

FEDERAL AND STATE AFFAIRS COMMITTEE

FEBRUARY 13, 1969

The meeting was called to order and the Chairman stated that a continuation of the hearing on HB 1134 would be in order since it had not been completed previously.

The Fire Marshall, Mr. Ramey, stated that the last three amendments (see memo in exhibit file) had been discussed by him and Mr. Hammer and they agreed that there shouldn't be a repeal unless it was replaced with something. He stated that concerning hotels, motels, etc. that Board already has the staff to make these inspections and that they should continue. Mr. Buchele inquired if the Fire Marshall trained these inspectors and Mr. Ramey stated that he furnished Mr. Hammer with information on fire exits, extinguishers, escapes, etc, and if they have a problem sometimes one of his men goes along.

Mr. Ramey stated (item 12) that the Governor had indicated and that there had ~~been~~ other indications that it would be better if the State Fire Marshall was responsible for state owned buildings, at least where they were utilized by people. (item 13) He stated that it was the recommendation of the Architect that this section be repealed because it is already covered in the building codes. He stated that he is ^{not} in complete agreement with the definition of multiple dwellings; that he thinks it should remain at 2 or 3 families because apartments are defined as units of 4 or more, and if it is changed, it overlaps.

Mr. Amos Kramer with the Kansas Petroleum Industries, stated they had assisted in the work on this bill; that they have a strong interest in fire prevention and safety; that they support the measure and that the proposed amendments are of interest to them also. Mr. McGill inquired if he was for or against and Mr. Kramer stated they are "for them".

The Chairman pointed out that the original bill came with the blessings of the Legislative Council and that the Council had never seen the amendments.

Mr. Ken Johnson, representing LP Gas Association, stated that he is in favor of anything that deals with Fire safety; that his industry is regulated by Pamphlet 58, which is the national code.

The Chairman stated that he didn't know if the bill could be reorganized, but that it would be up to the sub-committee to think about it.

The Chairman stated that Tuesday, opponents to HB 1073 would be heard, and that on Monday, the Committee would vote as previously announced. The meeting was adjourned.

Committee on Federal and State Affairs

Memorandum concerning 1969 House Bill No. 1134.

This report relates to a number of amendments that have been suggested to be made to the bill creating a fire prevention commission. Some of these proposed changes are merely editorial, but some pertain to the substance and policy underlying the formation of such a commission.

(1) The first amendment that needs to be made concerns the section numbers on page 16 of the bill; there are two sections numbered 23; this needs to be changed so that one will read sec. 24.

(2) On page 2 of the bill, in line 7 commencing with the word "That" and continuing through line 9 ending with the word "industry"; it has been suggested that this should read "That each of the three (3) members representing industries concerned with fire safety shall be from a different industry." This change seems to be merely an editorial change and it would probably read better if it were changed.

(3) The next amendment concerning section 7 (a) of the bill commencing on page 7. In subsection (3), line 29, on page 7 subsection (4), line 3 on page 8, and subsection (7) line 17 on page 8, reference is made to dwelling houses containing no more than two (2) families. It has been suggested that this should be changed to four (4) families.

(4) Again in section 7 in subsection (a) (7) on page 8, in line 12, it has been suggested that the word "Prescribe" be changed to read "Consistent with the provisions of this act,". This seems to be only an editorial change, and would make an improvement in the language of the bill.

(5) It has been suggested that section 7 (b), on page 8 line 21, commencing with the word "For" and ending with "codes" in line 24, should be changed to read "For the purposes of this act, the fire prevention codes of the National Fire Protection Association and standards of the United States of America Standards Institute shall constitute nationally recognized fire prevention codes." This

change is a necessary one and should be considered. At the time the bill was drafted there was no name given to the code recommended by the American Insurance Association. There are many constitutions involved when talking about adopting nationally recognized codes by reference, and one should try to be very specific in tying it down. The suggested amendment would accomplish this since it has nationally recognized codes to two specific ones. In connection with this suggested amendment the definition of "nationally recognized code" appearing on page 1, lines 8 through 11, should be deleted from the bill since it is inconsistent with section 7 (b) of the bill on page 8 of the bill.

(6) On page 7, section 7 (a), line 9, it has been suggested that the phrase "include, but not be limited to the following" should be deleted and in its place should appear "relate to". This appears to make more sense and to make the section read better.

(7) On page 7, section 7 (a) (1), lines 10 through 17, it has been suggested that all of this material should be deleted from the bill and in its place should appear the following:

"The keeping, storage, use, sale, handling, transportation, or other disposition of highly flammable materials, including crude petroleum or any of its products; explosives, including gunpowder, dynamite, fireworks and firecrackers, and may prescribe the materials and construction of receptacles and buildings to be used for any of said purposes."

(8) The suggestion has been made that section 7 (a) (2) on page 7, lines 18 through 24, should be deleted, and that section 19 appearing on page 15 of the bill should be changed to read as follows:

"The rules and regulations promulgated by the State Fire Prevention Commission for motor vehicles and transport trucks transporting liquid fuel shall require that such units be inspected by qualified inspectors sufficiently often to insure operation with maximum safety and the operator of such units shall file with the State Corporation Commission copies of all such inspector's clearance receipts on all motor vehicles and transport tanks operated or used by him subject to the Motor

Carrier Act of Kansas. These inspections shall be performed by inspectors in the Fire Marshal's office, except that the State Fire Marshal may issue a private inspector's permit to any association, person, partnership, corporation and/or subsidiary corporation having registered in his or its name in the state one or more motor vehicles and/or transport tank trailers used for transporting liquid who maintain inspection facilities and have personnel qualified to the satisfaction of the State Fire Marhsal's office."

(9) Section 8 (c) is printed on page 9 and 10 of the bill on lines 18 through 31 on page 9 and lines 1 and 2 on page 10. It has been suggested that this subsection should be changed to read as follows:

"The rules and regulations adopted by the Commission under authority of this Act shall be known and may be cited as the Kansas Fire Prevention Code. The rules and regulations promulgated pursuant to this Act shall have uniform force in effect throughout the state and no municipality, county or political subdivision shall enact or enforce any ordinance, rules or regulations inconsistent with the rules and regulations promulgated pursuant to this Act; provided that nothing in this Act shall in any way impair the power of the municipality, county or political subdivision to regulate the use of land by zoning or fire district regulations. Whenever a question shall arise as to whether a municipal ordinance or statute takes precedent over the provisions of the Fire Prevention Code, it shall be the duty of the Commission to make such determination after a hearing thereon with all interested parties. Any decision of the Commission made under authority of this Section shall be appealable in accordance with the provisions of Section 15 of this Act."

This is a very important and significant change since it deals with "Home Rule." The change is necessary in order to have an effective state fire prevention code.

(10) The suggestion has been made that the phrase "who are competent in the field of fire prevention" should be inserted in section 2 (a) on page 2 of the bill in line 5 after the word "safety" and before the comma. This would aid this section in that it would require members of the commission coming from industries to be competent in the field of fire prevention.

(11) It has been suggested that the following statutes be removed from the title and the repealer section of the bill:
K. S. A. ³⁶⁻¹¹⁴ 36-115, 36-116, 36-117 and 36-118. These statutes relate to hotels, lodging houses and restaurants. It is felt that these sections are not adequately covered in the present bill, and in order to avoid any loopholes a companion bill might be prepared. The companion bill would repeal K. S. A. 36-114, 36-115, 36-116, 36-117 and 36-118 and the bill would read somewhat as follows:

"Hotels, motels, rooming houses, apartment houses, and restaurants shall comply with the rules and regulations promulgated by the state fire prevention commission for such occupancies."

This could also be accomplished by adding a new section to the present bill.

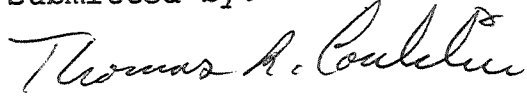
(12) It has been suggested that a new section or an amendment to one of the present sections be added to read as follows:

"The state fire marshal shall at least annually inspect all buildings under the jurisdiction of the board of regents, the state penal director, and the division of institutional management of the department of social welfare."

(13) The state architect has suggested, that in accordance with the provisions of the bill and the statutes to be repealed, that K. S. A. 72-4603 also be repealed. This statute relates to construction of boiler rooms in school buildings, and also to the

type of fire doors and exits that may be constructed in reference to such boiler rooms.

Submitted by:

A handwritten signature in cursive script, reading "Thomas R. Conklin". The signature is written in dark ink and is positioned above the printed name.

Thomas R. Conklin
Associate Revisor

Mr. Chairman:

Your Sub-Committee on House Bill No. 1134 makes the following observations and recommendations:

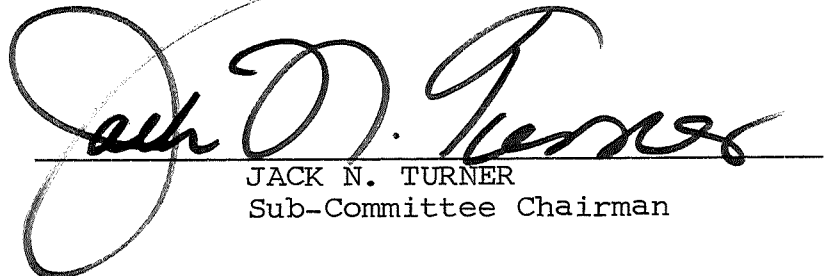
1. The fiscal note indicates passage of this bill would require an additional \$8,000 in fiscal year 1970 if the fire marshall were to carry out the provisions of the bill. This expenditure is not included in the Governor's budget report.

2. The recommended changes in the bill, as printed, by industry representative amount to numerous changes in the bill of a substantial nature as well as simple procedural amendments. These changes should be carefully studied and the exact nature of impact on the various industrial and agricultural interests determined. A cursory study indicates underlying significance that would, by proceeding too quickly, wreck havoc on our industrial and agricultural climate.

3. The bill, as printed, contains at page seven extremely broad grants of authority that could well have a much broader impact than intended.

4. Enforcement of the act appears to be such that conflicts may well result from the regulations of the commission created by the act and the various municipalities.

It is the recommendation of your Sub-Committee that the full committee recommend to the House of Representatives that House Bill No. 1134 be not passed and that the chairman request the Legislative Council to continue its studies of such legislation with special emphasis being given to the points raised herein.


JACK N. TURNER
Sub-Committee Chairman

M E M O R A N D U M

FOR: Committee on Labor and Industries.

SUBJECT: A brief summary of the statutes to be repealed in reference to the bill establishing a fire commission.

- K. S. A. 31-101. Statute deals with fire escapes in certain buildings, and prescribing the type of fire escape. This will now be done by rule and regulation of the state fire prevention commission. First passed in 1911.
- K. S. A. 31-102. This section is concerned with providing notice of the location of fire escapes in certain buildings. All fire escapes will be controlled by rule and regulation of the state fire commission. First passed in 1911.
- K. S. A. 31-103. This statute relates to regulations respecting theaters and assembly halls; requiring certain types of exits; a gas light or electric light in a red glass box; certain regulations for construction of such places. This will now be controlled by the state fire commission. First passed in 1911.
- K. S. A. 31-104. Statute provides for a system of ventilation in place of amusement. (30 cubic feet of fresh air per minute for each person.) A provision such as this was not included in the bill creating the state fire commission. Statute was first passed in 1911.
- K. S. A. 31-105. This statute provides for artificial ventilation in certain places; provides for construction of booths used for moving picture machines and the type of electric wiring. A section such as this is not included in the proposed bill. First passed in 1911.
- K. S. A. 31-106. Provides for inspection of theaters, picture shows or places of amusement by the fire chief or the state fire marshal. This is covered under the proposed bill. First passed in 1911.
- K. S. A. 31-107. This statute provides for certain places to have fire extinguishers. This is covered in the proposed bill. Section was first passed in 1911.
- K. S. A. 31-108. Provides for the inspection of certain buildings at least once every six months by the chief of a fire department or other officer; reports to the county attorney; duty of county attorney to prosecute violators. This is covered in the new bill. Law was first passed in 1911.
- K. S. A. 31-109. This statute concerns the submission of semi-annual reports to the state labor commissioner by the chief of a fire department or other officer; such reports relate to the inspection of certain buildings. This section has not been included or provided for in the proposed bill. Law was first passed in 1911.
- K. S. A. 31-110. This section empowered the state labor commissioner to enter upon and inspect certain buildings; and require changes to be made. This is not provided for in the proposed bill. Law was first passed in 1911.
- K. S. A. 31-111. Provides for a complaint to be made to state labor commissioner if certain officers fail to comply with the act; state labor commissioner can investigate the complaint; duty of county attorney to prosecute. A section on hearings and appeals is contained in the new bill, but nothing relating to the state labor commissioner is included in the bill. Section was first passed in 1911.
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- K. S. A. 31-112. Penalty for violation of act. A misdemeanor provision is included in the proposed bill. Law was first passed in 1911.
- K. S. A. 31-113. Section provides for a penalty for an officer failing to perform his duty. There is a misdemeanor provision in the new act. Law was first passed in 1911.
- K. S. A. 31-114. Statute is concerned with kindling fires between August and May and failing to extinguish them; provides a penalty. Law was first passed in 1872.
- K. S. A. 31-115. Law relates to the setting on fire of woods, timber, prairie, etc.; and providing for a penalty. Law was first passed in 1868.
- K. S. A. 31-116. Relates to the setting on fire of woods, etc., and providing for damages to be paid. Law was first passed in 1868.
- K. S. A. 31-117. Statute allows a person to start a fire against another fire in order to protect his property. Law was first passed in 1868.
- K. S. A. 31-118. Provides for the establishment of fireguards in townships situated in counties with less than 5,000 on petition by a majority of the qualified electors. Law was first passed in 1899.
- K. S. A. 31-119. Sets out the requisites for fireguards such as two plowed strips, six feet wide, along the sides of the public highway. Law was first passed in 1899.
- K. S. A. 31-120. Statute is concerned with the establishment and maintenance of a fireguard along the boundary line between two townships. Law was first passed in 1899.
- K. S. A. 31-121. Provides for the duty of the road overseers to see that the fireguards are constructed. Law was first passed in 1899.
- K. S. A. 31-122. Road overseers may employ additional help in order to make and maintain the fireguards. Law was first passed in 1899.
- K. S. A. 31-123. Provides for the payment of employees working on the fireguards; \$1.50 per day for each person; \$3.00 per day for each person and team. Law was first passed in 1899.
- K. S. A. 31-124. Unlawful to use motion picture film made of a nitrocellulose or similarly hazardous base except in certain projection machines and booths as approved by the state fire marshal. Law was first passed in 1925.
- K. S. A. 31-125. Provides for the issuance of a license by the state fire marshal to a person or etc. to purchase or dispose of motion-picture film made of a nitrocellulose or similarly hazardous base. Law was first passed in 1925.
- K. S. A. 31-126. Prohibits the purchase or disposal of motion-picture film made of a nitrocellulose or similarly hazardous base without a license. Law was first passed in 1925.
- K. S. A. 31-127. This statute relates to the keeping of records, setting out the contents thereof, for any transaction concerning motion picture film made of a nitrocellulose or similarly hazardous base. Law was first passed in 1925.
- K. S. A. 31-128. Prohibits the sale or disposal of film made of a nitrocellulose or similarly hazardous base to one not having a license. Law was first passed in 1925.
- K. S. A. 31-129. Repeals all laws restricting the sale, disposition, or etc. of film made of an acetate of cellulose or similarly non-hazardous base. Law was first passed in 1925.

- K. S. A. 31-130. State fire marshal can promulgate rules and regulations in order to carry out the act. Law was first passed in 1925.
- K. S. A. 31-131. Provides for penalties to be imposed upon one violating the act. Law was first passed in 1925.
- K. S. A. 31-201. Statute provides for the inspection of fires by the state fire marshal and certain other persons; provides for a report to be submitted to the state fire marshal; and provides for a penalty to be imposed upon one who fails to comply with the act. Law was passed in 1917. The new act covers this.
- K. S. A. 31-202. Section provides for the taking of testimony under oath of persons by the state fire marshal or his deputy; if probable cause to believe arson or etc. was involved, then to furnish such information to the county attorney; duty of the county attorney to take action; right of the state fire marshal to assist in the prosecution. Law was passed in 1917. This is covered in the new act.
- K. S. A. 1968 Supp. 31-203. Power of the state fire marshal or his deputy to subpoena witnesses and the production of books if there is reason to believe the fire was of incendiary origin. State fire marshal, his deputies, and the county attorney have the power to administer oaths and affirmations; penalty provided if a person refuses to testify; duty of county attorney to prosecute; person must testify, but if compelled, then he cannot be prosecuted. Law was first passed in 1917.
- K. S. A. 31-204. Power of state fire marshal, his deputies, and other officers to enter upon or examine buildings or premises where any fires have occurred. Law was passed in 1917.
- K. S. A. 31-205. Right of entry by the state fire marshal, his deputies, and other officers into buildings or upon premises where there are combustibles endangering property; provides for an order to remove or remedy; appeal by an aggrieved party; and a penalty is provided. State fire marshal's jurisdiction is concurrent with that of the municipal authorities. Law was first passed in 1917.
- K. S. A. 31-206. Provides for testimony taken to be reduced to writing; testimony shall not be disclosed; and provides for a penalty for disclosure of testimony. Law was first passed in 1917.
- K. S. A. 31-207. Provides for the issuance of rules and regulations by the state fire marshal in reference to certain materials; that transport tanks of liquid fuel shall be inspected; an inspector's clearance receipt; and the filing of such clearance receipts with the state corporation commission. It also provides a penalty for a violation. Law was first passed in 1917.
- K. S. A. 31-208. Provides for fire drills in schools; instruction of pupils on the subject of fires by the teachers; and provides a penalty for a violation. Law was first passed in 1917.
- K. S. A. 31-209. Payment of a fee to certain officers for the reporting of fires to the state fire marshal; fee includes \$.50 for the report and \$.05 per mile. Law was passed in 1917.
- K. S. A. 31-210. The duty of the state fire marshal to enforce the laws and the rules and regulations.
- K. S. A. 36-115. Statute requires certain types of standpipes in certain buildings; requirements for the standpipes; section not applicable in places not having waterworks or fire-fighting equipment. Law was passed in 1913.

- K. S. A. 36-116. Requirement for fire escapes in certain buildings; type of fire escape; notice of location of the fire escape; and both the state fire marshal and the state hotel and restaurant board have the power to direct where the fire escapes shall be placed. Law was passed in 1913.
- K. S. A. 36-117. Building regulations for certain buildings; must have one main hall on each floor running through the outside wall; and act does not apply to hotels having interior fireproof stairways approved by the state hotel and restaurant board. Law was passed in 1913.
- K. S. A. 36-118. Requires fire extinguishers to be located in certain buildings, and where they shall be located. Law was passed in 1913.
- K. S. A. 44-103. Requires fire escapes in certain manufacturing establishments, and the type of fire escape to be constructed. Law was passed in 1903.
- K. S. A. 72-4605. The county superintendent shall inspect each school building annually in his county and he may request the state fire marshal to inspect; state fire marshal shall inspect school buildings in cities of second class, except those cities having a full-time salaried fire chief or inspector; and fire chief or inspector shall inspect in cities of first class; provides for reports to be given to the board having jurisdiction of the school; duty of school board to make changes; and public school boards are authorized to draw upon their general revenue funds without further appropriation. Law was first passed in 1909.
- K. S. A. 72-4606. Requires a fire drill to be conducted at least once a month in all public and private schools except in colleges and universities. Law was first passed in 1909.
- K. S. A. 75-1503. Statute provides that the chief deputy state fire marshal shall serve as the state fire marshal during the absence or inability to perform of the state fire marshal. Law was passed in 1917.
- K. S. A. 75-1505. State fire marshal shall keep a record of all fires occurring within the state in his office; contents of such records; records are open to public inspection; and certain records may be forwarded to the commissioner of insurance. Law was passed in 1917.
- K. S. A. 75-1506. State fire marshal shall devote his entire time to the duties of his office; either the state fire marshal or his chief deputy shall be in the office at all reasonable times. Law was passed in 1917.
- K. S. A. 75-1507. Annual report shall be made to the governor by the state fire marshal. Law was passed in 1917.
- K. S. A. 75-1508. Payment by insurance companies to the state commissioner of insurance of a levy made by the state fire marshal; levy shall not exceed three-fourths of one percent of a sum equal to the gross cash receipts as premiums of such companies on all fire business transacted in this state; and the establishment of the state fire marshal's department fee fund. Law was passed in 1923.
- K. S. A. 75-1509. This statute is concerned with the disposition of the fees; part to the general revenue fund of the state and the balance to the special fund. Law was passed in 1923.
- K. S. A. 72-4602. Statute provides for extra exits and fire escapes in school buildings. Law was first passed in 1909.

K. S. A. 1968 Supp. 75-1510. Creation and re-establishment of the office of the state fire marshal; appointment by the governor; term of four years; governor shall appoint a person to fill any vacancy; and the office shall be in Topeka. Law was first passed in 1939.

K. S. A. 75-1511. Transfer of jurisdiction, powers and duties from the Kansas state department of inspections to the state fire marshal. Law was passed in 1939.

K. S. A. 1968 Supp. 75-3136. State fire marshal shall receive an annual salary of \$10,000. Law was last amended in 1967.

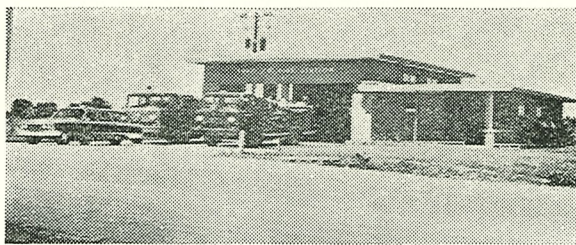
K. S. A. 75-3137. State fire marshal can appoint a chief deputy and other employees. All are entitled to their actual and necessary expenses; may contract other expenses with the consent of the state fire marshal; and the expenses are to be paid out of funds available for the department. Law was first passed in 1923.

K. S. A. 80-1506. Statute vests actual members of fire departments in certain townships, counties and municipalities with police power to form lines etc. in order to prevent persons from interfering with them while fighting a fire; and they have the power to arrest persons for violations of any orders they may make. Statute also provides a penalty for a violation. Law was passed in 1931.

K. S. A. 80-1519. Same as 80-1506, except it relates to firemen of fire districts.

K. S. A. 80-1907. Same as 80-1506, except it relates to firemen in certain townships.

Note: The last three statutes are to be repealed and section 18 of the proposed bill will grant the police power to all fire department members.



FEB 7 8 55 AM '69
FIRE MARSHAL DEPT.

Kansas State Association of Fire Chiefs

Dean Annis

PRESIDENT

George Daeschner

VICE PRESIDENT

JC W. PEDERSEN, SECRETARY-TREASURER

RENO COUNTY FIRE DEPARTMENT

P. O. BOX 481

HUTCHINSON, KANSAS 67501

February 6, 1969

Mr. Art Ramey
Fire Marshal
State of Kansas

Dear Sir:

On Saturday February 1, 1969 a meeting of the Executive Officers of the Kansas State Association of Fire Chiefs was held at Topeka.

During this meeting considerable time was given to the discussion of Bill No. 17, by the committee on Labor and Industries, to carry out proposal number 33.

We, as Chiefs of the Fire Departments of the State of Kansas wish to go on record as favoring this Bill and asking those responsible for the passage of this Bill to vote the affirmative for its passage.

The adoption of Bill No. 17 will assure all those in the Fire Service to better enforce those regulations that are expected of them. We feel the Bill as presented to us is a necessity for the betterment of the State Fire Marshall and the requirements of his office.

Respectfully,

Jc W. Pedersen, Sec., Treas.
Kansas State Association of
Fire Chiefs.

Box 481

Hutchinson, Kansas 67501