

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives DIXON, DeMordaunt, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Bureau of Occupational Licenses - Idaho State Contractors Board:

IDAPA 24.21.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking
(Docket No. 24-2101-1900F).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 07/24/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/21/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Legislative Drafting Attorney - Matt Drake

DATE: July 05, 2019

SUBJECT: Bureau of Occupational Licenses - Idaho State Contractors Board

IDAPA 24.21.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 24-2101-1900F)

The Idaho Bureau of Occupational Licenses - Idaho State Contractors Board - submits notice of temporary and proposed rules at IDAPA 24.21.01, Rules of the Idaho State Contractors Board. The rulemaking adopts and re-publishes existing and previously approved chapters with minor edits in the nature of clean-up and simplification. **No substantive changes are noted.** This is a fee rule. **No new fees or charges are imposed by this rule reauthorization and republication.** These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation.

cc: Bureau of Occupational Licenses - Idaho State Contractors Board
Kelley Packer

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES
24.21.01 – RULES OF THE IDAHO STATE CONTRACTORS BOARD
DOCKET NO. 24-2101-1900F

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED FEE RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-5206, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.21.01, rules of the Idaho State Contractors Board:

IDAPA 24

- 24.21.01, *Rules of the Idaho State Contractors Board - All rules except Sections 010 and 200.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the process for registering as a contractor in Idaho. Allowing these rules to expire would harm the public safety and welfare because the Board would not have a framework to analyze applicants with felony convictions.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the registration fees outlined in this chapter, the Idaho State Contractors Board would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5207, Idaho Code, as follows: application fee: \$35; reciprocal fee: \$35; annual registration renewal fee: \$35; and reinstatement fee: \$35.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**IDAPA 24
TITLE 21
CHAPTER 01**

24.21.01 – RULES OF THE IDAHO STATE CONTRACTORS BOARD

000. LEGAL AUTHORITY (RULE 0).

These rules are hereby prescribed and established pursuant to the authority vested in the Idaho State Contractors Board by the provisions of Section 54-5206, Idaho Code. (3-30-06)

001. TITLE AND SCOPE (RULE 1).

These rules are title IDAPA 24.21.01, “Rules of the Idaho State Contractors Board.” (3-30-06)

002. WRITTEN INTERPRETATIONS (RULE 2).

The Board may have written statements that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (3-30-06)

003. ADMINISTRATIVE APPEALS (RULE 3).

Administrative appeals are governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (3-30-06)

004. INCORPORATION BY REFERENCE (RULE 4).

These rules do not incorporate by reference any document other than those Sections of Idaho Code so referenced. (3-30-06)

005. ADDRESS OF IDAHO STATE CONTRACTORS BOARD (RULE 5).

The office of the Idaho State Contractors Board is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702. The Bureau is open between the hours of 8:00 a.m. and 5:00 p.m. each day except Saturdays, Sundays and holidays. The telephone number of the Board is (208) 334-3233. The Board’s fax number is (208) 334-3945. The Board’s e-mail address is con@ibol.idaho.gov. The Board’s official website is <http://www.ibol.idaho.gov>. (3-30-06)

006. PUBLIC RECORDS (RULE 6).

The records associated with the Idaho State Contractors Board are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-30-06)

007. -- 099. (RESERVED)

100. ORGANIZATION (RULE 100).

01. Meetings. The Board meets not less than once during each calendar quarter and at such times and places as designated by the Board or the Chairman of the Board. Special meetings may be held at the call of the Chairman, and all members will be notified in writing. (3-30-06)

a. All meetings are held in accordance with the Idaho Open Meeting Law, Chapters 2340 – 2347, Title 67, Idaho Code. (3-30-06)

b. A minimum of three (3) Board members constitutes a quorum and is required for the transaction of business. A majority vote of the Board members present at a meeting is considered the action of the Board as a whole. (3-30-06)

02. Organization of the Board. At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (3-30-06)

a. The Chairman, when present, presides at all meetings, appoints with the consent of the Board, all committees, and otherwise performs all duties pertaining to the office of Chairman. The Chairman will be an ex-officio member of all committees. (3-30-06)

b. The Chief of the Bureau acts as an agent of the Board and is the official keeper of all records of the Board. The Bureau provides such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. (3-30-06)

101. -- 149. (RESERVED)

150. APPLICATION (RULE 150).

Each applicant for registration must submit a complete application on applications forms approved by the board together with the required fee(s). The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. Applications on file with the Board where an applicant has failed to respond to a Board request or where the applications have lacked activity for twelve (12) consecutive months are deemed denied and will be terminated upon thirty (30) days written notice unless good cause is established to the Board. (5-8-09)

151. -- 164. (RESERVED)

165. ADDITIONAL QUALIFICATIONS FOR REGISTRATION (RULE 165).

Applicants for a registration must meet the following qualifications in addition to those set forth in Section 54-5210, Idaho Code and these rules. (4-2-08)

01. Felony Conviction. Not have been convicted of any felony in a state or federal court; provided the applicant may make written request to the board for an exemption review to determine the applicant's suitability for registration, which the board determines in accordance with the following: (4-2-08)

02. Exemption Review. The exemption review consists of a review of any documents relating to the felony and any supplemental information provided by the applicant bearing upon his suitability for registration. The board may, at its discretion, grant an interview of the applicant. (4-2-08)

a. During the review, the board considers the following factors or evidence: (4-2-08)

i. The severity or nature of the felony; (4-2-08)

ii. The period of time that has passed since the felony under review; (4-2-08)

iii. The number or pattern of felonies or other similar incidents; (4-2-08)

iv. The circumstances surrounding the crime that would help determine the risk of repetition; (4-2-08)

v. The relationship of the crime to the registered practice of construction; and (4-2-08)

vi. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation. (4-2-08)

b. The applicant bears the burden of establishing his current suitability for registration. (4-2-08)

03. Fraud in Application Process. The registration application and supporting documents are free from any fraud or material misrepresentations. (4-2-08)

166. -- 174. (RESERVED)

175. FEES (RULE 175).

Fees are not refundable, therefore, applications should not be filed unless the applicant can meet all requirements. (3-30-06)

01. Application Fee. Application fee (includes original registration) – thirty-five dollars (\$35).

- (3-24-16)
- 02. Reciprocal Fee.** Reciprocal fee – thirty-five dollars (\$35). (3-24-16)
- 03. Renewal Fee.** Annual registration renewal fee – thirty-five dollars (\$35). (3-24-16)
- 04. Reinstatement Fee.** Reinstatement fee – thirty-five dollars (\$35). (3-24-16)
- 05. Refund of Fees.** No refund of fees will be made to any person who has paid such fees for application or reinstatement of a license. (3-30-06)
- 176. -- 999. (RESERVED)**