

TITLE 72  
WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION

CHAPTER 5  
INDUSTRIAL COMMISSION

72-501. CREATION OF COMMISSION -- APPOINTMENT, TERM OF OFFICE -- QUALIFICATIONS -- AFFILIATIONS -- EFFECT OF ACCEPTING APPOINTMENT -- VACANCIES -- REMOVAL OF MEMBER FOR CAUSE. (1) A commission is hereby created to be known as the industrial commission consisting of three (3) members, to be appointed by the governor, with the approval of the senate. The industrial commission shall be, for the purposes of section 20, article IV, Idaho Constitution, an executive department of the state government.

(2) The term of each member of the commission shall be six (6) years, except that the members first appointed shall be those serving as members of the industrial accident board on the date this law becomes effective, each to hold office for the balance of his term for which appointed, to-wit, one (1) until the second Monday of January, 1973, one (1) until the second Monday of January, 1975, and one (1) until the second Monday of January, 1977. On the expiration of his term, an incumbent member may continue in tenure until his successor is appointed and qualified.

(3) No person shall be eligible to appointment as a member of the commission unless he shall be at least thirty (30) years of age, a qualified elector and a resident of this state not less than three (3) years consecutively next preceding his appointment, of good moral character and of previous experience and training to qualify him efficiently and justly to discharge the duties of his office.

(4) Not more than one (1) of the appointees to the commission shall be a person who, on account of his previous vocations, employment or affiliations can be classed as a representative of employers, and not more than one (1) of the appointees shall be a person who on account of his previous vocation, employment or affiliations can be classed as a representative of workmen. The third appointee shall be an attorney at law duly licensed to practice in this state. Not more than two (2) of the members of the commission shall belong to the same political party.

(5) During his tenure in office a member shall devote full time to his duties as a member of the commission. As an official exercising judicial functions, he shall not engage in partisan political activities and shall conform his conduct to commonly acceptable standards of judicial ethics.

(6) Any vacancy during a term may be filled by the governor with the approval of the senate. If any appointment is made during the recess of the legislature it shall be subject to confirmation by the senate during its next ensuing session.

(7) A member may be disciplined or removed or retired from office by the judicial council in accordance with the procedure prescribed in section 1-2103, Idaho Code, for any cause set forth therein, subject to the review procedure and disposition of such a proceeding by the Supreme Court as in said section provided.

[72-501, added I.C., sec. 72-501, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 9, sec. 1, p. 47.]

72-501A. REHABILITATION DIVISION -- BUDGET AND EXPENSE -- COMPOSITION AND IMPLEMENTATION. (1) In order to assist in reducing the period of tempo-

rary disability resulting from an injury and to aid in restoring the injured employee to gainful employment with the least possible permanent physical impairment, the commission shall establish within the commission a rehabilitation division and adopt a program concerning itself with both physical and vocational rehabilitation, the latter of which shall include job placement.

(2) The commission is authorized to budget and expend for such rehabilitation program such funds as may be paid into the industrial administration fund or rehabilitation account thereof by a special premium tax provided by law for this purpose.

(3) The composition of the rehabilitation division and implementation of the rehabilitation program shall be in the discretion of the commission with the counsel, advice, cooperation and expertise of representatives of industry, labor, sureties and the legal and medical professions as well as institutions, hospitals and clinics having physical rehabilitation facilities and with the assistance of the state board for career technical education, when such board is carrying out the duties of chapter 23, title 33, Idaho Code.

[72-501A, added 1978, ch. 273, sec. 2, p. 637; am. 1999, ch. 329, sec. 42, p. 887; am. 2016, ch. 25, sec. 46, p. 63.]

72-502. REFERENCES TO INDUSTRIAL COMMISSION TO INCLUDE INDUSTRIAL ACCIDENT BOARD. The references in the Idaho Constitution, Idaho Code and Idaho Rules of Civil Procedure to the "industrial accident board" and "board" shall be deemed to be references to the industrial commission.

[72-502, added I.C., sec. 72-502, as added by 1971, ch. 124, sec. 3, p. 422.]

72-503. SALARY. Commencing July 1, 2018, the annual salary of each member of the industrial commission shall be one hundred four thousand twenty dollars (\$104,020). Industrial commissioner salaries shall be paid from sources set by the legislature. Each member of the industrial commission shall devote full time to the performance of his duties.

[72-503, added 1986, ch. 79, sec. 1, p. 238; am. 1990, ch. 345, sec. 1, p. 930; am. 1996, ch. 257, sec. 3, p. 844; am. 1998, ch. 358, sec. 4, p. 1122; am. 2000, ch. 359, sec. 3, p. 1197; am. 2001, ch. 253, sec. 2, p. 918; am. 2004, ch. 281, sec. 3, p. 776; am. 2006, ch. 368, sec. 3, p. 1107; am. 2007, ch. 121, sec. 3, p. 371; am. 2008, ch. 285, sec. 3, p. 808; am. 2012, ch. 224, sec. 3, p. 611; am. 2014, ch. 316, sec. 3, p. 781; am. 2015, ch. 120, sec. 3, p. 306; am. 2016, ch. 247, sec. 3, p. 661; am. 2017, ch. 316, sec. 3, p. 832; am. 2018, ch. 273, sec. 3, p. 650.]

72-504. ORGANIZATION -- CHAIRMAN -- SECRETARY. The members of the commission shall select one (1) of their members as chairman, and shall select a person qualified, in the judgment of the commission, by experience and training, as secretary, who need not be a member, each of whom shall perform such duties as in this law prescribed and as the commission may from time to time direct.

[72-504, added I.C., sec. 72-504, as added by 1971, ch. 124, sec. 3, p. 422.]

72-505. QUORUM -- MAJORITY TO ACT -- EFFECT OF VACANCY. (1) Quorum. A majority of the commission shall constitute a quorum for the transaction of business.

(2) Act of commission by majority. The act of a majority of the commission when in sessions as the commission shall be deemed to be the act of the commission.

(3) Effect of vacancy. A vacancy on the commission shall not impair the right of the remaining members to perform the duties and exercise all the power and authority of the commission.

[72-505, added I.C., sec. 72-505, as added by 1971, ch. 124, sec. 3, p. 422.]

72-506. ACTS OF COMMISSION OR REFERENCE -- HEARING OFFICERS. (1) Any investigation, inquiry or hearing which the commission has power to undertake or hold may be undertaken or held by or before any member thereof or any hearing officer, referee or examiner appointed by the commission for that purpose.

(2) Every finding, order, decision or award made by any member, hearing officer, referee, or examiner pursuant to such investigation, inquiry or hearing, when approved and confirmed by the commission, and ordered filed in its office, shall be deemed to be the finding, order, decision or award of the commission.

[72-506, added I.C., sec. 72-506, as added by 1971, ch. 124, sec. 3, p. 422.]

72-507. SEAL. The commission shall have a seal of which the secretary shall be custodian, bearing the following inscription: "Industrial Commission, State of Idaho, seal." The seal shall be affixed to all writs, orders, awards, authentications of copies of records and to such other instruments as the commission shall direct.

[72-507, added I.C., sec. 72-507, as added by 1971, ch. 124, sec. 3, p. 422.]

72-508. AUTHORITY TO ADOPT RULES AND REGULATIONS. Pursuant to the provisions of chapter 52, title 67, Idaho Code, the commission shall have authority to promulgate and adopt reasonable rules and regulations for effecting the purposes of this act. Notwithstanding the provisions of chapter 52, title 67, Idaho Code, the commission shall have authority to promulgate and adopt reasonable rules and regulations involving judicial matters. In administrative matters and all other matters, the commission shall be bound by the provisions of chapter 52, title 67, Idaho Code. Rules and regulations as promulgated and adopted, if not inconsistent with law, shall be binding in the administration of this law.

[72-508, added I.C., sec. 72-508, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 70, sec. 1, p. 1151; am. 1976, ch. 264, sec. 1, p. 889.]

72-509. OFFICES AND SUPPLIES. (1) The principal office of the commission shall be located in Ada county.

(2) The commission may establish such branch offices, divisions, sections and advisory committees in such localities in this state as it deems necessary to administer this act, in addition to the offices and committees herein otherwise provided for, and shall have power to rent temporary quarters deemed requisite for the purpose of administering this law.

(3) The commission may acquire office furniture, furnishings, equipment, stationery and supplies deemed requisite for the purpose of administering this law.

[72-509, added I.C., sec. 72-509, as added by 1971, ch. 124, sec. 3, p. 422; am. 2001, ch. 183, sec. 37, p. 641.]

72-510. PAYMENT OF EXPENSES. The commission shall make such expenditures as may be necessary for the adequate administration of this law, including salaries, other personal services, actual and necessary traveling and other expenses and disbursements of the members of the commission, its officers and employees, incurred while on official business, either within or without the state, office rent, the purchase and rental of vehicles, books, periodicals, office equipment and supplies, printing and binding, cost of membership in official organizations, attendance at meetings and conventions and for all other purposes concerned with subject matters cognizable within this law. All expenditures of the commission, unless otherwise provided in this law, shall be paid out of the industrial administration fund after approval by the board of examiners.

[72-510, added I.C., sec. 72-510, as added by 1971, ch. 124, sec. 3, p. 422.]

72-511. RECORDS AND FORMS. The commission shall cause to be printed such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this law. It shall provide a book in which shall be entered the minutes of all its proceedings, a book of record in which shall be recorded all awards, and such other books or records as it shall deem requisite for the purposes and efficient administration of this law. All such records shall be kept in the office of the commission.

[72-511, added I.C., sec. 72-511, as added by 1971, ch. 124, sec. 3, p. 422.]

72-512. REPORTS. The commission shall have the power and authority to publish and distribute at its discretion from time to time, in addition to its annual report, such further reports and bulletins covering its operation, proceedings and matters relative to its work as it may deem advisable.

[72-512, added I.C., sec. 72-512, as added by 1971, ch. 124, sec. 3, p. 422.]

72-513. SPECIFIED EMPLOYEES -- EXEMPT FROM PERSONNEL SYSTEM. The secretary, medical officers, division or section officers, hearing officers, field counselors, examiners and referees, shall be exempt from the system of personnel administration prescribed by chapter 53, title 67, Idaho Code. Field counselors shall not be deemed or considered social workers or engaged in social work.

[72-513, added I.C., sec. 72-513, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 132, sec. 7, p. 1329.]

72-514. ASSISTANTS. The commission shall have the power to employ during its pleasure such additional officers, experts, engineers, statisticians, accountants, inspectors, clerks and employees as it may deem necessary to carry out the provisions of this law or to perform the duties and exercise the powers conferred by law upon the commission.

[72-514, added I.C., sec. 72-514, as added by 1971, ch. 124, sec. 3, p. 422.]

72-515. FEES. The commission shall have power and authority to fix, charge and collect fees, as follows:

- (1) For copies of papers and records not required to be certified or otherwise authenticated by the commission;
- (2) For certified copies of official documents and orders filed in its offices;
- (3) For copies of the evidence taken at any proceeding furnished any person other than the claimant or the employer; transcripts of evidence shall be furnished the claimant and the employer on request;
- (4) For publications issued under its authority.

The fees charged and collected under this section shall be deposited monthly in the state treasury to the credit of the industrial administration fund, accompanied by a detailed statement.

[72-515, added I.C., sec. 72-515, as added by 1971, ch. 124, sec. 3, p. 422.]

72-516. REPORTS. (1) Biennially the commission shall make a report to the governor and through him to the state legislature on the operation of this law, including recommendations as to improvements in the law and administration thereof, and a statistical analysis of industrial injury and occupational disease experience and compensation costs.

(2) The commission may prepare and publish such other statistical and informational reports and analyses based upon the reports and records available which, in its opinion, will be useful in attaining public understanding of the purposes, effectiveness, costs, coverage and administrative procedures of workmen's compensation and rehabilitation in the state, and in providing basic information regarding the occurrence and sources of industrial injuries and occupational diseases for the use of public and private agencies engaged in industrial injury and occupational disease prevention activities.

[72-516, added I.C., sec. 72-516, as added by 1971, ch. 124, sec. 3, p. 422.]

72-517. COOPERATION WITH OTHER AGENCIES. The commission shall have the authority to enter into cooperative agreements with state and federal agencies to share information with those agencies and to cooperate with programs sponsored by all such agencies to facilitate the carrying out of the purposes of this law. Information provided shall be limited to the following:

- (1) Individuals and entities operating the business.
- (2) Business name.
- (3) Mailing address.
- (4) Physical location of the business.
- (5) Dates of alleged violation of section 72-301, Idaho Code.
- (6) Workers performing service for the business.
- (7) Contact person.
- (8) Telephone number of the contact person.

[72-517, added I.C., sec. 72-517, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 9, sec. 2, p. 47; am. 1996, ch. 421, sec. 74, p. 1445; am. 1999, ch. 329, sec. 28, p. 868; am. 2009, ch. 48, sec. 1, p. 129.]

72-518. DUTIES OF ATTORNEY GENERAL -- REPRESENTATION IN COURT. (1) In any civil action to enforce the provisions of this law, or of any rule or regulation issued pursuant thereto, the commission and the state shall be represented by the attorney general, or if an action is brought in any court of any other state, by any attorney qualified to appear in the courts of that state.

(2) Any criminal action for violation of any provision of this law or of any rule or regulation issued pursuant thereto shall be prosecuted by the attorney general, or, at his request and under his direction, by the prosecuting attorney of any county wherein the defendant resides or has a place of business.

[72-518, added I.C., sec. 72-518, as added by 1971, ch. 124, sec. 3, p. 422.]

72-519. CREATION OF INDUSTRIAL ADMINISTRATION FUND -- PURPOSE. A fund is hereby created to be known as the industrial administration fund for the purpose of providing funds for administering the worker's compensation law by the industrial commission. This fund may also be used to provide funds to the division of building safety for administering logging safety inspections and training under section 67-2601A, Idaho Code, conducting inspections of state public buildings under section 67-2313, Idaho Code, and inspections of public school facilities under section 39-8008, Idaho Code.

[72-519, added 1971, ch. 124, sec. 3, p. 422; am. 2015, ch. 110, sec. 5, p. 276; am. 2015, ch. 244, sec. 63, p. 1039.]

72-520. INDUSTRIAL COMMISSION ADMINISTRATOR OF FUND. The industrial administration fund shall be administered by the commission without liability on the part of the state or the commission beyond the amount of the fund. The commission is authorized to credit or remit, refund or pay back any premium tax or penalty or portion thereof paid under this act which the commission determines was paid or collected erroneously or illegally.

[72-520, added I.C., sec. 72-520, as added by 1971, ch. 124, sec. 3, p. 422; am. 1978, ch. 264, sec. 15, p. 586.]

72-521. STATE TREASURER CUSTODIAN OF FUND -- DUTIES. The state treasurer shall be custodian of the industrial administration fund. He shall give a separate and an additional bond in an amount and with sureties approved by the commissioner [director] of [the department of] insurance, conditioned for the faithful performance of his duty as custodian of this fund.

[72-521, added I.C., sec. 72-521, as added by 1971, ch. 124, sec. 3, p. 422.]

72-522. DEPOSIT AND INVESTMENT OF FUND -- INTEREST. The state treasurer shall deposit or, on order of the commission, invest any portion of the industrial administration fund not needed for immediate or currently anticipated use, in the manner and subject to all the provisions of law respecting the depositing and investing of state funds by him. Interest earned by such portion of the fund so invested shall be collected by the state treasurer and placed to the credit of the fund.

[72-522, added I.C., sec. 72-522, as added by 1971, ch. 124, sec. 3, p. 422.]

72-523. SOURCE OF FUND -- PREMIUM TAX. The state insurance fund, every authorized self-insurer and every surety authorized under the Idaho insurance code or by the director of the department of insurance to transact worker's compensation insurance in Idaho, in addition to all other payments required by statute, shall semiannually, within thirty (30) days after February 1 and July 1 of each year, pay into the state treasury to be deposited in the industrial administration fund a premium tax as follows:

(1) Commencing January 1, 2016, every surety, other than self-insurers authorized to transact worker's compensation insurance, a sum equal to two percent (2%) of the net premiums written by each respectively on worker's compensation insurance in this state during the preceding six (6) months' period, but in no case less than seventy-five dollars (\$75.00);

(2) Each self-insurer, a sum equal to two percent (2%) of the amount of premium such employer who is a self-insurer would be required to pay as premium to the state insurance fund, but in no case less than seventy-five dollars (\$75.00);

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, for the period January 1, 2012, through December 31, 2015:

(a) Every surety, other than self-insurers authorized to transact worker's compensation insurance, a sum equal to two percent (2%) of the net premiums written by each respectively on worker's compensation insurance in this state during the preceding six (6) months' period, but in no case less than seventy-five dollars (\$75.00); and

(b) Each self-insurer, a sum equal to two percent (2%) of the amount of premium such employer who is a self-insurer would be required to pay as premium to the state insurance fund, but in no case less than seventy-five dollars (\$75.00).

(4) Any insurer making any payment into the industrial administration fund under the provisions of subsection (1) of this section or, during the period January 1, 2012, through December 31, 2015, any insurer making any payment into the industrial administration fund under the provisions of subsection (3) of this section, shall be entitled to deduct fifty percent (50%) of the premium tax paid pursuant to this section from any sum that it is required to pay into the department of insurance as a tax on worker's compensation premiums.

(5) In arriving at net premiums written, dividends paid, declared or payable shall not be deducted.

(6) For the purposes of this section and section 72-524, Idaho Code, net premiums written shall mean the amount of gross direct premiums written, less returned premiums and premiums on policies not taken.

[72-523, added 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 132, sec. 8, p. 1329; am. 1978, ch. 264, sec. 16, p. 586; am. 1984, ch. 90, sec. 1, p. 189; am. 1990, ch. 253, sec. 1, p. 725; am. 1993, ch. 202, sec. 1, p. 556; am. 2011, ch. 267, sec. 1, p. 727; am. 2013, ch. 254, sec. 1, p. 628; am. 2015, ch. 332, sec. 1, p. 1259.]

72-524. SURETIES' REPORTS OF TAX BASIS. Every surety, other than a self-insurer shall, under oath of the person or officers making the report, within thirty (30) days after February 1 and July 1 of each year, report to the commission the net amount of premium written on worker's compensation insurance in this state during the preceding six (6) months' period, and every self-insurer shall, within thirty (30) days after February 1 and July 1 of each year, report in the same manner to the commission the total

payroll for the preceding six (6) months' period. The commission shall have the right, at any time and as often as it requires, to verify the worker's compensation premiums written by any surety, and to inspect or cause to be inspected the records of any surety underwriting or authorized to underwrite worker's compensation liability in the state of Idaho for premiums written verification purposes. Failure of any such surety to allow such verification or inspection shall constitute sufficient cause enabling the commission to revoke such surety's authority to underwrite worker's compensation liability of any and all employers located, or doing business, in the state of Idaho.

[72-524, added I.C., sec. 72-524, as added by 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 208, sec. 5, p. 1538; am. 1978, ch. 264, sec. 17, p. 587; am. 1990, ch. 253, sec. 2, p. 726.]

72-525. CIVIL ACTION FOR COLLECTION OF PREMIUM TAX -- DUTIES OF ATTORNEY GENERAL. If any surety required to make payment under the provisions of this law shall fail, for a period of ten (10) days after such payment is due as provided by section 72-523, [Idaho Code,] to pay into the state treasury to be deposited in the industrial administration fund the amount due, it shall be the duty of the attorney general to bring a civil action in the name of the state in the proper court to collect the amount due, and the amount collected shall be paid into the state treasury to be deposited in the industrial administration fund.

[72-525, added I.C., sec. 72-525, as added by 1971, ch. 124, sec. 3, p. 422.]

72-526. PENALTY FOR DEFAULT -- COLLECTION BY CIVIL ACTION -- DUTY OF ATTORNEY GENERAL. Any surety who is in default for ten (10) days in any payment required to be made under the provisions of this law shall be liable for a penalty for every ten (10) day period or any part thereof during which such failure continues of ten percent (10%) of the amount originally due. It shall be the duty of the attorney general to bring a civil action in the name of the state in the proper court to collect the penalty herein provided, and the amount collected shall be paid into the state treasury to be deposited in the industrial administration fund.

[72-526, added I.C., sec. 72-526, as added by 1971, ch. 124, sec. 3, p. 422.]

72-527. CIVIL PENALTY FOR SURETY'S MISREPRESENTATION -- DUTY OF ATTORNEY GENERAL. Any surety who shall wilfully misrepresent the amount to be paid into the state treasury under the provisions of this law shall be liable to the state for an amount ten (10) times the difference between the payment made and the amount that should have been paid had such misrepresentation not been made; the liability to the state under this section shall be enforced in a civil action brought by the attorney general in the name of the state in the proper court, and the amount collected shall be paid into the state treasury to be deposited in the industrial administration fund.

[72-527, added I.C., sec. 72-527, as added by 1971, ch. 124, sec. 3, p. 422.]

72-528. STATISTICAL INFORMATION REQUIRED. (1) In addition to all information that sureties, self-insurers, the state insurance fund, the industrial special indemnity fund and noninsured employers now supply to the



industrial commission, they shall, upon request of the commission, be required to report to the industrial commission all litigation expenses paid by them in any case litigated before the industrial commission, and if appealed to a higher court, all costs expended on appeal. This reporting requirement shall include all fees paid to attorneys, all expenses charged by attorneys, charges for reports or testimony of witnesses, costs of any depositions taken, any costs for investigation made before or during the hearing, costs of research or legal briefs, and all filing fees paid on account of the litigation.

(2) All attorneys engaged in representing any claimant in any litigated worker's compensation claim must, upon request of the commission, report to the industrial commission all attorney's fees and all expenses which were incurred in the litigation and charged to the claimant. This requirement shall extend to any appeal or appeals that may be taken to a higher court by or on behalf of the claimant.

(3) The industrial commission shall supply all attorneys representing claimants with a form upon which a report in compliance with this section can be made.

(4) Reports requested hereunder must be filed with the industrial commission not later than thirty (30) days following the date of the request, which will be subsequent to the time of entry of an award by the industrial commission; or in the event of an appeal to a higher court, subsequent to a final ruling by the court.

(5) The industrial commission may make such rules as are necessary to require compliance with the provisions of this section, including refusing to allow attorneys who fail to comply with the provisions of this section the right to appear before the industrial commission.

[72-528, added 1988, ch. 357, sec. 1, p. 1059; am. 2010, ch. 139, sec. 1, p. 294.]