

IN THE SENATE

SENATE BILL NO. 1076

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION
3 67-5226, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING TEMPORARY RULES
4 AND TO REVISE PROVISIONS REGARDING TEMPORARY RULES; AND DECLARING AN
5 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 67-5226, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 67-5226. TEMPORARY RULES. (1) The legislature finds that temporary
10 rules do not follow the negotiated rulemaking process. Therefore, to ensure
11 accountability of agency rules to the legislature and to Idaho citizens,
12 temporary rules shall be used only in emergency situations where negotiated
13 rulemaking is not feasible. Agencies shall make every effort to promulgate
14 rules utilizing the negotiated rulemaking process.

15 ~~(1)~~ (2) If the governor finds that:

16 (a) Protection of An imminent threat to the public health, safety, or
17 welfare from a specified danger that was unknown to the agency prior to
18 or during the most recent session of the legislature or from the measur-
19 able worsening of such threat or danger; ~~or~~

20 (b) Compliance with deadlines in amendments to governing law ~~or federal~~
21 ~~programs; or~~

22 (c) Reducing a regulatory burden that would otherwise impact individu-
23 als or businesses; or

24 (d) Protection of citizens' rights;

25 requires a rule to become effective before it has been submitted for
26 legislative review, the governor shall publish a statement explaining why
27 an earlier effective date is required in accordance with the provisions of
28 this section. The agency may then proceed with such notice as is practi-
29 cable and adopt a temporary rule, except as otherwise provided in section
30 67-5229(1)(d), Idaho Code. The agency may make the temporary rule immedi-
31 ately effective. The agency shall incorporate the required finding and a
32 concise statement of its supporting reasons in each rule adopted in reliance
33 ~~upon~~ on the provisions of this subsection.

34 ~~(2)~~ (3) A pending fee rule adopted pursuant to subsection ~~(1)~~ (2) of
35 this section may become effective under this section before it has been ap-
36 proved by concurrent resolution only if the governor finds that the fee or
37 charge is necessary to avoid immediate danger. The governor shall publish
38 a statement explaining why an earlier effective date is required subject to
39 the provisions of subsection (2) of this section, including an explanation
40 as to why the fee or charge is necessary to avoid immediate danger.

41 ~~(3)~~ (4) Temporary rules shall be published in the first available issue
42 of the bulletin.

1 ~~(4)~~ (5) Temporary rules ~~are not~~ shall be subject to the requirements of
2 section 67-5223, Idaho Code, ~~provided that the coordinator sends a copy of~~
3 ~~the temporary rules to the director of the legislative services office.~~

4 ~~(5)~~ (6) Concurrently with the promulgation of a rule under this sec-
5 tion, or as soon as reasonably possible thereafter, an agency shall commence
6 the promulgation of a proposed rule in accordance with the rulemaking re-
7 quirements of this chapter, unless the temporary rule adopted by the agency
8 will expire by its own terms or by operation of law before the proposed rule
9 could become final. Such concurrently promulgated proposed rules shall
10 identify the changes from the previous version of the rule adopted by the
11 legislature, if any.

12 (7) If a temporary rule expires by its own terms or by operation of law,
13 the promulgating agency may not adopt the same rule or a substantially simi-
14 lar rule as a temporary rule again. If the agency chooses to adopt an expired
15 temporary rule, it shall commence the promulgation of a proposed rule in ac-
16 cordance with the rulemaking requirements of this chapter.

17 (8) State courts shall have jurisdiction to hear challenges by regu-
18 lated or other affected parties that the exception cited by the governor for
19 an earlier effective date for a rule was invalid, and if so, whether or when
20 the rule did or may take effect.

21 SECTION 2. An emergency existing therefor, which emergency is hereby
22 declared to exist, this act shall be in full force and effect on and after
23 July 1, 2025.