

Dear Senators ANDREASON, McKague, Stennett, and  
Representatives BLOCK, Hartgen, Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Industrial Commission:

IDAPA 17.02.04 - Administrative Rules of the Industrial Commission Under the Workers'  
Compensation Law - Benefits (Docket No. 17-0204-1201).

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 08/30/2012. 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 09/28/2012.

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 334-4845, or send a written request to the address on the  
memorandum attached below.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee  
**FROM:** Principal Legislative Research Analyst - Katharine Gerrity  
**DATE:** August 13, 2012  
**SUBJECT:** Industrial Commission

IDAPA 17.02.04 - Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Benefits (Docket No. 17-0204-1201)

The Industrial Commission submits notice of proposed rulemaking at IDAPA 17.02.04 - Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Benefits. According to the Commission, the purpose of the rulemaking is to reflect changes made to Section 72-1104, Idaho Code, during the 2012 Legislative Session that broaden access to the Peace Officer and Detention Officer Temporary Disability Fund by including injuries incurred by officers when caused by the actions of another person in the performance of his or her duties. The Commission notes that there will be no general fund impact and states that future accidents resulting in claims are impossible to predict, as are the number of those claims that may potentially be eligible for reimbursement under the new clause, which sunsets in three years. The Commission also indicates that the funding source is dedicated and, if depleted, would not be subsidized from any other funding source. The balance in the fund as of June 30, 2012, according to the Commission is \$638,000.

The Commission states that negotiated rulemaking was not conducted. The rulemaking appears to be authorized pursuant to Sections 72-508 and 72-1104, Idaho Code.

cc: Industrial Commission  
Mindy Montgomery  
Jane McClaran

## IDAPA 17 - INDUSTRIAL COMMISSION

### 17.02.04 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- BENEFITS

DOCKET NO. 17-0204-1201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, 72-723, and 72-1104, 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 15, 2012.

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: This rule coincides with the current language in Section 72-1104, Idaho Code, that broadens access to the Peace Officer and Detention Officer Temporary Disability Fund by including injuries incurred by officers when caused by the actions of another person in the performance of his or her duties.

**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:

No General Fund impact. Future accidents resulting in WC claims are impossible to predict, as are the number of those claims that may potentially be eligible for reimbursement under the new clause (which sunsets in 3 years). However, the funding source is dedicated and if depleted, would not be subsidized from any other funding source. The balance in the Peace Officer and Detention Officer Temporary Disability Reimbursement fund as of June 30, 2012 is \$638K. Utilization in FY12 was down, but may triple in FY13

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the statute was vetted and passed by the 2012 legislature. This rule change incorporates the current language contained in Section 72-1104, Idaho Code, into the rule.

**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 proposed rule, contact Jane McClaran, 334-6042.

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 August 22, 2012.

DATED this 18th day of July, 2012.

Mindy Montgomery, Director  
Industrial Commission  
700 S. Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: 334-6059  
Fax: 334-5145

**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 17-0204-1201**

**004. RULE GOVERNING APPLICATIONS FOR REIMBURSEMENT FROM THE PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY FUND.**

**01. Eligibility.** An employer who has paid the full base salary due to a peace officer or detention officer, as defined in Section 72-1103, Idaho Code, may apply for reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund under the provisions of Section 72-1104, Idaho Code, for the amount of that salary not covered by the workers' compensation income benefit payments remitted to the employer during the time that such officer is: (5-8-09)

- a. Temporarily incapacitated and unable to perform employment duties; (5-8-09)
- b. Is otherwise eligible to receive workers' compensation benefits; and (5-8-09)
- c. Is one whose incapacitating injury was incurred in the performance of employment duties on or after July 1, 2008, either: (5-8-09)
  - i. When responding to an emergency; or (5-8-09)
  - ii. When in the pursuit of an actual or suspected violator of the law; ~~or~~ (5-8-09) Q
  - iii. The injury was caused by the actions of another person after July 1, 2012 and before July 1, 2015. Q

**02. Application.** An employer eligible to seek reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall make application on the form provided by the Commission for that purpose. Applications shall be sent to: Idaho Industrial Commission, ATTN: Peace Officer Fund, PO Box 83720, Boise, Idaho 83720-0041. (5-8-09)

**03. Payments.** Payments to employers requesting reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall be made within thirty (30) days of receipt of an approved request for reimbursement, subject to the availability of money in that fund. (5-8-09)

**04. Disputes.** Disputes regarding eligibility for reimbursement from The Peace Officer and Detention Officer Temporary Disability Fund will be decided by the Commission upon written request by the employer. There is no appeal from the reimbursement dispute decisions of the Commission under this section. Disputes regarding eligibility of an injured peace officer or detention officer for workers' compensation benefits, including the continuation of salary benefit set out in Section 72-1104, Idaho Code, will be decided in accordance with the Commission's current rules and procedures governing disputes in all other workers' compensation claims. (5-8-09)