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SENATE BILL 167

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Patrick H. Lyons

AN ACT

RELATING TO THE STATE FIRE MARSHAL; MOVING THE STATE FIRE
MARSHAL AND THE FIREFIGHTERS' TRAINING ACADEMY TO THE
CONSTRUCTION INDUSTRIES DIVISION OF THE REGULATION AND
LICENSING DEPARTMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 8-8-9 NMSA 1978 (being Laws 1998,
Chapter 108, Section 9) is amended to read:

"8-8-9. INSURANCE DIVISION.--

A. The director of the insurance division is the
"superintendent of insurance" and shall have all the powers
and duties prescribed to him in the New Mexico Insurance
Code.

B. The insurance division shall consist of such
bureaus as the superintendent of insurance determines for the
orderly conduct of business ~~[including the fire marshal~~

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1 bureau. ~~The superintendent of insurance may organize the~~
2 ~~firefighter's training academy as part of the fire marshal~~
3 ~~bureau or may organize it as a separate bureau]."~~

4 Section 2. Section 9-16-4 NMSA 1978 (being Laws 1983,
5 Chapter 297, Section 20, as amended) is amended to read:

6 "9-16-4. DEPARTMENT ESTABLISHED.--There is created in
7 the executive branch the "regulation and licensing
8 department". The department shall not be a cabinet
9 department. The department shall consist of but not be
10 limited to five divisions as follows:

- 11 A. the administrative services division;
- 12 B. the construction industries division, including
13 the state fire marshal, which shall be a bureau of the
14 construction industries division, and including the
15 firefighters' training academy, which shall be a section of
16 the state fire marshal bureau;
- 17 C. the financial institutions division;
- 18 D. the securities division; and
- 19 E. the manufactured housing division."

20 Section 3. Section 59A-52-1 NMSA 1978 (being Laws 1984,
21 Chapter 127, Section 947, as amended) is amended to read:

22 "59A-52-1. STATE FIRE MARSHAL CREATED.--The position of
23 "state fire marshal" is created ~~[as the bureau chief of the~~
24 ~~fire marshal bureau of the insurance division]~~ in the
25 construction industries division of the regulation and
licensing department."

Section 4. Section 59A-52-3 NMSA 1978 (being Laws 1984,

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1 Chapter 127, Section 949, as amended) is amended to read:

2 "59A-52-3. DEPUTY STATE FIRE MARSHAL AND OTHER
3 EMPLOYEES--QUALIFICATIONS OF DEPUTY.--The state fire marshal
4 may, with the approval of the superintendent of regulation
5 and licensing, appoint or remove a deputy state fire marshal
6 and other employees to assist in the execution of the
7 marshal's duties; provided, however, that the state fire
8 marshal and any deputy state fire marshal appointed by the
9 state fire marshal shall be experienced in fire prevention
10 and fire fighting and have completed a course of training by
11 actual attendance at a fire-training school."

12 Section 5. Section 59A-52-21 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 967, as amended) is amended to
14 read:

15 "59A-52-21. ADMINISTRATIVE APPEAL OF ORDERS AND
16 MODIFICATIONS.--Any person aggrieved by any order of the
17 state fire marshal, his deputy or authorized officer or his
18 designated agent may appeal to the [~~commission~~]
19 superintendent of regulation and licensing within ten days
20 from the date of the service of such order. The [~~commission~~]
21 superintendent of regulation and licensing shall hear such
22 party within twenty days after receipt of an appeal request
23 and shall give not less than ten days' written notice of the
24 hearing. Within fifteen days after such hearing, the
25 [~~commission~~] superintendent of regulation and licensing shall
file [~~its~~] his decision and, unless by [~~its~~] his authority
the order is revoked or modified, it shall be complied with

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1 within the time fixed in the decision, with such time to be
2 not less than thirty days."

3 Section 6. Section 59A-52-23 NMSA 1978 (being Laws
4 1984, Chapter 127, Section 969, as amended) is amended to
5 read:

6 "59A-52-23. ENFORCEMENT OF CEASE AND DESIST ORDERS.--
7 After expiration of time for an administrative appeal, and if
8 no such appeal has been taken, the state fire marshal may
9 commence an action in the district court for Santa Fe county
10 to enforce the cease and desist order by injunction or other
11 appropriate remedy as the district court may adjudge. The
12 ~~[commission]~~ superintendent of regulation and licensing may
13 likewise commence an action in the district court for Santa
14 Fe county to enforce ~~[its]~~ his decision rendered on appeal
15 from the cease and desist order of the state fire marshal."

16 Section 7. Section 59A-53-6 NMSA 1978 (being Laws 1984,
17 Chapter 127, Section 977, as amended) is amended to read:

18 "59A-53-6. APPEAL AND REVIEW OF DETERMINATION.--The
19 state fire marshal shall promptly notify each incorporated
20 city, town, village and county fire district affected of his
21 determination of needs, and an incorporated city, town,
22 village or county fire district may appeal from the
23 determination of the state fire marshal to the ~~[commission]~~
24 superintendent of regulation and licensing, within ten days
25 after the determination of needs. The ~~[commission]~~
superintendent of regulation and licensing shall review the
determination of the state fire marshal in such informal and

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1 summary proceedings as [~~it~~] he deems proper and shall certify
2 to the state treasurer annually, on or before the last day of
3 June, the results of all appeals from the determinations of
4 the state fire marshal. The certification by the
5 [~~commission~~] superintendent of regulation and licensing, or
6 by the state fire marshal if no appeal is taken, shall be
7 final and binding on all concerned and not subject to any
8 further review."

9 Section 8. Section 59A-53-7 NMSA 1978 (being Laws 1984,
10 Chapter 127, Section 978, as amended) is amended to read:

11 "59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

12 A. Annually on or before the last day of July, the
13 state treasurer shall distribute from the money in the fire
14 protection fund, to each incorporated municipality and to
15 each county fire district, the amount the state fire marshal
16 or the [~~commission~~] superintendent of regulation and
17 licensing, as the case may be, has certified to him. Payment
18 shall be made to the treasurer of any incorporated
19 municipality and to the county treasurer of the county in
20 which any county fire district is located for credit to the
21 county fire district.

22 B. The state treasurer is authorized to redirect a
23 distribution to the New Mexico finance authority in the
24 amount the state fire marshal or the [~~commission~~]
25 superintendent of regulation and licensing, as the case may
be, has certified to him pursuant to an ordinance or a
resolution passed by the municipality or county and a written

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1 agreement of the municipality or county in which any county
2 fire district is located and the New Mexico finance
3 authority."

4 Section 9. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
5 PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On July 1, 2000:

6 A. all personnel and all money, appropriations,
7 records, furniture, equipment, supplies and other property
8 belonging to the state fire marshal's office, the fire
9 marshal bureau or the firefighters' training academy of the
10 public regulation commission shall be transferred to the
11 regulation and licensing department;

12 B. all existing contracts, agreements and other
13 obligations, all appeals and other proceedings and all rules
14 and orders in effect for the state fire marshal's office, the
15 fire marshal bureau and the firefighters' training academy of
16 the public regulation commission shall be binding and
17 effective on the regulation and licensing department; and

18 C. all references in law to the state fire
19 marshal's office, the fire marshal bureau or the
20 firefighters' training academy shall be deemed to be
21 references to the regulation and licensing department.

22 Section 10. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2000.