

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 86

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO PUBLIC WORKS CONSTRUCTION MANAGEMENT LICENSING; AMENDING SEC-
2 TION 54-4503, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 54-4504,
3 IDAHO CODE, TO PROVIDE THAT CERTAIN ACTS SHALL BE UNLAWFUL AND TO PRO-
4 VIDE THAT THE ADMINISTRATOR SHALL ISSUE CERTIFICATES OF AUTHORITY;
5 AMENDING SECTION 54-4505, IDAHO CODE, TO PROVIDE THAT THE ADMINIS-
6 TRATOR SHALL PERFORM CERTAIN TASKS REGARDING LICENSURE, TO CLARIFY A
7 PROVISION REGARDING ISSUANCE OF A LICENSE AND TO MAKE A TECHNICAL COR-
8 RECTION; AMENDING SECTION 54-4506, IDAHO CODE, TO REMOVE REFERENCE TO
9 INTERIM LICENSES AND TO PROVIDE THAT THE ADMINISTRATOR MAY ISSUE TEM-
10 PORARY LICENSES; AMENDING SECTION 54-4507, IDAHO CODE, TO PROVIDE THAT
11 THE ADMINISTRATOR MAY GRANT INACTIVE STATUS TO THE HOLDER OF A LICENSE
12 UNDER CERTAIN CONDITIONS; AMENDING SECTION 54-4508, IDAHO CODE, TO
13 PROVIDE THAT THE ADMINISTRATOR SHALL HAVE CERTAIN AUTHORITY REGARDING
14 DISCIPLINARY PROCEEDINGS, TO PROVIDE THAT A PERSON MAY BE SUBJECT TO
15 DISCIPLINE, TO PROVIDE THAT THE ADMINISTRATOR SHALL RECEIVE CERTAIN
16 NOTICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-4509,
17 IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR SHALL HAVE CERTAIN DUTIES
18 REGARDING CERTIFICATES OF AUTHORITY FOR FIRMS AND TO MAKE TECHNICAL
19 CORRECTIONS; AMENDING SECTION 54-4510, IDAHO CODE, TO PROVIDE THAT CER-
20 TAIN FEES SHALL BE COLLECTED BY THE ADMINISTRATOR AND TO MAKE TECHNICAL
21 CORRECTIONS; AND AMENDING SECTION 54-4514, IDAHO CODE, TO PROVIDE THAT
22 THE ADMINISTRATOR MAY BRING AN ACTION FOR INJUNCTIVE RELIEF.
23

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

25 SECTION 1. That Section 54-4503, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 54-4503. DEFINITIONS. As used in this chapter:

28 (1) "Administrator" means the administrator of the Idaho division of
29 building safety.

30 (2) "Applicant" means an individual who applies for a license or in-
31 terim license pursuant to the provisions of this chapter.

32 (23) "Board" means the public works contractors license board estab-
33 lished in section 54-1905, Idaho Code.

34 (4) "Certificate of authority" means a certificate issued by the divi-
35 sion of building safety authorizing a firm to provide or hold itself out as
36 providing construction manager services. A certificate of authority shall
37 serve as verification by the division that one (1) or more principals or em-
38 ployees of the firm are licensed construction managers in good standing and
39 that the firm meets such other reasonable criteria established by the board.
40 The licensed construction manager associated with a firm shall accept the
41 responsibility and duty to directly supervise the provision of construction
42 management services by the firm.

1 (35) "Construction manager" means an individual who performs construc-
2 tion management services.

3 (46) "Construction management services" means representation of an
4 owner in public works construction by a person with substantial discre-
5 tion and authority to plan including scheduling, estimating and approval,
6 coordinate, manage or direct phases of a project for the construction, demo-
7 lition, alteration, repair or reconstruction of any public work. This defi-
8 nition shall not include services for which the laws of this state require a
9 person to be licensed as an architect or registered as a professional engi-
10 neer, nor shall it include services traditionally and customarily provided
11 by licensed architects or registered professional engineers. This defini-
12 tion shall not apply to highway, road or other transportation projects.

13 (57) "Firm" means any business organization, including individuals,
14 partnerships, corporations, associations or any combination thereof acting
15 as a unit.

16 (8) "Hold itself out" or "holding oneself or one's firm out" or "offer"
17 means the representation by a person that the person possesses a valid con-
18 struction manager license issued pursuant to the provisions of this chapter
19 authorizing that person to provide construction management services. "Hold
20 itself out" or "holding oneself or one's firm out" or "offer" shall include,
21 but not be limited to, the following acts:

22 (a) Advertising to provide construction management services on public
23 works construction projects;

24 (b) Submitting responses to requests for qualifications for construc-
25 tion management services on public works construction projects; and

26 (c) Submitting proposals, quotes or bids to perform construction man-
27 agement services on public works construction projects.

28 (69) "Licensure" means the issuance of a license to an applicant under
29 the provisions of this chapter authorizing such individual to offer and per-
30 form construction management services.

31 (710) "Person" includes an individual, partnership, corporation, asso-
32 ciation or other organization.

33 SECTION 2. That Section 54-4504, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 54-4504. LICENSE REQUIRED. (1) Except as otherwise provided herein,
36 on and after the effective date of this chapter, it shall be unlawful for any
37 person to act as a construction manager in public works construction or to
38 practice or perform or offer to perform construction management services in
39 public works construction unless such offer is made by or such construction
40 management services are performed by or under the direct supervision of a li-
41 icensed construction manager.

42 (2) Only an individual may be licensed as a construction manager. No
43 firm may provide or hold itself out as providing or currently able to provide
44 construction management services unless it holds a certificate of authority
45 issued by the ~~board~~ administrator pursuant to section 54-4509, Idaho Code.

46 (3) Construction management services provided by a firm must be pro-
47 vided under the direct supervision and control of a licensed construction
48 manager who is a principal or employee of the firm.

1 (4) An employee of an owner for which public works construction manage-
 2 ment services are to be performed shall not be required to obtain a license
 3 under this chapter in order to provide such services for his employer.

4 (5) A licensed architect, registered landscape architect or registered
 5 professional engineer shall not be required to obtain a license under this
 6 chapter in order to provide services for which the laws of this state require
 7 a person to be licensed as an architect, registered landscape architect or
 8 registered as a professional engineer or to provide services traditionally
 9 and customarily provided by licensed architects, registered landscape ar-
 10 chitects or registered professional engineers. Provided however, that such
 11 services shall not include the procurement of equipment or construction work
 12 required by law to be competitively bid for public works construction.

13 SECTION 3. That Section 54-4505, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 54-4505. REQUIREMENTS FOR LICENSURE. (1) Any individual who wishes
 16 to become licensed as a construction manager shall make written applica-
 17 tion to the ~~board~~ administrator on such forms or in such manner as the ~~board~~
 18 administrator may prescribe. Each applicant shall provide such proof as the
 19 ~~board~~ administrator may require that he:

20 (a) Has a bachelor's degree in architecture, engineering or con-
 21 struction management from a college or university ~~which~~ that has an
 22 educational program in architecture, engineering or construction man-
 23 agement, as the case may be, accredited by a nationally recognized
 24 accrediting organization and that he has a minimum of four (4) years'
 25 experience in managing construction projects; or

26 (b) Has a minimum of five (5) years' experience in managing construc-
 27 tion projects.

28 (2) If the ~~board~~ administrator finds that the applicant meets the re-
 29 quirements for licensure set forth in subsection (1) of this section, ~~it~~
 30 he shall administer an examination to the applicant, which examination
 31 shall be offered at least once each year. The examination shall test the
 32 applicant's knowledge and proficiency in construction management issues,
 33 including health, environmental and safety regulations, interpretation of
 34 construction contracts, financing, scheduling and project administration
 35 for construction projects. The ~~board~~ administrator shall establish a fee
 36 for administering the examination to each applicant which must be paid be-
 37 fore the applicant may sit for the examination.

38 (3) An applicant who demonstrates knowledge and proficiency of con-
 39 struction management by virtue of passing the examination shall, ~~and~~ upon
 40 the payment of an appropriate fee, ~~shall~~ be issued a license authorizing that
 41 individual to provide construction management services.

42 SECTION 4. That Section 54-4506, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 54-4506. INTERIM AND TEMPORARY LICENSES. (1) ~~For a period of one (1)-~~
 45 ~~year following the effective date of this chapter, each applicant who meets~~
 46 ~~the requirements of section 54-4505(1), Idaho Code, shall be issued an in-~~
 47 ~~terim construction manager's license pursuant to such application terms and~~

1 ~~conditions as the board may require. At the conclusion of the one (1) year~~
 2 ~~period, following the effective date of this chapter, such interim licenses~~
 3 ~~shall expire and thereafter all licensed construction managers shall be re-~~
 4 ~~quired to meet the licensure requirements as set forth in section 54-4505,~~
 5 ~~Idaho Code.~~

6 (2) The board administrator may issue a temporary license for a period
 7 not to exceed one (1) year to an applicant who provides satisfactory proof of
 8 possession of a valid construction manager's license issued by another state
 9 pursuant to requirements substantially similar to those set forth in section
 10 54-4505, Idaho Code.

11 ~~(3) Interim and t~~Temporary licenses may not be renewed nor their terms
 12 extended beyond the period set forth in this section.

13 SECTION 5. That Section 54-4507, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 54-4507. LICENSE RENEWAL. (1) Each construction management license
 16 issued under the terms of this chapter shall expire and become invalid one
 17 (1) year after issuance unless renewed in the manner prescribed by the board.

18 (2) Upon application, the board administrator may grant inactive sta-
 19 tus to the holder of a license who is no longer actively providing construc-
 20 tion management services.

21 (3) The board may provide for reinstatement of an expired or inactive
 22 license upon such terms as it may determine by rule.

23 SECTION 6. That Section 54-4508, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 54-4508. DISCIPLINARY PROCEEDINGS. (1) The board administrator shall
 26 have the authority to deny or refuse to renew a license or certificate of au-
 27 thority, defer or precondition licensure, suspend or revoke a license, im-
 28 pose an administrative fine not to exceed twenty thousand dollars (\$20,000)
 29 per violation, impose the administrative costs of bringing the action before
 30 the board including, but not limited to, hearing officer fees, expert wit-
 31 ness fees, attorney's fees, costs of hearing transcripts and copies, or im-
 32 pose probationary conditions on a person or the holder of a license or cer-
 33 tificate of authority, upon the following grounds:

34 (a) Fraud or deception in the procurement of a license or certificate of
 35 authority or in the taking of an examination required under the provi-
 36 sions of this chapter;

37 (b) Incompetence in the performance of a construction manager's du-
 38 ties;

39 (c) Holding oneself or one's firm out as a construction manager by en-
 40 gaging in any act meeting the definition or character of a construction
 41 manager as defined herein without a legally required license;

42 (d) Fraud or deceit in the performance of a construction manager's du-
 43 ties; or

44 (e) Willful violation of the provisions of this chapter or the rules
 45 promulgated by the board.

46 (2) Proceedings ~~which~~ that may result in the suspension or revocation
 47 of a license or certificate of authority, or the imposition of probationary

1 or other disciplinary conditions on the holder of a license or certificate of
 2 authority, shall be conducted in accordance with the provisions of chapter
 3 52, title 67, Idaho Code; provided however, that the suspension of a certifi-
 4 cate of authority, upon the notification by its holder that the construction
 5 manager it has designated to the board administrator no longer is a principal
 6 or employee of the firm, shall not be required to be conducted in accordance
 7 with the provisions of chapter 52, title 67, Idaho Code.

8 (3) The board may, by rule, provide for the reinstatement of suspended
 9 or revoked licenses upon such terms as it may impose.

10 SECTION 7. That Section 54-4509, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 54-4509. CERTIFICATES OF AUTHORITY FOR FIRMS. (1) No firm shall pro-
 13 vide or hold itself out as providing construction management services unless
 14 it has a certificate of authority issued by the board administrator. If one
 15 (1) or more principals or employees of a firm are licensed construction man-
 16 agers, the firm may apply to the board administrator for a certificate of au-
 17 thority to provide and hold itself out as providing construction management
 18 services. An application for a certificate of authority shall:

19 (a) Designate the licensed construction manager or managers, who are
 20 principals or employees of the firm, specified to be in responsible
 21 charge of construction management services provided by the firm;

22 (b) Be accompanied by a statement signed by such licensed construction
 23 manager or managers accepting the responsibility and duty to provide
 24 construction management services for the firm; and

25 (c) Contain such other information as the board administrator reason-
 26 ably may require.

27 If the board administrator concludes that the construction manager or
 28 managers designated by the firm is or are licensed in good standing and that
 29 the firm meets such other criteria reasonably established by the board, ~~it~~ he
 30 shall issue a certificate of authority to the firm authorizing it to provide
 31 and hold itself out as providing construction management services.

32 (2) If the construction manager or managers designated by the firm
 33 cease to be licensed or to be principals or employees of the firm, the firm
 34 shall immediately notify the board administrator in writing and shall cease
 35 to hold itself out as qualified to offer construction management services.
 36 Upon receiving such notification, the board administrator shall suspend the
 37 firm's certificate of authority. If the firm is in the process of providing
 38 construction management services when its designated licensed construction
 39 manager becomes unable to provide those services, the firm shall complete
 40 the construction management services for the project by using the ser-
 41 vices of another licensed construction manager who need not be a principal
 42 or employee of the firm. The firm shall not provide or hold itself out as
 43 providing construction management services for other projects until the
 44 board administrator has reinstated the firm's certificate of authority
 45 which the board administrator shall do if the firm submits an application
 46 for reinstatement of its certificate of authority, which shall contain the
 47 information required for an original application together with such other
 48 information as the board administrator reasonably may require, and the board
 49 administrator finds such application to be satisfactory and complete.

1 SECTION 8. That Section 54-4510, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 54-4510. FEES -- DISPOSITION OF FUNDS. (1) The board shall adopt by
4 rule reasonable fees not to exceed two hundred dollars (\$200) for each of the
5 following:

- 6 (a) Initial examination and licensing;
7 (b) License renewal;
8 (c) Inactive licenses;
9 (d) License reinstatement; and
10 (e) Issuance, suspension and reinstatement of a certificate of author-
11 ity.

12 (2) All fees collected by the ~~board~~ board administrator shall be paid to the
13 public works contractors license board and deposited in the state treasury,
14 to the credit of the public works contractors license ~~board~~ fund, and shall
15 be used only for the administration of the provisions of this chapter. All
16 expenses incurred pursuant to the provisions of this chapter shall be paid
17 from the public works contractors license ~~board~~ fund. All fees collected by
18 the ~~board~~ board administrator under the provisions of this chapter are hereby ap-
19 propriated for one (1) year following the effective date of this chapter and
20 thereafter as appropriated each year by the legislature for carrying out the
21 purposes and objectives of this chapter and to pay all costs and expenses in-
22 curred in connection therewith. Such moneys shall be paid out on warrants
23 drawn by the state controller upon presentation of proper vouchers approved
24 by the board.

25 SECTION 9. That Section 54-4514, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 54-4514. INJUNCTIVE RELIEF. The ~~board~~ board administrator may bring an ac-
28 tion in the district court for a temporary restraining order, preliminary
29 injunction or permanent injunction against any person who violates the pro-
30 visions of this chapter.