

MINUTES
HOUSE BUSINESS COMMITTEE
BATT SUBCOMMITTEE
Rules Review

DATE: Thursday, January 19, 2012
TIME: 1:30 P.M.
PLACE: Room EW41
MEMBERS: Chairman Batt, Representatives Crane, Palmer, DeMordaunt, Cronin
**ABSENT/
EXCUSED:** None.
GUESTS: Mike Liegert, Schneider Electric; Jeff Fitzloff, Underwriters Laboratories; Benjamin Davenport, Risch Pisca; Steve Keys and John Nielsen, Division of Building Safety; Bob Scott, State Electrical Board; Tom K. Brown, B&B Electric; Mark Larson, State Fire Marshal; Ed Hawley, Office of Administrative Rules; Cindy Hedge, Idaho AFL-CIO; John Eaton and Miguel Legarreta, Idaho Association of Realtors; Steve Martinez, Tradewinds General Contractors; Jane Wittmeyer, Associated Builders & Contractors

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

Steve Keys, Deputy Administrator of the Division of Building Safety (DBS), appeared before the committee to present Rules from the Division. Mr. Keys testified that all proposed rules were developed utilizing open meetings, with significant involvement by interested and affected parties. He also said that, with one exception, the rule changes are widely supported by affected parties.

DOCKET NO. 07-0103-1101: **Mr. Keys** presented **Docket No. 07-0103-1101**. This rule will allow only one renewal of an apprentice registration after demonstration that the applicant has made at least some progress toward the requirements for a journeyman license. Currently apprentices can renew multiple times. Mr. Keys said it is the consensus of the board and the 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 extension. He also said there are provisions in the rules for handling exceptions or unusual circumstances, at the discretion of the board.

Responding to a question, **Mr. Keys** said the 8,000 hours of on-the-job experience should be easily completed within the five-year registration period.

MOTION: **Rep. DeMordaunt** made a motion to recommend approval of **Docket No. 07-0103-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0104-1101: **Mr. Keys** presented **Docket No. 07-0104-1101**, which is similar to the previous docket except that it pertains to registration requirements for specialty trainees. Under this rule, a specialty trainee will be allowed two three-year registration terms to complete his required 4,000 hours of on-the-job training. The Board will have discretion to grant additional time in extenuating circumstances.

MOTION: **Rep. DeMordaunt** made a motion to recommend approval of **Docket No. 07-0104-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0104-1102: **Mr. Keys** presented **Docket No. 07-0104-1102**, saying that this docket establishes a new specialty electrical license category for solar photovoltaic practitioners. Because these systems are becoming more common in Idaho, this specialty license will recognize the experience and expertise that exists in the industry.

Responding to committee questions, **Mr. Keys** said the Division will put out notices on its website as well as on Facebook and other social communication sites in order to educate the public about these new requirements. He said under current rules, a solar installer brings in an electrical contractor to take out necessary permits and be responsible for the installation.

MOTION: **Rep. DeMordaunt** made a motion to recommend approval of **Docket No. 07-0104-1102** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0105-1101: **Mr. Keys** presented **Docket No. 07-0105-1101**. This change will eliminate the 30-day waiting period after a failed journeyman exam before an applicant can re-take the test. Tests are now offered on a continuous basis, and the board thinks each individual applicant can decide whether he should do additional remedial work before re-testing. The one-year waiting period to re-test after a third failed attempt remains in place.

Asked whether the entire paragraph should be deleted, **Mr. Keys** said situations can change and the requirements may become necessary in the future.

MOTION: **Rep. DeMordaunt** made a motion to recommend approval of **Docket No. 07-0105-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0106-1101: **Mr. Keys** presented **Docket No. 07-0106-1101**, noting that this docket is the exception to his previous statement that all dockets were a result of consensus and agreement among parties. This docket references 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 and the Electrical Board. The Board is given rulemaking authority and exercised that authority, even though the agency administration and many affected parties would have rather seen the board take a different approach. The board has decided to remove the limitation on the requirement for Arc Fault Circuit Interrupters (AFCIs) throughout a residence. When the board adopted the 2008 National Electrical Code, it restricted the requirement for AFCIs to bedrooms only. The proposed rule would require AFCIs on all circuits supplying outlets throughout the dwelling. **Mr. Keys** said it is estimated that this change will add \$500 to the cost of an average new home.

Bob Scott, Chairman of the Electrical Board, testified on **Docket No. 07-0106-1101**. **Mr. Scott** said he has worked continuously in the electrical field since 1970, as a journeyman, a foreman, a project manager, and general manager of Quality Electric, a large electrical contractor. He is active in local and national electrical contractors associations. **Mr. Scott** testified that the Board does not think the current exception from the AFCI requirement in the 2008 Code should be allowed to continue. He said the requirement does not apply to any existing structures, and said the cost could be higher or lower than the \$500 figure offered by **Mr. Keys**. **Mr. Scott** said he would be willing to accept adoption of the 2011 Code with the same exception, if it cannot be adopted in full.

Responding to committee questions, **Mr. Scott** said a regular electrical breaker costs around \$3 to \$4, whereas an AFCI breaker costs between \$35 and \$40. He said in an older home undergoing remodeling, arc fault protection would be required, and this could require changing the electrical panel in order to accommodate the change. If a new electrical panel is required, the cost would be about \$1,000.

Mike Leigert, Schneider Electric, testified in support of adoption of the 2011 National Electrical Code. **Mr. Leigert** presented written testimony from **Alan Manche**, Director of Industry Standards for Schneider Electric. **Mr. Leigert** said all current electrical design is done according to 2011 NEC standards, and all education in the electrical industry currently uses 2011 standards. He urged the adoption of the 2011 Code in order to realize broad safety and economic benefits.

In response to questions from the committee, **Mr. Leigert** said his home state of Utah has adopted the 2011 Code, as have Colorado, California, and Montana. He does not know the other states that may have adopted the new code. Asked whether there is anything preventing a person from installing the AFCI breakers, Mr. Leigert said homeowners could choose to do that. He said buildings built to the new code would provide greater safety, but no energy saving. Mr. Leigert said his company will benefit financially if this docket is approved. He also said documentation is available to support the claim of greater fire safety with the use of AFCI breakers, although he did not have such documentation with him.

Jeff Fitzloff, a licensed electrician who works for Underwriters Laboratories, testified in favor of adopting the 2011 National Electrical Code. Mr. Fitzloff said he bought a home built to the 2008 Code, and then purchased and installed AFCI breakers throughout the home. He has not had any problems with tripping, as others have reported. Mr. Fitzloff said his cost for each breaker was \$36.

Steve Martinez, owner of Tradewinds General Contracting, testified in opposition to adoption of the 2011 Code. Mr. Martinez said he often hears complaints from clients after they move into new homes equipped with AFCI circuits. He said homeowners can install AFCI circuits if they wish. Mr. Martinez stated that if a home is remodeled it has to be brought up to current code; the cost of this could easily exceed \$1,000, and would probably cost closer to \$1,500 or \$2,000. He said in one 2008 study, it was found that for every \$1,000 increase in the price of a home, another 350 people are taken out of the housing market because they can no longer afford to buy a home.

Asked whether the problems experienced with AFCI circuits cause greater expense to a homeowner, **Mr. Martinez** said it could do so if the homeowner hires another electrician to alter the home's electrical installations. There is also a safety concern when a homeowner retrofits a home with electrical installations that do not comply with applicable codes.

Tom Brown, an electrician licensed in Idaho for 40 years, testified that he is not in favor of adopting the 2011 Code. Mr. Brown's primary concern is the added cost to the construction of homes, especially in the current economic climate, with its depressed construction industry. Mr. Brown works on home remodeling, and meeting the requirements of the 2011 Code will add costs to such projects. He is currently working on a remodeling job which would require over 60 breakers at \$35 apiece. Mr. Brown also testified that manufacturers of the breakers do not have a device to test them and cannot say what the life of the product should be.

MOTION:

Rep. Crane made a motion to recommend approval of **Docket No. 07-0106-1101** to the full committee, and requested that the full committee introduce and send to the Second Reading Calendar a concurrent resolution stating that the docket is being rejected. Rep. Crane explained it is his understanding that if a non-fee rule is rejected in the House and Senate, it needs to be done by concurrent resolution.
Motion carried by voice vote.

**DOCKET NO.
07-0107-1101:**

Mr. Keys presented **Docket No. 07-0107-1101**, which will impose fees on providers of continuing education courses for electricians. The proposed fees, \$50 fee for instructors and \$50 fee for each proffered course, are designed to cover the costs incurred by the Division in reviewing the qualifications of instructors and the content of the courses. Mr. Keys said the Division is often asked to review and approve courses offered throughout the country, some of which may never be offered in Idaho. He believes this proposal will serve to lessen the number of such courses.

Responding to questions from the committee, **Mr. Keys** said the quality of courses does vary; in fact, one vendor was actually selling the answers to the test. He said

the majority of providers are outside the state of Idaho. The \$50 fee would be for each course and for each instructor.

MOTION: **Rep. DeMordaunt** made a motion to recommend approval of **Docket No. 07-0107-1101** to the full committee. He said he thinks this rule will impose additional costs which will be passed on to consumers.

Rep. Cronin argued against the motion, saying the \$50 fee would be spread across a large number of people and would be a small price to pay in order to ensure quality education for electricians. **Rep. Crane** argued in support of the motion, saying he does not think a fee guarantees that the quality of continuing education providers will be any better.

VOTE ON MOTION: **Chairman Batt** called for a vote on the motion to recommend rejection of **Docket No. 07-0107-1101** to the full committee. **Motion carried by voice vote.** **Rep. Cronin** requested that he be recorded as voting **NAY**.

DOCKET NO. 07-0205-1101: **Mr. Keys** presented **Docket No. 07-0205-1101**, which imposes a continuing education requirement on journeyman plumbers and plumbing contractors. In every three-year licensing cycle, the requirements are eight hours for journeymen and sixteen hours for contractors. The requirements are similar to those in place for electrical licensees, and the fees for approval of courses and instructors mimic those contained in the previous docket.

Answering questions from the committee, **Mr. Keys** said if these dockets do not receive approval, it will probably take longer for courses and instructors to be reviewed and approved, since the Division does not have adequate staff to handle the work.

Mr. Scott testified that all Idaho providers of continuing education courses are in favor of the fee, as are the universities that provide apprenticeship training, namely, College of Western Idaho, Northwest Nazarene University, and others.

Jeff Fitzloff, who serves as secretary for the Idaho chapter of the National Association of Electrical Contractors, stated Idaho would not be alone in charging a fee for this purpose. He said this fee may add about \$1 to the cost paid by tradesmen to take these courses.

MOTION: **Rep. Crane** made a motion to recommend approval of **Docket No. 07-0205-1101** to the full committee. **Motion carried by voice vote.** **Rep. Cronin** asked to be recorded as voting **NAY**.

DOCKET NO. 07-0205-1102: **Mr. Keys** presented **Docket No. 07-0205-1102**, a docket from the Plumbing Board to address the problem of out-of-state plumbers taking advantage of a loophole in existing regulations to work in Idaho without a license. This will require all plumbers who have been licensed as journeymen or master plumbers in other jurisdictions to disclose that information. They will then be required to apply for licensure at the journeyman level and will not be allowed to register as an apprentice.

MOTION: **Rep. Cronin** made a motion to recommend approval of **Docket No. 07-0205-1102** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0205-1103: **Mr. Keys** presented **Docket No. 07-0205-1103**, which will allow apprentices to take the written portion of their journeyman plumber exam upon completion of the classroom portion of their training. They would need to complete the practical portion of the exam later, after having accumulated the required 8,000 hours of on-the-job training.

MOTION: **Rep. Palmer** made a motion to recommend approval of **Docket No. 07-0205-1103** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0207-1101: **Mr. Keys** presented **Docket No. 07-0207-1101**, which builds on the previous docket to allow for civil penalties in those cases where an applicant has failed to disclose previous licensure as a journeyman or master plumber when applying for registration as an apprentice. **Mr. Keys** explained that the Division wants to stop people who have been licensed in one jurisdiction from coming in and registering as an apprentice in Idaho.

ORIGINAL MOTION: **Rep. Cronin** made a motion to recommend approval of **Docket No. 07-0207-1101** to the full committee.

SUBSTITUTE MOTION: **Rep. Palmer** offered a substitute motion, to recommend that **Docket No. 07-0207-1101** be sent to the full Committee **without recommendation**, for their consideration. This will allow further study to determine whether the Division has proper authority to issue civil penalties.

Responding to questions from the committee, **Patrick Grace**, Office of the Attorney General, said the Division has the statutory authority to issue civil penalties, and their rules enumerate the acts that would subject someone to such a penalty. Typically they would be imposed for things like performing unlicensed plumbing. There is no authority to issue a penalty for not disclosing information on an application.

WITHDRAWAL OF MOTION: After further discussion, **Rep. Palmer** asked that his substitute motion be withdrawn.

VOTE ON ORIGINAL MOTION: **Chairman Batt** called for a vote on the original motion, to recommend approval of **Docket No. 07-0207-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0402-1101: **Mr. Keys** presented **Docket No. 07-0402-1101**, which adopts the 2010 version of the elevator code. The 2010 version addresses new developments and technologies and codifies the approval process for them. The rule also adopts updated versions of the standard for elevator suspension and governor systems as well as the performance-based safety code for elevators and escalators.

MOTION: **Rep. Palmer** made a motion to recommend approval of **Docket No. 07-0402-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0501-1101: **Mr. Keys** presented **Docket No. 07-0501-1101**. This docket will 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 of \$50. The most common reason for an extension is the unavailability of updated financial information. **Mr. Keys** said many contractors file extension requests on a recurring basis, since 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 his annual renewal date, all in one process. The docket also incorporates a \$100 fee for expedited processing of a license application.

MOTION: **Rep. Cronin** made a motion to recommend approval of **Docket No. 07-0501-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0701-1101: **Mr. Keys** presented **Docket No. 07-0701-1101**, saying this docket clarifies the current compliance bond requirement from applicants for an HVAC contractor license. This docket replaces references to a performance bond. It also requires that a Notice of Correction must be issued to identify deficiencies uncovered as a result of an inspection and makes minor changes eliminating specific colors for inspection tags.

MOTION: **Rep. Palmer** made a motion to recommend approval of **Docket No. 07-0701-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 07-0701-1102: **Mr. Keys** presented **Docket No. 07-0701-1102**, which will remove 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, which are generally more rigorous and specific than the language in the current rule.

MOTION: **Rep. Crane** made a motion to recommend approval of **Docket No. 07-0701-1102** to the full committee. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:03 p.m.

Representative Gayle Batt
Chairman

MaryLou Molitor
Secretary