

From: Doug Brown [mailto:dbrown@ci.caldwell.id.us]
Sent: Friday, February 20, 2009 3:09 PM
To: 'lduce@idahocities.org'
Cc: Patrick Grace; DougBrown; Doug Brown
Subject: SBCB Legislation
Importance: High

Leon, Apparently, the more things change, the more they stay the same. Let's cut to the chase – this is all about residential fire sprinklers and the 2009 IRC. Boy, have we digressed. The SBCB was the genesis of its purpose, to the “2nd coalition group” taking a turn trying to run the SBCB and now – Washington DC-style end run politics by “just the special interests” trying to dictate “how it should be” to the SBCB.

I am very disappointed that the AIC is a co-participant in this backdoor legislation attempt. And to think the AIC “supposedly” represents the interests of Idaho's cities (and therein the public safety interests of the citizens of those cities). Maybe it is too idealistic of me to expect fairness in this process after eight years with a box seat watching this happen. Our Idaho Fire Chiefs Assn. President and Board will be in touch with our local elected officials and Ken Harwood. An explanation is in order.

As much as I, as a SBCB member as the Fire Service's representative to that Board, would like to support the “reform” legislation for the SBCB, I can't bring myself to support flawed legislation that caters to a special interest group whose focus is fiscally motivated and not on the safety of the public.

I will NOT support this legislation the way it is written. Specifically, I don't support or see a need for an additional building contractor rep on the Board. (If there was, I would agree to that only if there were both a “city” and a “rural” fire code rep on the board, too.) I don't support the continued fire sprinkler exemption in 39-4109 (v). (This was NEVER justified to the Board as to why it was omitted – it just was.) I don't support a mandate to the Board (in 39-4109 (3)) that the SBCB can't be “more restrictive” but only “less restrictive” when it comes to our “minimum” model codes. I surely don't support the language in 39-4116 (3) (b) which tampers with the local code adoption processes which are already adequate to ensure due process and which meet all other state laws.

In my opinion, this legislation is nothing more than a pre-emptive strike to head off the 2009 IRC residential fire sprinkler provisions and it appears to extend into playing with the local code adoptive process. (I always thought that the AIC was in favor of local control by local government.) By all appearances to me, this legislation is what the NAHB promised to do when it lost the IRC residential fire sprinkler vote in Minneapolis last year. It appears to me that Idaho's BCA is in lock-step with the NAHB on this.

The saddest aspect of this is the SBCB (and AIC if they wanted to partner in it) should be the forum for the debate on residential fire sprinklers (if they are so controversial to some folks). This should happen BEFORE they are removed from the code. Unfortunately that debate has never happened. If the AIC was truly representative of the local cities stake in this matter they would be encouraging a fair debate on fire sprinklers to occur and then let the SBCB members make their decision accordingly.

Thanks, Doug Brown

International Building Code; one (1) representative of the modular building industry; and one (1) individual with a disability from an organization that represents people with all types of disabilities. Board members shall be appointed for terms of four (4) years and until their successor has been appointed. Three (3) consecutive failures by a member to attend meetings of the board without reasonable cause shall constitute cause for removal of the member from the board by the governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(2) The members of the board shall, at their first regular meeting following the effective date of this chapter and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. A majority of the currently appointed members of the board shall constitute a quorum.

(3) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(h), Idaho Code, for each day spent in attendance at meetings of the board.

(4) The board shall meet for regular business sessions at the call of the administrator, chairman, or at the request of four (4) members of the board, provided that the board shall meet at least biannually.

SECTION 2. That Section 39-4109, Idaho Code, be, and the same is hereby amended to read as follows:

39-4109. (1) Application of codes. The following codes are hereby adopted ~~effective January 1, 2008~~, for the state of Idaho division of building safety and shall only be applied by local governments as prescribed by section 39-4116, Idaho Code:

~~(4a) The 2003- 2006 International Building Code, and subsequent versions of the International Building Code as adopted and amended by the Idaho Building Code Board through the negotiated rule making process as set forth in Idaho Code 67-5221 and as further provided in subsection (5) of this section and in accordance with subsections (2) and (3) herein:~~

~~(a) Including appendices thereto pertaining to building accessibility;~~

~~(b) Excluding the incorporated electrical codes, mechanical code, fuel gas code, plumbing codes, fire codes or property maintenance codes other than specifically referenced subjects or sections of the International Fire Code;~~

~~(c) Including the incorporated International Residential Code, parts I, II, III, IV and IX; International Energy Conservation Code; and rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the fair housing act accessibility guidelines shall be included; and~~

~~(d) Replacing section 903.2.7 of the 2003 International Building Code with sections 903.2.7, 903.2.8 and 903.2.9 of the 2000 International Building Code, which pertain to fire sprinklers in group R occupancies.~~

~~(2b) The 2003-2006 International Residential Code as published by the International Code Council, except for parts V, VI, VII and VIII as they pertain to mechanical, fuel gas, plumbing and electrical requirements, and subsequent versions of the International Residential Code as adopted and by the Idaho Building Code Board through the negotiated rule making process provided in this section;~~

(3c) The 2006 International Energy Conservation Code as published by the International Code Council, and subsequent versions of the International Energy Conservation Code as adopted and amended by the Idaho Building Code Board through the negotiated rule making process provided in this section; and

(4d) The ~~existing 2003~~ 2006 International Existing Building Code as published by the International Code Council, and subsequent versions of the International Existing Building Code as adopted and amended by the Idaho Building Code Board through the negotiated rule making process provided in this section.

(2) No amendments to the accessibility guidelines may be made by the Idaho Building Code Board that provide for lower standards of accessibility than those published by the International Code Council.

(3) No amendments to the International Residential Building Code may be made by the Idaho Building Code Board that provide for standards that are more restrictive than those published by the International Code Council.

(2 4) Any edition of the building codes adopted by the board will take effect on January 1 of the year following its adoption. ~~Local governments enforcing building codes pursuant to this section will have until January 1 of the year following the adoption of any building code by the board to begin enforcement of such codes.~~

(5) In addition to the negotiated rule making process set forth in Idaho Code 67-5221, the board shall conduct a minimum of two (2) public hearings, not less than sixty (60) days apart. Express written notice of such public hearings shall be given by the board to each of the following entities: Associated General Contractors, Associated Builders and Contractors, Association of Idaho Cities, Idaho Association of Building Officials, Idaho Association of Counties, Idaho Association of REALTORS®, Idaho Building Contractors Association, American Institute of Architects Idaho Chapter, Idaho Fire Chiefs Association, Idaho Society of Professional Engineers, Idaho Disabilities Council, and any other entity that, through electronic or written communication received by the administrator not less than twenty (20) days prior to such scheduled meeting, requests written notification of such public hearings.

SECTION 2. That Section 39-4116, Idaho Code, be, and the same is hereby amended to read as follows:

39-4116. Local government adoption and enforcement of building codes. —

(1) Local governments enforcing building codes shall do so only in compliance with the provisions of this section. Local governments that have not previously instituted and implemented a code enforcement program prior to the effective date of this act may elect to implement a building code enforcement program by passing an ordinance evidencing the intent to do so. Local governments may contract with a public or private entity to administer their building code enforcement program.

(2) By January 1, 2005, † Local governments that issue building permits and perform building code enforcement activities shall, by ordinance effective January 1 of the year following the adoption by the Idaho Building Code Board, adopt the following codes as published by the International Code Council together with any amendments or revisions set forth in section, 39-4109, Idaho Code, including subsequent versions of the International Building Code as adopted and amended by the Idaho Building Code Board through the negotiated rule making process provided in this chapter:

(a) International Building Code, including all rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the federal fair housing act accessibility guidelines;

(b) International Residential Code, parts I-IV and IX; and

(c) International Energy Conservation Code.

Local governments are not required by this chapter to adopt the other referenced codes in the International Building Code.

(3) Local governments may amend by ordinance the adopted codes or provisions of referenced codes to reflect local concerns, provided such amendments establish at least an equivalent level of protection to that of the adopted building code, except as provided in (a) and (b) of this subsection.

(a) A local jurisdiction shall not have the authority to amend any accessibility provision pursuant to section 39-4109, Idaho Code.

(b) A local jurisdiction shall not adopt any provision of the International Building Code or International Residential Code or appendices thereto, that has not been adopted or that has been expressly rejected or exempted from the adopted version of those codes by the Idaho Building Code Board through the negotiated rule making process as provided in section 39-4109, Idaho Code. Provided however, that, after a finding by the local jurisdiction that good cause exists for such an amendment to such codes and that such amendment is reasonably necessary, a local jurisdiction may adopt such provision by ordinance in accordance with the provisions of chapter 9, title 50, Idaho Code, and provided further that such local jurisdiction shall conduct a public hearing and, provided further, that notice of the time and place of the public hearing shall be published in the official newspaper or paper of general circulation within the jurisdiction and written notice of each of such public hearing and the proposed language shall be given by the local jurisdiction to the local chapters of the entities identified in Idaho Code 39-4109(5) not less than thirty (30) days prior to such hearing. In the event that there are not local chapters of such entities identified in Idaho Code 39-4109(5) within the local jurisdiction holding the hearings, the notice shall be provided to the state associations of the respective entities.

(4) Local governments shall exempt agricultural buildings from the requirements of the codes enumerated in this chapter and the rules promulgated by the board. A county may issue permits for farm buildings to assure compliance with road setbacks and utility easements, provided that the cost for such permits shall not exceed the actual cost to the county of issuing the permits.

(5) Permits shall be governed by the laws in effect at the time the permit application is received.

(6) The division shall retain jurisdiction for in-plant inspections and installation standards for manufactured or mobile homes and for in-plant inspections and enforcement of construction standards for modular buildings and commercial coaches.

SECTION 2 3. An emergency existing therefore, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

STATEMENT OF PURPOSE

RS

The proposed legislation amends the membership of the Idaho Building Code Board by the addition of an additional contractor-member. The Legislation will adopt the 2006 editions of the International Building Code as well as the International Residential Code. It also corrects the name of the International Existing Building Code and adopts the 2006 edition of it. Also, the proposed legislation will provide that the division, as well as local governments performing building code enforcement activities will be permitted to make such Codes effective on January 1 of the year following the adoption of specific editions of the International Codes by the Idaho Building Code Board. Further, the legislation provides for adoption of such codes through an expanded negotiated rule making process with written notice to affected parties. The legislation also restricts local jurisdictions from amending codes to be more restrictive than those adopted by the Board, unless the local jurisdiction does so by ordinance after a public hearing with written notice to the affected parties. The proposed legislation encourages cooperation in the adoption of building codes and provides the division and local governments with necessary time to prepare for the implementation of new editions of the International Codes, and will save each additional administrative expenses associated with publishing special guidance outside the normal budget process.

FISCAL IMPACT

There will be no fiscal impact to the state General Fund. There will be nominal costs to the Idaho Division of Building Safety for the addition of one member of the Building Code Board. Local jurisdictions will incur costs to notify the public and other specific entities, in the legislation, of a public hearing. It is anticipated that this proposal will save the division and local governments significant expense by allowing each to wait to publish guidance regarding the implementation of new International Building Codes until the time they typically publish all such annual codes and ordinances at the beginning of the year.

Statement of Purpose/Fiscal Impact

H ____



From: WAGNER, ED [mailto:EDWAG@cdaid.org]

Sent: Friday, February 20, 2009 8:15 AM

To: Leon Duce

Cc: Patrick Grace

Subject: 2009 Legislation

Leon,

I noticed a potential change in 39-4109(4). Since DBS budget year starts July 1, I think the current reference to January 1 should be changed to July 1. The locals are given the option to January 1 due to the timing of most of our budget years.

*Edward J. Wagner, CBO
Building Services Director
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Comments Regarding Proposed legislation
Jan Welch
February 20, 2009

I am in general agreement with the intent of the legislation.

SECTION 1: 39-4106

It is acceptable to me to add an additional board member and the make up of the board is acceptable as well.

SECTION 2: 39-4019

I'm not sure the language of this section reflects the intent of the board. I believe it was the intent that the 2006 IBC be adopted as the current standard thru the approval of this legislation and that following that approval, subsequent editions of the International Building Code could be adopted by rule making procedures of the Board. The language should be revised to reflect this intent if it doesn't currently?

Item v. I strongly believe any reference to outdated codes should be eliminated. The same language is in section 903.2.7 of the 2006 IBC as was in the 2003 code. Exception was taken to the requirement to provide fire sprinkling in all R occupancies and the less stringent requirements of the 2000 code were retained. This particular item has the possibility to be difficult to resolve. However, I believe that in many locations, at least locally, the governing bodies chose not to include this exception, and retained the more stringent requirements of the 2003 code. Typically, DBS will not be involved in reviewing any of this type of structures. They will be reviewed by the municipal or county government, therefore I believe that requirements should be in accordance with the adopted code (2006) or more if more stringent requirements are adopted it should remain the responsibility of the agency that will be reviewing them. (fyi, many aren't going to know about this language in the legislation anyway)

Item b. I believe the word "amended" should be included in the fourth line in conjunction with the boards rule making process. (following "adopted and")

Item 3. About no allowance for making the residential code more restrictive. My opinion of this item is closely related to those in item 5. DBS will not be involved in the review of projects governed by the IRC. The governing or reviewing municipalities or counties will still retain the ability to make more restrictive amendments to the code so this item should may be left in the document to appease whoever felt it needed to be there.

From: Jack Rayne
Sent: Monday, February 23, 2009 11:47 AM
To: Patrick Grace
Cc: Arlan Smith; Kelly Pearce; Steve Keys
Subject: Proposed AIC Building Code Act Legislation.

I have reviewed the proposed AIC legislation and existing Act and have the following recommendations for revisions:

1. Revise existing sec. 39-4108 as follows:
In sentence #1, delete the words "After July 1, 2002," and begin with State and local inspectors---
Delete the last sentence in 39-4108 entirely.

2. Revise proposed sec. 39-4109 as follows:
Delete proposed section (1), subsection (iv) which states "Replacing section 903.2.7 of the 2003 International Building code with sections 903.2.7, 903.2.8 and 903.2.9 of the 2000 International Building Code, which pertain to fire sprinklers in Group R occupancies."

Delete proposed section (3) which states "No amendments to the International Residential Building Code may be made by the Idaho Building Code Board that provide for standards that are more restrictive than those published by the International Code Council."
This proposed provision only places an undue constraint on the DBS and the Building Code Board that is not equally placed upon the local units of government and as such creates a double standard. The DBS regulates the design and construction of state-funded site-built residential buildings as well as modular residential buildings.

3. Revise existing sec. 39-4112 as follows:
Delete sentence two from the existing statute.

4. Revise existing sec. 39-4113 as follows:
Add a reference to chapter 50, title 54 Idaho Code within section (1).
Delete the second sentence within section (2).

From: Bobby Ball [mailto:adataskforce@qwestoffice.net]
Sent: Tuesday, February 24, 2009 12:15 PM
To: Iduce@idahocities.org
Cc: Patrick Grace
Subject: FW: February 27, 2009 Building Code Board "Special" Meeting

My only comment is this should probably be changed to, disability related organization, our organization, ADA Task Force or State Independent Living Council (SILC).

39-4109

(5) In addition to the negotiated rule making process set forth in Idaho Code 67-5221, the board shall conduct a minimum of two (2) public hearings, not less than sixty (60) days apart. Express written notice of such public hearings shall be given by the board to each of the following entities: Associated General Contractors, Associated Builders and Contractors, Association of Idaho Cities, Idaho Association of Building Officials, Idaho Association of Counties, Idaho Association of REALTORS®, Idaho Building Contractors Association, American Institute of Architects Idaho Chapter, Idaho Fire Chiefs Association, Idaho Society of Professional Engineers, Idaho Disabilities Council, and any other entity that, through electronic or written communication received by the administrator not less than twenty (20) days prior to such scheduled meeting, requests written notification of such public hearings.

Bobby Ball

Executive Director
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From: Jeremy Pisca [mailto:jpisca@rischpisca.com]
Sent: Tuesday, February 24, 2009 5:14 PM
To: Iduce@idahocities.org; Renee Bryant
Subject: FW: AIC Proposed Legislation - Comments

Leon:

Kelly Buckland and I spoke today. The reference to the “developmental disabilities council” needs to be changed to the “Idaho state independent living council.”

Thanks,

jpp

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