

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 539

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION
3 67-5226, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING TEMPORARY RULES
4 AND TO REVISE PROVISIONS REGARDING TEMPORARY RULES; AND DECLARING AN
5 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

7 SECTION 1. That Section 67-5226, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 67-5226. TEMPORARY RULES. (1) The legislature finds that temporary
10 rules do not always follow the negotiated rulemaking process. Therefore, to
11 ensure accountability of agency rules to the legislature and to Idaho citi-
12 zens, temporary rules shall be used only in emergency or other limited situa-
13 tions where negotiated rulemaking is not feasible. Agencies shall make ev-
14 ery effort to promulgate rules utilizing the negotiated rulemaking process.

15 ~~(1)~~ (2) If the governor finds that:

16 (a) Protection of An imminent threat to the public health, safety, or
17 welfare from a specified danger that was unknown to the agency prior to
18 or during the most recent session of the legislature or from the measur-
19 able worsening of such threat or danger; or

20 (b) Compliance with deadlines in amendments to governing law or federal
21 programs; or

22 (c) Reducing a regulatory burden that would otherwise impact individu-
23 als or businesses;

24 (d) Protection of citizens' rights; or

25 (e) A natural disaster;

26 requires a rule to become effective before it has been submitted for
27 legislative review, the governor shall publish a statement explaining why
28 an earlier effective date is required in accordance with the provisions of
29 this section. The agency may then proceed with such notice as is practi-
30 cable and adopt a temporary rule, except as otherwise provided in section
31 67-5229(1)(d), Idaho Code. The agency may make the temporary rule immedi-
32 ately effective. The agency shall incorporate the required finding and a
33 concise statement of its supporting reasons in each rule adopted in reliance
34 upon on the provisions of this subsection.

35 ~~(2)~~ (3) A pending fee rule adopted pursuant to subsection ~~(1)~~ (2) of
36 this section may become effective under this section before it has been ap-
37 proved by concurrent resolution only if the governor finds that the fee or
38 charge is necessary to avoid immediate danger. The governor shall publish
39 a statement explaining why an earlier effective date is required subject to
40 the provisions of subsection (2) of this section, including an explanation
41 as to why the fee or charge is necessary to avoid immediate danger.

1 ~~(3)~~ (4) Temporary rules shall be published in the first available issue
2 of the bulletin.

3 ~~(4)~~ (5) Temporary rules ~~are not~~ shall be subject to the requirements of
4 section 67-5223, Idaho Code, ~~provided that the coordinator sends a copy of~~
5 ~~the temporary rules to the director of the legislative services office.~~

6 ~~(5)~~ (6) Concurrently with the promulgation of a rule under this sec-
7 tion, or as soon as reasonably possible thereafter, an agency shall commence
8 the promulgation of a proposed rule in accordance with the rulemaking re-
9 quirements of this chapter, unless the temporary rule adopted by the agency
10 will expire by its own terms or by operation of law before the proposed rule
11 could become final. Such concurrently promulgated proposed rules shall
12 identify the changes from the previous version of the rule adopted by the
13 legislature, if any.

14 (7) If a temporary rule expires by its own terms or by operation of law,
15 the promulgating agency may not adopt the same rule or a substantially simi-
16 lar rule as a temporary rule again, unless:

17 (a) The governor finds it is necessary due to an imminent threat to the
18 public health, safety, or welfare, as described in subsection (2) (a) of
19 this section, and publishes a statement explaining the changed or emer-
20 gency circumstances;

21 (b) Ninety (90) days have elapsed since the expiration of the previous
22 temporary rule and a basis for a new temporary rule is present; or

23 (c) The governor declares a disaster emergency pursuant to state law.

24 (8) A person aggrieved by a promulgating agency's adoption of a tempo-
25 rary rule may challenge such agency action as a final agency action in accor-
26 dance with the provisions of section 67-5270, Idaho Code.

27 SECTION 2. An emergency existing therefor, which emergency is hereby
28 declared to exist, this act shall be in full force and effect on and after
29 July 1, 2026.