

MINUTES  
**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**DATE:** Tuesday, January 19, 2016

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Patrick, Vice Chairman Martin, Senators Lakey, Guthrie, Heider, Rice, Thayn, Schmidt and Ward-Engelking

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Patrick** called the meeting to order at 1:30 p.m.

**PASSED GAVEL:** Chairman Patrick passed the gavel to Vice Chairman Martin to introduce the presenters for the rules review being heard. **Vice Chairman Martin** gave a brief history of the administrative rules in Idaho. He said it is the job of elected Idaho Legislators to create laws. However, it is impossible to provide for every situation and outline every detail of how those laws will be carried out. He said the Idaho legislature creates statutory frameworks for programs and policies and then delegates its legislative authority to an administrative agency. He explained the administrative agency then plans out implementation and writes rules to carry out the Legislature's intent. The State Legislature annually reviews the rules that State agencies had created to make sure they complied with the Legislature's intent. The Idaho Legislature has been reviewing agency rules since 1969.

**DOCKET NO. 07-0301-1501:** **Rules of Building Safety. Steve Keys**, Deputy Administrator of Operations, Division of Building Safety (DBS), presented this docket. He stated the proposed docket would liberalize the requirement for fire alarm systems in some building occupancies by raising the threshold for the requirement in a Group E occupancy to match that contained in the latest, unadopted version of the International Building Code (IBC); the threshold would increase from 30 to 50 occupants before the fire alarm system is required. The rulemaking also amends the 2012 International Residential Code (IRC) to clarify the methods that can be used to establish fire-resistive wall assemblies in townhouses to avoid the need for fire sprinkler systems; the current language is confusing. **Steve Keys** added the International Energy Conservation Code (IECC) is amended to exempt buildings that are heated or cooled solely to be suitable for equipment, not personnel, from the building envelope provisions that would otherwise apply; IECC code reference corrections are required.

The DBS conducted negotiated rulemaking and there was no opposition. There is no fiscal impact to the state.

**Senator Schmidt** and **Steve Keys** discussed the requirement of raising the threshold for fire alarm systems when children occupy a building with between 30 and 50 occupants. **Senator Schmidt** wanted to know how many facilities would be affected by this change. **Steve Keys** said he did not know.

**MOTION:** **Senator Heider** moved to adopt **Docket No. 07-0301-1501**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**. **Senator Schmidt** and **Senator Ward-Engelking** requested being recorded as voting **nay**.

**DOCKET NO.  
07-0203-1501:**

**Rules Governing Permit Fee Schedule.** **Steve Keys**, Deputy Administrator of Operations, Division of Building Safety (DBS), presented this docket. **Steve Keys** stated there are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015, "Idaho Administrative Bulletin", volume 15-10, pages 22-25. He said this rule increases the inspection fee for a separate water or sewer inspection from \$38 to the standard DBS base inspection rate of \$65. This increase will result in a revenue increase of approximately \$9,500 to the dedicated fund, based on an average of 350 of these types of inspections annually. There is no effect on the General Fund.

Negotiated rulemaking was conducted and there was no opposition.

**Senator Heider** asked if this rule was brought forward by city government. **Steve Keys** replied this was brought forward by the Plumbing Board. There is no impact on city government.

**MOTION:**

**Senator Guthrie** moved to adopt **Docket No. 07-0203-1501**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
07-0301-1502:**

**Rules of Building Safety.** **Steve Keys**, Deputy Administrator of Operations, Division of Building Safety (DBS), presented this docket. **Steve Keys** stated there are no changes to the pending fee rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015, "Idaho Administrative Bulletin", volume 15-10, pages 35-40. A fee for inspections performed on annual permits will be charged at the rate of \$100 per hour. A slight decrease in dedicated fund revenue is expected as permit fees are aggregated at a lower compensation rate than would be realized through individual permits.

Negotiated rulemaking was not conducted because the rulemaking is simple in nature and only affects a few larger state entities that obtain building permits from the DBS and regularly employ qualified trade persons who perform minor building alterations on their own buildings or premises for which a permit is necessary. Additionally, the topic was addressed and discussed at several Building Code Board meetings and no opposition to an annual permit was expressed.

**Senator Lakey** wanted to know if the rule would increase the scope of things that required a permit. **Steve Keys** replied the rule did not increase the scope that requires a permit. The rule facilitates the process and makes it easier. **Senator Schmidt** and **Steve Keys** discussed negotiated rulemaking. **Steve Keys** said the rule only applies where the state has jurisdiction. He stated this concern was brought forward by the University of Idaho (UI). **Senator Schmidt** asked if the UI could do remodeling without a permit. **Steve Keys** said that some UI buildings were considered state buildings and others were not. He said that in general all state-owned buildings fall under the permitting fee. **Senator Heider** asked how the rates were determined and **Steve Keys** said the rates were \$100 an hour, which is a base fee that is not pre-paid.

**MOTION:**

**Chairman Patrick** moved to adopt **Docket No. 07-0301-1502**. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**PASSED  
GAVEL:**

Vice Chairman Martin passed the gavel back to Chairman Patrick.

**RS 24012:** **Science, Technology, Engineering and Math (STEM) Action Center.** **David Fulkerson**, Interim Administrator, Division of Human Resources, presented this Routing Slip (RS). He said this proposal modifies Idaho Code § 67-5303(v), to include the STEM Action Center, Office of Species Conservation, Office of Drug Policy, and the Office of Energy Resources to the list of agencies in the Executive Office of the Governor that have all non-classified employees. There is no fiscal impact to the State of Idaho because all employees in the agencies are currently non-classified.

**Senator Thayne** asked David Fulkerson to confirm the lack of ability for a non-classified employee to appeal his or her case when terminated. **David Fulkerson** indicated this was correct.

**MOTION:** **Senator Heider** moved to send **RS 24012** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**PASSED GAVEL:** Chairman Patrick passed the gavel to Vice Chairman Martin.

**DOCKET NO. 09-0106-1501:** **Rules of the Appeals Bureau, Department of Labor (DOL).** **Amy Hohnstein**, Chief, Appeals Bureau, presented this docket. She said this rule will allow the DOL to send notices of hearing to interested parties by mail or by electronic transmission. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 2, 2015, "Idaho Administrative Bulletin". There is no fiscal impact to the General Fund or to any dedicated fund.

**MOTION:** **Senator Schmidt** moved to adopt **Docket No. 09-0106-1501**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 09-0130-1501:** **Unemployment Insurance Benefits Administration Rules.** **Joshua McKenna**, Benefits Bureau Chief, Department of Labor (DOL), presented this docket. He said a public hearing was held and all public comments were in support of adopting the pending rule. This rule change benefits employers by allowing them to retain skilled workers who are laid off for short periods of time. It also benefits seasonal workers with confirmed return-to-work dates by waiving the work-search requirement. This waiver would allow workers to receive unemployment insurance benefits for a maximum of 16 weeks while they are laid off if they meet all the remaining eligibility requirements of the unemployment insurance program. There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November 4, 2015, "Idaho Administrative Bulletin", volume 15-11, pages 33-36.

There is no fiscal impact to the General Fund or any dedicated fund.

**Senator Rice** wanted to know what kind of fiscal impact there would be by extending the period four weeks. **Joshua McKenna** said there was no impact on the trust fund, but this was merely a computer change. **Senator Rice** wanted to know if an employee was coded in the computer to be attached to an employer for 16 weeks or was the employee shown as employed. **Joshua McKenna** said the employee has to seek work, but the work search is currently waived for 12 weeks. He said the rule would change the waiver from 12 weeks to 16 weeks. **Senator Lakey** stated the code deals with how the rule is administered. **Joshua McKenna** indicated that an employee who does not return to their job within 12 weeks still receives unemployment. He said the incentive is on the employee, but employees tend to go back to their employer and are considered attached to that employer. The employer wants the employee to return because they are trained for their job.

**Senator Guthrie** asked why the rationale was for 16 weeks and not 20. **Joshua**

**McKenna** said the DOL received feedback from employers who hired seasonal workers. These employers said in some cases they would lose a trained employee to other jobs.

**Senator Rice** and **Josh McKenna** discussed the costs associated with unemployment insurance premiums for employers who hire seasonal employees. The longer an employee is unemployed, the rates may increase for the employer, depending on the length of time. Other employers who are not laying employees off could be subsidizing this proposed rule change.

**TESTIMONY:** **Wayne Hammon**, representing the Idaho Associated General Contractors, spoke in support of this rule. He explained that construction is a seasonal industry in which employees are without work during the winter months. He said laid-off employees are forced to go out to search for jobs that do not exist, or they end up taking an unskilled job. If the period is extended to 16 weeks, the employee is exempt from a job search. The construction industry is helping to cover the costs of this extension.

**Seneca Hall**, President, Franz Witte Nursery, said that her company employs 100 people most of the year, depending on the season. Many times during the winter when snow needs to be removed, or if the weather is inconsistent, employees can be laid off. She said having an employee attached to their company helps retain their skilled labor force. It costs the company more money if they have to continually retrain new employees. In most years, unemployment does not exceed 12 weeks.

**Senator Guthrie** asked Joshua McKenna if an employee who is laid off is required to find a job outside of his or her skill set. **Josh McKenna** said that is up to the employee. The DOL requires an employee make two new contacts per week. Potentially, an employee could be denied if they fail to make those contacts. He said an interview counts towards two new contacts.

**MOTION:** **Senator Lakey** moved to adopt **Docket No. 09-0130-1501**. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

**PASSED**  
**GAVEL:** Vice Chairman Martin passed the gavel back to Chairman Patrick.

**ADJOURNED:** There being no further business, **Chairman Patrick** adjourned the meeting at 2:18 p.m.

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Senator Patrick  
Chair

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Linda Kambeitz  
Secretary