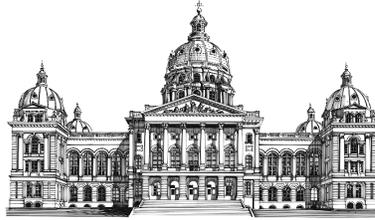

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State Fire Marshal's Office

ISSUE

This *Issue Review* provides an overview of the current responsibilities of the State Fire Marshal's Office and current funding and personnel levels.

AFFECTED AGENCIES

Department of Public Safety

CODE AUTHORITY

Chapters 80, 100, 100A, 100B, 100C, 101, 101A, 102, 103A, 104A, and 104B Code of Iowa Section 904.318, Code of Iowa 661 Iowa Administrative Code, Chapters 5, 16, 51, 53, 201, 202, 205, 226, 231, 251, 259, 275, 300, 301, 302, 303, 350, and 372

BACKGROUND

The State Fire Marshal is statutorily required to enforce laws related to arson; to investigate cause, origin, and circumstances of fires; to promote fire safety; to enforce all laws, rules, and regulations concerning the prevention of fires and the storage, handling, and transportation of flammable liquids, combustibles, explosives, and liquefied petroleum gas; and to promulgate fire safety rules.

In addition, the Fire Marshal has the authority to inspect all public or private buildings and structures where people congregate for exits, exit lights, fire escapes, fire protection, fire safety, sprinklers, and the elimination of fire hazards, including churches, hotels, theaters, hospitals, and health care facilities, as well as nursing homes, boarding schools, clubs, places of amusement, apartment buildings, and food establishments.

By statute, the Fire Marshal's Office is required to inspect each public or private school, college or university at least once every two years to determine whether the school meets fire safety standards. Cities that employ fire department inspectors are required to perform the inspections. All correctional facilities require an annual inspection. County jails are to be inspected every 18 months. Mental Health Institutes under the Department of Human

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Services that receive funding through the federal Centers for Medicare and Medicaid Services (CMS) are inspected every 12 to 15 months in conjunction with the Department of Inspections and Appeals. The Schools for the Deaf and the Blind, the State Fair Grounds, and the Capitol Complex buildings are inspected annually. The Capitol is inspected every two years, plus any special inspections that are necessary.

The majority of rule violations are written up as Fire Marshal Orders. An Order makes note of violations and directs property owners to bring the facility into compliance. In FY 2007, 3,687 inspections were completed, and almost every inspection resulted in the issuance of a Fire Marshal Order. There were 2,486 State inspections conducted and 1,201 federal inspections conducted. The following table is a breakout of the 3,687 fire inspections for FY 2007.

FY 2007 Fire Inspections

Entity	Inspections
Childcare Facilities	860
Schools/Colleges/Universities	922
Jails/Prisons	127
Nursing Homes/Hospitals (Federal Contract)	1,201
Assisted Living/State Licensed Facilities	389
Complaints/Miscellaneous	188
	3,687

One Order can make note of multiple violations. Since the majority of these violations are handled through administrative action, the Fire Marshal does not typically cite violators for a criminal offense, but a violation is a simple misdemeanor and can be cited as such. In FY 2007, there were five simple misdemeanor citations issued by the Fire Marshal, which included one violation for tampering with a smoke detector, one for burning bans, and three open burning violations. In FY 2006, there were 16 simple misdemeanor violations issued by the Fire Marshal's Office.

2007 LEGISLATION

The total combined FY 2008 budget for the State Fire Marshal's Office and the Fire Service Training Bureau is \$4.2 million. This does not include the \$700,000 General Fund appropriation for Fire Fighter Training.

The Department of Public Safety received a supplemental appropriation of \$100,000 for FY 2007, and an increase of \$389,888 and 5.0 FTE positions for FY 2008 to implement State Building Code inspections beginning January 1, 2007, as specified in HF 2797 (FY 2007 Standing Appropriations Act.) All fee revenue from these inspections is required to be deposited into the General Fund.

The Fire Marshal's Office also received an appropriation of \$100,000 and 1.0 FTE position for the inspection of factory built structures. By statute, all fees collected for the licensing and certification of manufactured and mobile home installers are retained by the Fire Marshal's Office for inspection and administration personnel.

The Fire Marshal's Office also received an additional 1.0 FTE position to assist with the four licensing and certification programs, which include Fire Extinguishing Contractor Certification, Blasting/Explosives Licensing, Manufactured Housing Manufacturer, Distributor, and Retailer Licensing, and Above Ground Storage Tank Registration. The cost for the position will be offset with receipts from these Programs.

House File 897 (Electricians Licensure Act) required a statewide system for the licensure and certification of alarm system contractors and installers, provided for electrical and alarm system inspections, and specified electrician licensing fee limits. The provisions related to the Electrical Examining Board took effect upon enactment. The provisions related to licensure take effect on January 1, 2008, and the provision related to inspections takes effect on January 1, 2009. The Act allowed the establishment of the non-reversionary Electrician and Installer Licensing and Inspection Fund for all licensing, registration, examination, inspection, and renewal fees to be used by the Electrical Examining Board, in consultation with the Fire Marshal's Office. Fees for licensing and inspections are to be set by Administrative Rules promulgated by the Board.

House File 718 (Fire Safe Cigarettes Act) prohibited cigarettes from being sold or offered for sale in Iowa unless they have been tested for fire safety standards, have met the performance standard, had a written certification filed by the manufacturer, and the cigarettes have been marked as specified in the Act, beginning January 1, 2009.

There are four bureaus within the Fire Marshal's Office with various duties outlined below.

Building Code Bureau

There are currently six Plan Reviewers and four Building Code Inspectors in the Fire Marshal's Building Code Bureau. The duties of the four Inspectors include performing manufactured and mobile home inspections.

Under current law, all newly constructed or modified State-owned buildings are required to submit building plans to the Fire Marshal's Office for plan review and approval. Beginning in 2007, any non-State owned building, whose construction was paid for wholly or in part with State funds, is required to submit building plans to the Building Code Bureau for construction plans review and approval if it is built in a jurisdiction without local building code enforcement, except projects that are limited to additions, renovations, or repairs. Local building code enforcement must include both the adoption and enforcement of a local building code requiring plan review and inspections. In addition, all newly constructed buildings subject to State plan review are subject to Building Code compliance inspections conducted by the Bureau; however, modifications to existing buildings subject to State plan review are not subject to Building Code compliance inspections. Beginning in 2007, any school system that utilizes local sales and services tax moneys for school infrastructure must comply with the State Building Code in the absence of a local building code.

Plan review fees are deposited into the General Fund. In 2007, the plan review fee calculation was changed from a square footage basis to a valuation basis to comply with Section 103A.23, Code of Iowa. Valuation is reflective of the time required to review a project. In addition, the plan review fee was increased to align the revenue received with costs. Separate fees for preliminary meetings, energy reviews, and handicapped accessibility reviews were eliminated.

Also, effective January 1, 2007, the licensing of manufactured housing manufacturers, distributors, and retailers were moved from the Department of Transportation to the Department of Public Safety to be administered by the Building Code Commissioner in SF 2394 (Manufactured Home Regulation Act).

Arson and Explosives Bureau

The Arson and Explosives Bureau examines fire and explosion scenes to determine cause and conducts criminal investigations at the request of fire department and law enforcement agencies. There are 10 Arson Investigators in the Fire Marshal's Office, of which one of these positions is

currently vacant. Each Special Agent assigned to the Bureau is required to attend a six-week Hazardous Device School to become a certified Bomb Technician.

The Bureau also has statewide responsibility for the investigation of suspected or actual bombs and other explosive devices, including responsibility for rendering safe explosive devices. The Bureau also inspects and licenses explosive storage facilities. The explosives license is \$60 per year and the revenue is deposited into the General Fund. User permits to transport, store, and detonate explosive materials are issued by local governments. The \$3 permit fee is deposited into the respective county or city general fund.

In calendar year 2006, a total of 603 investigations were conducted by the Bureau. The investigations were as follows:

- 139 arson cases.
- 152 accidental fires.
- 129 undetermined fires.
- 163 explosive cases.
- 20 miscellaneous cases including meth labs and special assignments.

Fire Service Training Bureau

The Fire Service Training Bureau is Iowa's designated State Fire Academy, and is allowed to retain fees charged for classes to offset the cost for fire service training. This is in addition to the General Fund appropriation of \$836,508 and 10.0 FTE positions. The Paul Ryan Memorial Fire Fighter Safety Training Fund, where fees for special fire fighter license plates are deposited is used by the Bureau to offset firefighter training costs. The Volunteer Fire Fighter Preparedness Fund receives money from the income tax check off, gifts, bequests, and donations to pay for annual costs for firefighter training and for volunteer fire equipment. There is also a separate General Fund appropriation for Volunteer Firefighter Training, which in recent fiscal years has been funded at \$699,587 per year.

A General Fund appropriation of \$500,000 was made in FY 2003, FY 2004, and FY 2005 for the establishment of a revolving loan fund for the purchase of equipment by local fire departments. The funds cannot be used to build fire stations. Loans are interest free with an origination fee of 1.0% of the loan amount, which is withheld by the Bureau from the original loan payout. The origination fee offsets administration costs. A repayment schedule is established at the time the loan is awarded, with a minimum of two payments per year for the duration of the loan. Generally, loans of \$50,000 or less are repaid over a five-year period and loans greater than \$50,000 are repaid over a 10-year period. The maximum loan amount is \$150,000 and there is no penalty for early repayment. As of January 2007, a total of \$1.6 million in loans had been provided. The current balance in the Fund is \$203,000.

The Bureau is also responsible for the Regional Emergency Response Training Center Program. The Bureau administers funds for the Program and develops training curriculum. House File 2782 (FY 2007 Infrastructure Appropriations Act) appropriated \$2.3 million from the Rebuild Iowa Infrastructure Fund (RIIF) and \$2.0 million from the Endowment for Iowa's Health Restricted Capitals Fund (RCF) for the planning, design, and construction of regional fire training facilities, established requirements for the receipt and use of the funds, and authorized the Fire Marshal's Office to establish Administrative Rules to implement the Program. In HF 911 (FY 2008

Infrastructure Appropriations Act), an additional \$1.4 million from RIIF was appropriated for the Program and \$2.0 million from RIIF was appropriated for the State Emergency Response Training Facility.

Bureau of Inspections

The Bureau of Inspections employs 16 Fire Inspectors for nursing homes and schools, of which two of these positions are currently vacant with one of the vacant positions being filled October 2007. One Inspector is assigned to assisted living facility inspections and is funded from the Senior Living Trust Fund. Two are assigned to Above Ground Storage Tanks, and of these, one is funded from the Above Ground Storage Tank Fund and the other from the General Fund. The remaining 13 inspect both nursing homes and schools, as needed, and are funded from the General Fund. Approximately 41.0% of the inspections deal with federal health care facilities of which examples include hospitals, hospices, skilled nursing facilities, and ambulatory surgical centers. The Centers of Medicare and Medicaid Services reimburses the State Fire Marshal's Office at a 38.4% rate for all federal inspection work conducted.

The Fire Marshal's Office also administers the Fire Safe Cigarette Program. The Department of Revenue inspects the wholesalers and retailers and notifies the Fire Marshal's Office of any violations. House File 718 created a Cigarette Fire Safety Standard Fund for money recovered through civil penalties and the collection of certification fees subject to appropriation to the Department of Public Safety. The Fire Marshal's Office requires 1.0 FTE position for a Special Agent at a cost of approximately \$89,000 in FY 2008 and \$62,000 in FY 2009 to perform spot checks for compliance and investigate cigarette-related fire incidents; however, this funding was not provided in FY 2008. The position could work in conjunction with the Department of Revenue through a 28E Agreement. The Fund is expected to receive a one-time receipt of approximately \$115,000 to be used for fire safety and prevention programs, including entry level firefighter training, equipment, and operations. The on-going revenue deposited into the Fund through civil penalties cannot be determined, but is expected to be minimal. Each manufacturer is required to pay a one-time fee of \$100 for each type of cigarette certified.

BUDGET IMPACT

The FY 2008 General Fund appropriation for the Office, including the Fire Service Training Bureau is approximately \$4.2 million. (This figure does not include the annual appropriation of \$700,000 for Fire Fighter Training.) The total estimated cost for an entry level Fire Inspector is \$86,700, which includes \$54,231 for salary and benefits. There are currently 10 Special Agents, 16 Fire Inspectors, six supervisory staff (four sworn and two civilian), and 25 civilian employees in the State Fire Marshal's Office.

State Fire Marshal's Office FY 2007 Actual and FY 2008 Budgeted

Bureau	FTE Positions	Funds	FTE Utilization	FY07 Actual Amount	FY07 Actual Overtime Pay	FTE Utilization	FY08	FY08 Budget
							Estimated Amount	Overtime Pay
Building Code Bureau	13.0	General Fund	5.77	\$ 474,107	\$ 0	13.00	\$ 917,745	\$ 0
		Federal Funds	0.00	0	0	0.00	0	0
		Fees	0.00	99,525	0	0.00	230,266	0
Arson and Explosives Bureau	10.0	General Fund	9.38	939,995	8,930	10.00	972,629	0
		Federal Funds	0.00	0	0	0.00	0	0
		Fees	0.00	735	0	0.00	1,000	0
Fire Service Training Bureau	10.0	General Fund	9.80	704,110	2,992	10.00	836,508	0
		Federal Funds	0.00	48,142	0	0.00	0	0
		Fees	0.00	6,826	0	0.00	0	0
Bureau of Inspections	24.0	General Fund	23.60	1,353,464	574	24.00	1,438,578	0
		Federal Funds	0.00	582,464	0	0.00	637,934	0
		Fees	0.00	81,000	0	0.00	190,000	0
TOTAL	57.0		48.55	\$ 4,290,368	\$ 12,496	47.00	\$ 5,224,660	\$ 0
Total General Fund				\$ 3,471,676			\$ 4,165,460	
Total Federal Funds				\$ 630,606			\$ 637,934	
Total Fees				\$ 188,086			\$ 421,266	

In recent years, budgetary constraints prompted the Fire Marshal to authorize overtime for Arson Investigators (Special Agents) only if a fire led to a death. All personnel within the Fire Marshal's Office, including Arson Investigators work 40 hours per week, except when fire incidents call for the approval of overtime for arson investigations.

The following chart summarizes over 40 fees established primarily through Administrative Rules that are under the purview of the State Fire Marshal's Office. This list does not include the electricians and installer inspection and licensing revenue that would begin in FY 2008.

Inspection Fee Type	State Fire Marshal	
	FY 2006 Revenue	Estimated FY 2007 Revenue
Above Ground Storage Tank Registration	\$ 62,580	\$ 65,000
Fire Extinguisher Contractor	3,900	73,650
Manufactured Home Installation	23,650	24,825
	\$ 90,130	\$ 163,475
Inspection Fee Type	Fire Service Training Bureau	
	FY 2006 Revenue	Estimated FY 2007 Revenue
1.0% Loan Origination Fee	\$ 6,502	\$ 1,851
Inspection Fee Type	State General Fund	
	FY 2006 Revenue	Estimated FY 2007 Revenue
Explosives License	\$ 4,550	\$ 4,230
Building Code Plan Review	153,895	312,159
Modular Home Installation	81,200	61,310
Inspection of Licensed Health Care Facility	52,306	53,477
Inspection of an Elder Group Home	11,543	18,612
Inspection of a Licensed Child Care Facility	10,280	12,390
	\$ 313,774	\$ 462,178

Due to the requirements of HF 897, the Building Code Commissioner estimates hiring an additional 37.0 positions for electrical inspections. Based on the preliminary estimates, if fees are set at the limits specified in the legislation, the Electrician and Installer Licensing and Inspection Fund is estimated to have approximately \$23.0 million by calendar year 2012. The Program is intended to be funded through fees. The number of electrical inspectors required for this Program could increase in future fiscal years.

ALTERNATIVES

The General Assembly may wish to review the following alternatives:

- Require an annual report from the Fire Marshal's Office on the number of inspections and receipt of funds to the Justice System Appropriations Subcommittee to assist the Subcommittee in providing accurate funding for the Office.
- Require public and private schools and the Regents institutions to reimburse the State Fire Marshal's Office for inspections. In FY 2007, there were 922 school inspections. If a \$100 fee was implemented, that would generate approximately \$92,200 annually.
- Provide overtime funding to allow the Fire Marshal's Office to conduct fire investigations promptly in future fiscal years.
- Based on the number of inspections and the statutory requirements of the Fire Marshal's Office, the General Assembly may wish to consider adding additional fire inspectors.
- Merge the Fire Service Training Bureau into the Fire Marshal's Office rather than having two separate appropriations to assist the Department with cash flow issues.

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