

Regular Session, 2010
HOUSE BILL NO. 590

ACT No. 822

BY REPRESENTATIVE KLECKLEY

1 AN ACT

2 To amend and reenact R.S. 40:1568(B) and to enact R.S. 40:1568(D), relative to the state
3 fire marshal; to provide the state fire marshal with the authority to issue subpoenas,
4 summon witnesses, and administer oaths and affirmations when investigating fires
5 of suspicious origin; to require fire marshal employees to serve any process that is
6 issued by the state fire marshal when investigating fires of suspicious origin; to
7 provide that a person who fails to properly answer a subpoena issued by the state fire
8 marshal shall be punishable by the judge as contempt; to authorize the judge to
9 enforce obedience by fine, imprisonment, or both; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:1568(B) is hereby amended and reenacted and R.S. 40:1568(D)
12 is hereby enacted to read as follows:

13 §1568. Special investigations of fires of suspicious origin

14 * * *

15 B. In the performance of this duty, the fire marshal or his authorized
16 representative may take or cause to be taken testimony from persons supposed to be
17 cognizant of any fact which may relate to the cause of any fire. To this end, he may
18 secure testimony under oath and have it reduced to writing. In the furtherance of this
19 investigation, the fire marshal or his authorized representative has the power to issue
20 subpoenas and subpoenas duces tecum to compel the testimony of witnesses and the
21 production of documents, papers, books, records, and other evidence, and to

1 administer oaths and affirmations to those persons subpoenaed. Any fire marshal
2 employee shall serve any subpoena or subpoena duces tecum directed to him by the
3 fire marshal or his authorized representative.

4 * * *

5 D.(1) If any person refuses to obey any such subpoena, to give testimony,
6 or to produce evidence as required thereby, any judge of the district court for the
7 parish of East Baton Rouge may, upon ex parte application and proof of such refusal,
8 make an order awarding process of subpoena or subpoena duces tecum out of the
9 district court for the witness to appear before the fire marshal or his authorized
10 representative and to give testimony and to produce evidence. Upon filing such
11 order in the office of the clerk of the district court, the clerk shall issue process of
12 subpoena, as directed under the seal of the court requiring the person to whom it is
13 directed, to appear at the time and place therein designated.

14 (2) If any person served with any such subpoena refuses to obey the order
15 and to give testimony and to produce evidence as required by the order, the fire
16 marshal or his authorized representative may apply to any judge of the district court
17 for an attachment against such person for contempt. The judge, upon satisfactory
18 proof of such refusal, may issue an attachment, directed to any sheriff, constable, or
19 law enforcement officer, for the arrest of such person and, upon his being brought
20 before such judge, proceed to a hearing on the matter. The judge shall have the
21 power to enforce obedience to such subpoena, the answering of any question, and the
22 production of any evidence that may be proper, by a fine not exceeding one hundred
23 dollars, by imprisonment, or by both fine and imprisonment, and to compel such
24 witness to pay the costs of such proceeding.

25 (3) Proceedings held pursuant to the provisions of this Subsection shall be
26 summary in nature.

1 (4) Any violation of a subpoena issued by the clerk or of any order issued by
2 the judge may be punishable by the judge as contempt.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____