



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee  
**FROM:** Principal Legislative Research Analyst - Eric Milstead  
**DATE:** August 03, 2011  
**SUBJECT:** Bureau of Occupational Licenses- State Board of Optometry

IDAPA 24.10.01 - Rules Pertaining To The Rules of the State Board of Optometry  
(Docket No. 24-1001-1101)

The Bureau of Occupational Licenses submits notice of temporary and proposed rulemaking at IDAPA 24.10.01 -- Rules of the State Board of Optometry. The temporary and proposed rule reflects the changes made to statute in Senate Bill 1137, which was passed during the 2011 legislative session. That legislation repealed the statute which provided for a ballot process for appointment of board members. The temporary and proposed rule follows suit by eliminating provisions relating to the ballot process

The agency states that negotiated rulemaking was not conducted because the change is necessary to conform with statute.

The agency's temporary and proposed rule appears to be authorized pursuant to Section 54-1509, Idaho Code.

cc: Bureau of Occupational Licenses  
Tana Cory & Cherie Simpson

## **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

### **24.10.01 - RULES OF THE STATE BOARD OF OPTOMETRY**

**DOCKET NO. 24-1001-1101**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2011.

**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 54-1509, 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 August 17, 2011.

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:

The 2011 Legislature passed Senate Bill 1137 which eliminated the ballot process for appointment of board members. This rule change will eliminate the ballot process language in the rule to be consistent with the current statute.

**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 2011 Legislature passed Senate Bill 1137 which eliminated the ballot process for appointment of board members. This rule change will eliminate the ballot process language in the rule to be consistent with the current statute.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the change is needed to be consistent with current statute.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson 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 on or before August 24, 2011.

DATED this 7th day of July, 2011.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
700 W State St.  
Boise, ID 83720-0063  
Ph: (208) 334-3233; Fax: (208) 334-3945

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT OF DOCKET NO. 24-1001-1101

~~011.—099.~~      ~~(RESERVED)~~

~~100.      NOMINATIONS OF BOARD MEMBERS (RULE 100).~~

~~01.      Districts.~~ *In order to establish the districts from which a vacancy in the membership of the Board of Optometry shall be filled, the state is divided into the following three (3) districts by counties as follows:*

~~a.      North District.~~

<b>North District</b>	
<del>Lemhi</del>	<del>Latah</del>
<del>Boundary</del>	<del>Clearwater</del>
<del>Bonner</del>	<del>Nez Perce</del>
<del>Kootenai</del>	<del>Valley</del>
<del>Shoshone</del>	<del>Idaho</del>
<del>Benewah</del>	<del>Adams</del>
<del>Lewis</del>	<del>Custer</del>
<del>Washington</del>	<del>Butte</del>
<del>Payette</del>	<del>Jefferson</del>
<del>Boise</del>	<del>Madison</del>
<del>Teton</del>	<del>Clark</del>
<del>Blaine</del>	<del>Fremont</del>

~~(7-1-97)~~

~~b.      Southwest District.~~

<b>Southwest District</b>	
<del>Ada</del>	<del>Gem</del>
<del>Owyhee</del>	<del>Canyon</del>
<del>Elmore</del>	

~~(7-1-97)~~

~~c.      Southeast District.~~

<b>Southeast District</b>	
<del>Bear Lake</del>	<del>Bonneville</del>
<del>Garibou</del>	<del>Camas</del>

<b>Southeast District</b>	
<i>Bannock</i>	<i>Lincoln</i>
<i>Franklin</i>	<i>Twin Falls</i>
<i>Oneida</i>	<i>Minidoka</i>
<i>Power</i>	<i>Bingham</i>
<i>Cassia</i>	<i>Gooding</i>
<i>Jerome</i>	

(7-1-99)

~~02- **Nomination Ballot.** Upon the occurrence of a vacancy to be filled as provided by law, a nominating ballot is to be forwarded to each licensed optometrist residing in the state of Idaho pursuant to Section 54-1504, Idaho Code, and shall read as follows:~~ (7-1-93)

~~**NOMINATING BALLOT FOR MEMBERS OF THE  
IDAHO STATE BOARD OF OPTOMETRY**~~

~~List below any number of names between one (1) and six (6) of persons you wish to nominate for appointment by the Governor to the Idaho State Board of Optometry. In order to be appointed by the Governor, a nominee must be a licensed optometrist in the state of Idaho and shall have been a resident of and lawfully practicing optometry within the State of Idaho for a period of at least five (5) years next preceding his appointment as required by Section 54-1505, Idaho Code. At least one (1) person appointed by the Governor must reside in each of the three (3) districts which are set as follows:~~

~~North District—Counties of Lemhi, Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Idaho, Valley, Adams, Lewis, Washington, Jefferson, Payette, Madison, Boise, Teton, Custer, Blaine, Butte, Clark and Fremont.~~

~~Southwest District—Counties of Ada, Elmore, Gem, Canyon and Owyhee.~~

~~Southeast District—Counties of Bear Lake, Caribou, Bannock, Franklin, Oneida, Power, Cassia, Minidoka, Bonneville, Camas, Lincoln, Bingham, Gooding, Jerome, and Twin Falls.~~

~~MY NOMINATIONS ARE:~~

~~**READ CAREFULLY**~~

~~Instructions for return of the nominating ballot.~~

~~Do not sign or otherwise identify yourself on the foregoing ballot itself.~~

~~Do place the completed ballot in the envelope marked "Ballot," seal the ballot envelope, and sign and print your name on the outside of the envelope.~~

~~Do place the ballot envelope in an envelope addressed to Chief of the Occupational License Bureau, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702 on or before \_\_\_\_\_.~~

~~Ballot envelopes will first be verified to determine if the person returning the ballot is eligible to vote, the ballot envelope will be opened and the ballots themselves will be counted and the results tabulated and sent to the Governor as required by law. Ballot envelopes which cannot be verified will be set aside and the names listed therein not recorded.~~ (7-1-99)

~~1011. -- 124. (RESERVED)~~