TITLE 38

PROTECTION FROM FIRE

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Chapter 476

1979 REPLACEMENT PART

State Fire Marshal; Protection from Fire Generally

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DEFINITIONS; STATE FIRE MARSHAL, POWERS AND DUTIES

476.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Fire Standards and Accreditation Board created in ORS 476.840.

(2) "Executive director" means the person appointed by the board as executive director of the board pursuant to ORS 476.860.

(3) "Fire service personnel" means any officer or member of a public fire protection agency, excepting forest fire protection agency personnel, who is engaged primarily in fire investigation, fire prevention, fire safety, fire control and fire suppression.

(4) "Fire protection equipment" means any apparatus, machinery or appliance intended for use by a fire service unit in fire prevention or suppression activities, excepting forest fire protection equipment.

(5) "Governmental subdivisions" means a city, county or rural fire protection district in this state whose functions include regulation of building use and occupancy and the administration of fire safety laws, ordinances and regulations. [Formerly 476.800]

476.010 Definitions ORS 476.010 to 476.115 and 476.210 to 476.270. (1) As used in ORS 476.010 to 476.115 and 476.210 to 476.270, "alterations," "construction," "family," "hospital," "occupancy," and "private residence" shall have the same meanings as are provided for such terms in ORS 479.010.

(2) As used in ORS 476.030 and other laws relating to the duties of the State Fire Marshal, "governmental subdivision" means a city, county, municipal corporation, quasi-municipal corporation and rural fire protection district, created under the laws of Oregon.

(3) As used in ORS 476.380:

(a) "Commercial waste" means any waste produced in any business involving the lease or sale, including wholesale and retail, of goods or services, including but not limited to housing, and means any waste produced by a governmental, educational or charitable institution; however, it does not include any waste produced in a dwelling containing four living units or less.

(b) "Demolition material" means any waste resulting from the complete or partial destruction of any man-made structure such as a house, apartment, commercial building or industrial building.

(c) "Domestic waste" means any nonputrescible waste, consisting of combustible materials, such as paper, cardboard, yard clippings, wood, or similar materials, generated in a dwelling, including the real property upon which it is situated, containing four living units or less.

(d) "Field burning" means the burning of any grass field, grain field, pasture, range land, or other field by open burning or by use of mobile equipment or flaming equipment on any land or vegetation.

(e) "Industrial waste" means any waste resulting from any process or activity of manufacturing or construction.

(f) "Land clearing debris" means any waste generated by the removal of debris, logs, trees, brush or demolition material from any site in preparation for land improvement or construction projects.

(g) "Open burning" means any burning conducted in such a manner that combustion air is not effectively controlled and that combustion products are not vented through a stack or chimney, including but not limited to burning conducted in open outdoor fires, common burn barrels and backyard incinerators. [Subsection (2) formerly part of 476.030; 1975 c.635 §1]

476.020 State Fire Marshal; appointment; qualifications. (1) The office of State Fire Marshal is established. The State Fire Marshal shall be appointed by the Director of Commerce, with the approval of the Governor, and serve at the pleasure of the director.

(2) No person shall be eligible to serve as State Fire Marshal unless he:

(a) Has had at least 12 years' full-time experience with a state, city or county fire protection agency whose primary function is fire prevention and structural fire safety, including at least five years' experience in an administrative capacity as the chief agency officer; or

(b) Holds a four-year college degree in one of the physical sciences and has had at least five years' full-time experience in fire protection and structural fire safety with a fire protection agency; or

(c) Is a member of the American Society of Fire Protection Engineers. [Amended by 1963 c.523 §1; 1971 c.753 §54]

476.030 Duties and powers of marshal and deputies generally; exemption of certain governmental subdivisions. (1) The State Fire Marshal shall enforce all statutes, and make rules and regulations relating to:

(a) The prevention of fires.

(b) The storage and use of combustibles and explosives.

(c) The maintenance and regulation of structural fire safety features in occupied structures and overseeing the safety of and directing the means and adequacy of exit in case of fire from factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private residences, which are occupied for sleeping purposes, and all other places where large numbers of persons work, live or congregate from time to time for any purpose except that structural changes shall not be required in buildings built, occupied and maintained in conformity with state building code regulations applicable at the time of construction.

(d) Standards for equipment used for fire protection purposes within this state including standard thread for fire hose couplings and hydrant fittings.

(2) The State Fire Marshal, in compliance with any applicable standards and procedures adopted by the Fire Standards and Accreditation Board under subsection (1) of ORS 476.850, may establish and maintain training programs for personnel of municipal fire departments and rural fire districts.

(3) The State Fire Marshal and his deputies shall have such powers and perform such other duties as are prescribed by law.

(4) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has enacted adequate regulations generally conforming to state and national standards concerning fire prevention, fire safety measures and building construction requirements for safety, and if the governmental subdivision provides reasonable enforcement of its regulations, he may, after full consideration of the recommendations of the Fire Standards and Accreditation Board, exempt the area subject to such regulation either partially or fully from the statutes administered by him and from his rules and regulations. The exemption may extend for a two-year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal following 30 days' written notice if he finds that the governmental subdivision's regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall furnish a copy of such regulations to the State Fire Marshal and shall file with him any amendment thereto within 30 days before the effective date of such amendment. The State Fire Marshal shall designate a person or division within such governmental subdivision as an approved authority for exercising functions relating to fire prevention, fire safety measures and building construction. Upon request of a local official having enforcement responsibility and a showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make investigation and appropriate recommendations.

(5) The State Fire Marshal may investigate or cause an investigation to be made to determine the probable cause, origin and circumstances of any fire and shall classify such findings as he may find appropriate to promote fire protection and prevention.

[Amended by 1957 c.265 §1; 1963 c.523 §5; 1965 c.602 §1; part renumbered as part of 476.010; 1967 c.417 §1; 1973 c.667 §16; 1977 c.821 §3]

476.035 Adjustments and variances in application of statutes and regulations. When the State Fire Marshal finds that practical difficulties, unnecessary hardship or consequences inconsistent with the general purposes of statutes and regulations administered by him relating to fire protection and fire prevention may result under the provisions of such statutes and regulations, he may upon receipt of a verified application from the owner or occupant of the property affected stating fully the grounds of the application and facts relied upon, and upon his own further investigation, grant adjustments or variances with such conditions and safeguards as he may determine in harmony with the general purpose and intent and spirit of such fire protection and fire prevention statutes and regulations, so that the public health, safety and welfare shall be secured and substantial justice done. Such adjustments or variances shall be restricted to unique, unusual or peculiar circumstances or substitute materials or arrangements. The State Fire Marshal may refer the application to a regional appeal advisory board created under ORS 476.113 and 476.115 for recommendation prior to making his decision. Except as otherwise specified by law the order of the State Fire Marshal granting or denying a variance shall be final and conclusive. [1965 c.602 §6]

Note: 476.035 was enacted into law by the Legislative Assembly and was added to and made a part of 476.010 to 476.110, but not to 476.010 to 476.100 by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

476.040 Deputies and assistants. The State Fire Marshal shall appoint a chief deputy state fire marshal and deputy state fire marshals whose duties shall be to assist him in carrying into effect the provisions of ORS 476.010 to 476.100, 476.210 to 476.270, 479.140 and 479.170 to 479.190. He may also employ such other assistants and incur such other expenses as he may deem necessary in carrying into effect these provisions. The State Fire Marshal may remove any deputies or assistants for cause. [Amended by 1963 c.523 §6]

476.050 Payment of salaries and expenses. The salary of the chief deputy state fire marshal, deputy state fire marshals, compensation of clerks and other assistants and other expenses of the department of the State Fire Marshal necessary in the performance of the duties imposed upon him shall be paid in the same manner as are other state officers and the expenses of other state departments, and shall not exceed the amount paid to the State Treasurer for the maintenance of this department. [Amended by 1953 c.93 §1]

476.055 State Fire Marshal Fund. (1) All moneys received by the State Fire Marshal shall be paid by him into the State Treasury, and shall be placed by the State Treasurer to the credit of the State Fire Marshal Fund, except those moneys received and accounted for under the provisions of ORS 283.250.

(2) Except as otherwise provided by this section, moneys in the State Fire Marshal Fund shall be available and constitute a continuing appropriation for the payment of any expense of the Fire Marshal Division. The State Fire Marshal shall keep on file in his office an itemized statement of all expenses incurred by his division and shall approve all disbursements therefor before the same are submitted for payment. The disbursements shall be allowed and paid in the same manner as other claims presented by the State Fire Marshal. [1953 c.93 §2; 1953 c.199 §2; 1965 c.602 §2; 1967 c.359 §694; 1967 c.417 §2; 1973 c.832 §§6, 6a; 1977 c.104 §1]

476.060 Local officers and constables as assistants to State Fire Marshal. (1) All fire marshals in those governmental subdivisions having such officers, and where no such officer exists, the chief of the fire department of every city or rural fire protection district in which a fire department is established, the marshal or chief of police, officer of any city or town in which no fire department exists, and the constables within their districts outside of cities and towns shall be, by virtue of the offices held by them, assistants to the State Fire Marshal without additional recompense, subject to the duties and obligations imposed by law, and shall be subject to the direction of the State Fire Marshal in the execution of the provisions of this section and ORS 476.070, 476.080, 476.090 and 476.210.

(2) In addition to his other duties under subsection (1) of this section, an individual designated as an assistant to the State Fire Marshal shall aid in the administration and enforcement of ORS 480.200 to 480.275, subsection (2) of ORS 480.280 and subsection (7) of ORS 480.990 upon the request of the State Fire Marshal. [Amended by 1965 c.602 §3; 1971 c.518 §22]

476.070 Entering buildings and premises. The State Fire Marshal, his deputies or assistants, or any of them, may:

(1) At all reasonable hours, in performance of the duties imposed by the provisions of ORS 476.030, enter upon and examine any building or premises wherein fire has occurred, and other buildings or premises adjoining or near the same.

(2) For just cause and for the purpose of examination, enter, at all reasonable hours, in and upon all buildings and premises within their jurisdiction.

476.080 Entry and inspection of premises; interfering with or preventing entry prohibited. (1) The State Fire Marshal and his deputies, at all reasonable hours, may enter into all buildings and upon all premises, except private residences, for the purpose of inspection to ascertain if fire hazards exist therein or thereon. Owners of private residences may request a fire inspection of their property.

(2) No person shall interfere with or prevent any such inspection by such officers.

(3) When any person interferes with or prevents the State Fire Marshal or his deputies from making the inspection mentioned herein, the officer shall apply to the district attorney of the county wherein the inspection was made or attempted to be made, for a warrant for the arrest of the offending person,

and it shall be the duty of such district attorney forthwith to prosecute such offending person. [Amended by 1973 c.834 §32]

476.090 Records as to fires. (1) The State Fire Marshal shall keep in his office a record of all fires occurring in this state and of all facts concerning the same, including statistics as to the extent of such fires and the damage caused, whether such losses were covered by insurance, and if so, in what amount. The record shall be made daily from the reports made to him by his assistants. All such records shall be public, except any testimony taken in an investigation under the provisions of ORS 476.010 to 476.100, 476.210 to 476.270 and 479.180, which the State Fire Marshal, in his discretion, may withhold from the public.

(2) This section shall not apply to forest lands under the jurisdiction of the State Forester. [Amended by 1967 c 417 §3]

476.100 Report and recommendations to Director of Commerce. The State Fire Marshal shall annually transmit to the Director of Commerce a full report of his proceedings under ORS 476.010 to 476.100, 476.210 to 476.270, 479.140 and 479.170 to 479.190 and such statistics as he may wish to include therein. He shall also recommend any amendments to the law which, in his judgment, are desirable. [Amended by 1973 c.832 §§7, 7a; 1977 c.104 §2]

476.110 State police to enforce fire laws. The Department of State Police shall employ a sufficient number of State police who shall perform the duties of enforcement of criminal laws and other statutes of Oregon with reference to the suppression and punishment of arson and fraudulent claims and practices in connection with fire laws. [Amended by 1963 c.523 §7; 1965 c.602 §4; 1967 c.417 §4]

476.113 Designation of regions; establishment of regional appeal advisory boards; qualifications of members. (1) The State Fire Marshal may by order from time to time designate not more than seven regions within the state and establish regional appeal advisory boards for each of such designated regions.

(2) Each regional appeal advisory board shall consist of three regular members and three alternate members appointed by the State Fire Marshal. A member or alternate member of a regional appeal advisory board shall receive no compensation for his services as a member; but, subject to any other applicable law regulating travel and other expenses for state offices, he shall receive his actual and necessary travel and other expenses incurred in the performance of his official duties. All such appointed members shall be persons qualified by experience and training. At least one member of each board shall be a qualified architect who has practiced his profession for at least two years. Appointments shall be made for three-year terms. Any member may be removed by the State Fire Marshal for cause. Upon the death, resignation or removal of any member, a successor shall be appointed by the State Fire Marshal to serve the balance of the unexpired term. No member of a regional appeal advisory board shall sit in a case in which he is interested and if any such case comes before the board, an alternate shall act in his place. [1965 c.602 §7(1), (2)]

476.115 Functions of regional appeal advisory boards; reports submitted to board. (1) Each regional appeal advisory board shall:

(a) Elect a chairman to whom referral of any matter by the State Fire Marshal shall be effective as to all board members, and who shall call and preside over meetings.

(b) Consider, and make recommendations to the State Fire Marshal concerning, any application for adjustment or variance arising within that region and referred to the board by the State Fire Marshal within 15 days after such referral. With relation to the referred matter the board may hold a hearing and receive testimony. The recommendations of the board shall be made in writing to the State Fire Marshal and shall be accompanied by a summary of any testimony received, any documentary or physical evidence received, any affidavit submitted by applicant and a summary of any special facts found by the board.

(c) Hear and consider, and make recommendations to the State Fire Marshal concerning, any appeal from an order made appealable by law, within 15 days after referral of such appeal to the board by the State Fire Marshal. Such recommendations shall be accompanied by the same summaries and evidentiary matter as in the case of an application for adjustment or variance referred to the board.

(d) Make recommendations to the State Fire Marshal concerning any matter referred to the board by the State Fire Marshal or

considered by the board on its own motion, relating to fire prevention, protection from fire or other safety measures.

(2) At the time of each appeals board meeting a deputy state fire marshal shall submit to the board a report containing the pertinent facts and the manner in which the statutes or regulations apply to the case in point. [1965 c.602 §7(3)]

476.120 Minimum standards for protection of life and property. The State Fire Marshal, in making rules and regulations establishing minimum standards for the protection of life and property against fire, shall consider as evidence of generally accepted standards the applicable standards prescribed from time to time by the National Fire Protection Association. He may request consideration and recommendations from the Fire Standards and Accreditation Board before adopting any such regulations. [1963 c.523 §4; 1967 c 417 §5; 1973 c.667 §19]

476.130 Statistical reports; price; sale; deposit of proceeds. (1) The State Fire Marshal may from time to time cause to be prepared statistical reports on the history and condition of state fire defenses, and an analysis of contributing factors of fire causes for the period of the report. Such reports may be printed at the expense of his office and sold at a price not to exceed cost of printing and distribution. Receipts from the sale of such material shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund.

(2) The State Fire Marshal may fix a sale price for each copy of any publication of his office supplied to private persons interested therein, when such publication has been approved as provided by law. [1965 c.602 §8]

INVESTIGATION OF FIRES; REPORTS

476.210 Investigation of fires by municipal officers and constables; reports. (1) The municipal fire marshals, fire department chiefs, constables and other officers referred to in ORS 476.060 shall investigate the cause, origin and circumstances of each fire occurring in their respective cities, villages or townships, by which property has been destroyed or damaged, and shall make an investigation to determine whether the fire was the result of carelessness or design. The investigation shall be commenced immediately after the occurrence of the fire. The State Fire Marshal may superintend and direct the investigation if he deems it necessary.

(2) The fire chief of every city, or rural fire protection district shall provide the State Fire Marshal with a full report of every fire occurring within his jurisdiction on a form provided or approved by the State Fire Marshal. Whenever the fire chief of every city under 200,000 population finds any fire is of undetermined or suspicious origin or involves a death or serious injury, the fire chief shall immediately notify the State Fire Marshal or a deputy state fire marshal and shall assemble all known facts and circumstances concerning the fire in an approved report form and shall submit such report to the State Fire Marshal, or the deputy state fire marshal assigned to the territory in which the fire originated. When evidence clearly indicates the cause of fire to be of incendiary origin, he shall also immediately notify the state, county or municipal police agency.

(3) This section shall not apply to forest lands under the jurisdiction of the State Forester. [Amended by 1965 c.602 §9; 1967 c.417 §6]

476.220 Report by officer investigating fire; exemption. (1) The officer making an investigation of a fire occurring in a city, village or township shall forthwith notify the State Fire Marshal and, within one week of the occurrence of the fire, shall furnish him a written statement of all facts relating to its cause and origin, and such other information as is required by forms provided by the State Fire Marshal.

(2) This section shall not apply to forest land under the jurisdiction of the State Forester. [Amended by 1967 c.417 §7]

476.230 Taking statements of persons knowing facts. If in his opinion further investigation is necessary, the State Fire Marshal or deputy state fire marshal, with the assistance of the district attorney, shall then proceed to take or have taken the statements of all persons supposed to be cognizant of any facts or who have means of knowledge in relation to the matter concerning which the examination is required and have such statements reduced to writing.

476.240 Supplying information to and requesting action by district attorney. If the Superintendent of State Police or his authorized assistant is of the opinion that

there is evidence sufficient to charge a person with arson, burning with intent to defraud or prejudice the insurer, or a similar crime, he shall furnish the district attorney with such evidence, with the names of witnesses and a copy of material testimony taken in the case, and request the district attorney to cause the arrest of such person or take such other action as he deems necessary or advisable. [Amended by 1965 c.602 §10; 1967 c.417 §8]

476.250 District attorney summoning witnesses and requiring production of documents. The district attorney may at his discretion, upon the application of the State Fire Marshal or chief deputy state fire marshal, issue a subpena to summon the attendance of witnesses before him to testify in relation to any matter which by law is a subject of inquiry and investigation, and require the production of any books, papers or documents he deems pertinent to an investigation of or relating to evidence pertaining to the cause of a fire. [Amended by 1967 c.417 §9]

476.260 District attorney assisting investigation of fires. The district attorney of any county, upon request of the state, county or a municipal police agency, shall assist such officers in the investigation of any fire which in their opinion is of incendiary origin. [Amended by 1967 c.417 §10]

476.270 Insurance company reports of fire losses and suspicious fires; reports of adjustments of fire losses. (1) Every fire insurance company transacting business in this state must file with the State Fire Marshal, on forms furnished or approved by the State Fire Marshal, a monthly record of fire losses showing the name of the assured, location of the property burned, and the probable cause of fire, the name of the insurer, the name of the adjuster, the date and time of the fire, the occupancy of property burned, construction of building or structure burned, sound value of property involved, actual loss, insurance carried, insurance paid, apportionment of loss where more than one company was on the risk, and, where an automotive vehicle is involved in any fire loss, a description of such machine and, where applicable, like information required as in the case of fires in buildings. In case of a fire of suspicious origin, a preliminary report shall be made immediately through some officer or representative of the insurance company, showing the name of the assured, the date of fire, location, occupancy and facts and circumstances coming to their knowledge tending to establish the cause or origin of the fire.

(2) All persons making an adjustment occasioned by any fire loss in this state shall send to the State Fire Marshal a copy of the final adjustment, immediately after the same has been made, signed by the person making such adjustment, and on a form prescribed by the State Fire Marshal. [Amended by 1967 c.417 §11]

EXTINGUISHING FIRES IN UNPROTECTED AREAS

476.280 Municipal fire departments and rural fire protection districts authorized to extinguish fires in unprotected areas. (1) The fire chief, or his representative, of any duly organized municipal or rural fire protection district may extinguish any uncontrolled fire found to be burning in any unprotected area, if:

(a) The governing body of the city or the district board of the rural fire protection district, as the case may be, has authorized the fire chief and his representatives to extinguish uncontrolled fires that are found to be burning in unprotected areas situated outside of the boundaries of the city or district and that are causing or may cause an undue jeopardy to life or property; and

(b) In his opinion, the fire chief or his representative believes that such fire is causing or may cause undue jeopardy to life or property.

(2) In extinguishing a fire pursuant to subsection (1) of this section, the fire chief and his representatives may employ the same means and resources used by them to extinguish similar fires within their jurisdiction. [1971 c.683 §1]

476.290 Billing owner of property for cost of extinguishing fire; cost limited; collection; action for recovery of cost. Whenever a fire is extinguished pursuant to ORS 476.280, the governing body of the city or the district board of the rural fire protection district that provided such fire suppression service may bill the owner of the property involved in such fire for the cost of providing such fire suppression service on forms furnished by the State Fire Marshal for such purposes. The governing body of the city or the district board of the rural fire protection district that provided such fire suppression service may determine the cost of providing

such fire suppression service by use of a state standardized-costs schedule as approved by the State Fire Marshal; but, in no event, shall any such cost be greater than the pro rata cost that would have been charged by such city or district for the performance by it of a similar fire suppression service within its jurisdiction. If any such cost is not paid within 30 days after the second billing, the governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may bring an action for the recovery of such unpaid cost from the owner of the real property upon which the fire suppression service was rendered. [1971 c.683 §2]

FIRE PREVENTION AND CONTROL ON CERTAIN LANDS NOT OTHERWISE PROTECTED

476.310 Zoning and rezoning of certain lands; hearing on petition of owners in nonzoned territory. (1) The governing body of each county may, in cooperation with the State Board of Forestry, zone and, as often as necessary, rezone any lands within the county lying outside the boundaries of incorporated cities, organized rural fire protection districts, federal and state-owned lands, lands protected under ORS chapter 477 and railroad rights of way; except that railroad rights of way may be zoned or rezoned if the owners of such rights of way file their written consent with the governing body. Lands, when zoned or rezoned, shall be divided into two zones as follows:

(a) Zone 1 shall be composed of forest, range, grass or undeveloped lands, or any of such lands intermingled with grazing and agricultural lands.

(b) Zone 2 shall be composed of rural lands not included in zone 1.

(2) Nothing contained in ORS 476.310 to 476.340 shall prevent interested property owners in any nonzoned territory as described above from petitioning the governing body and State Board of Forestry to hold a hearing on the matter of zoning the territory if a majority of the landowners within the territory file such petition. The governing body, cooperating with the State Board of Forestry, shall give full consideration to the wishes of the landowners as shown by the hearing. [Amended by 1957 c.432 §1; 1963 c.222 §1; 1965 c.253 §143]

476.320 Determination of form of fire protection for lands in zone 1; costs. (1) The form of protection from fire for lands lying in zone 1 shall be determined jointly by the governing body of the county, the State Fire Marshal and the State Board of Forestry, which determination shall be reduced to writing, signed by the officers of the agencies and entered in the journal of the governing body of the county.

(2) The authority of the State Board of Forestry may be extended to include the establishment of forest protection on lands lying within zone 1. For such purposes the board of forestry may contract with individuals, associations, agencies, corporations, rural fire protection districts, counties, cities, federal agencies, or any of them. The cost of protection in zone 1 shall be assessed and collected in the same manner as protection costs for lands protected under ORS chapter 477, except that in no case shall the pro rata assessment rate per acre of such protection exceed five cents a year.

(3) The moneys received by the State Board of Forestry under this section shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the purposes stated in this section. [Amended by 1957 c.83 §5; 1965 c.253 §144; 1967 c.429 §53]

476.330 Prevention and control of fires in zone 2; tax levy. (1) The county court or board of county commissioners of any county may prevent and control fire occurring within the limits of zone 2 in such county, and may for such purposes establish and maintain fire fighting and fire control facilities and contract with existing fire control agencies, either individuals, associations, corporations, cities or rural fire protection districts. The State Fire Marshal, upon the request of any county court or board of county commissioners, shall meet with and advise such county court or board of county commissioners as to the establishment and maintenance of fire fighting and fire protection equipment and facilities.

(2) If the court or board establishes fire fighting and fire protection equipment and facilities, it shall not discontinue such equipment and facilities until at least three years after notice of its intention to do so has been first published in a newspaper considered by the board to be of general circulation in the county. The notice shall be published by four

insertions in the newspaper and 12 months shall elapse between each insertion.

(3) While the county court or board of county commissioners of any county is maintaining fire fighting and fire protection equipment and facilities, the court or board annually shall levy a tax upon the taxable property lying within zone 2 in the county, not to exceed one-fourth of one percent (.0025) of the true cash value of all taxable property within the zone, computed in accordance with ORS 308.207, for the purpose of furnishing such fire protection.

(4) The court or board of county commissioners upon approval of the majority of the legal voters of zone 2 voting at a special election called for such a purpose, after notice as provided by ORS 255.095, may levy a special tax of not to exceed one-fourth of one percent (.0025) of the true cash value of all taxable property within the zone, computed in accordance with ORS 308.207. This special levy may be in addition to the regular levy under subsection (3) of this section.

(5) To carry into effect any of the powers granted under this section, the court or board, when authorized by a majority of the votes cast by the legal voters of the zone voting at an election called for that purpose by the court or board after notice, as provided by ORS 255.095, may borrow money and sell and dispose of general obligation bonds, which bonds shall never in the aggregate exceed one and one-fourth of one percent (.0125) of the true cash value of all taxable property within the zone, computed in accordance with ORS 308.207.

(6) The tax limitations provided in subsections (3) and (4) of this section shall not apply to taxes levied to pay principal or interest on outstanding bonds. [Amended by 1955 c.262 §1; 1959 c.288 §1; 1963 c.9 §29; 1967 c.356 §1; 1969 c.590 §1; 1971 c 647 §107]

476.340 Establishment of rural fire protection districts in zone 2; exemption from taxation of property included in district. Nothing contained in the provisions of ORS 476.310 to 476.330 shall be construed to prohibit the establishment of rural fire protection districts as provided by law within the boundaries of zone 2 as the same may be established in any county. In event of the organization of a rural fire protection district comprising lands in zone 2, property included within such fire protection district shall not thereafter be taxed or assessed under the provisions of ORS 476.320 or 476.330. [Amended by 1955 c.262 §2; 1963 c 222 §2]

476.380 Fire permits; limitations upon burning; records. (1) No person, outside the boundaries of a rural fire protection district or a forest protection district, shall cause or permit to be initiated or maintained on his own property, or cause to be initiated or maintained on the property of another any open burning of commercial waste, demolition material, domestic waste, industrial waste, land clearing debris or field burning without first securing a permit from the county court or board of county commissioners.

(2) The county court or board of county commissioners, or its designated representative, shall prescribe conditions for issuance of any permit and shall refuse, revoke or postpone issuance of permits when necessary to prevent danger to life or property or to protect the air resources of this state. The Environmental Quality Commission shall notify the State Fire Marshal of the type of and time for burning to be allowed on each day under schedules adopted pursuant to ORS 468.450 and after ORS 468.460 becomes operative, under rules as provided in ORS 468.460. The State Fire Marshal shall cause all county courts and boards of county commissioners or their designated representatives in the affected areas to be notified of the type of and time for burning to be allowed on each day and of any revisions of such conditions during each day. The county court, board or representative shall issue permits only in accordance with schedules of the Environmental Quality Commission adopted pursuant to this section and ORS 468.455 to 468.485, 476.990, 478.960 and 478.990 but may reduce the hours allowed for burning if necessary to prevent danger to life or property from fire. The State Fire Marshal may refuse or postpone permits when necessary in his judgment to prevent danger to life or property from fire, notwithstanding any determination by the county court or board of county commissioners or its designated officer.

(3) Nothing in this section:

(a) Requires permission for starting a campfire in a manner otherwise lawful.

(b) Relieves a person starting a fire from responsibility for providing adequate protection to prevent injury or damage to the property of another. If such burning results in the escape of fire and injury or damage to the

property of another, such escape and damage or injury constitutes prima facie evidence that the burning was not safe.

(c) Relieves a person who has obtained permission to start a fire, or his agent, from legal liability for property damage resulting from the fire.

(d) Permits an act within a city or regional air quality control authority area that otherwise is unlawful pursuant to an ordinance of the city or rule, regulation or order of the regional authority.

(4) The county court or board of county commissioners shall maintain records of all permits and the conditions thereof, if any, that are issued under this section and shall submit at such times, as the Environmental Quality Commission shall require such records or summaries thereof to the commission. The Environmental Quality Commission shall provide forms for the reports required under this subsection. [1967 c.420 §3, 1969 c.613 §2; 1971 c.563 §8, 1973 c.835 §164; 1975 c 635 §2]

STANDARDIZATION OF FIRE PROTECTION EQUIPMENT

476.410 Standard thread hose couplings and hydrant fittings required. All equipment for fire protection purposes purchased by state and municipal authorities, or any other authorities having charge of public property, shall be equipped with the standard thread for fire hose couplings and hydrant fittings as adopted by the State Fire Marshal under ORS 476.030, after full consideration of the recommendations of the Fire Standards and Accreditation Board. [Amended by 1963 c.523 §8; 1973 c 667 §20]

476.420 Standardization of existing fire protection equipment; exemption. The standardization of existing fire protection equipment in this state shall be arranged for and carried out by or under the direction of the State Fire Marshal who, after full consideration of the recommendations of the Fire Standards and Accreditation Board, may proceed to make the changes necessary to standardize all existing fire protection equipment in this state. He shall provide the appliances necessary for carrying on this work and shall proceed with such standardization as rapidly as possible and complete such work at the earliest date circumstances will permit. However, the State Fire Marshal may exempt from standardization special purpose fire equipment and existing fire protection equipment when it is established that such equipment is not essential to the coordination of public fire protection operations. The provisions of this section and ORS 476.440 shall not apply to fire protection equipment used under authority of ORS chapters 477 and 526. [Amended by 1965 c.602 §11; 1973 c.667 §21]

476.430 Changing private equipment. The State Fire Marshal shall notify industrial establishments and property owners having equipment for fire protection purposes, which may be necessary for a fire department to use in protecting the property or putting out fire, of the changes necessary to bring their equipment up to the requirements of the standard established and shall render them such assistance as may be available in converting their defective equipment to standard requirements.

476.440 Sale of nonstandard equipment prohibited; exemption. No person shall sell or offer for sale in Oregon any fire hose, hydrant, fire engine or other equipment for fire protection purposes unless such equipment is fitted and equipped with the standard thread for fire hose couplings and hydrant fittings as has been adopted by the State Fire Marshal under ORS 476.030. Fire equipment for special purposes, research programs or special features of fire protection equipment found appropriate for uniformity within a particular protection area, may be exempted from this requirement by order of the State Fire Marshal. [Amended by 1963 c.523 §9; 1965 c.602 §12]

PROTECTION OF LIFE AND PROPERTY FROM FIRE IN CASE OF EMERGENCY

476.510 Short title. ORS 476.510 to 476.610 and subsection (4) of 476.990 shall be known as the Emergency Conflagration Act.

476.515 Other officers authorized to act when Governor unavailable. If the Governor is unavailable to make timely exercise of the authority under ORS 476.510 to 476.610, the Director of the Executive Department may exercise such authority, and if that individual is unavailable the Director of Commerce may exercise such authority, and if that individual is unavailable the State Fire Marshal may exercise such authority. Any orders, rules or regulations issued by the Director of

the Executive Department, the Director of Commerce or the State Fire Marshal pursuant to this section have the same force and effect as if issued by the Governor. [1979 c.76 §5]

476.520 Governor authorized to assign fire-fighting forces and equipment. In order to protect life and property against the dangers of fire, the Governor may assign and make available for use and duty in any county, city or district, under the direction and command of such officer as he may designate for the purpose, any part of the fire-fighting forces and equipment of any fire-fighting organization in this state other than one possessing but one pumping unit movable under its own power.

476.530 Chief executive of political subdivision to assign forces and equipment; federal equipment. The chief executive of any county, city or fire protection district or the head of any fire department of any political subdivision, including agencies of this state, if so ordered by the Governor, shall assign and make available for duty and use in any county, city or fire district under the direction and command of such officer as may be designated by the Governor for the purpose, any part of the fire-fighting forces and equipment under his control, provided that any equipment made available by loan, or otherwise, to any county, city or fire district or this state by the United States or any agency thereof, shall at all times be subject to the order of the United States or such agency in accordance with the terms and conditions upon which the equipment is made available. [Amended by 1961 c 626 §1, 1979 c 76 §1]

476.540 Powers and duties of fire-fighting forces. Whenever the fire-fighting forces of any county, city or fire district are rendering outside aid pursuant to ORS 476.520 or 476.530, the officers and members of such fire-fighting forces shall have the same powers, duties, rights, privileges and immunities as though they were performing their duties in the political subdivision in which they are normally employed.

476.550 Loss or damage to equipment. When any equipment is used pursuant to ORS 476.520 or 476.530 the state shall be liable for any loss thereof or damage thereto and shall pay any expense incurred in the operation or maintenance thereof. No claim for any such loss, damage or expense shall be allowed unless, within 60 days after it has been sustained or incurred, or within such extension of such time as may have been obtained from the Executive Department, an itemized notice of such claim, under oath, is served by mail or personally upon the Executive Department and such loss, damage or expense shall be payable from the Emergency Fund of the state. [Amended by 1979 c.76 §2]

476.560 Reimbursement for aid. Whenever aid is supplied pursuant to ORS 476.520 to 476.590, the state shall reimburse the political subdivision supplying such aid for the compensation paid to employes supplied under ORS 476.520 to 476.590 during the time the rendition of such aid prevents them from performing their duties in the political subdivision by which they are employed and shall defray the actual traveling and maintenance expenses of such employes while they are rendering such aid. "Employe" as used herein means, and the provisions of ORS 476.520 to 476.610 apply with equal effect to, all firemen, whether paid, volunteer or call.

476.570 Appointment of substitute firemen; recall of off-duty firemen. Substitute firemen or recalled off-duty firemen within any county, city or fire district from which regular firemen are taken under the provisions of ORS 476.530, not exceeding the number of regular firemen, may be recalled or appointed by the same persons authorized by law to appoint regular firemen, provided that substitute firemen appointed shall not be subject to the requirements of the civil service law or rules and that such substitute firemen shall not be entitled to any pension or retirement rights or privileges. The substitute firemen appointed under this section shall have the powers, functions and duties of regular firemen. Their compensation shall not be greater than the lowest rate of pay for regular firemen. Persons appointed as substitute firemen shall exercise their powers, functions and duties only when called upon, during the period all, or any part, of the regular fire-fighting forces of any county, city or fire district are rendering outside aid pursuant to ORS 476.520 or 476.530, and for no longer than two days after the return to duty of the part of the regular fire-fighting forces for which they are substituting. Compensation for recalled off-duty firemen and substitute firemen and any allowable expense necessarily incurred by them in the performance of their duties shall be charged against the coun-

ty, city or fire district for which they were appointed and shall be audited, allowed and paid as other charges against it are audited, allowed and paid, and shall be subject to reimbursement by the state as provided in ORS 476.550 and 476.560. [Amended by 1979 c.76 §3]

476.580 Orders, rules and regulations. The Governor may make, amend and rescind such orders, rules and regulations as are necessary or advisable to carry out the provisions of ORS 476.530 and 476.540. Any order issued by the Governor in relation to carrying out the provisions of ORS 476.520 to 476.610 may be either written or oral. If written, a copy thereof shall be filed in the office of the Secretary of State and another copy dispatched forthwith to the chief executive of any county, city or fire protection district affected. Immediately thereafter such order, rule or regulation shall be in effect. Oral orders may be made by the Governor when in his opinion the emergency is such that delay in issuing a written order would be dangerous to the welfare of the people of the state. However, written copies of such oral order shall be filed and dispatched as soon after issuing such oral order as is conveniently possible in the manner above provided for written orders.

476.590 Preparation of plans by State Fire Marshal; advice and counsel to Governor. The State Fire Marshal shall prepare plans for the effective carrying out of the provisions of ORS 476.520 to 476.610 and provide advice and counsel to the Governor for the most practical utilization of the firefighting resources of this state in time of grave fire emergency.

476.600 Liability for injury to person or property. Neither the state nor any county, city or fire district or other political subdivision nor any fireman acting as the agent of any of the foregoing shall be liable for any injury to person or property resulting from the performance of any duty imposed by the authority of ORS 476.520 to 476.590. In carrying out the provisions of ORS 476.520 to 476.590 or while acting within the scope of any duty imposed by authority of those provisions, no person shall incur civil liability; provided that no person shall escape full liability for injury to person or property resulting from his wilful misconduct or gross negligence.

476.610 Payment of claims by Secretary of State. The Secretary of State shall audit all duly approved claims lawfully incurred in pursuance of ORS 476.520 to 476.600 and draw his warrants on the State Treasurer for the payment thereof.

MISCELLANEOUS PROVISIONS

476.710 Setting fires adjacent to structure or timber on ocean shore prohibited. No person shall set or permit any fire on the Pacific Ocean shore, declared to be a state recreation area under ORS 390.615, adjacent to any structure or any timber or forest area except pursuant to rule, regulation or permit of or from the Department of Transportation. [Amended by 1965 c 368 §7]

476.715 Throwing away of lighted matches, cigarettes and other materials prohibited; posting copy of section in public conveyances. No one shall, at any time, throw away any lighted tobacco, cigars, cigarettes, matches or other lighted material, on any forest land, private road, public highway or railroad right of way within this state. Everyone operating a public conveyance shall post a copy of this section in a conspicuous place within the smoking compartments of such conveyance. [Formerly 477 164]

476.720 Certain remedial statutes to be construed liberally. ORS 476.010 to 476.100, 476.210 to 476.270, subsection (1) of 476.990, ORS 479.140 and 479.170 to 479.190 are remedial in nature and shall be construed liberally.

476.730 Notice prior to release or after escape of arsonist from state institution. (1) The superintendent of each penal and correctional institution of this state and of each institution for the mentally ill shall, prior to the release, or immediately after the escape, from such institution of any person committed to such institution for arson or arsonist activity, notify the State Fire Marshal and the Department of State Police except that such notice shall not be required when such persons are on approved leave from such institutions for periods of not to exceed 10 days. The notice shall state the name of the person to be released or who has escaped, the county in which he was convicted or from which he was committed and, if known, the address or locality at which he will reside.

(2) Promptly upon receipt of the notice, the State Fire Marshal and the Department of State Police shall notify respectively the fire

departments and rural fire protection districts who maintain full-time personnel and the sheriff and police departments of the county in which the person was convicted or from which he was committed and the county, if known, in which the person will reside. [1957 c.245 §§1, 2, 1959 c 26 §1; 1965 c.602 §16]

476.740 [1967 c.417 §12; repealed by 1971 c.743 §432]

476.750 [1967 c 417 §14; repealed by 1971 c.743 §432]

ACCREDITATION OF FIRE SERVICE PERSONNEL

476.800 [1973 c.667 §1; 1977 c 104 §3; renumbered 476.055]

476.805 Application to board for accreditation; value of experience in determining accreditation. The board may, upon application of any fire service personnel, issue the applicable accreditation even though experience be the applicant's only accreditation factor upon a finding that his experience is equal in professional value to regular requirements pursuant to the standards adopted by the board under ORS 476.850. [1973 c.667 §2]

476.810 Effect of compliance with accreditation standards or training on requirements of other laws. Compliance with minimum standards or minimum training recommended pursuant to ORS 476.850 does not exempt any fire service personnel from any minimum requirement for fire service selection or promotion under any civil service law or charter for a county, city, or fire service district. [1973 c 667 §3]

476.815 Issuance of accreditation by examiner. If an examiner appointed by the board finds that a fire service training program or any fire protection equipment course, subject, facility, instructor or instruction thereof satisfies the minimum requirements established therefor pursuant to subsection (1) of ORS 476.850, the examiner shall issue accreditation to the executive authority of any such fire service training program equipment, course, subject, facility, instructor or instruction, for such a term and upon such conditions as the board may prescribe. An individual complies with any minimum requirement of subsection (1) of ORS 476.850 when he receives training that is accredited under this subsection. [1973 c 667 §8]

476.820 Lapse of accreditation; reapplication. The accreditation of any fire service personnel who has not served in that capacity for any period of time in excess of 12 consecutive months, unless he is on leave from a fire service unit, shall be considered lapsed. Upon reemployment in the fire service, the person whose accreditation has lapsed may apply for accreditation in the manner provided by law. [1973 c.667 §4; 1977 c 104 §4]

476.825 Grounds for revocation of accreditation. The board may revoke the accreditation of any fire service personnel after written notice and hearing as provided in ORS 476.830, if the board finds:

(1) Falsification by the fire service personnel of any information required to obtain accreditation; or

(2) The fire service personnel has been discharged for cause from employment in the fire service. [1973 c.667 §5]

476.830 Procedure for revocation of accreditation. (1) If the board believes that grounds exist for the revocation of accreditation of a fire service personnel under ORS 476.825, the board shall give notification to the fire service personnel of its intention to consider revocation of the accreditation. Each such notification shall include a statement of the basis for considering such revocation and a statement that, within 10 days after the date of the notice, such fire service personnel may request a hearing before the board on the matter.

(2) If any fire service personnel to whom notice has been sent under subsection (1) of this section requests a hearing before the board within 10 days after the date of such notice, the board shall hold a hearing on the matter within 30 days after the date of the request for such a hearing. The board shall give notification of the time and place of a hearing held under this subsection.

(3) A hearing held as provided in subsection (2) of this section shall be limited to the basis for the proposed revocation as stated in the notification sent to the fire service personnel under subsection (1) of this section. Any fire service personnel appearing before the board at any such hearing is entitled to be present at such hearing and to be represented by counsel.

(4) Within 20 days after the date of the completion of a hearing held as provided in subsection (3) of this section, the board shall

give notification in writing of its decision to all parties to the hearing. If the board finds grounds for the revocation of an accreditation it shall issue an order revoking such accreditation. If the board finds that no grounds exist for such revocation, it shall dismiss the proceedings. [1973 c 667 §6]

476.835 Appeal of order revoking accreditation; reapplication. (1) Within 60 days after receiving written notice of the findings of the board, any fire service personnel aggrieved by the findings and order of the board may file an appeal from the final order of the board with the Court of Appeals in the manner provided for in ORS 183.482.

(2) Any fire service personnel who has suffered a loss of accreditation pursuant to ORS 476.820 and 476.825 and subsection (1) of this section may reapply for accreditation at any time after the expiration of two years after the date on which the order of the board revoking his accreditation became final. [1973 c.667 §7, 1979 c.772 §24]

476.840 Fire Standards and Accreditation Board; members' terms, qualifications and compensation. (1) There is established a Fire Standards and Accreditation Board consisting of nine members appointed by the Governor.

(2) The term of office of a member is three years, but any member may be removed by the Governor for cause. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. If there is a vacancy for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) Each member of the board must be a citizen of the United States and have been a resident of this state for at least one year prior to the date of his appointment to the board.

(4) Of the members of the board:

(a) One member shall be the State Fire Marshal who shall serve ex officio as a member of the board.

(b) One member shall be appointed as a representative of the public at large.

(c) One member shall be a member of the Oregon Fire Chiefs Association, recommended to the Governor by the executive board of such association.

(d) One member shall be an administrator of a municipality, recommended to the Governor by the executive body of the League of Oregon Cities.

(e) One member shall be a representative of the fire insurance industry, recommended to the Governor by the Insurance Commissioner.

(f) One member shall be a member of the Oregon State Fire Fighter's Council, recommended to the Governor by the executive body of the council.

(g) One member shall be a representative of a forest fire protection agency, recommended to the Governor by the State Forester.

(h) One member of the Oregon Volunteer Firemen's Association, recommended to the Governor by the executive board of the association.

(i) One member shall be a member of the Oregon Rural Fire Protection Districts Association, recommended to the Governor by the executive board of the association.

(5) Members of the board are entitled to compensation and expenses as provided by ORS 292.495. [1973 c.667 §9]

476.845 Officers of board; duties; quorum. (1) The members of the board shall select one member to serve as chairman of the board and one member to serve as vice chairman of the board for such terms as the board prescribes. The board shall prescribe such duties and powers of the chairman and vice chairman as it considers necessary in carrying out the functions of the board.

(2) The chairman of the board shall approve voucher claims for the payment of expenses incurred in carrying out duties, functions and powers of the board prescribed by law and payable from funds made available for the payment of the expenses of the board.

(3) The vice chairman shall act as the chairman of the board when the chairman of the board is absent or unable to act.

(4) The board shall meet at least once each three months at a place and time as determined by the board. The board shall also meet at such other times and places as the chairman may require.

(5) Five members of the board shall constitute a quorum for the transaction of business. [1973 c.667 §11, 1977 c 104 §5]

476.850 Duties of board. The board, in accordance with the applicable provisions of ORS 183.310 to 183.500 shall:

(1) Adopt uniform state standards and procedures for accreditation of all fire service personnel employed by public fire protection agencies and prescribe uniform standards and procedures for the accreditation of fire training courses, educational programs, and fire protection operations procedures.

(2) Coordinate public and private fire protection operations in this state by developing recommendations for uniform standards for all fire protection equipment purchased or sold by any fire service unit or by any private firm or individual. Such recommendations shall be forwarded to the State Fire Marshal.

(3) Develop uniform criteria for evaluation of enforcement and operations procedures for those governmental subdivisions applying for exemption from fire laws and regulations of the office of State Fire Marshal as provided by ORS 476.030.

(4) Adopt rules and regulations considered by it to be necessary in carrying out the duties, functions and powers of the board prescribed by law.

(5) Advise the State Fire Marshal when so requested. [1973 c 667 §13; 1977 c.104 §6]

476.855 Discretionary powers of board. The board may:

(1) Contract or otherwise cooperate with any person or public agency for the procurement of necessary services or property;

(2) Accept gifts or grants of services or property;

(3) Maintain and furnish to fire service units information on applicants for appointment or employment as fire service personnel in any part of the state;

(4) Stimulate research by public and private agencies to improve fire services standards and training;

(5) Provide grants from funds, appropriated or available therefor, to fire service units, cities, counties and special districts to aid in the improvement of fire service standards and training; and

(6) Perform such other duties as required by law. [1973 c 667 §14]

476.860 Executive director; duties. (1) The board shall appoint a person within the unclassified service to serve, at its pleasure, as the executive director of the board. The executive director may not be a member of the board. The board shall fix the annual salary of the executive director subject to the State Merit System Law and the recommendation of the Executive Department.

(2) The board may employ such other employes as it considers necessary in carrying out its lawful functions. [1973 c.667 §12, 1977 c.104 §7]

476.865 Annual report of board. The board shall make an annual report to the Governor which may include the progress of the acceptance by public agencies of the minimum standards and training recommendations adopted by the board. The board shall advise any public agency which is to be commented upon in the annual report of the nature of the comments before the report is filed with the Governor. [1973 c.667 §15; 1977 c.104 §8]

PENALTIES

476.990 Penalties. (1) Violation of subsection (2) of ORS 476.080 is a misdemeanor. All penalties, fees or forfeitures collected under the provisions of this subsection, ORS 476.010 to 476.100 and 476.210 to 476.270 shall be paid into the State Treasury.

(2) Violation of subsection (1) of ORS 476.380 is a misdemeanor.

(3) Violation of ORS 476.410 to 476.440 is punishable, upon conviction, by a fine of not less than $25 nor more than $250, or by imprisonment in the county jail for not less than 10 or more than 60 days, or both. Justices of the peace and district judges shall have concurrent jurisdiction with the circuit courts over prosecutions for such violations.

(4) Violation of any provision of ORS 476.510 to 476.610 is a misdemeanor.

(5) Violation of ORS 476.710, 476.715 or of any rule or regulation of the Department of Transportation promulgated thereunder is punishable, upon conviction, by a fine not exceeding $500 or imprisonment in the county jail not exceeding six months, or both.

[Subsection (5) of 1959 Replacement Part formerly 477.990(5), 1961 c 52 §1; subsecton (2) enacted as 1967 c 420 §4; subsection (6) enacted as 1967 c.417 §13 and 1967 c 417 §15; 1971 c.563 §10, 1971 c.743 §383]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law.

Done at Salem, Oregon,
October 1, 1979.

Thomas G Clifford
Legislative Counsel