

IN THE SENATE

SENATE BILL NO. 1283

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5230, IDAHO CODE, TO PROVIDE FOR A PETITION FOR A WAIVER OF OR VARIANCE FROM AN ADMINISTRATIVE RULE AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-5230, Idaho Code, be, and the same is hereby amended to read as follows:

67-5230. PETITION FOR ADOPTION, AMENDMENT, REPEAL, OR WAIVER OF RULES. (1) Any person may petition an agency requesting the adoption, amendment, or repeal of a rule. The agency shall either:

(a) ~~Deny~~ the petition in writing, stating its reasons for the denial; ~~or~~

(b) ~~Initiate~~ rulemaking proceedings in accordance with this chapter.

(2) Any person may petition an agency for a waiver of or variance from a specified rule or rules if the granting of the waiver would not conflict with or violate Idaho law and is consistent with at least one (1) of the following considerations:

(a) In the petitioner's specific circumstances, the application of a certain rule or rules is unreasonable and would impose undue hardship or burden on the petitioner;

(b) The petitioner proposes an alternative that, in the opinion of the agency, will afford substantially equal protection of health, safety, and welfare intended by the particular rule for which the waiver or variance is requested; or

(c) The waiver or variance requested would test an innovative practice or model that will, in the opinion of the agency, generate meaningful evidence for the agency in consideration of a rule change.

(3) In response to a petition filed pursuant to subsection (2) of this section, the agency shall:

(a) Deny the petition in writing, stating the reasons for the denial; or

(b) Approve the petition and grant a waiver of or variance from the rule, in whole or in part, and specify whether any conditions are placed on the waiver or variance or whether a specific time period for the waiver or variance is established.

(4) An agency shall approve or deny the a petition filed pursuant to this section or initiate rulemaking proceedings in accordance with this chapter within twenty-eight (28) days after submission of the petition, unless the agency's rules are adopted by a multimember agency board or commission whose members are not full-time officers or employees of the state, in which case the agency shall take action on the petition no later than the first regularly scheduled meeting of ~~that~~ the board or commission that takes place seven (7) or more days after submission of the petition. If an agency

1 requests additional information from the petitioner, the time period speci-  
2 fied in this subsection shall begin anew.

3 (5) Following the granting of a waiver or variance, the agency shall  
4 consider a rule change that will allow all similarly situated persons to de-  
5 rive the same benefits granted to the petitioner.

6 (26) An agency decision denying a petition is a final agency action.