~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 30, 2011

**S. 693**

Introduced by Senator Bryant

S. Printed 3/30/11--S.

Read the first time March 15, 2011.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 693) to amend Section 23‑9‑70 of the 1976 Code, relation to order and appeals from a State Fire Marshal, to increase the amount of time that an occupant, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 9, Title 23 of the 1976 Code is amended by adding:

“Article 6

Fire and Life Safety Panel

Section 23‑9‑610. The policy of this State and purpose of this article are to ensure that the laws of this State governing emergency response and readiness for fire suppression and rescue operations are executed faithfully.

Section 23‑9‑620. There is created the Fire and Life Safety Panel which must exercise the powers and fulfill the duties described in this article.

Section 23‑9‑630. (A)(1)(a) The panel must be composed of seven members who must have a background or specialty in fire suppression and rescue operations, including:

(i) one fire chief or fire marshal from a volunteer department appointed by the Governor for a three‑year term;

(ii) one fire chief or fire marshal from a paid or combination department appointed by the Governor for a three‑year term;

(iii) one at large member of the general public as appointed by the President Pro Tempore of the Senate for a three‑year term;

(iv) one at large member of the general public as appointed by the Speaker of the House of Representatives for a two‑year term;

(v) the Executive Director of the South Carolina State Firefighters Association, whose term is coterminous with his tenure as executive director of that association;

(vi) the Chairman of the Joint Council of Fire Service Association, whose term is coterminous with his tenure as chairmanship of that association; and

(vii) the Chair of the South Carolina Fire Academy Advisory Council, whose term is coterminous with his tenure as executive director of that council.

(b) In addition to the members specified in subitem (a), the State Fire Marshal shall serve on the panel in a nonvoting, ex officio capacity, for a term coterminous with his tenure as State Fire Marshal.

(2) The Executive Director of the State Firefighters Association shall serve as chairman of the panel.

(B) The chairman must call a meeting of the panel as practicable after appointment, and the panel may organize itself by electing its members as other officers of the panel or developing rules as it considers necessary. Afterward, the panel shall meet at the call of the chairman or a majority of the members.

(C) A quorum must exist to conduct a meeting of the panel. A quorum consists of five members of the panel.

(D) A vacancy must be filled in the manner of the original appointment for the unexpired portion of the term.

(E) The Office of State Fire Marshal shall provide administrative support as required by the panel to perform its prescribed duties.

(F) The members of the panel shall serve without compensation.

Section 23‑9‑640. The State Fire Marshal, in agreement with the panel, shall initiate, promulgate, and regulate minimum general industry standards concerning functions of the Division of Fire and Life Safety of State Fire Marshal and the State Fire Academy. These standards must ensure the safety and well‑being of emergency response personnel and the citizens of this State.

Section 23‑9‑650. (A) Notwithstanding another provision of law, the panel shall serve as the appellate forum for review of orders of the State Fire Marshal under section 23‑9‑70.

(B) A decision of the panel must be based on and make appropriate references to the most recently published versions of the National Fire Protection Association code and standards, Occupational Safe and Health Administration regulations, and the laws of this State.

(C) The panel may request and receive fiscal impact information if necessary from the South Carolina State Budget and Control Board, Office of State Budget.”

SECTION 2. Section 23‑9‑70 of the 1976 Code is amended to read:

“Section 23‑9‑70. ~~Whenever~~ When the State Fire Marshal, deputy, or resident fire marshal ~~shall find~~ finds, pursuant to an examination ~~as~~ provided in Section 23‑9‑50 ~~of this chapter~~, ~~any~~ that a building or other structure ~~which, for any cause,~~ is especially liable to fire and ~~which~~ is ~~so~~ situated so as to endanger ~~lives~~ a life or other property, or is deficient in fire or life protection, ~~an order~~ it shall issue ~~in writing~~ a written order directing the defect ~~to be~~ removed or remedied~~,~~. Service of ~~such~~ this order ~~shall~~ must be made as provided in this chapter and ~~such~~ the occupant or owner shall ~~forthwith~~ comply with the terms ~~thereof~~ of it. If ~~such~~ the order is issued by ~~any~~ a deputy or resident fire marshal, ~~such~~ the occupant or owner may, within ~~twenty‑four hours~~ thirty days afterward, appeal to the ~~State Fire Marshal, who~~ Fire and Life Safety Panel, which shall, within ten days~~, during which time the order appealed from shall be stayed~~ after receipt of this appeal, review the order and file his decision, during which time the appealed order must be stayed. The appeal must not be allowed if the building or any other structure is deemed to be an imminent danger pursuant to Section 23‑9‑160. ~~Provided, however, that any~~ A person who feels ~~himself~~ aggrieved by ~~any~~ an order or affirmed order of the State Fire Marshal may, within five days after the making or affirming of ~~such~~ this order, appeal to ~~an~~ the Administrative Law ~~judge~~ Court, as provided under Article 5 ~~of~~, Chapter 23 ~~of~~, Title 1, for review of ~~such~~ the order and it ~~shall~~ must be heard at the first convenient day. In the event a final order entered pursuant to this chapter is not complied with within a period of thirty days from date of service of ~~such~~ the final order ~~then~~, the ~~State Fire Marshal~~ Fire and Life Safety Panel shall cause the hazard to be remedied by repair or demolition~~,~~ and all offensive materials and dangerous conditions removed~~,~~ at the joint and several expense of the occupant or owner of ~~such~~ the building or premises. An itemized statement of costs and expenses ~~shall~~ must be furnished to the occupant or owner of the premises and the statement ~~shall~~ must be satisfied within a period of thirty days, failing which, upon ten days further notice the State Fire Marshal may assess ~~such~~ costs and expenses. ~~Any~~ A party aggrieved by an assessment order may appeal to ~~an~~ the Administrative Law ~~judge~~ Court, as provided under Article 5 ~~of~~, Chapter 23 ~~of~~, Title 1, within a period of ten days from service of ~~such~~ this order of assessment. Failing appeal, ~~the~~ this order of assessment ~~herein provided shall~~ must be filed with the clerk of court of the county ~~wherein such~~ in which the property is located and ~~shall~~ must be satisfied by execution and levy as a final judgment duly entered. Provided, however, that in addition to the enforcement procedures authorized in this section, the State Fire Marshal may, when a final order has been issued directing a defect to be removed or remedied and ~~such~~ the order is not complied with within thirty days afterward or a greater time if specified in ~~such~~ the order, apply to ~~an~~ the Administrative Law ~~judge~~ Court, as provided under Article 5 ~~of~~, Chapter 23 ~~of~~, Title 1, for an injunction to compel the defect to be removed or remedied, and ~~an~~ if the Administrative Law ~~judge, if it shall find, that such~~ Court finds that the defect constitutes a dangerous hazard to life or property as ~~set forth~~ provided in this section, the court may exercise its injunctive powers to obtain compliance with the order of the State Fire Marshal.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

W. GREG RYBERG for Committee.

**A** **BILL**

TO AMEND SECTION 23‑9‑70 OF THE 1976 CODE, RELATION TO ORDER AND APPEALS FROM A STATE FIRE MARSHAL, TO INCREASE THE AMOUNT OF TIME THAT AN OCCUPANT OR OWNER MAY APPEAL THE DECISION OF A DEPUTY OR RESIDENT FIRE MARSHAL FROM TWENTY‑FOUR HOURS TO FOURTEEN DAYS, AND TO PROVIDE THAT THE STATE FIRE MARSHAL’S DECISION MUST BE FILED WITHIN TEN DAYS OF RECEIVING THE NOTICE OF APPEAL.

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

SECTION 1. Section 23‑9‑70 of the 1976 Code is amended to read:

“Section 23‑9‑70. Whenever the State Fire Marshal, deputy or resident fire marshal shall find, pursuant to examination as provided in Section 23‑9‑50 of this chapter, any building or other structure which, for any cause, is especially liable to fire and which is so situated as to endanger lives or other property, or is deficient in fire or life protection, an order shall issue in writing directing the defect to be removed or remedied, service of such order shall be made as provided in this chapter and such occupant or owner shall forthwith comply with the terms thereof. If such order is issued by any deputy or resident fire marshal, such occupant or owner may, within ~~twenty‑four hours~~ fourteen days, appeal to the State Fire Marshal, who shall, within ten days of receiving notice of the appeal, during which time the order appealed from shall be stayed, review the order and file his decision. Provided, however, that any person who feels himself aggrieved by any order or affirmed order of the State Fire Marshal may, within five days after the making or affirming of such order, appeal to an administrative law judge, as provided under Article 5 of Chapter 23 of Title 1, for review of such order and it shall be heard at the first convenient day. In the event a final order entered pursuant to this chapter is not complied with within a period of thirty days from date of service of such final order then the State Fire Marshal shall cause the hazard to be remedied by repair or demolition, and all offensive materials and dangerous conditions removed, at the joint and several expense of the occupant or owner of such building or premises. An itemized statement of costs and expenses shall be furnished the occupant or owner of the premises and the statement shall be satisfied within a period of thirty days, failing which, upon ten days further notice the State Fire Marshal may assess such costs and expenses. Any party aggrieved by an assessment order may appeal to an administrative law judge, as provided under Article 5 of Chapter 23 of Title 1, within a period of ten days from service of such order of assessment. Failing appeal, the order of assessment herein provided shall be filed with the clerk of court of the county wherein such property is located and shall be satisfied by execution and levy as a final judgment duly entered. Provided, however, that in addition to the enforcement procedures authorized in this section, the State Fire Marshal may, when a final order has been issued directing a defect to be removed or remedied and such order is not complied with within thirty days or a greater time if specified in such order, apply to an administrative law judge, as provided under Article 5 of Chapter 23 of Title 1, for an injunction to compel the defect to be removed or remedied and an administrative law judge, if it shall find, that such defect constitutes a dangerous hazard to life or property as set forth in this section, may exercise its injunctive powers to obtain compliance with the order of the State Fire Marshal.”

SECTION 2. This act takes effect upon approval by the Governor.

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