

Dear Senators ANDREASON, Coiner & Werk, and  
Representatives BLACK, Henderson & Elaine Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed  
rules of the Division of Building Safety:

07.01.05 - Rules Governing Examinations - Building Safety

(Docket #07-0105-0801) and

07.05.01 - Rules of the Public Works Contractors Licensing Board

(Docket #07-0501-0801) Fee Rule.

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 7-2-08. 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 7-31-08.

\_\_\_\_\_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 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

## MEMORANDUM

TO: Germane Subcommittees for Administrative Rules Review of the Senate Commerce and Human Resources Committee and the House of Representatives Business Committee

FROM: Research and Legislation Staff, Nugent

DATE: June 12, 2008

SUBJECT: Proposed Rules of the Division of Building Safety  
07.01.05 - Rules Governing Examinations - Building Safety  
(Docket #07-0105-0801) and  
07.05.01 - Rules of the Public Works Contractors Licensing Board  
(Docket #07-0501-0801) Fee Rule

The Division of Building Safety is proposing to promulgate two sets of rules. The first rule is being promulgated as a proposed rule. The proposed rule would increase the percentage pass rate on the electrical contractor examination from seventy to seventy-five percent. In its notice of intended rulemaking, the Division of Building Safety indicates that for the past two years there has been an unusually high pass rate for persons taking the electrical contractor examination “including 100% on several occasions.”

The second set of rules are being promulgated by the Public Works Contractors Licensing Board as both temporary and proposed rules. The Board indicates that the purpose of the rules is to implement the provisions of House Bill No. 476 passed by the Legislature in 2008 which added an "unlimited" class public works contractor license and authorized the Public Works Contractors Licensing Board to promulgate rules setting initial licensing fees and renewal fees for the license. Additionally, Sections 54-1910 and 54-1911, Idaho Code, authorize the Public Works Contractors Licensing Board to establish by rule, such written or oral examinations it deems necessary to administer to applicants for public works contractor licenses. The Board indicates there are no rules to currently do this.

It appears that both sets of rules have been promulgated within the scope of statutory authority granted to the Division of Building Safety and the Public Works Contractors Licensing Board.

cc: Division of Building Safety, Steve Keys

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.01.05 - RULES GOVERNING EXAMINATIONS -- BUILDING SAFETY**

**DOCKET NO. 07-0105-0801**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1003, 54-1005, and 54-1006, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Statistics for the past two years show an unusually high pass rate for persons taking the Electrical Contractor examination, including 100% on several occasions. These statistics demonstrate that the minimum pass percentage may be too low. To remedy this situation, the Electrical Board has approved an increase in the minimum pass rate. This proposed rulemaking increases the minimum pass percentage for the Electrical Contractor examination from 70% to 75%.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**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 resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the very minor and simple nature of the proposed change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 6th day of May, 2008.

Steve Keys, Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (208) 855-2164

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0105-0801**

**011. EXAMINATIONS.**

The Electrical Board shall review and approve all versions of examinations prior to administration. (4-5-00)

**01. Frequency of Conducting of Examinations.** Examinations for all classifications under the Electrical Laws and Rules will be given a minimum of four (4) times each year in at least three (3) locations: One (1) to be in northern Idaho, one (1) to be in central Idaho, and one (1) to be in southern Idaho. The applicant will be notified in writing of the date, time, and location at which the examination will be given, following approval of the application. (4-5-00)

**02. Professional Testing Services.** In lieu of the administration by the Electrical Board of the examination for licenses pursuant to this rule, the Electrical Board may contract with a professional testing service to administer the examination and require license applicants to pay to the testing service the fee that they have set for the examination and to take such examination at the time set by such service. After taking such examination, an official copy of the test score shall be provided by the applicant to the Electrical Board before the license will be granted. If the examination is conducted in this fashion, the Electrical Board may charge and retain the application fee provided for by Section 54-1014, Idaho Code, to cover the cost of reviewing the applicant's application. (4-5-00)

**03. Required Scores.** The following scores are considered minimum for passing and are required to be achieved by the applicant prior to issuance of the appropriate license or certification.

Journeyman Electrician - 70%
Specialty Journeyman Electrician - 70%
Electrical Contractor - <del>70</del> 5%
Specialty Electrical Contractor - 70%
Electrical Inspector - 70%
Master Electrician - 75%

(4-6-05)( )

**04. Failed Examinations.** (4-6-05)

**a.** An applicant receiving less than a passing score on a first or second examination may be reexamined at the expiration of thirty (30) days after the date of the failed examination. (4-6-05)

**b.** Before being reexamined after failing an examination the third time, an applicant must: (4-6-05)

i. Wait until the expiration of one (1) year from the date of the failed third examination; or (4-6-05)

ii. Provide proof, satisfactory to the Electrical Board, of completion of a minimum of twenty-four (24) hours of Board-approved, related electrical training or continuing education since the date of the failed third examination. (4-6-05)

**c.** Before being reexamined after any further failures, an applicant for reexamination must: (4-6-05)

i. Wait until the expiration of an additional one (1) year from the date of the failed examination; or (4-6-05)

ii. Provide proof, satisfactory to the Electrical Board, of completion of thirty-two (32) hours of Board-approved, related electrical training or continuing education since the date of the failed examination. (4-6-05)

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.05.01 - RULES OF THE PUBLIC CONTRACTORS LICENSE BOARD**  
**DOCKET NO. 07-0501-0801 (FEE RULE)**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1907, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**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:

Sections 54-1910 and 54-1911, Idaho Code, authorize the Public Works Contractors License Board to establish, by rule, such written or oral examinations it deems necessary to administer to applicants for public works contractor licenses. Currently, the Board has no such rule. This rulemaking is intended to address this deficiency and come into compliance with the controlling statute. The rulemaking establishes requirements and procedures for licensing examinations and it establishes a licensing and renewal fee for a new classification of license.

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

The 2008 Legislature passed House Bill No. 476 adding an "unlimited" class public works contractor license and authorizing the Public Works Contractors License Board to promulgate rules setting the initial licensing fee and renewal fee for this license. Temporary rulemaking is necessary to meet the July 1, 2008 effective date of the legislation.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The rulemaking sets a fee of five hundred fifty dollars (\$550) for a Class Unlimited license.

**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:

Since licensing fees for the Division of Building Safety are dedicated funds, there will be no impact on the General Fund. Because it is anticipated that few contractors will apply for the "unlimited" class license, the fiscal impact on the dedicated funds should be negligible.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2008.

DATED this 28th day of May, 2008.

Steve Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (208) 855-2164

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0501-0801**

**112. EXAMINATION.**

The Board shall approve all subject areas and topics to be included in the examinations to become licensed as a public works contractor. (7-1-08)T

**01. Frequency of Conducting of Examinations.** (7-1-08)T

**a. Examinations for all classes of licenses under the Public Contractors laws and rules will be given a minimum of four (4) times each year in at least three (3) locations:** (7-1-08)T

**i. One (1) to be in north Idaho;** (7-1-08)T

**ii. One (1) to be in southwest Idaho; and** (7-1-08)T

**iii. One (1) to be in southeast Idaho.** (7-1-08)T

**b. The applicant will be notified in writing of the date, time, and location at which the examinations will be given, following approval of the application.** (7-1-08)T

**02. Professional Testing Services.** In lieu of the administration by the administrator of the examination for licenses pursuant to this rule, the administrator may contract with a professional testing service to administer the examination, and require license applicants to pay to the testing service the fee that they have set for the examination and to take such examination at the time set by such service with the exception of Class D applicants. After taking such examination, an official copy of the applicant's test score must be provided to the administrator before the license will be granted. If the examination is conducted in this fashion, the Division of Building Safety may charge and retain the application fee provided for by Section 54-1911, Idaho Code, to cover the cost of reviewing the applicant's application. (7-1-08)T

**a. Class D applicants will utilize the existing in-house, open-book examination.** (7-1-08)T

**b. Class D licensees pursuing an upgrade must reapply and pass the examination administered by the professional testing service.** (7-1-08)T

**03. Required Score.** The applicant must receive a final grade of seventy percent (70%) or higher prior to issuance of the appropriate license. (7-1-08)T

**04. Failed Examinations.** (7-1-08)T

**a. An applicant receiving less than a passing score on a first or second examination may be reexamined without reapplication.** (7-1-08)T

**b.** Before being reexamined after failing an examination the third time, an applicant must resubmit the application and fee. (7-1-08)T

**c.** Before being reexamined after any further failures, an applicant for reexamination must wait until the expiration of sixty (60) days from the date of the failed examination and resubmit the application and fee for each subsequent examination. (7-1-08)T

**1123. -- 198. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. FEES.**

**01. Public Works Contractor Licensing Fees.** Initial licensing and renewal fees for each class of public works contractor ~~and construction manager~~ licenses shall be, in accordance with Sections 54-1904 ~~and 54-4510~~, Idaho Code, as follows: (3-19-07)(7-1-08)T

- a.** The fee for a Class Unlimited license shall be five hundred and fifty dollars (\$550). (7-1-08)T
- ~~**b.**~~ The fee for a Class A license shall be two hundred and fifty dollars (\$250). (3-19-07)
- ~~**c.**~~ The fee for a Class AA license shall be three hundred and fifty dollars (\$350). (3-19-07)
- ~~**d.**~~ The fee for a Class AAA license shall be four hundred and fifty dollars (\$450). (3-19-07)
- ~~**e.**~~ The fee for a Class B license shall be one hundred and fifty dollars (\$150). (3-19-07)
- ~~**f.**~~ The fee for a Class C license shall be one hundred dollars (\$100). (3-19-07)
- ~~**g.**~~ The fee for a Class D license shall be fifty dollars (\$50). (3-19-07)

**042. Construction Manager Licensing Fees.** Initial licensing and renewal fees for construction manager licenses shall be, in accordance with Section 54-4510, Idaho Code, as follows: (3-19-99)(7-1-08)T

- a.** The fee for initial examination and licensing shall be two hundred dollars (\$200). (3-19-99)
- b.** The fee for license renewal shall be two hundred dollars (\$200). (3-19-99)
- c.** The fee for an inactive license shall be fifty dollars (\$50). (3-19-99)
- d.** The fee for license reinstatement shall be two hundred dollars (\$200). (3-19-99)
- e.** The fee for administering the examination shall be the standard fee established for taking that examination. (3-19-99)
- f.** The fee for issuing and for reinstating a certificate of authority shall be one hundred dollars (\$100). (3-19-99)

**023. Payment of Fees.** Fees shall be payable to "Division of Building Safety -- Public Works Contractors." (3-20-04)

**034. Application Filed With Fees.** Required fees shall accompany all applications. An application filed without the required fees shall be deemed incomplete and returned to the applicant. (3-20-04)