

Dear Senators DARRINGTON, Richardson & Burkett, and
Representatives CLARK, Leon Smith & Boe:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Occupational Licenses - Shorthand Reporters Board: IDAPA 49.01.01 Rules of Procedure of the Idaho Certified Shorthand Reporters Board – Fee Rule (Docket No. 49-0101-0801).

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 11-13-08. 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 12-12-08.

_____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: Subcommittees for Administrative Rules Review of the Senate Judiciary and Rules Committee and the House Judiciary, Rules, and Administration Committee

FROM: Eric Milstead, Principal Research Analyst

DATE: October 24, 2008

SUBJECT: Bureau of Occupational Licenses - IDAPA 49.01.01 Rules of Procedure of the Idaho Certified Shorthand Reporters Board – Fee Rule
(Docket No. 49-0101-0801)

The Bureau of Occupational Licenses has submitted temporary and proposed rules at IDAPA 49.01.01 - Rules of Procedure of the Idaho Certified Shorthand Reporters Board. Due to a delay in transmitting the rule from the Office of Administrative Rules, LSO just received this rule on October 20, 2008. The Board states that negotiated rulemaking was not conducted because the changes were discussed in an open meeting of the Board and should not be controversial. The effective date of the temporary rule was August 12, 2008.

According to the Board, the principal changes found in the temporary and proposed rule stem from the passage of 2008 House Bill 409. The rules authorize the Board to impose civil fines and recover certain costs stemming from disciplinary cases. In addition, the Board has adopted in its rules fees that previously had been authorized in statute but were not reflected in its rules. The fees found in the temporary and proposed rule are consistent with those found in statute. (See, Temporary and Proposed Rule, Section 125).

The temporary and proposed rule appears to be within the authority granted to the Board under Section 54-3107, Idaho Code.

cc: Bureau of Occupational Licenses
Tana Cory, Bureau Chief

IDAPA 49 - CERTIFIED SHORTHAND REPORTERS

49.01.01 - RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 49-0101-0801 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 12, 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 54-3107, 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 October 15, 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:

Rule 008 changes the requirement for notification of name or address change from immediately to 14 days. Rule 125 establishes fees, which have not changed, but have been moved from the law to the rules to be consistent with other boards. Adds that fees are not refundable. Adds Rule 150 to clarify that renewals and reinstatements are subject to the Bureau's statute, Idaho Code 67-2614. Rule 200 allows the board to terminate applications that have lacked activity for a year. Rule 400 changes temporary certification to a temporary permit. Rule 500 allows the board more flexibility in discipline and gives them the ability to impose a civil fine of up to \$1,000 for each violation of the board's code. It also allows the board to recover costs and fees of investigation and prosecution. Further, makes technical updates throughout for example changing president to chairman and "the act" to the relevant code reference.

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 HB 409. These rule changes are necessary to comply with the law. The Board of Certified Shorthand Reporters is now contracting for services with the Bureau and changes were necessary to accommodate the move.

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

The 2008 Legislature passed HB409 which sets fee caps in the law. This law change now sets the cap in law and the Board will set the fees in rule. This is consistent with other Boards served by the Bureau. These rules also allow the board to impose civil fines and recover costs and fees in disciplinary cases. This protects the public by giving the board additional tools for discipline and the ability to recover investigative and legal costs from the person in violation and not the other licensees.

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:

Since the fees will remain the same, there will be no fiscal impact. There may be a small positive fiscal impact for the civil fines and costs and fees since the Board will be able to recover costs. Given the small number of disciplinary matters for this board, this impact will be minimal. However, any recovery of costs will help minimize future fee increases.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes should not be controversial and were discussed in an open meeting of the Board.

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

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 October 22, 2008.

DATED this 20th day of August, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945, fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 49-0101-0801

008. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES.

01. Change of Name. Whenever a change of registrant name occurs, the Board must be *immediately* notified of the change within fourteen (14) days. Documentation confirming the change of name must be *provided to the Board on request* submitted with the notification. ~~(4-6-05)~~(8-12-08)T

02. Change of Address. Whenever a change of registrant mailing address occurs, the Board must be *immediately* notified of the change within fourteen (14) days. ~~(4-6-05)~~(8-12-08)T

03. Address for Notification Purposes. The most recent mailing address on record with the Board will be utilized for purposes of all written communication with the registrant including, but not limited to, notification of renewal and notices related to disciplinary actions. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

100. BOARD MEETINGS.

The Board shall meet at least once a year. In addition to this annual meeting, the ~~president~~ chairman may call special meetings from time to time when it is deemed necessary, or upon request of two (2) or more members of the Board. ~~(4-6-05)~~(8-12-08)T

101. OFFICERS.

Officers elected from the Board shall be ~~president~~ chairman, and ~~secretary/treasurer~~ vice-chairman. An executive secretary may be appointed who is not a member of the Board. ~~(4-6-05)~~(8-12-08)T

102. COMMITTEES.

Regular or special committees may be appointed by the ~~president~~ chairman and shall present reports to the Board at the time specified or at the earliest regular or special meeting of the Board. A special voluntary committee from the public, which may include members of the Board, may be formed to render special services during examinations or as the Board may assign to them. ~~(1-1-97)~~(8-12-08)T

01. Quorum. A quorum shall be at least three (3) members of the Board legally holding office at the time of meeting. The board ~~president~~ chairman shall not vote except to break a tie. ~~(4-6-05)~~(8-12-08)T

02. Certificates. Certificates of registration shall be issued to each certified shorthand reporter, as prescribed by the ~~Act~~ Title 54, Chapter 31, on forms adopted by the Board. Certificates shall be displayed by certified shorthand reporters in their place of business. A new certificate may be issued by the Board to replace one lost, destroyed, or mutilated upon receipt of a replacement fee of ten dollars (\$10). Each certificate shall bear an individual number as assigned to that particular C.S.R. by the Board. ~~(1-1-97)~~(8-12-08)T

103. -- 19924. (RESERVED).

125. FEES (RULE 125).

Fees are established in accordance with Section 54-3110, Idaho Code as follows: (8-12-08)T

01. Application Fee. Application Fee (Certificate/Temporary Permit) -- Fifty dollars (\$50). (8-12-08)T

02. Examination Fee. Examination-Reexamination Fee -- Fifty dollars (\$50). (8-12-08)T

03. Annual Renewal Fee. Renewal Fee (Certificate/Temporary Permit) -- Seventy-Five dollars (\$75). (8-12-08)T

04. Reinstatement Fee. Reinstatement Fee -- Twenty-Five dollars (\$25). (8-12-08)T

05. Examination Preparation Materials. Examination Preparation Materials -- Twenty dollars (\$20) (8-12-08)T

06. Refund of Fees. No refund of fees shall be made to any person who has paid such fees for application, examination or reinstatement of a license. (8-12-08)T

126. -- 149. (RESERVED).

150. RENEWAL OF LICENSE (RULE 150).

01. Expiration Date. All licenses expire and must be renewed annually on forms approved by the Board in accordance with Section 67-2614, Idaho Code. A license not renewed will be cancelled in accordance with Section 67-2614, Idaho Code. (8-12-08)T

02. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. (8-12-08)T

151. -- 199. (RESERVED).

200. APPLICATION PROCEDURES.

Applications for registration shall be. (7-1-93)

01. Prescribed Forms. Filed on a form or forms prescribed by the Board. (1-1-97)

02. Filing Location. Filed at the Boise office of the Board, accompanied by the required application fee. (1-1-97)

03. Filing Deadline. Received by the Board, not less than thirty (30) days prior to the date of examination. (1-1-97)

04. Incomplete Application. An application which is not fully completed by the applicant need not be considered or acted upon by the Board and shall be returned to the applicant ~~by the executive secretary~~ with a

statement of the reason for return.

~~(1-1-97)~~(8-12-08)T

05. Lack of Activity. 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 shall be deemed denied and shall be terminated upon thirty (30) days written notice unless good cause is established to the Board.

(8-12-08)T

201. -- 299. (RESERVED).

300. EXAMINATIONS.

01. Examination Process. (4-6-05)

a. Late applicants shall not be admitted to the examination room. (1-1-97)

b. Picture identification shall be shown by all applicants before taking an examination. (4-6-05)

c. Examinees are forbidden to receive any unauthorized assistance during the examination. Communication between examinees or possession of unauthorized material or devices during the examination is strictly prohibited. (1-1-97)

d. Only scheduled examinees, Board members, ~~the executive secretary~~ and authorized personnel shall be admitted to the examination room. ~~(1-1-97)~~(8-12-08)T

02. Scope of Examination. (7-1-93)

a. The complete examining procedure for certification as a certified shorthand reporter consists of two (2) sections. The first section is the written examination covering subjects as are ordinarily given in a school of court reporting and which are common to all fields of practice. The second section is the skills portion which shall consist of the following "takes" and speeds. (1-1-97)

i. Question and Answer -- Two hundred twenty-five (225) words per minute. (1-1-97)

ii. Jury Charge -- Two hundred (200) words per minute. (1-1-97)

iii. Literary -- One hundred eighty (180) words per minute. (1-1-97)

iv. Density of Exam -- The syllabic content of the dictated exam shall be one point four (1.4). (7-1-93)

b. Examination prepared and graded by the National Court Reporters Association (NCRA) may be used by the Board. (1-1-97)

c. The examination is the same for all applicants. (7-1-93)

d. The examining committee which shall consist of the three C.S.R. Board members, shall inform applicants of the approximate time allowed for typing the skills portion of the examination. (1-1-97)

e. These "takes" can be passed individually for the Idaho examination. (4-6-05)

03. Grading. (7-1-93)

a. Each applicant must attain a grade of seventy-five percent (75%) or above to pass the written examination and ninety-five percent (95%) or above in each "take" to pass the skills portion. (1-1-97)

b. Every applicant receiving a grade of less than seventy-five percent (75%) in the written examination shall be deemed to have failed such examination and shall have the application denied without prejudice. (1-1-97)

c. Every applicant receiving a grade of less than ninety-five percent (95%) in each "take" shall be deemed to have failed such examination and shall have the application denied without prejudice. (1-1-97)

d. An applicant failing either the written section, or the skills portion, and having filed a new application for examination, shall be required to take and pass within a two-year period only the section for which a failing grade was received. (1-1-97)

04. Inspection of Examination. (7-1-93)

a. An applicant who fails to obtain a passing grade in the skills portion may inspect his/her examination papers at such times and locations as may be designated by the Board. Inspection of such examination papers shall be permitted within a thirty (30) day period after receipt of notice by the applicant of his/her failure to pass the examination. (1-1-97)

b. At the time of inspection no one other than the examinee or his/her attorney and a representative of the Board shall have access to such examination papers. (1-1-97)

05. Inspection Review. (7-1-93)

a. Within thirty (30) days after the date notice of the results of the examination has been mailed to him/her, an applicant who was unsuccessful in the examination may petition the Board for a review of his/her examination papers. (1-1-97)

b. The petition for review shall be made in writing stating the reason for such review and citing the item or items against which the request is directed. (7-1-93)

c. The Board shall, upon receiving such petition for review, conduct a hearing at the next scheduled Board meeting. (1-1-97)

06. Retention of Examinations. The Board shall retain for at least six (6) months, all examination papers and notes submitted by applicants. (1-1-97)

301. -- 399. (RESERVED).

400. TEMPORARY CERTIFICATION PERMIT.

01. Eligibility. (7-1-93)

a. Any one (1) or more of the following shall be considered as minimum evidence that the applicant is qualified to hold a temporary certificate: (7-1-93)

i. Hold a National Court Reporters Association (NCRA) merit certificate; (7-1-93)

ii. Hold a Certificate of Registered Professional Reporter (RPR) issued by the National Court Reporter Association (NCRA); (7-1-93)

iii. Hold a Certified Shorthand Reporter certificate in good standing from another state; (7-1-93)

iv. Hold a diploma or certificate of completion of all requirements to graduate from a National Court Reporter Association (NCRA) approved school; (7-1-93)

v. Has otherwise demonstrated his/her proficiency by a certificate from an agency from another state. (1-1-97)

b. The applicant shall in addition. (7-1-93)

- i. Have graduated from an accredited high school, or have had an equivalent education. (7-1-93)
- ii. Be of good moral character, and have filed a complete application with the Board, accompanied by the required fees, as set forth in ~~the Act~~ these rules. ~~(7-1-97)~~(8-12-08)T

02. Certificate. All temporary ~~certificates~~ permits shall be issued for a period of one (1) year and may be renewable for a single additional year upon payment of the required fees, as set forth in the Act, and showing of just cause. ~~(7-1-97)~~(8-12-08)T

401. -- 9499. (RESERVED).

500. DISCIPLINARY PENALTY (RULE 500).

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) for each violation upon anyone licensed under Title 54, Chapter 31, Idaho Code who is found by the Board to be in violation of Section 54-3112, Idaho Code. (8-12-08)T

02. Costs and Fees. The Board may order anyone licensed under Title 54, Chapter 31, Idaho Code, who is found by the Board to be in violation of the provisions of Title 54, Chapter 31, Idaho Code, to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee. (8-12-08)T

501. -- 999. (RESERVED).