

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

- DATE:** Thursday, January 17, 2013
- TIME:** 1:30 P.M.
- PLACE:** Room WW54
- MEMBERS PRESENT:** Chairman Tippetts, Vice Chairman Patrick, Senators Cameron, Goedde, Guthrie, Martin, Lakey, Schmidt and Durst
- 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.
- CONVENED:** **Chairman Tippetts** called the meeting to order at 1:30 p.m.
- Chairman Tippetts** announced that the first item on the agenda had a typographical error in the first Docket Number, which should have read 07-0203-1201 and not 17-0203-1201. He said one Docket number, 07-0301-1202, was left off of the agenda and added to a revised agenda. He said this Docket number would be held over to the next meeting on Tuesday, January 22, 2013.
- PASSING OF GAVEL:** **Chairman Tippetts** passed the gavel to **Vice Chairman Patrick** to introduce the presenters for the review of the rules being heard.
- Rules Review - IDAPA 07 - DIVISION OF BUILDING SAFETY 07.02.03 - Rules Governing Permit Fee Schedule**
- DOCKET NO. 07-0203-1201** **Steve Keys**, Deputy Administrator of Operations, Division of Building Safety, summarized the rule docket his agency issued and began with Docket No. 07-0203-1201 Rules Governing the Permit Fee Schedule beginning on page 6. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, Vol. 12-10, pages 77 through 80. There will be a minimal negative fiscal impact on the Division of Building Safety and a minimal positive effect on contractors and homeowners, as the Division will no longer be automatically required to charge a re-inspection fee to remove a "red tag" from a job site.
- Mr. Keys** said the current rule requires the Department of Building Safety (DBS) to assess a re-inspection fee for any trips to a job site necessary to remove a "red tag" from a plumbing installation. However, some trips to reinspect an initially unacceptable plumbing installation should be included in the price of the original permit. A re-inspection fee should only be assessed by the DBS for the other instances enumerated in this subsection of the rule, which already includes the ability to impose a re-inspection fee for repeat trips necessary as a result of the submitter improperly responding to a correction notice. The amendments to this rule would eliminate the mandatory requirement that the Division impose a re-inspection fee for each trip to remove a correction notice ("red tag") from a plumbing installation.
- MOTION:** **Senator Durst** moved, seconded by **Senator Schmidt**, to adopt Docket No. 07-0203-1201. The motion carried by **voice vote**.

**DOCKET NO.
07-0204-1201**

07.02.04 - Rules Governing Plumbing Safety Inspections. Steve Keys presented this rule, beginning on page 12. The pending rule is being adopted as proposed, he said. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, Vol. 12-10, pages 81 and 82. The fiscal impact to the Division will be positive because of the reduction in the number of differently colored tags purchased and the ability to use the same tags across multiple trades. There will be a small negative fiscal impact on the DBS as it will not be able to nor required to charge a re-inspection fee merely to remove a red tag (correction notice). However, that is mitigated by the fact that the DBS frequently does not charge. It will have a positive fiscal impact on contractors and homeowners performing their own installations as they will no longer be required to pay a re-inspection fee merely for the DBS to remove a "red tag". Such re-inspection fees are specifically addressed in another chapter of the Idaho Administrative Procedures Act (IDAPA) rules.

Senator Goedde referred to the language of the rules governing the permit fee schedule and asked if there were any changes. **Mr. Keys** said there were no changes and this language related to the re-inspection fee. **Senator Lakey** asked if we were getting rid of blue tags. **Mr. Keys** stated they were getting rid of all colored tags.

MOTION: **Senator Lakey** moved, seconded by **Senator Durst** to adopt Docket No. 07-0204-1201. The motion carried by **voice vote**.

**DOCKET NO.
07-0206-1201**

07.02.06 - Rules Concerning Uniform Plumbing Code. Steve Keys, said this rule began on page 15 and he indicated the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, Vol. 12-10, pages 83 through 95. Previously, he said, the Idaho Plumbing Board, in collaboration with plumbing industry stakeholders, adopted the Idaho State Plumbing Code (ISPC) in lieu of the Uniform Plumbing Code (UPC) as the legal standard by which all plumbing installations performed in the state must be installed. The current rules provide specific amendments to various provisions of the 2003 UPC that the Plumbing Board has adopted over the years. The amendments in this rulemaking update several of those code amendments. Furthermore, the ISPC is modeled after the 2009 UPC and additional amendment to it is desired by the Board and stakeholders. **Mr. Keys** said the Board is statutorily required to make amendments to the ISPC utilizing the negotiated rulemaking process. Since the ISPC is modeled after the UPC, many of the existing amendments in the rule will remain in effect; however, additional amendments by the Board are desired and included, as well as amendments generated through the negotiated rulemaking process.

Senator Goedde asked **Mr. Keys** if there were any objections during the negotiated rule making process. **Mr. Keys** said there were none. **Senator Durst** asked why, on page 17, was the word "Uniform" being removed from the title of the Code. **Mr. Keys** said there was a technical error in omitting the wording from the rule and that would be corrected.

MOTION: **Senator Schmidt** moved, seconded by **Senator Goedde** to adopt Docket No. 07-0206-1201. The motion carried by **voice vote**.

07.03.01 - Rules of Building Safety. **Steve Keys** presented this rule and he said it began on page 32. He indicated the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, Vol. 12-10, pages 96 through 99. The Building Code Board, through an exhaustive negotiated rulemaking process, reviewed proposals to amend current editions and/or adopt new versions of the International Building Code (IBC), International Residential Code (IRC), International Existing Building Code (IEBC), and International Energy Conservation Code (IECC). Through the formation of a consensus committee, the Board was able to endorse the adoption of the 2012 editions of the IBC and IEBC, including amendments to the IBC.

Mr. Keys said adoption of the 2012 editions of the International Building Code and International Existing Building Code was the result of negotiated rulemaking involving the building industry, local building officials and other interested stakeholders. Amendment proposals submitted by local building officials through this process resulted in the Board's recognition that amending several provisions could save property owners significant expense without an adverse effect on health and safety. Specifically, that drinking fountains and service sinks should only be required in certain business occupancies with an occupancy load of 30 persons or more, as opposed to the existing provision of 15 persons. Additionally, adoption of the 2012 building code captures the most up-to-date building code provisions consistent with recent amendments to accessibility standards in commercial facilities and places of public accommodation in accordance with the Americans With Disabilities Act (ADA). This rulemaking would result in the adoption of the 2012 IBC and 2012 IEBC as the law of Idaho. Further amendments to the 2012 IBC would require drinking fountains and service sinks only in business occupancies with an occupancy load of more than 30 persons, except for restaurants and mercantile establishments. **Mr. Keys** said he was not aware of any opposition to these changes.

Vice Chairman Patrick said he was nervous about changing the International Building Code because there were some issues in the past. **Mr. Keys** said the Building Code, the Residential Code and the Energy Code usually generate the most controversy. The additions to those codes have not been adopted as the Collaborating Committee is still working on those. On the Docket that was omitted today, there have been some amendments to the existing 2009 edition of those codes, but the codes as a whole have not been adopted.

Senator Durst said he did not know who the collaborative team included. **Mr. Keys** said it included representatives from the Board, the Idaho Home Builder's Association, Associated General Contractors, architects, engineers, real estate agents and basically those parties that are engaged in building in the state of Idaho, which is a pretty broad representation. **Chairman Tippetts** commented on the summary that referred to the IBC and the 2012 IEBC and he said he assumed one relates to new construction and the other relates to modification of an existing building and he asked if that was correct. **Mr. Keys** replied that was correct. **Chairman Tippetts** said we were at the mercy of **Mr. Keys** since we do not have the opportunity to compare the new building code. We are incorporating by reference all of those new requirements and asked for him to tell us whether there had been controversy or not. **Chairman Tippetts** said **Mr. Keys** was talking about having no controversy at all in universally adopting these codes, was that correct? **Mr. Keys** said this has been a requirement in statute for the adoption or the amendment of the building codes. There were at least 30 different entities in the state of Idaho that received notice of the rule making and basically everyone involved was notified. There was broad participation and a collaborative committee and that is why he is able to sit there and say there really is no opposition. All of

the issues have been brought forward and the changes have been discussed and there are really not that many changes.

TESTIMONY: **Andrew Bick**, Chairman of the Idaho State Building Code Board, said there was a large collaboration on these codes and this was the best coordinated effort they have had in bringing forward the code. They did have opposition, but in the process of collaboration everyone felt comfortable with what is being brought forward to this Committee. This was the best scenario as far as cleaning up what they currently have in the 2009 codes and proposing what to put in the 2012 codes. The reason we kept the 2009 residential and energy codes in place is because they are so overlapping and it made sense to keep those where they were. This was a great collaboration.

Senator Schmidt said he said there were regulations that effect log homes and he asked if the log home contractors were helped. **Mr. Bick** said that most of the log home contractors were helped during the process of updating the 2009 codes. There were a couple of codes in 2009 that were revised so that it brought the log home standards back into good standing with the log home industry.

TESTIMONY: **Ben Otto**, Idaho Conservation League, said he was part of the collaborative process and their interest is not in building homes, but in the way homes use energy. They did not get everything they wanted out of the code, but he credited the Building Department and the Board for their collaboration. He said the changes benefit the homeowner and he endorses the rule.

MOTION: **Senator Lakey** moved, seconded by **Senator Durst** to adopt Docket No. 07-0301-1201. **Chairman Tippetts** congratulated the Department for using the negotiated rulemaking process. He said during the discussions of some of the other committees about agencies, some of them had chosen not to use that process when it was appropriate. He said he thought this was a good use of that process and it sounded like those that were involved felt like it was very helpful. He said he felt a little nervous adopting new codes when he really did not know much about the changes. He relies on the Department and feels the changes are appropriate. The fact that the interested parties and those who make their income building homes or those who are involved in the regulatory process agree, doesn't always mean that as public policy makers we should accept that blindly. We also, obviously, have responsibility for the public interest. The motion carried by **voice vote**.

DOCKET NO. **07.05.01 - Rules of the Public Works Contractors License Board.** **Steve Keys** said this rule began on page 44. He indicated this pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, Vol. 12-9, pages 27 through 29.

As part of the application for a Public Works Contractor's license, an applicant must submit an annual financial statement, along with other items. The current rule requires the applicant to submit a financial statement that details the financial condition of the applicant. However, the language contained in the rule requires only that the statement was issued within the 12 months prior to submission of the application. Recently, the Division has received statements issued within the past year that reflect financial data significantly more than a year out-of-date. This change requires that the period of time covered by the financial statement ended within the last 12 months prior to the submission of the application. The Department of Building Safety (DBS) and the Board feel timely financial data plays a prominent role in determining the qualifications of a Public Works Contractor and that they meet minimum qualifications at the time of their application. The rulemaking would clarify that the annual financial statement required with the application for a Public Works Contractor's license covers a period of time ending no more than 12 months prior to the date of submission of the application. This rule change was not conducted using formal negotiated rulemaking because the rule is simple in nature.

However, the change was brought forward and discussed in open sessions of the Board and is widely supported by the industry and governmental entities.

MOTION: **Senator Goedde** moved, seconded by **Senator Schmidt** to adopt Docket No. 07-0501-1202. The motion passed by **voice vote**.

DOCKET NO. 07-0701-1201 & 07-0701-1202 **07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems.** **Steve Keys** said this rule began on pages 49 and 54 respectively. He said the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, Vol. 12-10, pages 108 through 110.

Both the Department of Building Safety (DBS) and local jurisdictions have encountered installations where the plastic pipe used to vent gas appliances was improperly connected, potentially allowing the release of carbon monoxide into a building. This change requires the contractor to test the piping, assuring that joints and connections are properly made. This rulemaking requires all plastic pipe within a dwelling used for venting flue gases to be tested at five psi for 15 minutes. **Vice Chairman Patrick** asked what the process was for correcting problems. **Mr. Keys** responded that once installations are made, the vent is not accessible. **Senator Lakey** asked if this change came as a response to the concerns from local jurisdictions and what kind of response did he get from the contractors? **Mr. Keys** replied the contractors who have been involved in the process have endorsed the changes.

MOTION: **Senator Schmidt** moved, seconded by **Senator Goedde** to adopt Docket No. 07-0701-1201. The motion passed by **voice vote**.

Mr. Keys said that regarding Docket 07-0701-1202 found on page 54, the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, Vol. 12-10, pages 111 through 114.

Mr. Keys said currently, the provisions of the International Residential Code adopted by the Heating, Ventilation & Air Conditioning (HVAC) Board require appliances to be listed. This change provides a procedure for approval of unlisted appliances and is especially useful when dealing with restored antique stoves. The change requiring carbon monoxide detectors will assure that detectors are installed in areas where there is no local building code enforcement program. This rulemaking incorporates important sections of the International Residential Code (IRC) into the authority of the Department of Building Safety (DBS) and HVAC Board. It allows the DBS to accept the use of alternative materials, designs, or methods of construction if it complies with the intent of the code and is at least equivalent to the requirements prescribed by the code. It also allows the DBS to require tests of installation to ensure compliance with the code whenever there is insufficient evidence of such or to substantiate requests for alternative methods or materials. Finally, it requires the installation of carbon monoxide alarms in dwelling units.

Chairman Tippetts asked if someone currently wanted to install an unlisted appliance, how was the request handled? **Mr. Keys** said that as it currently stands, the Department is unable to approve an unlisted appliance. He said there have been situations where they have been unable to give a final approval of the installation until that device had been removed. **Chairman Tippetts** asked if this was a situation where a carbon monoxide detector needed to be installed. **Mr. Keys** said carbon monoxide detectors are required by the residential code, but the loophole has been in those situations in areas where there is no building jurisdiction. He said there are certain counties in the state that do not have a building inspection code. **Senator Martin** asked if in those counties a homeowner could build whatever they wanted to with no inspection. **Mr. Keys** said that in Idaho the Building Code is adopted by the state as a universal requirement, but the discretion is given to local jurisdictions as to whether they want to adopt the Building Code Program. There is no statewide application of the Building Code. There is a uniform requirement for plumbing, electrical and HVAC systems, but there is no such requirement for the Building Code.

MOTION: **Senator Durst** moved, seconded by **Senator Cameron** to adopt Docket No. 07-0701-1202. The motion passed by **voice vote**.

PASSING OF GAVEL: **Vice Chairman Patrick** passed the gavel back to **Chairman Tippetts**.

Chairman Tippetts reminded those who came to the meeting late that there was one docket on the revised agenda that will not be heard (07-0301-1202) until the next meeting.

ADJOURNED: There being no further business, **Chairman Tippetts** adjourned the meeting at 2:05 p.m.

Senator Tippetts
Chairman

Linda Kambeitz
Secretary