

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-third Legislature First Regular Session - 2015

IN THE SENATE

SENATE BILL NO. 1001

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO WORKPLACE SAFETY; AMENDING SECTION 67-2312, IDAHO CODE, TO PROVIDE THAT THE DIVISION OF BUILDING SAFETY IS SOLELY VESTED WITH THE RIGHT OF ENTRY AND INSPECTION OF PUBLIC BUILDINGS; AMENDING SECTION 67-2317, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY MAY CONDUCT HEARINGS; AMENDING SECTION 67-2318, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR MAY ORDER THE USE OF EMERGENCY EXPENDITURES FOR COMPLIANCE WITH THE ADMINISTRATOR'S DECISIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-2601A, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR SHALL CONDUCT SAFETY INSPECTIONS AND SAFETY TRAINING PROGRAMS FOR LOGGING OPERATIONS, TO PROVIDE THAT THE ADMINISTRATOR MAY CONDUCT SAFETY INSPECTIONS OF PUBLIC BUILDINGS UPON REQUEST AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 72-519, IDAHO CODE, TO PROVIDE THAT THE DIVISION OF BUILDING SAFETY MAY USE MONEY FROM THE INDUSTRIAL ADMINISTRATION FUND TO CONDUCT SAFETY INSPECTIONS AND TRAINING; REPEALING SECTION 72-720, IDAHO CODE, RELATING TO SAFETY POWERS OF THE INDUSTRIAL COMMISSION; REPEALING SECTION 72-721, IDAHO CODE, RELATING TO SAFETY RULES OF THE INDUSTRIAL COMMISSION; REPEALING SECTION 72-722, IDAHO CODE, RELATING TO UNSAFE CONDITIONS; REPEALING SECTION 72-723, IDAHO CODE, RELATING TO SAFETY ORDER VIOLATIONS; AND AMENDING SECTION 39-4113, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-2312, Idaho Code, be, and the same is hereby amended to read as follows:

67-2312. PUBLIC BUILDINGS SUBJECT TO SAFETY INSPECTION. ~~In addition to the powers and duties with respect to matters of industrial safety now or hereafter vested in the industrial commission and the division of building safety, the commission and t~~The division of building safety are each is vested with the right of entry and inspection of all public buildings now or hereafter owned or maintained by the state or any official, department, board, commission or agency thereof, for the purpose of ascertaining unsafe or hazardous conditions therein, or in the immediate environs thereof, not only to the state's employees but to inmates therein, attendants thereat, and to the general public.

SECTION 2. That Section 67-2317, Idaho Code, be, and the same is hereby amended to read as follows:

67-2317. HEARING AND DECISION OF DISPUTED ISSUES. Upon the failure or refusal of the official or agency in charge of any state public building to comply with the recommendations of the administrator of the division of

1 building safety, the administrator ~~shall apply to the industrial commission~~  
 2 ~~to may~~ hold a hearing, pursuant to the ~~procedural~~ provisions for contested  
 3 cases under the administrative procedure act, ~~of~~ as provided in sections  
 4 ~~72-722~~ 67-5240 et seq., Idaho Code, ~~so far as the same may be applicable.~~

5 The ~~industrial commission~~ administrator is empowered to conduct such  
 6 hearing and render a decision ~~as in cases of disputes in matters involving~~  
 7 ~~industrial safety.~~ The ~~commission~~ administrator shall transmit a copy of  
 8 ~~its the~~ decision to the official or agency in direct control of the public  
 9 building, ~~to the division of building safety,~~ and to the governor.

10 SECTION 3. That Section 67-2318, Idaho Code, be, and the same is hereby  
 11 amended to read as follows:

12 67-2318. EMERGENCY EXPENDITURES. Whenever the governor shall direct  
 13 an investigation under the provisions of this act and it appears to him that  
 14 the division of building safety is in emergency need of the consultant ser-  
 15 vices of a specialist in fire prevention methods or in corrective structural  
 16 procedures, he is authorized in his discretion to pay from the appropriation  
 17 herein made, or from any other emergency or disaster relief fund available to  
 18 him, the expense of such consultant services.

19 If it appears to the satisfaction of the governor that the official or  
 20 agency in direct control of a public building is unable to comply with any  
 21 recommendation or decision of the division of building safety because of  
 22 lack of appropriated funds, the governor may order payment in whole or in  
 23 part of expenses involved in the elimination or amelioration of hazards from  
 24 the money herein appropriated or from any appropriation made available to  
 25 him for emergency or disaster relief.

26 SECTION 4. That Section 67-2601A, Idaho Code, be, and the same is hereby  
 27 amended to read as follows:

28 67-2601A. DIVISION OF BUILDING SAFETY. (1) The division of building  
 29 safety will be headed by an administrator appointed by and serving at the  
 30 will of the governor. The division administrator, deputy administrators and  
 31 regional managers shall be nonclassified employees exempt from the provi-  
 32 sions of chapter 53, title 67, Idaho Code.

33 (2) The administrator shall administer the following provisions and  
 34 shall perform such additional duties as are imposed on him by law: chapter  
 35 41, title 39, Idaho Code, relating to the building code board; chapter 40,  
 36 title 39, Idaho Code, relating to manufactured homes; chapter 41~~3~~, title  
 37 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho  
 38 Code, relating to manufactured home dealer and installer licensing; chapter  
 39 25, title 44, Idaho Code, relating to mobile home rehabilitation; chapter  
 40 10, title 54, Idaho Code, relating to electrical contractors and journey-  
 41 men; chapter 19, title 54, Idaho Code, relating to licensing of public works  
 42 contractors; chapter 26, title 54, Idaho Code, relating to plumbing and  
 43 plumbers; chapter 45, title 54, Idaho Code, relating to public works con-  
 44 struction management licensing; chapter 50, title 54, Idaho Code, relating  
 45 to heating, ventilation and air conditioning systems; chapter 80, title 39,  
 46 Idaho Code, relating to school building safety; and chapter 86, title 39,  
 47 Idaho Code, relating to elevator safety.

1       (3) ~~The administrator shall cooperate with the industrial commission~~  
 2 ~~and aid and assist the commission in its administration of sections 72-720,~~  
 3 ~~72-721 and 72-723, Idaho Code, and at the request of the commission shall~~  
 4 ~~make inspection of appliances, tools, equipment, machinery, practices or~~  
 5 ~~conditions, and shall make a written report to the commission. The adminis-~~  
 6 ~~trator shall make recommendations to the commission to aid the commission in~~  
 7 ~~its administration of sections 72-720, 72-721 and 72-723, Idaho Code, pro-~~  
 8 ~~vided however, that nothing herein shall be construed as transferring to the~~  
 9 ~~administrator any of the authority or powers now vested in the industrial~~  
 10 ~~commission also have the authority to perform safety inspections and safety~~  
 11 ~~training programs for logging operations in Idaho.~~

12       (a) When an inspection reveals evidence of a condition that poses an im-  
 13 mediate threat of serious bodily harm or loss of life to any person, the  
 14 administrator may issue an order to immediately stop the work or close  
 15 the facility or site where the threat exists. The safety order shall not  
 16 be rescinded until after the threat has been corrected or removed.

17       (b) The safety order may be enforced by the attorney general in a civil  
 18 action brought in the district court for the county wherein the haz-  
 19 ardous work site or facility is located.

20       (c) Any person who knowingly fails or refuses to comply with such an or-  
 21 der is guilty of a misdemeanor.

22       (d) The administrator shall promulgate rules adopting minimum logging  
 23 safety standards and procedures for conducting inspections and safety  
 24 training.

25       (4) In addition to safety inspections of state-owned public buildings  
 26 conducted under chapter 23, title 67, Idaho Code, the administrator may con-  
 27 duct safety inspections of buildings owned or maintained by political sub-  
 28 divisions of the state upon receipt of a written request from the governing  
 29 body of that political subdivision, subject to the availability of division  
 30 resources and the requesting entity's agreement to pay the division's cur-  
 31 rent fees for such an inspection.

32       (a) The findings of the inspection shall be reported to the governing  
 33 body of the political subdivision.

34       (b) The administrator may promulgate rules adopting minimum safety  
 35 standards and procedures for conducting such inspections, as well as  
 36 fees for performing the same.

37       (c) For purposes of this section, "political subdivision" means any  
 38 governmental unit or special district of the state of Idaho other than  
 39 public school districts.

40       (45) In administering the laws regulating professions, trades and oc-  
 41 cupations that are devolved for administration upon the division, and in ad-  
 42 dition to the authority granted to the administrator by the laws and rules of  
 43 the agencies and entities within the division, the administrator may:

44       (a) Revise the operating structure of the division as needed to provide  
 45 efficient and appropriate services to the various professions, trades,  
 46 occupations and programs administered within the division;

47       (b) Conduct examinations to ascertain the qualifications and fitness  
 48 of applicants to exercise the profession, trade or occupation for which  
 49 an examination is held; pass upon the qualifications of applicants for  
 50 reciprocal licenses, certificates and authorities; prescribe rules for

a fair and impartial method of examination of candidates to exercise the respective professions, trades or occupations; issue registrations, licenses and certificates; and until fees are established in rule, the administrator shall charge a fee of seventy-five dollars (\$75.00) for each examination administered;

(c) Conduct hearings on proceedings to discipline, renew or reinstate licenses, certificates or authorities of persons exercising the respective professions, trades or occupations; appoint hearing officers, administer oaths, issue subpoenas, and compel the attendance of witnesses; revoke, suspend, refuse to renew, or take other disciplinary action against such licenses, certifications or authorities; and prescribe rules to recover costs and fees incurred in the investigation and prosecution of any certificate holder, licensee or registrant of the division, its boards, bureaus and programs, in accordance with the contested case provisions of chapter 52, title 67, Idaho Code, and the laws and rules of the boards, bureaus and programs the division administers;

(d) Assess civil penalties as authorized;

(e) Promulgate rules establishing: a coordinated system for the issuance, renewal, cancellation and reinstatement of licenses, certificates, registrations and permits; assessment of all related fees; the terms by which fees may be prorated, if any; and procedures for the replacement of lost or destroyed licenses, certificates or registrations; and

(f) Promulgate other rules as may be necessary for the orderly administration of the chapters specified in subsection (2) of this section and such rules as may otherwise be required by those chapters as well as rules for the standardization of operating procedures.

(56) Notwithstanding any law governing any specific board, bureau or program comprising the division of building safety, each board member shall hold office until a successor has been duly appointed and qualified.

(67) The administrator shall have the authority to employ individuals, make expenditures, enter into contracts, require reports, make investigations, travel, and take other actions deemed necessary.

SECTION 5. That Section 72-519, Idaho Code, be, and the same is hereby amended to read as follows:

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 ~~workmen's~~ 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.

SECTION 6. That Section 72-720, Idaho Code, be, and the same is hereby repealed.

1       SECTION 7. That Section [72-721](#), Idaho Code, be, and the same is hereby  
2 repealed.

3       SECTION 8. That Section [72-722](#), Idaho Code, be, and the same is hereby  
4 repealed.

5       SECTION 9. That Section [72-723](#), Idaho Code, be, and the same is hereby  
6 repealed.

7       SECTION 10. That Section 39-4113, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9       39-4113. PLAN REVIEWS -- MAXIMUM FEES AND SCHOOL INSPECTIONS. (1) The  
10 administrator shall establish a program for plan reviews and permit issuance  
11 entirely within the division of building safety. Plan reviews shall be for  
12 the provisions of this chapter and chapter 10, title 54, Idaho Code, chapter  
13 26, title 54, Idaho Code, chapter 50, title 54, Idaho Code, and chapter 86,  
14 title 39, Idaho Code, pertaining to construction, alteration or repair of  
15 buildings or structures within the scope of the division's jurisdiction pur-  
16 suant to this chapter. Plans for schools reviewed by the division shall not  
17 include a review for compliance with the provisions of chapter 2, title 41,  
18 Idaho Code, or for local planning and zoning requirements.

19       (2) Plan review fees shall be established by rules promulgated by the  
20 board. Local governments elected by school districts to perform building  
21 plan reviews for public schools as provided for in this section shall not  
22 charge a fee for such review of building plans in excess of what the divi-  
23 sion has established by rule for building plan review services for public  
24 schools.

25       (3) Each manufacturer of commercial coaches and modular buildings  
26 shall submit the building plans for every model of such structure to the ad-  
27 ministrator for the purpose of review.

28       (4) (a) Public school building plans shall be approved by either the  
29 local government or the division of building safety, whichever the  
30 school district elects. Any city or county that has adopted by or-  
31 dinance all the applicable codes pursuant to section 39-4109, Idaho  
32 Code, and the codes as permitted in chapter 10, title 54, Idaho Code,  
33 chapter 26, title 54, Idaho Code, and chapter 50, title 54, Idaho Code,  
34 shall be eligible to perform school plan reviews only if the following  
35 additional requirements are met: plans examiners performing build-  
36 ing and energy code plan reviews shall hold current certification as a  
37 commercial building plans examiner by the International Code Council;  
38 examiners performing plumbing code plan reviews shall hold current  
39 certification as a plumbing inspector by the international associa-  
40 tion of plumbing and mechanical officials and shall be a licensed Idaho  
41 journeyman plumber; examiners performing electrical code plan reviews  
42 shall hold current certification as an electrical inspector by the  
43 national certification program for construction code inspectors and  
44 shall be a licensed Idaho journeyman electrician; and examiners per-  
45 forming mechanical code plan reviews shall hold current certification  
46 as a commercial mechanical inspector by the International Code Council.

(b) All plans examiners who perform public school plan reviews shall be either an employee of the division, an employee of the local jurisdiction in which the school is to be constructed, or performing plan reviews under an interagency contract between local jurisdictions, and shall meet the eligibility requirements as provided in ~~subsection (4) paragraph~~ (a) of this subsection.

(c) An eligible local government may contract with the division for review of any portion of the plans for which the local government does not have a properly certified plans examiner. A county may be deemed eligible to perform plan review services only for those types of installations for which they have authority pursuant to this chapter and chapter 50, title 54, Idaho Code, to adopt an enforcement program. Where an eligible county performs the plan review services, the electrical and plumbing code plan reviews shall be performed by the division at the hourly rate as established in rule by the division. Any local government elected to perform plan review services for public schools shall provide the division a copy of all approved plans.

(d) Wherein the proposed work is valued in excess of one hundred thousand dollars (\$100,000), a school district may elect to utilize the school plan review services available from an eligible local government building code enforcement jurisdiction or from the division. Wherein the proposed work is valued at one hundred thousand dollars (\$100,000) or less, a school district may elect to use a local government without regard to the eligibility requirements in ~~subsection (4) paragraph~~ (a) of this subsection. Election by a school district shall be made by submitting a written certification to both the division and the involved local government.

(e) Public school plan review services provided by either the division or an eligible local jurisdiction pursuant to this section shall include a review of the following disciplines: building (structural and nonstructural), mechanical, fuel gas, plumbing, electrical, accessibility, elevators, boilers, and energy conservation. At a minimum, plan review services shall include:

(i) A technical examination of all drawings and construction documents; ~~and~~

(ii) The approval of such drawings and construction documents by determining whether such are in accord with the codes adopted pursuant to sections 39-4109, 54-1001, 54-2601 and 54-5001, Idaho Code, ~~as well as in compliance with applicable provisions of section 72-722, Idaho Code; and~~

(iii) A determination that the drawings and construction documents are in compliance, or noncompliance, with the applicable codes, code interpretation, and the identification of approved modifications or alternative materials, design or methods; and

(iv) The identification of the reviewing official(s), the date upon which plans are approved, as well as a stamp or some other similar mark on the plans evidencing approval.

(f) If a school district elects to utilize the plan review services of the division, it shall submit to the division of building safety three (3) sets of working drawings and specifications for new public school

1 buildings or facilities and additions or alterations to existing facil-  
2 ities. The division will review the plans submitted to it pursuant to  
3 this section for compliance with the current editions of the codes spec-  
4 ified in this chapter or within rules promulgated pursuant to this chap-  
5 ter by the board and by section 39-8006, Idaho Code.

6 (5) Public school building plans must be approved by either the local  
7 government or the division before the school district may advertise for  
8 bids. Once plans are reviewed and approved pursuant to this section, no ma-  
9 terial change can be made to such plans without review and approval of such  
10 change by the jurisdiction performing the plan review. All school construc-  
11 tion or remodeling governed by this chapter shall be inspected by building  
12 inspectors certified in accordance with section 39-4108, Idaho Code, or by  
13 Idaho licensed architects or engineers to determine compliance with this  
14 chapter and the Idaho uniform school building safety act, chapter 80, title  
15 39, Idaho Code. Nothing in this section shall limit the authority of local  
16 governments to issue building permits, perform fire code or other zoning  
17 and land use related plan reviews or provide a full range of building code  
18 enforcement activities as they relate to inspections of school buildings or  
19 facilities sited within their jurisdiction regardless of the election exer-  
20 cised by the school district pursuant to this section.