

Dear Senators PATRICK, Guthrie, Ward-Engelking, and
Representatives BARBIERI, Clow, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Bureau of Occupational Licenses - Board of Architectural Examiners:

IDAPA 24.01.01 - Rules of the Board of Architectural Examiners - Temporary and Proposed Rule
(Docket No. 24-0101-1801).

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 08/22/2018. 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 09/20/2018.

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 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Legislative Research Analyst - Matt Drake

DATE: August 03, 2018

SUBJECT: Bureau of Occupational Licenses - Board of Architectural Examiners

IDAPA 24.01.01 - Rules of the Board of Architectural Examiners - Temporary and Proposed Rule (Docket No. 24-0101-1801)

Summary and Stated Reasons for the Rule

The Bureau of Occupational Licenses submits notice of temporary and proposed rulemaking at IDAPA 24.01.01. The proposed rule facilitates implementation of House Bill 458 of 2018, which amended the Architecture Practice Act to improve its organization and make it easier to understand. The proposed rule eliminates unnecessary language and makes several minor, technical clarifications. Substantively, it provides that a special meeting may be called upon the request of two (2) board members. It also contains new language regarding review of an applicant's criminal background and establishes a review process through which an applicant may seek to establish suitability for licensure despite a past conviction. The proposed rule removes a 30-day application deadline and replaces it with language stating that applications "received less than seven (7) days prior to a board meeting may be held over to the next meeting."

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted because of the temporary nature of the rule. The bureau states that the proposed rule will not have a fiscal impact on the state general fund greater than \$10,000.

Statutory Authority

The rulemaking appears to be authorized pursuant to section 54-308, Idaho Code.

cc: Bureau of Occupational Licenses - Board of Architectural Examiners
Tana Cory

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

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IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES
24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS
DOCKET NO. 24-0101-1801
NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2018.

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 54-312, 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, 2018.

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:

In 2018, the Legislature passed House Bill 458 which modernizes and reorders the provisions of Chapter 3, Title 54, Idaho Code. Amendments to rule will facilitate the implementation of House Bill 458, eliminate unnecessary language and sections, and remove a 30-day application deadline. These changes will make it easier for licensees and those seeking licensure to review rules.

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:

On July 1, 2018 House Bill 458 will become effective. This temporary/proposed rule is necessary to implement those changes.

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 this is a temporary 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:

This rule removes the July 2015 NCARB Certification Guidelines from incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jennifer Carr 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 22, 2018.

DATED this 20th Day of June, 2018.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
Phone: (208) 334-3233
Fax: (208) 334-3945

700 W. State Street
P.O. Box 83720
Boise, ID 83720-006565

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 24-0101-1101
(Only Those Sections With Amendments Are Shown.)**

000. LEGAL AUTHORITY (RULE 0).

These rules are hereby prescribed and established pursuant to the authority vested in the Board of Architectural Examiners by the provisions of Section 54-31208, Idaho Code. ~~(7-1-93)~~(7-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE (RULE 4).

~~The document titled NCARB Certification Guidelines, dated July 2015, referenced in Subsection 250.01, is herein incorporated by reference.~~ The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, Dated July 2014, referenced in Section 750, is hereby incorporated by reference. All documents incorporated by reference can be obtained at the office of the Bureau and on the Board website. ~~(3-29-17)~~(7-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS (RULE 10).

- 01. AXP.** Architectural Experience Program. (3-29-17)
- 02. Board.** The Board of Architectural Examiners ~~as prescribed in Section 54-312, Idaho Code.~~ ~~(7-1-93)~~(7-1-18)T
- 03. Bureau.** The Bureau of Occupational Licenses ~~as prescribed in Sections 54-605 and 67-2602, Idaho Code.~~ ~~(3-15-02)~~(7-1-18)T
- 04. Direct Supervision.** Direct supervision of an unlicensed individual in the practice of architecture means the exercise of management, control, authority, responsibility, oversight and guidance over the unlicensed individuals work, activities and conduct. (3-27-13)
- 05. NAAB.** National Architectural Accrediting Board. (3-29-17)
- 06. NCARB.** National Council of Architectural Registration Board. (3-29-17)
- 07. Responsible Control.** Responsible control means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation. (3-27-13)

(BREAK IN CONTINUITY OF SECTIONS)

150. PROCEDURES AND DUTIES (RULE 150).

01. Meetings. The Board shall meet at least four (4) times annually at such times and places as designated by the Board or the Chairman of the Board. Special meetings may be held at the call of the Chairman or at the request of two (2) Board members, and all members shall be notified in writing, thereof. ~~(7-1-98)~~(7-1-18)T

02. Voting. A quorum shall be four Board members. A majority vote of Board members present shall be considered the action of the Board as a whole. Any motion before the Board shall fail on a tie vote. (7-1-97)

151. -- 19974. (RESERVED)

175. APPLICANT PAST CRIME REVIEW (RULE 175).

01. Review Authority. In reviewing an Applicant for licensure who has been convicted of a felony or misdemeanor as set forth in section 54-314(1)(d) Idaho Code, the Board may utilize the follow process and factors to determine the applicant's suitability for licensure: (7-1-18)T

02. Exemption Review. The exemption review shall consist of a review of any documents relating to the crime and any supplemental information provided by the applicant bearing upon his suitability for registration. The Board may, at its discretion, grant an interview of the applicant. (7-1-18)T

a. During the review, the Board shall consider the following factors or evidence: (7-1-18)T

i. The severity or nature of the crime; (7-1-18)T

ii. The period of time that has passed since the crime under review; (7-1-18)T

iii. The number or pattern of crimes or other similar incidents; (7-1-18)T

iv. The circumstances surrounding the crime that would help determine the risk of repetition; (7-1-18)T

v. The relationship of the crime to the practice of architecture; and (7-1-18)T

vi. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation. (7-1-18)T

b. The applicant shall bear the burden of establishing their current suitability for licensure. (7-1-18)T

176. -- 199. (RESERVED)

200. FEES FOR EXAMINATIONS AND LICENSURE (RULE 200).

01. Fees for Examination. (7-1-97)

a. Examination Fees. Examination fees will be as established by the National Council of Architectural Registration Boards (NCARB). (7-1-97)

b. Processing Application Fee. Applicants for licensing ~~by examination~~ must submit a twenty-five dollar (\$25) ~~processing application~~ fee. There is no additional fee for an initial license. ~~(7-1-98)~~(7-1-18)T

02. Annual License Renewal Fee. Annual license renewal fee - Fifty dollars (\$50). (3-22-18)

03. Endorsement License Fee. Endorsement license fee - Fifty dollars (\$50). (3-22-18)

04. Temporary License Fee. Temporary license fee – Fifty dollars (\$50). (3-22-18)

Code. **05. License Reinstatement Fee.** License reinstatement fee is as provided in Section 67-2614, Idaho (3-22-18)

06. No Refund of Fees. No refund of fees shall be made. (3-22-18)

201. -- 249. (RESERVED)

250. QUALIFICATIONS OF APPLICANTS FOR EXAMINATION (RULE 250).

01. ARE accredited Degree Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess a professional degree in architecture from a program that is accredited by the National Architectural Accrediting Board (NAAB) or that is approved by the Board. All applicants for the ARE must have started or completed the Architectural Experience Program (AXP) requirements. ~~(3-29-17)~~(7-1-18)T

02. Experience in Lieu of Degree Applicants. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Said experience may include that necessary for completion of the AXP. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. A person is qualified for the examination once they have met the experience requirement and started the AXP. (3-29-17)

251. – 299. (RESERVED)

300. APPLICATION (RULE 300).

01. Licensure by Examination. (7-1-93)

a. Application for licensure by examination shall be made on the uniform application form adopted by the Board ~~and furnished to the applicant by the Bureau.~~ ~~(4-7-11)~~(7-1-18)T

b. Applicants shall furnish all information required by the uniform application form and shall include the following: (3-15-02)

i. Certified If applying based upon an accredited degree: Furnish certification of graduation and a certified transcript of all subjects and grades received for all college courses taken. ~~(7-1-93)~~(7-1-18)T

ii. ~~If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed.~~ ~~(7-1-93)~~

iii. If applying based upon experience in lieu of an accredited degree: Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. ~~(7-1-93)~~(7-1-18)T

iv. A recent passport photograph taken within the previous year for identification purposes shall be submitted by all applicants. ~~(3-30-01)~~(7-1-18)T

v. ~~In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited.~~ ~~(7-1-93)~~

c. Application shall not be reviewed by the Board until all required information is furnished and the required fee is paid. (3-15-02)

d. ~~To be considered by the Board, properly completed applications must be received by the Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet~~ Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. ~~(3-15-02)(7-1-18)T~~

02. Licensure by Endorsement -- Blue Cover. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (3-29-17)

03. Licensure by Endorsement -- Equivalency. (7-1-97)

a. Applicants for licensure by endorsement must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (3-29-17)

b. Applicants shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (3-29-17)

c. Applicants shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

~~351. MISCELLANEOUS REQUIREMENTS FOR EXAMINATION (RULE 351).~~

~~01. Personal Interviews. Personal interviews may be administered at the option of the Board. (7-1-93)~~

~~352~~1. -- 374. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

~~400. MISCELLANEOUS REQUIREMENTS~~ **FIRM NAME** (RULE 400).

~~01. Practice of Architecture. Idaho Law prohibits the practice of architecture by any unlicensed person or firm for any reason. (7-1-93)~~

~~02. Corporations. Corporations organized to do general business in the state of Idaho may not practice architecture in the state of Idaho. (7-1-93)~~

~~03. Firm Names. Firm names incorporating the use of names of unlicensed individuals are considered in violation of Section 54-3105, Idaho Code. A firm may continue to utilize the name of a retired or deceased formerly licensed architect so long as their unlicensed status is clearly disclosed. (3-27-13)(7-1-18)T~~

~~401. -- 409. (RESERVED)~~

410. USE OF AN ARCHITECT'S SEAL (RULE 410).

An architect's seal may be placed on all technical submissions prepared personally by the architect or prepared under the architect's responsible control or as otherwise allowed under the provisions of Section 54-3084, Idaho Code. Nothing in this rule shall limit an architect's responsibility to the owner for the work of other licensed professionals to the extent established by contract between the owner and architect. ~~(3-27-13)(7-1-18)T~~

~~411. -- 449. (RESERVED)~~

450. CONTINUING EDUCATION (RULE 450).

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (3-20-04)

01. Continuing Education Requirement. Each Idaho licensed architect must successfully complete a minimum of twelve (12) hours of continuing education in architectural health, safety and welfare in the calendar year prior to license renewal. (3-29-17)

a. Each licensee will submit to the Board their annual renewal application form and required fees, and will certify that they have complied with annual CE requirements for the previous calendar year. Each licensee will provide to the Board together with their application for reinstatement of an expired license form and required fees, proof of compliance with annual CE requirements for each year that their license was expired. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. (3-29-17)

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education requirements. (3-20-04)

c. A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. (3-29-12)

d. One (1) continuing education hour shall be equal to one (1) learning unit, as determined by the American Institute of Architects, or one (1) clock hour of education, as determined by the Board. (3-20-04)

02. Architectural Health, Safety and Welfare Requirement. To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and be germane to the practice of architecture. Courses may include the following subject areas: (3-29-17)

a. Legal, which includes laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public. (3-29-12)

b. Building systems, which includes structural, mechanical, electrical, plumbing, communications, security, and fire protection. (3-29-12)

c. Environmental, which includes energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation. (3-29-12)

d. Occupant comfort, which includes air quality, lighting, acoustics, ergonomics. (3-29-12)

e. Materials and methods, which includes construction systems, products, finishes, furnishings, and equipment. (3-29-12)

f. Preservation, which includes historical, reuse, and adaptation. (3-29-12)

g. Pre-Design, which includes land use analysis, programming, site selection, site and soils analysis, and surveying. (3-29-12)

h. Design, which includes urban planning, master planning, building design, site design, interiors, safety and security measures. (3-29-12)

i. Construction documents, which includes drawings, specifications, and delivery methods. (3-29-12)

j. Construction contract administration, which includes contracts, bidding, contract negotiations. (3-29-12)

03. Approved Credit. Continuing education courses must be in the subject of architectural health, safety and welfare and be presented by: (3-20-04)

a. Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or (3-20-04)

b. Providers approved by the National Council of Architectural Registration Board (NCARB); or (3-20-04)

c. Providers approved by the American Institute of Architects (AIA); or (3-20-04)

d. Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. (3-20-04)

04. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee for a period of five (5) years and provided to the Board upon request of the Board or its agent. (3-29-12)

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. (3-20-04)

06. Exemptions. A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following criteria: (3-20-04)

a. ~~Has served honorably on active duty in the military service (exceeding ninety (90) consecutive days)~~ Meets the military exemption set forth in Section 67-2602A, Idaho Code. (3-20-04)(7-1-18)T

b. Is a government employee working as an architect and assigned to duty outside the United States. (3-20-04)

c. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-20-04)

~~451. --499. (RESERVED)~~

~~500. AFFILIATION (RULE 500).~~

~~**01. Board Is an Active Member of the Western Conference of the Architectural Registration Boards.** This Board by approved resolution and payment of the proper fees by the proper authority is an active member of the Western Conference of the Architectural Registration Boards. The Board shall designate one or more delegates from the Board to attend the annual meeting of the Western Conference and approve payment of the expenses of the delegate or delegates by the state of Idaho in accordance with the law. (7-1-93)~~

~~**02. Administration of Construction Contracts.** Under Section 54-309, paragraph 1-c, "Practice of Architecture," Section 54-305, paragraph 1-f, Grounds for Discipline, the words "Administration of Construction Contracts," in accordance with current knowledge and usage in the profession means "Administration of the Contract" as defined in the relevant Contract for Construction or Owner-Architect Agreement as published by the American Institute of Architects. (4-5-00)~~

~~501. -- 549. (RESERVED)~~

~~550. INTERPRETATIONS (RULE 550).~~

~~The following interpretation of laws relating to architecture in Idaho Code are hereby made by the Board. (7-1-93)~~

~~01. **Reference to Building.** Under Section 54-309, reference to any building wherein the safeguarding of life, health, and property is concerned means any building which public or private sector of population may use or any building into which the public or private sector of the population is invited either as spectators, visitor, student, guest, or employee, or any building where the private or public sector of the population conducts business. (7-1-93)~~

~~02. **Professional Standards.** Under Section 54-305, an architect shall be completely objective and truthful in all professional reports, statements, or testimony and shall include therein all relevant and pertinent information known to him. (7-1-93)~~

~~551. -- 699. (RESERVED)~~

~~700. **RULES OF PROCEDURE UNDER THE ADMINISTRATIVE PROCEDURE ACT (RULE 700).**~~

~~All procedures available under the Board of Architects shall be those adopted by the Bureau of Occupational Licenses. (7-1-93)~~

~~701. -- 749. (RESERVED)~~

750. CODE OF ETHICS (RULE 750).

01. Rules of Conduct. The NCARB Rules of Conduct are hereby adopted as the Code of Ethics for all Idaho licensed architects. (3-15-02)

~~02. **Violation of the Code of Ethics.** The Board will take action against a licensee under Section 54-305(1)(h), Idaho Code, who is found in violation of the Code of Ethics. (7-1-93)~~

~~751. **COSTS AND FEES IN DISCIPLINARY PROCEEDING (RULE 751).**~~

~~The Board may order a licensed architect to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-305(1), Idaho Code. (3-18-99)~~

~~752.1. -- 999. (RESERVED)~~