

MINUTES

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

**DATE:** Thursday, January 12, 2012  
**TIME:** 1:30 P.M.  
**PLACE:** Room WW54  
**MEMBERS PRESENT:** Chairman Andreason, Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippets, Johnson, Stennett, and Schmidt

**ABSENT/  
EXCUSED:**

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**Chairman Andreason** called the meeting to order at 1:30 p.m.

**Chairman Andreason** recognized **Steve Keys, Deputy Administrator, Division of Building Safety**, to present Pending Rule Dockets 07-0103-1101, 07-0104-1101, 07-0104-1102, 07-0105-1101, 07-0106-1101, 07-0205-1102, 07-0205-1103, 07-0207-1101, 07-0402-1101, 07-0701-1101, and 07-0701-1102. Present Pending Fee Rule Dockets 07-0107-1101, 07-0205-1101, and 07-0501-1101.

**Steve Keys, Deputy Director**, advised that for clarification he would like to make a few general comments: first and foremost, the content of all of the proposed rules has been developed utilizing open meetings with significant involvement by parties and entities affected by the changes reflected in these proposals. Second, as a general statement, you will notice housekeeping changes including address references and changes to eliminate references to specific bureaus within the Division. **Mr. Keys** said he did not intend to highlight those changes, but will be happy to address any questions the committee may have regarding those changes. Finally, all of the dockets under review here today, with one significant exception, are widely supported by affected parties, and that in all but one case he believes they have satisfied the expectation for building a consensus prior to bringing the docket forward. He will explain the exception when they reach that point in the agenda.

**DOCKET NO.** **Department of Building Safety, Pending Rules**

**07-0103-1101** **Rules of Electrical Licensing and Registration - General**

**Mr. Keys** said this docket was promulgated by the Electrical Board to address a situation where some apprentices consciously decide to avoid attending school by taking advantage of a provision allowing renewal of a five year apprenticeship registration by enrolling in an apprenticeship education program, and then withdrawing. Apprentices currently are required to complete four years of schooling and 8000 hours of on-the-job experience in order to qualify for licensure. It is the consensus of the board and industry that an apprentice should be able to complete the required training within the term of the base five year registration and the additional five year registration that are provided for in this rule. There are provisions for exceptions to address exceptional circumstances at the discretion of the board.

**Senator Tippets** requested clarification on page 7, of the rule, concerning "whether extenuating circumstances exist which prevent the completion of the instruction or work experience requirements; for renewal of an apprentice

registration." In the upper text of the paragraph the rule states that renewal would only occur if evidence demonstrated that the apprentice had successfully completed at least two years sequential instruction. The paragraph creates confusion in the rule. **Mr. Keys** responded that the intent of the rule during the five year registration period is that the apprentice would accumulate two years of schooling and 4,000 hours of work experience in order to facilitate an automatic renewal for a second five year term. If necessary, the Division could allow rule drafting encompassing what the department intends. The intent is that when an apprentice cannot meet the provisions of the five year registration period in the instance of such an event as a catastrophic illness or being deployed with the military, the Division wanted to allow the Board to have the discretion to review that apprentice's circumstances and grant an exemption. **Senator Tippets** asked if an apprentice has not completed the two years of instruction and the 4,000 hours of work in the five year period can that apprentice apply for an extension? **Mr. Keys** replied that apprentice can apply for an extension. **Senator Tippets** asked if the apprentice is required during the second five year period to complete the additional hours of work and instruction? **Mr. Keys** replied that the expectation for the apprentice is that in order to qualify themselves for an automatic renewal for a second five year apprenticeship term they will have completed the first two years of schooling and have accumulated 4,000 hours of on the job experience.

**MOTION:** **Senator Cameron** moved, seconded by **Senator Smyser**, to adopt Docket No. 07-0103-1101. The motion carried by **Voice Vote**.

**07-0104-1101 Rules Governing Electrical Specialty Licensing**

**Mr. Keys** stated this docket is similar to the previous docket in that it pertains to registration requirements for specialty trainees. Specialty trainees are registered for three three year terms. These trainees are required to accumulate 4000 hours of on-the-job (OJT) experience in order to qualify for licensure. Under this proposed rule, a trainee is allowed two three year registration terms to complete his 4000 hours of OJT. Provisions are also in place for the board to grant additional time in extenuating circumstances.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Cameron**, to adopt Docket No. 07-0104-1101. The motion carried by **Voice Vote**.

**07-0104-1102 Rules Governing Electrical Specialty Licensing**

**Mr. Keys** said this docket establishes a new specialty electrical license category for solar photovoltaic practitioners. Photovoltaic systems are becoming more and more commonplace in Idaho, and contribute significantly to our power supply. The specialty license recognizes the experience and expertise that exists in the industry, and provides the legal bases for industry participants to continue in business within the licensing requirements for electrical installations. The Division has worked with the industry for the past three years to craft a workable solution to the licensing issue, and together they believe this proposed rule satisfies that goal.

**MOTION:** **Senator Cameron** moved, seconded by **Senator Smyser**, to adopt Docket No. 07-0104-1102. The motion carried by **Voice Vote**.

**07-0105-1101 Rules Governing Examinations**

**Mr. Keys** advised that the original rule imposed a 30 day waiting period after a failed journeyman exam before an applicant could re-test. This proposed rule removes that restriction, recognizing that the tests are now offered on a continuous basis. The board believes it is the individual responsibility of the applicant to decide for himself whether he should do additional remedial work before re-testing. The one year waiting period to retest after a third failed attempt remains in place.

**MOTION:** **Senator Tippets** moved, seconded by **Senator Stennett**, to adopt Docket No. 07-0105-1101. The motion carried by **Voice Vote**.

**07-0106-1101**

**Rules Governing the Use of National Electrical Code**

**Mr. Keys** stated this docket is the exception to the rule that he referenced in his opening remarks, and it is a bit awkward for all involved. This docket references the adoption of the 2011 National Electrical Code by the Idaho Electrical Board. It also reflects the statutory division of authority between the administrator of the Division of Building Safety (DBS) and the Electrical Board. The board is given rulemaking authority, and exercising that authority, even though the agency administration and many affected parties would have rather seen the board take a different approach. Significantly, the board has decided to modify the existing amendments to the code by removing the limitation on the requirement for Arc Fault Circuit Interrupters (AFCI) throughout a residence. The board had previously in its adoption of the 2008 National Electrical Code restricted the requirement for AFCI to bedrooms. This proposed rule would require the installation of AFCI on all circuits supplying outlets throughout the dwelling unit. The approval of this proposed rule has been estimated to add \$500 to the cost of the average new home.

Mr. Bob Scott, the chairman of the electrical board is here to represent the board's position and to answer questions if the committee so desires. **Senator Tippets** asked which addition of the Electrical Code were the Arc Fault Interrupters first included? **Mr. Keys** answered they were included in the 2005 addition of the Electrical Code and then the code extended the requirement to the entire residence in the 2008 addition. **Senator Stennett** asked given each circuit in a residence, what would be the cost? **Mr. Keys** stated the cost difference in a normal circuit breakers cost, \$5.00 a piece and Arc Fault Circuit Interrupters cost \$35.00 to \$40.00 a piece. **Senator Stennett** advised that given that the construction industry is making slow progress coming out of the recession this cost increase would be prohibitive for those who are building and purchasing homes.

**Bob Scott, Chairman of the State Electrical Board and General Manager of Quality Electric** stated that when the Board looked at the addition of these AFCI they were very sensitive to adding this cost to the construction of a new home, especially in this climate. But they looked at all of the research that the National Fire Protection Association had put into this prior to them including it in 2008 code and felt it was warranted to be included in new home construction. The purpose of an AFCI is to trip the circuit when there is an arc fault. This happens when a wire becomes separated and is arcing from one wire to the other. This action will not trip a normal circuit breaker because it doesn't increase the amount of current that is flowing. It will generate the heat to start a fire. There are thousands of fires started every year from fires that are started from arc faults. Most of the fires are happening in older buildings, which this rule change will not affect. By placing the AFCI in new homes the buyer will be getting a safer home. As newer construction with these devices installed there will be a decrease of these fires in this country contributed by arc faults. The Electrical Board did not want to overrule the amount of research that the National Fire Protection Association had collected in this field. The Board felt that the extra safety in housing that this change would afford will be good for Idaho. These AFCI will increase the cost of a new home by approximately \$500.00.

**Senator Tippets** asked is there any data that would support the number of fires being prevented and lives saved from installing these AFCI? **Mr. Scott** replied that there are thousands of fires caused every year and hundreds of lives lost because of arc fault interruptions. The majority of the fires due to the arc fault interruptions are caused in older dwellings. It is the Board's opinion that as more of these AFCI are installed in newer dwellings and older dwellings are phased out it will begin to save lives.

**Senator Tippets** requested evidence that would support the Board's contention that thousands of fires and hundreds of lives are lost due to arc faulting. **Mr. Scott** replied that evidence was supplied to the Board by insurers and manufacturers over the course of the last year as they proceeded with hearings on this rule.

**Senator Goedde** asked if **Mr. Scott** could tell him how many arc fault fires have occurred during daylight hours as opposed to nighttime when individuals would be asleep. **Mr. Scott** stated he did not have that data available.

**Senator Stennett** asked are their statistics on what amount of electrical fires that are caused by this electrical arcing. **Mr. Scott** answered that he did not know what percentage of fires were from arcing, but the majority of the electrical fires that are started in this country are from arc faults. **Senator Stennett** asked will these AFCI only be installed in bedrooms? **Mr. Scott** replied that is correct. **Senator Stennett** asked had they quantitatively noticed a drop in casualties from electrical fires because of using these interrupters. **Mr. Scott** stated these AFCI have only been used since 2008 so they have not noticed any significant difference.

**Senator Heider, Tom Brown, B&B Electric, and Allen Lusk, Boise Basin Electric**, all spoke against this rule which would add a potential \$500 per home increase to construction costs in this economic downturn. All voiced that they were not in favor of adopting the 2011 Electric Code; which have additional cost increases in the code that put a burden on the struggling construction industry.

**MOTION:**

**Senator Smyser** moved, seconded by **Senator Stennett**, to hold Docket No. 07-0106-1101 in Committee. The motion carried by **Voice Vote**.

**07-0205-1102**

#### **Rules Governing Plumbing Safety Licensing**

**Mr. Keys** said this docket from the Plumbing Board is promulgated as a result of numerous complaints regarding out-of-state plumbers taking advantage of a loophole in existing regulations to work in Idaho without obtaining a license. This proposal requires all plumbers who have been licensed as journeymen or master plumbers in other jurisdictions to disclose that information to DBS. They would then be required to apply for licensure at the journeyman level, and not be allowed to register as an apprentice, as they have already served and completed that training requirement.

**Senator Tippets** asked what the procedure would be for acquiring this licensure. **Mr. Keys** replied the journeymen or master plumbers must supply proof of their experience to DBS or prove that they have a license in another jurisdiction. Then they are allowed to register for journeyman plumber exam and on successful completion of the exam they would be granted a license in our state. **Senator Goedde** stated is the issue the retesting to acquire a license in our state. **Mr. Keys** explained these out-of-state plumbers would register with DBS as apprentices and for the short duration of the job they would never go to school or fulfill any requirements of an apprentice. When the job was far enough along they would leave the state; they wanted to avoid taking the test.

**MOTION:**

**Senator Cameron** moved, seconded by **Senator Tippets**, to adopt Docket No. 07-0205-1102. The motion carried by **Voice Vote**.

**07-0205-1103**      **Rules Governing Plumbing Safety Licensing**  
**Steve Keys, Deputy Director**, advised this rule proposal allows a plumbing apprentice to take the journeyman test after they have completed their schooling but have not gathered all their on the job experience. They will not be granted a license until they have the required hours of on the job experience.

**MOTION:**            **Senator Tippets** moved, seconded by **Senator Johnson**, to adopt Docket No. 07-0205-1103. The motion carried by **Voice Vote**.

**07-0207-1101**      **Rules Governing Civil Penalties**  
**Mr. Keys** stated this docket builds on the previous docket to allow for the imposition of civil penalties in those cases where an applicant has failed to disclose previous licensure as a journeyman or master plumber when they apply for registration as an apprentice.

**Senator Tippets** asked for clarification on the intent of this rule. Does this rule only apply to those cases where an individual is attempting not to disclose that they have been previously licensed? **Mr. Keys** replied that this is the intent of this rule.

**MOTION:**            **Senator Goedde** moved, seconded by **Senator Schmidt**, to adopt Docket No. 07-0207-1101. The motion carried by **Voice Vote**.

**07-0402-1101**      **Safety Rules for Elevators, Escalators, and Moving Walks**  
**Mr. Keys** said this rule proposal adopts the 2010 version of ANSI/AMSE A17.1, the elevator code. The 2010 code addresses new developments and technologies in the industry and codifies the approval process for them. The industry and DBS support this proposal as it simplifies the approval of new technologies. Currently, elevator components not falling within the current 2007 version must be approved through an alternative approval process which is cumbersome and costly for all involved. The rule also adopts updated versions of the standard for elevator suspension and governor systems, and the performance-based safety code for elevators and escalators. Both of these codes provide a backdrop for addressing new technologies that have been and continue to be developed. DBS is seeing tremendous new developments in technology within the elevator industry.

**MOTION:**            **Senator Schmidt** moved, seconded by **Senator Stennett**, to adopt Docket No. 07-0402-1101. The motion carried by **Voice Vote**.

**07-0701-1101**      **Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems**  
**Mr. Keys** advised this docket clarifies the requirement for compliance bonds required from an applicant in order to obtain an HVAC contractor license. It also requires that a Notice of Correction must be issued to identify deficiencies uncovered as a result of an inspection. Minor changes eliminate specific colors of inspection tags.

**MOTION:**            **Senator Goedde** moved, seconded by **Senator Schmidt**, to adopt Docket No. 07-0701-1101. The motion carried by **Voice Vote**.

**07-0701-1102**      **Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems**  
**Mr. Keys** said this proposed rule removes requirements for the protection of meters and regulating equipment owned by the utility or fuel provider. The owners of this equipment already have requirements for the protection of these devices. Those requirements are generally more rigorous and specific than the language in the current rule.

**MOTION:**            **Senator Tippets** moved, seconded by **Senator Smyser**, to adopt Docket No. 07-0701-1102. The motion carried by **Voice Vote**.

## Department of Building Safety, Pending Fee Rules

07-0107-1101

### Rules Governing Continuing Education Requirements

**Mr. Keys** stated this docket imposes fees on the providers of continuing education courses that are offered to fulfill licensure requirements for electricians.

The proposed fee is designed to cover the costs that DBS incurs in reviewing the qualifications of instructors and the content of the course. The \$50 fee for instructors and \$50 fee for each proffered course have been discussed with and are endorsed by the PTE schools in Idaho and by many organizations offering CEU courses. Absent a fee for approval, the agency has been overwhelmed with applications for classes offered throughout the country, many of which are never offered in Idaho. We believe that this proposal will help address that situation.

**MOTION:**

**Senator Schmidt** moved, seconded by **Senator Stennett**, to adopt Docket No. 07-0107-1101. The motion carried by **Voice Vote**.

07-0205-1101

### Rules Governing Plumbing Safety Licensing

**Mr. Keys** said this docket from the Plumbing Board imposes a continuing education requirement on journeyman plumbers and plumbing contractors in Idaho. The requirements are eight hours for journeyman and sixteen hours for contractors every three-year licensing cycle. The administrative requirements are in line with those currently in place for electrical licensees, and the fees for approval of courses and instructors mimic those contained in the previous docket.

**MOTION:**

**Senator Schmidt** moved, seconded by **Vice Chairman McKague**, to adopt Docket No. 07-0205-1101. The motion carried by **Voice Vote**.

07-0501-1101

### Rules of the Public Works Contractors License Board

**Mr. Keys** advised this proposal would impose a fee to be submitted with a request for an extension of time in which to renew a Public Works Contractor license. The fee would be the pro-rated portion of the annual license fee, with a minimum fee of \$50. The most common reason for an extension is the unavailability of the updated financial information, and many contractors file an extension request on a recurring basis, as the underlying renewal date is unaffected by the extension request. This proposal allows a contractor to request an extension, pay a pro-rated fee for the time covered by the extension, and change their annual renewal date all in one process. We hope this will negate the need for many annual requests for extensions.

This docket also installs a \$100 fee for expedited processing of a license application. By instituting a separate charge for this expedited service, they believe they can offer improved service without adversely affecting those applicants whose applications are already in process. DBS proposes to do this by utilizing the \$100 to pay for overtime that would be incurred by existing staff in reviewing these expedited requests outside of their normal working hours. **Senator Tippets** asked how long does the normal process of approval take and how will the process change if an applicant pays the extra \$100. **Mr. Keys** answered that normally the Division's turnaround time is within ten working days. Under this rule the Division has the ability to expedite a license request within a 24-48 hour period.

**MOTION:**

**Senator Schmidt** moved, seconded by **Senator Johnson**, to adopt Docket No. 07-0501-1101. The motion carried by **Voice Vote**.

**DOCKET NO.**

**Human Rights Commission**

**45-0101-1102**

**Rules of the Idaho Human Rights Commission**

**Deputy Jeanne Goodenough** stated the primary reason for this rule update was to bring the state's rules into compliance with the Americans With Disabilities Act which was amended effective January 1, 2009. Federal regulations were issued May 25, 2011 and the Commissions rules needed to be amended to conform to those regulations. While the definition of who is an individual with a disability has changed, the interpretation of that phrase in the regulations was broadened considerably to cover more individuals.

Rather than try to catch the nuances of all these regulations, the Commission is proposing to refer to the fact that state law on issues of discrimination is interpreted consistent with federal law and case law. Figures requested in rule 12 and 101 on page 174 cover Title VII of the Civil Rights Act, the Age Discrimination Employment Act, and the Americans with Disabilities Act. Other changes to the rule included changes in the word person to individual, the word shall to will or must for clarity. The Commission proposes eliminating unnecessary definitions for those which copy federal regulations. The rule describing the Commission's processes, rule 300, was clarified and updated to reflect current practice.

**MOTION:**

**Vice Chairman McKague** moved, seconded by **Senator Stennett**, to adopt Docket No. 45-0101-1102. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 3:05 p.m.

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Senator Andreason  
Chairman

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Carol Deis  
Secretary