

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 881

By: Jett

COMMITTEE SUBSTITUTE

An Act relating to State Fire Marshal; amending 74 O.S. 2011, Section 317, which relates to examination of buildings and premises; expanding jurisdiction; updating statutory language; increasing fine; providing for multiple violations; amending 74 O.S. 2011, Section 324.9, which relates to investigations; deleting requirement for State Fire Marshal to be a peace officer; amending 74 O.S. 2011, Section 324.11, which relates to building permits; modifying description; modifying certain construction; updating language; amending 74 O.S. 2011, Section 324.19, which relates to violations; expanding list of who can violate State Fire Marshal orders; updating statutory reference; permitting State Fire Marshal to determine amount of fines; allowing for a hearing by those fined for violation; requiring an administrative hearing officer to hear and propose findings to State Fire Marshal Commission for consideration; setting time of consideration; requiring Commission to issue final order; allowing for process to supersede current hearing and appeal systems; providing for party to appeal to the district court of the county; providing that certain process supersedes current hearing and appeal systems; directing fines to be deposited into the State Fire Marshal Revolving Fund; amending 74 O.S. 2011, Section 324.20b, as amended by Section 848, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2020, Section 324.20b), which relates to the State Fire Marshal Revolving Fund; removing cap amount of fund; and providing an effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. AMENDATORY 74 O.S. 2011, Section 317, is  
3 amended to read as follows:

4 Section 317. The State Fire Marshal, any assistants to the  
5 State Fire Marshal, the chief of the fire department of all the  
6 cities and towns where a fire department is established, the mayor  
7 of the cities and towns where no fire department exists, the chief  
8 of a fire protection district created pursuant to Sections 901.1 et  
9 seq. of Title 19 of the Oklahoma Statutes and the sheriff of all  
10 counties, upon the complaint of any person having an interest in any  
11 building or property adjacent, and without any complaint, shall have  
12 the right at all reasonable hours for the purpose of an examination  
13 to enter into and upon all buildings and premises within their  
14 jurisdiction. The State Fire Marshal shall, at least once each  
15 year, make a fire inspection of all correctional facilities under  
16 the jurisdiction and control of any state agency, county, city ~~or,~~  
17 town, or public trust. The correctional facilities shall include,  
18 but not be limited to, institutions within the Department of  
19 Corrections as defined by Section 502 of Title 57 of the Oklahoma  
20 Statutes, juvenile institutions under the jurisdiction and control  
21 of the ~~Department~~ Office of ~~Institutions, Social and Rehabilitative~~  
22 ~~Services~~ Juvenile Affairs, as listed in Section 2-7-606 of Title 10A  
23 of the Oklahoma Statutes, and jails. The State Fire Marshal shall  
24 issue a report containing findings of the inspection as to each

1 facility under the jurisdiction and control of a state agency, to  
2 the director of the agency. As to any other correctional facility,  
3 the State Fire Marshal shall issue the report to the person  
4 immediately responsible for the administration of the facility  
5 inspected. Whenever any of the officers shall find any building or  
6 other structure which for the want of proper repair, or by reason of  
7 age and dilapidated condition, or for any cause is especially liable  
8 to fire, and which is so situated as to endanger other buildings or  
9 property, or so occupied that a fire would endanger persons and  
10 property therein, the officers shall order the building or buildings  
11 to be repaired, torn down, demolished, materials removed and all  
12 dangerous conditions remedied. Whenever the officers determine that  
13 a threat to life is imminent, the officers are permitted to order  
14 the evacuation of the occupants of the building or buildings. If  
15 the officer finds in a building or upon any premises any combustible  
16 or explosive material, rubbish, rags, waste, oils, gasoline or  
17 inflammable conditions of any kind, dangerous to the safety of  
18 buildings or property, the officer shall order the materials removed  
19 or conditions remedied. The order shall be made against the owner,  
20 lessee, agent or occupant of the buildings or premises and,  
21 thereupon, the order shall be complied with by the owner, lessee,  
22 agent or occupant, and within the time fixed in the order. If the  
23 owner, lessee, agent or occupant deems itself aggrieved by an order  
24 of any of the officers, and desires a hearing, that person may

1 complain or appeal in writing to the State Fire Marshal within ten  
2 (10) days from the service of the order, and the State Fire Marshal  
3 shall at once investigate the complaint, and shall fix a time in the  
4 county where the property is located, when and where the complaint  
5 will be heard by the State Fire Marshal. The State Fire Marshal may  
6 affirm, modify, revoke or vacate the order at the hearing, and  
7 unless the order is revoked or vacated by the State Fire Marshal, it  
8 shall remain in force and be complied with by the owner, lessee,  
9 agent or occupant within the time fixed in the order, or within the  
10 time as may be fixed by the State Fire Marshal at the hearing. If a  
11 person is aggrieved by the final order of the State Fire Marshal as  
12 made at the hearing, that person may, within ten (10) days  
13 thereafter, appeal to the district court of the county in which the  
14 property is situated, notifying the State Fire Marshal in writing of  
15 the appeal within three (3) days thereafter, which notice shall be  
16 delivered personally to the State Fire Marshal or by registered mail  
17 to the office of the State Fire Marshal at Oklahoma City, Oklahoma.  
18 The party appealing shall, within three (3) days thereafter, file  
19 with the clerk of the district court in which the appeal is made, a  
20 bond in an amount to be fixed by the court but in no case less than  
21 One Hundred Dollars (\$100.00), with at least sufficient sureties to  
22 be approved by the court, conditioned to pay all costs on the appeal  
23 in case the appellant failed to sustain the same or the appeal be  
24 dismissed for any cause. The district court shall hear and

1 determine the appeal de novo, in the same manner as other issues of  
2 law and fact are heard and tried in the courts, and the State Fire  
3 Marshal shall be plaintiff in the action. The district court shall  
4 hear and determine the appeal at the next regular term of district  
5 court in the county where the order was issued, and may sustain,  
6 modify or annul the order of the State Fire Marshal, and the  
7 decision of the district court shall be final. The State Fire  
8 Marshal shall execute the final order of the district court, and if  
9 the order is adverse to the appellant, the State Fire Marshal is  
10 empowered to cause the building or premises to be repaired, torn  
11 down, demolished, materials removed and all dangerous conditions  
12 remedied, as the case may be, at the expense of the appellant. If  
13 the appellant fails, refuses or neglects to comply with the order,  
14 or pay the expense incurred by the State Fire Marshal in executing  
15 the same within thirty (30) days thereafter, the expense shall be  
16 certified by the State Fire Marshal to the county assessor of the  
17 county in which the property is situated and the county assessor  
18 shall enter the expense on the tax list of the county as a special  
19 charge against the real estate on which the building is or was  
20 situated, and the same shall be collected as other taxes and, when  
21 collected, shall be paid to the county treasurer and credited to the  
22 general fund of the county in which the property is located. Any  
23 person being the owner, occupant, lessee or agent of buildings or  
24 premises, who willfully fails, neglects or refuses to comply with

1 any order of any officer named in this section shall be guilty of a  
2 misdemeanor and shall be fined not more than ~~Fifty Dollars (\$50.00)~~  
3 One Thousand Dollars (\$1,000.00) nor less than ~~Ten Dollars (\$10.00)~~  
4 ~~for each day's neglect~~ One Hundred Dollars (\$100.00) per day of  
5 violation. Each day during which such violation occurs or continues  
6 shall constitute a separate offense.

7 SECTION 2. AMENDATORY 74 O.S. 2011, Section 324.9, is  
8 amended to read as follows:

9 Section 324.9. A. The State Fire Marshal or deputies of the  
10 State Fire Marshal may make investigations to determine the origin  
11 and cause of fires, explosions, or suspected arson, and violations  
12 of other related laws and codes. ~~The State Fire Marshal and the~~  
13 ~~agents~~ Agents of the State Fire Marshal shall be peace officers and  
14 have and exercise all the powers and authority of other peace  
15 officers, with responsibility for the enforcement of statutes  
16 relating to the State Fire Marshal. This shall include the  
17 authority to enforce, issue citations for violations of state and  
18 city-adopted codes, and make arrests for ~~felony~~ offenses relevant to  
19 the duties of the State Fire Marshal. All reports and all results  
20 of investigations relevant to the State Fire Marshal statutes shall  
21 be available and shall be freely interchanged between the Office of  
22 the State Fire Marshal and the Oklahoma State Bureau of  
23 Investigation.

1 B. The State Fire Marshal Commission may establish fees, fines,  
2 and administrative penalties for inspections, plan reviews, and  
3 permits as provided in the adopted codes of the Commission, as long  
4 as the fees, fines, and administrative penalties do not conflict  
5 with any applicable state law. All fees, fines, and administrative  
6 penalties shall be adopted in accordance with the Administrative  
7 Procedures Act.

8 SECTION 3. AMENDATORY 74 O.S. 2011, Section 324.11, is  
9 amended to read as follows:

10 Section 324.11. A. No person, firm, corporation, partnership,  
11 organization, city, town, school district, county or other  
12 subdivision of government shall commence the construction or major  
13 alteration of any buildings or structures ~~to be used as schools,~~  
14 ~~hospitals, churches, asylums, theaters, meeting halls, hotels,~~  
15 ~~motels, apartment houses, rooming houses, rest homes, nursing homes,~~  
16 ~~day nurseries, convalescent homes, orphanages, auditoriums, assisted~~  
17 ~~living facilities, dormitories, factories, stadiums, or warehouses,~~  
18 classified in the state-adopted building codes as Assembly (Groups  
19 A1 through A5), Business (Group B), Educational (Group E), Factory  
20 (Groups F1 and F2), High Hazard (Groups H1 through H5),  
21 Institutional (Groups I1 through I4), Mercantile (Group M),  
22 Residential (Groups R1 through R4), or Storage (Groups S1 and G2)  
23 including all defined occupancies within these groups, or install  
24 original equipment for the operation or maintenance thereof without

1 obtaining a permit. ~~Said~~ The permit, for which a charge may be made  
2 in conformity with the local ordinance, except as limited herein as  
3 to governmental agencies, shall be obtained from the city, town or  
4 county in whose jurisdiction the construction or alteration is  
5 planned.

6 B. All such construction or alteration so planned shall conform  
7 to the applicable provisions of the building code, as last adopted  
8 by the Oklahoma Uniform Building Code Commission.

9 C. Application for such building permit shall be made to, and  
10 such building permit shall be issued by, any city, town or county in  
11 whose jurisdiction the construction or alteration is planned. The  
12 city, town or county may require the submission of plans and  
13 specifications covering the proposed construction or alteration and  
14 may refuse to issue such permit unless the work so planned is in  
15 accordance with the applicable provisions of the city, town or  
16 county's building code. In all geographical areas wherein no such  
17 permit is required by local authorities such permit must be obtained  
18 from the State Fire Marshal, who may require the submission of plans  
19 and specifications covering the proposed construction or alteration,  
20 and shall refuse to issue such permit unless the work so planned is  
21 in accordance with the applicable provisions of the building code,  
22 as last adopted by the Oklahoma Uniform Building Code Commission;  
23 provided, that the foregoing provisions of this sentence shall not  
24 apply to locations in any geographical area that are owned or



1 operated by a state beneficiary public trust or have been purchased  
2 or leased from a state beneficiary public trust.

3 D. Nothing in ~~this act~~ Section 324.1 et seq. of this title  
4 shall be construed as repealing any ordinance of any city, or town  
5 or any order of any county requiring the submission to the local  
6 authorities of plans and specifications and the obtaining of  
7 permits, but the power or authority of any such city, town or county  
8 to levy or assess any charge for such permit or to make and enforce  
9 requirements prerequisite to the issuance of such permit, other than  
10 requiring compliance with such building code, shall, as to  
11 governmental agencies, be limited as hereinafter set forth.

12 E. No city, town or county requested to issue any such permit  
13 to any city, town, school district, county or other subdivision of  
14 government shall charge, assess or collect any fee or other charge  
15 for such permit except the regular and customary inspection fees  
16 fixed by ordinance for inspection of the work to be done under such  
17 permit, and no other charge, fee or other conditions of any kind  
18 under the authority of this title shall be made a condition of or  
19 prerequisite to the obtaining of such permit by any such  
20 governmental agency.

21 F. No bids may be let for the construction or major alteration  
22 of any correctional facility as defined by Section 317 of this title  
23 until plans and specifications for such construction or alteration  
24 have been submitted to the State Fire Marshal for approval. The

1 State Fire Marshal shall approve ~~said~~ the plans and specifications  
2 if the work so planned conforms with the applicable provisions of  
3 the building code, as last adopted by the Oklahoma Uniform Building  
4 Code Commission.

5 G. 1. Notwithstanding anything to the contrary in the fire  
6 code and/or building code, as last adopted by the Oklahoma Uniform  
7 Building Code Commission, all facilities to be licensed as assisted  
8 living facilities, or additions to existing assisted living  
9 facilities, constructed after November 1, 2008, shall be constructed  
10 with the guidelines of the I-II building occupancies if at any time  
11 in their operation they house residents who are not capable of  
12 responding to emergency situations without physical assistance from  
13 staff of the facility or are not capable of self preservation.

14 2. Assisted living facilities licensed prior to July 1, 2008,  
15 may house residents who are not capable of responding to emergency  
16 situations without physical assistance from the staff or are not  
17 capable of self preservation under the following conditions: As  
18 part of the annual licensure renewal process, the facility shall  
19 disclose if any residents who reside in the facility are not capable  
20 of responding to emergency situations without physical assistance  
21 from staff or are not capable of self preservation, and the facility  
22 shall be required to install fire sprinkler protection and an alarm  
23 system within the facility in accordance with the building  
24 guidelines set forth in the building code for I-II facilities.

1       3. Assisted living facilities licensed to house six or fewer  
2 residents prior to July 1, 2008, shall be permitted to install 13D  
3 or 13R fire sprinkler protection in lieu of meeting I-II sprinkler  
4 requirements, with approval of the municipal fire marshal or  
5 compliance with local codes.

6       4. For purposes of this subsection:

7           a. the term "assisted living center" shall include an  
8 assisted living center licensed as such by the State  
9 Department of Health and the assisted living center  
10 component of a continuum care facility licensed by the  
11 State Department of Health, and

12          b. the terms "fire code" and "building code" shall be  
13 deemed to include:

14           (1) any and all appendices, commentary, amendments  
15 and supplements to, and replacements or  
16 restatements of the Codes, and

17           (2) any and all other laws, ordinances, regulations,  
18 codes or standards pertaining to assisted living  
19 center construction, occupancy and maintenance  
20 for the protection of lives and property from  
21 fire.

22       SECTION 4.       AMENDATORY       74 O.S. 2011, Section 324.19, is  
23 amended to read as follows:  
24

1       Section 324.19. Any person, firm ~~or~~, corporation, partnership,  
2       organization, city, town, school district, county or other  
3       subdivision of government who fails to comply with the provisions of  
4       Section 1 of this act 324.11 of this title or any lawful order of  
5       the State Fire Marshal shall be subject to payment of a fine, the  
6       amount to be determined by the State Fire Marshal, of not more than  
7       One Thousand Dollars (\$1,000.00) for each day's failure to comply  
8       ~~with this act~~; provided, that any person or entity described above  
9       who is fined shall have the right to a hearing. The hearing request  
10       must be submitted in writing to the State Fire Marshal within ten  
11       (10) days of the fine notice and shall be heard by an Administrative  
12       Hearing Officer at a date and time set by the Officer. After the  
13       hearing, the Officer shall issue a proposed order containing  
14       proposed findings of fact and conclusion of law which shall be  
15       presented to the State Fire Marshal Commission at the next scheduled  
16       meeting at least ten (10) days after issuance of the proposed order.  
17       The State Fire Marshal Commission may adopt, modify or deny, in  
18       whole or in part, the proposal from the Officer, and the Commission  
19       shall issue a final order containing findings of fact and conclusion  
20       of law and give notice to the parties involved as soon as practical  
21       after issuance. Any party aggrieved by the final order of the State  
22       Fire Marshal Commission may appeal to the district court of the  
23       county in which the party seeking review resides or where the  
24       property interest affected is situated in accordance with Section

1 318 of Title 75 of the Oklahoma Statutes. The process supersedes  
2 any hearing or appeal section in the state adopted building and fire  
3 codes. Fine collections shall be deposited in the State Fire  
4 Marshal Revolving Fund created in Section 324.20b of this title.

5 SECTION 5. AMENDATORY 74 O.S. 2011, Section 324.20b, as  
6 amended by Section 848, Chapter 304, O.S.L. 2012 (74 O.S. Supp.  
7 2020, Section 324.20b), is amended to read as follows:

8 Section 324.20b. There is hereby created in the State Treasury  
9 a revolving fund for the State Fire Marshal to be designated the  
10 "State Fire Marshal Revolving Fund". The fund shall be a continuing  
11 fund, not subject to fiscal year limitations, and shall consist of  
12 monies received from the sale of surplus property, fees and receipts  
13 collected pursuant to the Oklahoma Open Records Act, fines,  
14 forfeitures, fees, charges, receipts, donations, gifts, bequests,  
15 contributions, devises, interagency reimbursements, federal funds  
16 unless otherwise provided by federal law or regulation, or any other  
17 source. ~~The fund shall consist of no more than Five Hundred Fifty~~  
18 ~~Thousand Dollars (\$550,000.00).~~ All monies accruing to the credit  
19 of the fund are hereby appropriated and may be budgeted and expended  
20 by the State Fire Marshal for authorized purposes. Expenditures  
21 from the fund shall be made upon warrants issued by the State  
22 Treasurer against claims filed as prescribed by law with the  
23 Director of the Office of Management and Enterprise Services for  
24 approval and payment.

SECTION 6. This act shall become effective November 1, 2021.

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