

Attorney General of Missouri

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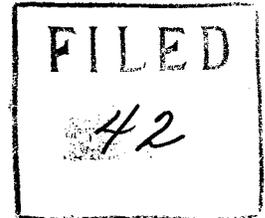
JOHN ASHCROFT
ATTORNEY GENERAL

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January 14, 1982

OPINION LETTER NO. 42

Edward D. Daniel
Director
Department of Public Safety
621 East Capitol Avenue
Jefferson City, Missouri 65101



Dear Mr. Daniel:

This letter is in response to your inquiry asking whether the provisions of Section 320.210, RSMo, which purport to limit the employees of the state fire marshal to "a total of nine employees," presently apply. Section 320.210 was enacted in 1972 and has not been amended.

We note that Section 11, Appendix B, RSMo, Omnibus State Reorganization Act of 1974, which established the Department of Public Safety, provides:

6. All the powers, duties and functions of the safety and fire prevention bureau of the department of public health and welfare are transferred by type I transfer to the director of public safety.

7. All the powers, duties and functions of the state fire marshal, chapter 320, RSMo, and others, are transferred to the department of public safety by type I transfer. The fire marshal shall be appointed by the department director.

You advise us that the director of the Department of Public Safety thereafter exercised the powers given him under Section 1 of the Reorganization Act (now set forth in RSMo Supp. 1981) by transferring the personnel and functions of the safety and fire

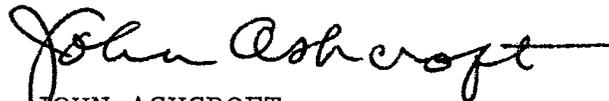
Edward D. Daniel

prevention bureau as well as other personnel and functions into the office of the state fire marshal. We are also advised that the General Assembly has appropriated for a number of full-time equivalencies well in excess of the limit of nine employees provided in Section 320.210.

It is our view that, in these circumstances, giving appropriate consideration to the authority of the director of the department under Section 1.7(1)(2) of the Reorganization Act to assimilate and assign such type I transfers as he shall determine to provide maximum efficiency, economy of operation and optimum service, the legislature intended that the limitation of Section 320.210 respecting "a total of nine employees" should no longer apply to the reorganized office of the state fire marshal.

Our conclusion is limited to the situation here presented. Whether other similar statutory limitations on the total number of employees which may exist with respect to other agencies were affected by the Reorganization Act or action taken pursuant thereto will depend entirely upon the particular circumstances involved.

Very truly yours,



JOHN ASHCROFT
Attorney General