 volunteer fire company or department for any purpose, the Auditor shall also conduct an audit of
27 other state funds received by the company or department pursuant to §33-3-14d, §33-3-33, and
28 §33-12C-7 of this code. The Auditor shall send a copy of the audit to the Legislative Auditor. The
29 Legislative Auditor may accept an audit performed by the Auditor in lieu of performing an audit
30 under this section.

31 (e) Withholding of funds. —The Treasurer is authorized to withhold payment of a formula
32 distribution or an equipment and training grant from a volunteer or part-volunteer fire company or
33 department, when properly notified by the Legislative Auditor pursuant to this section, of any of
34 the following conditions:

35 (1) Failure to file, in a timely manner, copies of bank statements and check images with
36 the Legislative Auditor;

37 (2) Failure to cooperate with a review or audit conducted by the Legislative Auditor;

38 (3) Misapplication of state funds; or

39 (4) Failure to file a report or a sworn statement of expenditures as required by §12-4-14
40 of this code for a state grant other than an equipment and training grant.

41 (f) Delinquency in filing. — If, after February 1, a volunteer or part-volunteer fire company
42 or department has failed to file the required bank statements and check images with the
43 Legislative Auditor, the Legislative Auditor shall notify the delinquent company or department at
44 two separate times in writing of the delinquency and of possible forfeiture of its Fire Service
45 Equipment and Training Fund distribution for the year. If the required bank statements and check
46 images are not filed with the Legislative Auditor by March 31, unless the time period is extended
47 by the Legislative Auditor, the Legislative Auditor shall then notify the Treasurer who shall withhold
48 payment of any amount that would otherwise be distributed to the company or department. Prior
49 to each subsequent quarterly disbursement of funds by the Treasurer, the Legislative Auditor shall
50 notify each delinquent company or department twice per each quarter in which the company or
51 department is delinquent. The Legislative Auditor may choose the method or methods of
52 notification most likely to be received by the delinquent company or department.

53 (g) Noncooperation. — If, in the course of an audit or review by the Legislative Auditor, a
54 volunteer or part-volunteer fire company or department fails to provide documentation of its
55 accounts and expenditures in response to a request of the Legislative Auditor, the Legislative
56 Auditor shall notify the State Treasurer who shall withhold payment of any amount that would
57 otherwise be distributed to the company or department under the provisions of §33-3-14d, §33-
58 3-33, and §33-12C-7 of this code until the Legislative Auditor informs the State Treasurer that the
59 company or department has cooperated with the review or audit.

60 (h) Reporting of other grants. — Nothing in this section alters the duties and

61 responsibilities of a volunteer or part-volunteer fire company or department imposed under §12-
62 4-14 of this code if that company or department has received funds from any state grant program
63 other than from the Fire Service Equipment and Training Fund. If the Legislative Auditor is notified
64 by a grantor that a volunteer or part-volunteer fire company or department has failed to file a
65 report or a sworn statement of expenditures for a state grant it received, the Legislative Auditor
66 shall notify the State Treasurer who shall withhold further distributions to the company or
67 department in the manner provided in this section.

68 (i) Escrow and forfeiture of moneys withheld. — The Volunteer Fire Department Audit
69 Account previously created in the Treasury is hereby continued. When the State Treasurer
70 receives notice to withhold the distribution of money to a volunteer or part-volunteer fire company
71 or department pursuant to this section, the Treasurer shall instead deposit the amounts withheld
72 into the Volunteer Fire Department Audit Account. If the Treasurer receives notice that the
73 volunteer or part-volunteer fire company or department has come into compliance in less than
74 one year from the date of deposit into this special revenue account, then the Treasurer shall
75 release and distribute the withheld amounts to the company or department, except that any
76 interest that has accrued thereon shall be credited to the general revenue of the state. If, after
77 one year from payment of the amount withheld into the special revenue account, the Legislative
78 Auditor informs the State Treasurer of continued noncooperation by the company or department,
79 the delinquent company or department forfeits the amounts withheld and the State Treasurer shall
80 pay the amounts withheld into Fire Service Equipment and Training Fund created in §29-3-5f of
81 this code.

82 (j) Misuse of state money. — If the Legislative Auditor determines that a volunteer or part-
83 volunteer fire company or department has used formula distribution money for purposes not
84 authorized by §8-15-8b of this code or has used equipment and training grant money for purposes
85 not authorized by the grant program, the Legislative Auditor shall give a written notice of
86 noncompliance to the company or department. If a volunteer or part-volunteer fire company or

87 department disagrees or disputes the finding, the company or department may contest the finding
 88 by submitting a written objection to the Legislative Auditor within five working days of receipt of
 89 the Legislative Auditor’s finding. The department or company shall then have 60 days from the
 90 date of the Legislative Auditor’s finding to provide documentation to substantiate that the
 91 expenditures were made for authorized purposes. If the volunteer or part-volunteer fire company
 92 or department does not dispute the findings of the Legislative Auditor or if the company or
 93 department is not able to substantiate an authorized purpose for the expenditure, the Legislative
 94 Auditor shall notify the Treasurer of the amount of misapplied money and the Treasurer shall
 95 deduct that amount from future distributions to that company or department until the full amount
 96 of unauthorized expenditure is offset.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-1. Short title.

1 [Repealed]

§29-3-2. Legislative findings and declaration of policy.

1 [Repealed]

§29-3-3. State Fire Commission created; composition; qualifications; appointment; terms of office; removal; vacancies; compensation and expenses.

1 [Repealed]

§29-3-4. Chairman; vice chairman; meetings; quorum.

1 [Repealed]

§29-3-5. Promulgation of rules and State Fire Code.

1 [Repealed]

§29-3-5a. Hazardous substance emergency response training programs.

1 [Repealed]

§29-3-5b. Promulgation of rules and statewide building code.

1 [Repealed]

§29-3-5c. Liquified petroleum gas systems.

1 [Repealed]

§29-3-5d. Volunteer firefighters' training.

1 [Repealed]

§29-3-5e. Courtesy certification of firefighters in surrounding states to serve as volunteer firefighter.

1 [Repealed]

§29-3-5f. Fire Service Equipment and Training Fund; creation of fire service equipment and training grant.

1 [Repealed]

§29-3-6. Public hearings and notice.

1 [Repealed]

§29-3-7. Commission's powers in conduct of public hearing.

1 [Repealed]

§29-3-8. Comprehensive report by State Fire Marshal.

1 [Repealed]

§29-3-9. Powers, duties and authority of State Fire Commission and State Fire Marshal.

1 [Repealed]

§29-3-10. State fire marshal's office transferred to state Fire Commission; powers and duties of state Insurance Commissioner with respect to fire marshal terminated; operation of commission prior to adoption of code.

1 [Repealed]

§29-3-11. Appointment of State Fire Marshal; term of office; removal; salary; qualifications; responsibilities; employees; equipment.

1 [Repealed]

§29-3-12. Powers and duties of State Fire Marshal.

1 [Repealed]

§29-3-12a. Responsibilities of insurance companies in fire loss investigation.

1 [Repealed]

§29-3-12b. Fees.

1 [Repealed]

§29-3-13. Annual reports.

1 [Repealed]

§29-3-14. Maintenance of fire hazard; order for repair or demolition; order to contain notice to comply and right to appeal.

1 [Repealed]

§29-3-15. Service of repair or demolition order.

1 [Repealed]

§29-3-16. Work to be done at expense of owner or occupant upon failure to comply with repair or demolition order; action to recover.

1 [Repealed]

§29-3-16a. Smoke detectors in one- and two-family dwellings; carbon monoxide detectors in residential units, schools, and daycare facilities; penalty.

1 [Repealed]

§29-3-16b. Use of live trees in public buildings; exceptions.

1 [Repealed]

§29-3-16c. Safety standards for bed and breakfast establishments; findings.

1 [Repealed]

§29-3-16d. Performance of installation of propane gas systems.

1 [Repealed]

§29-3-17. Additional remedies to abate, etc., fire hazards.

1 [Repealed]

§29-3-18. Appellate procedure generally.

1 [Repealed]

§29-3-19. Establishment of demonstration buildings and equipment for educational instruction in fire prevention and protection; payment therefor.

1 [Repealed]

§29-3-21. False alarm of fire; penalties.

1 [Repealed]

§29-3-22. Tax on insurance companies.

1 [Repealed]

§29-3-27. Penalties.

1 [Repealed]

§29-3-28. Transfer of certain state employees; perpetuation of rules, regulations and orders.

1 [Repealed]

§29-3-29. Construction.

1 [Repealed]

§29-3-30. Severability.

[Repealed]

§29-3-32. Awarding service weapon upon retirement of fire marshal or service weapon.

1 [Repealed]

NOTE: The purpose of this bill is to separate the Fire Marshal and the Fire Commission, and clarify the duties and responsibilities of both.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.