

**STATE AFFAIRS COMMITTEE**  
**ADMINISTRATIVE RULES REVIEW**  
*Table of Contents*  
*2011 Legislative Session*

**IDAPA 03 - STATE ATHLETIC COMMISSION**

*03.01.01 - Rules of the State Athletic Commission*

Docket No. 03-0101-1001 (Fee Rule) .....2

**IDAPA 32 - ENDOWMENT FUND INVESTMENT BOARD**

*32.01.01 - Rules Governing the Credit Enhancement Program for School Districts*

Docket No. 32-0101-1001 (Fee Rule - New Chapter).....12

## **IDAPA 03 - STATE ATHLETIC COMMISSION**

### **03.01.01 - RULES OF THE STATE ATHLETIC COMMISSION**

#### **DOCKET NO. 03-0101-1001 (FEE RULE)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-416, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 76 through 82.](#)**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-5313, Idaho Code:

**Rule 109 is adding an initial/annual application fee of \$250 and an initial/annual approval fee of \$500 for amateur sanctioning organizations.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 3rd day of November, 2010.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
700 W State  
Boise, ID 83702  
(208) 334-3233 Ph  
(208) 334-3945 Fax

**THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **August 16, 2010**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-416, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2010.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Based upon the passage of House Bill 684 last year, the State Athletic Commission is establishing application, initial review and annual review fees for amateur sanctioning organizations. These rules also reflect changes to the statute and add requirements that will help protect the public, including clarifying the non-payment of amateurs, establishing and clarifying health insurance requirements for combatants and clarifying the requirement for a bond or other security.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)a, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**The 2010 legislature passed House Bill 684 which allows the Commission to set fees for application, initial review and annual review of amateur sanctioning organizations by rule. These rules reflect changes to the statute and add requirements that will help protect the public.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

**Rule 109 is adding an initial/annual application fee of \$250 and an initial/annual approval fee of \$500 for amateur sanctioning organizations.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

**There could be a positive impact on dedicated funds of approximately \$1500.00 per year based on the two approved organizations.**

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes are due to amendment in statute and were discussed in an open, noticed meeting.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at 208 334-3233

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2010.

DATED this 25th day of August, 2010.

**THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 03-0101-1001**

**010. DEFINITIONS.**

**01. Bureau.** The Bureau of Occupational Licenses, as prescribed in Section 67- 2602, Idaho Code. (3-26-08)

**02. Champion.** A person who has been formally acknowledged supreme in a branch of athletics or game of skill and who is ready to contend with any qualified challenger. (3-3-94)

**03. Combatant.** Any boxer, kickboxer, martial artist, or wrestler who takes part as a competitor in an event ~~under the jurisdiction of the commission~~. A “combatant” sometimes is referred to as a “contestant” in these rules. ~~(3-29-10)( )~~

**04. Commission.** The Idaho Athletic Commission created under Title 54, Chapter 4, Idaho Code, or designated agent. (3-26-08)

**05. Commissioner.** The state athletic commissioner, as prescribed in Section 54-401, Idaho Code. (3-26-08)

**06. Event.** A program of one (1) or more unarmed combat contests or exhibitions. (3-29-10)

**a.** An “amateur event” is an event in which the only combatants are amateur combatants. (3-29-10)

- b.** A “professional event” is an event in which the only combatants are professional combatants. (3-29-10)
- c.** A “pro-am” is an event in which combatants include professional combatants and amateur combatants. Professional combatants may not compete against amateur combatants in “pro-am” events. (3-29-10)
- 07. Main Event.** The headline or marquee contest or exhibition scheduled to occur at an event. (3-29-10)
- 08. Mixed Martial Arts (MMA).** A full contact sport that allows a wide variety of unarmed combat techniques from a mixture of martial arts traditions to be used in competitions. (5-8-09)
- 09. Physician.** A physician licensed by the Idaho Board of Medicine. (5-8-09)
- 10. Ring Official.** Ring officials include referees, judges, timekeepers and glovers. (5-8-09)
- 11. Stub.** That part of the ticket retained by a person entering the arena in which an event is held after the ticket has been collected. (3-26-08)
- 12. Ticket.** That document issued by the promoter allowing a person’s entrance and attendance at an event and may include that part of the ticket retained by the promoter documenting a person’s entrance to an event. (3-26-08)

**(BREAK IN CONTINUITY OF SECTIONS)**

**109. AMATEUR ATHLETIC SANCTIONING AUTHORITIES ORGANIZATIONS.**

The Commission may approve an entity as an officially recognized amateur athletic sanctioning authority organization that may sanction amateur events. The Commission is the final authority on whether an entity may be an amateur athletic sanctioning authority organization.

~~(3-29-10)~~( )

**01. Application for Approval.** In order to be considered for approval as an officially recognized, amateur athletic sanctioning authority organization under Section 54-406(3)(b)(iii), Idaho Code, an entity must:

~~(3-29-10)~~( )

- a.** Meet the Criteria for Eligibility set forth in Subsection 109.02 of these rules; (3-29-10)
- b.** Submit to the Bureau a completed application form, supplied by the Commission, on which the person signing the application verifies under oath that he is an officer or other person authorized to sign on behalf of the entity, that the information on the application and

submitted with the application is true and correct, and that the entity meets the Criteria for Eligibility set forth in Subsection 109.02 of these rules; (3-29-10)

**c.** Pay the appropriate fees, which are: ( )

**i.** Initial application processing fee: Two hundred fifty dollars (\$250); and ( )

**ii.** Initial approval fee: Five hundred dollars (\$500). ( )

**ed.** Provide the Bureau with such documentation as the Bureau may request in the course of reviewing the application, and including, without limitation, a list of the entity's officers and persons claiming an ownership interest in the entity, any requested bylaws, constitution, medical forms, contracts, rules, policies, and procedures used by the entity; and (3-29-10)

**de.** If requested, appear before the Commission to answer, to the Commission's satisfaction, any questions the Commission may have about the entity or the application, including, without limitation, any questions regarding whether the entity meets the Criteria for Eligibility set forth in Subsection 109.02 of these rules; (3-29-10)

**02. Criteria for Eligibility.** An entity is eligible for approval as an amateur athletic sanctioning authority organization if it demonstrates, to the Commission's satisfaction, that it meets the Commission's eligibility criteria. An approved entity's failure to consistently meet this these criteria may result in Commission action to suspend or revoke the entity's approved status. The criteria that must be met is are: (~~3-29-10~~)( )

**a.** The entity is incorporated or otherwise legally recognized under the law of its domicile; (3-29-10)

**b.** The entity, if not incorporated or otherwise domiciled in Idaho, is authorized to transact business in Idaho; (3-29-10)

**c.** The entity and its predecessor entity, if any, have never had an application for approval as an amateur sanctioning authority, organization, or similar body denied or disapproved, or an approval as an amateur sanctioning authority, organization, or similar body suspended, revoked, or restricted in any way, by any state, territory, country, or subdivision thereof. (3-29-10)

**d.** No officer or person having an ownership interest in the entity has had a license, of the types issued by the Commission, suspended, revoked, or disciplined in any way by any state, territory, country, or subdivision thereof. (3-29-10)

**e.** All sanctioned events must be conducted in accordance with the sanctioning bodies' rules as approved by the Commission. The entity must adopt and consistently enforce rules that: (3-29-10)

**i.** Ensure that contests and exhibitions do not unreasonably endanger the health of combatants or other participants; (3-29-10)

- ii. Provide for the medical safety and care of participants its events; (3-29-10)
- iii. Exclude the medically unfit from the contests and exhibitions; (3-29-10)
- iv. Require the presence of an ambulance and EMT's on site at all times, and the attendance of an Idaho-licensed medical doctor or osteopathic physician at ringside. (3-29-10)
- v. Require the event promoter to obtain health insurance sufficient to cover the medical, surgical, and hospital care of all event participants, other than the promoter, for injuries sustained while participating in the event. The insurance obtained must meet the requirements specified in Section 299 of these rules. ~~(3-29-10)~~( )
- vi. Require drug testing and blood testing consistent with the Commission's rules for events regulated by the Commission. The entity must submit the results of such testing to the Commission within forty-eight (48) hours after the event sanctioned by the entity ends. (3-29-10)
- vii. Restrict the types of blows that can be delivered; (3-29-10)
- viii. Exclude professional combatants from its contests and exhibitions, and require that combatants are not to receive any type of purse payment or compensation except as approved by the Commission; (3-29-10)
- ix. Limit the time and frequency of contests and exhibitions, including, without limitation, the times specified in Section 54-407, Idaho Code; (3-29-10)
- x. Require that the entity oversee weigh-ins, the hand wrapping, the glove placement after inspecting the gloves as required by the entity's rules as approved by the Commission; (3-29-10)
- xi. Require that the entity inspect and approve the contest area before the contest starts; (3-29-10)
- xii. Require prompt investigation and resolution of complaints for participants, interested persons, and the Commission; (3-29-10)
- xiii. Have a system of review to ensure the entity fairly applies its rules, policies, and procedures; (3-29-10)
- xiv. Require the identification of the entity on all advertisements, programs, or handbills issued, used, or distributed in Idaho; (3-29-10)
- xv. Require cooperation with the Commission, including without limitation, at least thirty (30) days advance notification to the Commission of sanctioned events to occur in Idaho, and admission of Commission representatives and agents without charge to any sanctioned event, and to any portion of the event. (3-29-10)
- xvi. Require that event participants, and the entity, report to the Commission any violations of the entity's rules arising out of a sanctioned event; (3-29-10)

xvii. Require all participants, officials, and the entity to appear at reasonable times before the Commission and truthfully answer any lawful inquiry of the Commission; (3-29-10)

xviii. Ensure that all ring officials, including, without limitation, all timekeepers, judges, referees, and glovers, and all promoters who ask an entity to sanction an event, are licensed by the Commission; (3-29-10)

xix. Set an appropriate fee schedule for ring officials. (3-29-10)

xx. Require the event promoter to obtain a bond or other form of financial security, payable to the ~~entity~~ State of Idaho, and otherwise consistent with Section 300 of these rules. ~~(3-29-10)~~( )

xxi. Require the event promoter to obtain liability insurance for the event, which insurance must adequately cover the promoter, venue, entity, and the Commission. (3-29-10)

xxii. Otherwise require sufficient health and safety standards before, during and after contests and exhibitions to ensure the health, safety, and well-being of any participating amateur combatants. The entity's health and safety standards must be no less stringent than the Commission's health and safety standards for contests and exhibitions for which the Commission may issue a sanctioning permit under Title 54, Chapter 4, Idaho Code. Sections 731 through 799 of these rules establish the minimum safety requirements for MMA events in Idaho. The entity's health and safety standards for sanctioned MMA events must, at a minimum, comport with the Section 731 through 799 requirements. (3-29-10)

**f.** For each event to be sanctioned by the entity, the entity must ensure that true and correct copies of the following documents are presented to the Bureau at least thirty (30) days before the event: (3-29-10)

i. The event promoter's bond or other form of financial security as referenced in Subparagraph 109.02.e.xx. of these rules. (3-29-10)

ii. The health insurance certificate for health insurance obtained by the promoter as referenced in Subparagraph 109.02.e.v. The deductible amount, claims submission instructions, and insurer contact information must also be provided. (3-29-10)

iii. The liability insurance certificate for liability insurance obtained by the promoter as referenced in Subparagraph 109.02.e.xxii. of these rules. (3-29-10)

**g.** The entity does not sanction events where: (3-29-10)

i. Financial ties exist between the promoter and the entity, including, without limitation, when anyone serves as an officer, principal, or manager in both the entity and promotion company, or have an ownership interest in both the entity and the promotion company: (3-29-10)

ii. Any ring official, employee, or agent that works for both the promoter and the



entity. (3-29-10)

iii. The entity or any of its officers, principals, managers, owners, or employees manages or trains any of the combatants. (3-29-10)

**03. Violations.** The Commission may suspend or revoke its approval of an amateur athletic sanctioning authority organization if the approved entity or its officers, owners, or agents engage in any conduct that violates or is inconsistent with any of the requirements of this Section or reflects serious discredit on the sport of boxing, or uses dishonest methods to affect the outcome of any contest. ~~(3-29-10)~~( )

**04. Annual Review of Approval.** An entity's approval to be an amateur athletic sanctioning authority organization automatically expires one (1) year after issuance. If the entity wishes to remain as an approved amateur sanctioning authority organization, the entity must submit a timely and complete review application on forms approved by the Commission, along with the appropriate fees. To be timely, a review application and any supporting documentation must be received by the at least thirty (30) days before the automatic expiration date. After receiving a timely review application, the Commission will evaluate the application using the process and criteria set forth in Subsections 109.01 and 109.02. If the Commission is satisfied that the applicant has satisfied all requirements, then the Commission will renew the applicant's approval for another year term. The fees to be paid are: ~~(3-29-10)~~( )

**a.** Annual application processing fee: Two hundred fifty dollars (\$250); and ( )

**b.** Annual approval fee: Five hundred dollars (\$500). ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**208. PAYMENT OF PURSE.**

**01. Payment Made.** All payment of purses must be made: (3-3-94)

**a.** Immediately after the contest or exhibition; or (3-3-94)

**b.** If the combatant is to receive a percentage of the net receipts, immediately after that percentage is determined by a person designated by the Commission, unless otherwise ordered by the Commission. (3-26-08)

**02. Signatures.** Immediately after the contest or exhibition, the person designated by the Commission will release the checks or cash to the entitled persons and will obtain their signatures on a list in which they acknowledge the payment. (3-3-94)

**03. Reconciliation.** The promoter may withhold an amount of not more than ten percent (10%) of the purse for payment of expenses incurred by the combatant. A reconciliation of those expenses and payment of the undistributed portion of the purse must be made to the

Commission on the Commission's form within seven (7) working days after the contest. The reconciliation must bear written approval of the combatant before it is submitted. If good cause is shown, the chairman of the Commission may grant an extension of the date for reconciliation for a period not to exceed thirty (30) days after the contest. (3-26-08)

**04. Alternative Payment.** The Commission may permit a form of payment other than those specified in this section. A promoter who wishes to pay the purse by an alternative method of payment shall: (3-3-94)

**a.** Submit a written request to the Commission at least thirty (30) days before the contest. (3-26-08)

**b.** Describe in detail the alternative method of payment contemplated. (3-3-94)

**c.** Show good cause for a waiver of the provisions as outlined in Section 208 of this rule. (3-26-08)

**d.** Comply with all requirements of the Commission regarding the production of relevant information. (3-3-94)

**e.** Follow precisely the procedural directives of the Commission if the request is granted. (3-3-94)

**05. Non-Payment of Amateurs.** Consistent with Section 54-402, Idaho Code, a promoter may not compensate any amateur for participating in or being associated in any way with the promoter's event. This ban absolutely bars a promoter from paying an amateur to sell tickets or merchandise or provide services related to an event. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**210. -- 299~~8~~.** (RESERVED).

**299. HEALTH INSURANCE.**

An event promoter must obtain health insurance sufficient to cover the medical, surgical, and hospital care of all event participants, other than the promoter, for injuries sustained while participating in the event. The insurance shall provide primary coverage for each such participant, and the minimum amount coverage per participant shall be ten thousand dollars (\$10,000). The participant may not be required to pay a deductible associated with care provided under this insurance. If a participant pays for the medical, surgical or hospital care, the insurance proceeds must be paid to the participant or the participant's beneficiaries for reimbursement for the payment. ( )

**300. SURETY BOND OR OTHER SECURITY.**

**01. Requirement.** Every promoter who applies for a sanctioning permit shall furnish a

surety bond or other form of financial security to the Commission consistent with Section 54-408, Idaho Code. The bond or other form of financial security shall be in an amount deemed by the Commission to be adequate to ~~ensure~~ guarantee payment of all taxes, fees, fines, and other moneys due and payable under Title 54, Chapter 4, Idaho Code and the Commission's rules, including reimbursement to the purchasers of tickets for the event. ~~(3-29-10)~~( )

**02. Various Locations.** The promoter may apply one (1) bond or other form of financial security to multiple locations if only one (1) of the covered locations is scheduled for an event on any given calendar date. (3-29-10)

**03. Total Sum.** Each bond or other form of financial security must be conditioned for the payment to the Commission of a sum equivalent to the total sale of tickets: (3-29-10)

**a.** If the main event is not held on the date advertised, unless the event is subsequently held on a date fixed by the Commission; and (3-3-94)

**b.** If the main event is neither held on the original date advertised nor on a subsequent date fixed by the Commission. (3-3-94)

**04. Sum Due.** The sum is due within fifteen (15) days after default, to ensure reimbursement to the purchasers of tickets for the event, if the reimbursement of ticket holders is ordered by the Commission. (3-3-94)

**IDAPA 32 - ENDOWMENT FUND INVESTMENT BOARD**  
**32.01.01 - RULES GOVERNING THE CREDIT ENHANCEMENT PROGRAM**  
**FOR SCHOOL DISTRICTS**

**DOCKET NO. 32-0101-1001 (FEE RULE - NEW CHAPTER)**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 57-728(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 448 through 452.](#)**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 57-728, Idaho Code.

**Pursuant to Section 57-728, Idaho Code, and 2010 Attorney General Opinion 01, the rules impose an application fee calculated to reflect the overhead costs to the EFIB for processing an application. This fee allows the EFIB to more accurately allocate its overhead costs and will likely result in a minor reduction in the cost allocation to the Endowment Funds, the Judges' Retirement Fund, and the State Insurance Fund. Without the imposition of the fee, the other clients of the EFIB may bear the costs of Program administration through the EFIB's existing process of cost allocation. The rules also implement a guaranty or insurance fee authorized by the legislature as of April 17, 2009 and discussed in 2010 Idaho Attorney General Opinion 01. The fee, which would be deposited in the Public School Endowment Fund, allows the Public School Endowment to benefit from the issuance of the guaranties and reinforces the holding in *Endowment Fund Investment Board v. Crane* that the Program is a permissible investment for the Fund.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The rules will not result in a fiscal impact to the State of Idaho general fund. School districts will experience lower interest rates on school bonds through participation in the Program. The Public School Endowment will recover its costs for providing the benefit to school districts.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Larry Johnson, Manager of Investments, (208) 334-3312.

DATED this 28th day of October, 2010.

Larry Johnson  
Manager of Investments  
Endowment Fund Investment Board  
816 W. Bannock St., Ste. 301  
P. O. Box 83720, Boise, ID 83720-0046  
Phone: (208) 334-3312 / Fax: (208) 334-3786

***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 57-728(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2010.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Amendments to Section 57-728, Idaho Code, became effective April 17, 2009. The amendments require the Endowment Fund Investment Board (EFIB) to promulgate rules furthering the Credit Enhancement Program for School Districts (Program). The new chapter of rules specifies the application procedure for school districts seeking to participate in the Program. 2010 Idaho Attorney General Opinion 01 concludes that the EFIB must charge fees to offset the costs of the Program to the Endowments. The rules specify the fees for the Program and allow the EFIB to continue offering guarantees to school districts.**

**This docket was published as a temporary rule in the [May 5, 2010 Idaho Administrative Bulletin, Vol. 10-5, pages 54 through 58](#), with a temporary effective date of March 30, 2010.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

Pursuant to Section 57-728, Idaho Code, and 2010 Attorney General Opinion 01, the rules impose an application fee calculated to reflect the overhead costs to the EFIB for processing an application. This fee allows the EFIB to more accurately allocate its overhead costs and will likely result in a minor reduction in the cost allocation to the Endowment Funds, the Judges' Retirement Fund, and the State Insurance Fund. Without the imposition of the fee, the other clients of the EFIB may bear the costs of Program administration through the EFIB's existing process of cost allocation. The rules also implement a guaranty or insurance fee authorized by the legislature as of April 17, 2009 and discussed in 2010 Idaho Attorney General Opinion 01. The fee, which would be deposited in the Public School Endowment Fund, allows the Public School Endowment to benefit from the issuance of the guaranties and reinforces the holding in *Endowment Fund Investment Board v. Crane* that the Program is a permissible investment for the Fund.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The rules will not result in a fiscal impact to the State of Idaho general fund. School districts will experience lower interest rates on school bonds through participation in the Program. The Public School Endowment will recover its costs for providing the benefit to school districts.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this new chapter of rules was necessary to confer a benefit by allowing the Program to provide guarantees to school districts.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Larry Johnson, Manager of Investments, (208) 334-3312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2010.

DATED this 12th day of August, 2010.

***THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 32-0101-1001***

**IDAPA 32, TITLE 01, CHAPTER 01**

**IDAPA 32 - ENDOWMENT FUND INVESTMENT BOARD**

**32.01.01 - RULES GOVERNING THE CREDIT ENHANCEMENT PROGRAM  
FOR SCHOOL DISTRICTS**

**000. LEGAL AUTHORITY.**

Section 57-728(2), Idaho Code, gives the Endowment Fund Investment Board authority to promulgate rules necessary to the discharge of the EFIB's duties for the administration of the Credit Enhancement Program. 2010 Idaho Attorney General Opinion 01 concludes that the EFIB must charge fees to offset the costs of the Credit Enhancement Program to the Endowments.

( )

**001. TITLE AND SCOPE**

**01. Title.** These rules shall be cited as IDAPA 32, Title 01, Chapter 01, "Rules Governing the Credit Enhancement Program for School Districts."

( )

**02. Scope.** These rules contain the provisions for implementation of the Credit Enhancement Program.

( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the EFIB's office.

( )

**003. ADMINISTRATIVE APPEALS.**

The EFIB's determination to invest through the Credit Enhancement Program is a discretionary exercise of its fiduciary duties to the Endowments. This chapter does not provide for appeal of the requirements under the Credit Enhancement Program as contested cases pursuant to the provisions of Title 67, Chapter 52, Idaho Code.

( )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules.

( )

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The location and mailing address of the EFIB is 816 West Bannock Street, Suite 301, Boise, Idaho 83702. The offices are open daily from 8 a.m. to noon, and 1 p.m. to 5 p.m., except Saturday, Sunday, legal holidays, and when closed for mandatory leave without pay. The EFIB's telephone number is (208) 334-3311 and the facsimile number is (208) 334-3786.

( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

This agency operates pursuant to the Idaho Public Records Act, Sections 9-337 through 9-348, Idaho Code. ( )

**007. -- 009. (RESERVED).**

**010. DEFINITIONS AND REFERENCES.**

**01. Administrative Fees.** Application Fees and Pass-through Fees charged to School Districts applying for and receiving guarantees under the Credit Enhancement Program. ( )

**02. Application Fee.** The amount determined by the EFIB and set forth in this chapter as the cost of reviewing applications to the Credit Enhancement Program and administering the Credit Enhancement Program. ( )

**03. Credit Enhancement Program.** The Credit Enhancement Program for School District Bonds established in Section 57-728, Idaho Code. ( )

**04. EFIB.** Endowment Fund Investment Board. ( )

**05. Endowments.** The trusts granted to the state of Idaho by the Idaho Admission Bill, 26 Statutory Laws 215, chapter 656 as amended. The Endowments include the Public School Endowment established by Idaho Admission Bill sections 4 and 13. ( )

**06. Guarantee Fee.** The amount determined by the EFIB and set forth in this chapter as the cost of guaranteeing a school bond under the Credit Enhancement Program. The cost of guaranteeing a school bond includes the difference in the investment return to the Public School Endowment projected by the EFIB to arise from the guarantee and additional costs to the Endowments arising from investment of the Public School Endowment in the Credit Enhancement Program. ( )

**07. Guaranty Program.** The Idaho School Bond Guaranty Program established in Title 33, Chapter 53, Idaho Code. ( )

**08. Pass-Through Fee.** A direct cost to the EFIB for reviewing an application to the Credit Enhancement Program or for issuing a note to pay a debt service payment under the Credit Enhancement Program. Direct costs include the costs billed to the EFIB by legal, accounting, and financial professionals. ( )

**09. School District.** Shall have the meaning provided in Section 33-5302, Idaho Code. ( )

**10. Total Debt Service.** The total amount to be repaid to bond purchasers over the stated maturity of the School District bond (principal plus interest). ( )

**011. -- 019. (RESERVED).**

**020. APPLICATION.**



**01. Required Materials.** School Districts shall submit the following application materials to the EFIB: ( )

**a.** Correspondence from the Idaho State Treasurer certifying that the School District has been approved to participate in the Guaranty Program and setting forth the maximum credit enhancement amount available to the School District within the limitations set forth in Section 57-728(8), Idaho Code. ( )

**b.** A fully completed application form as prescribed by the EFIB from time to time executed by a party authorized to bind the School District. ( )

**c.** Copies of the complete audited financial statements of the School District prepared pursuant to Section 33-701, Idaho Code, for the preceding three (3) fiscal years and the adopted budget for the current fiscal year. ( )

**d.** Upon request of the EFIB, documentation substantiating the information set forth in materials submitted pursuant to Subsection 020.01 of these rules. ( )

**02. Submission Deadlines.** School Districts may submit an application at any time. ( )

**021. -- 029. (RESERVED).**

**030. FEES.**

**01. Guarantee Fee.** ( )

**a.** Amount. School Districts shall remit to the EFIB a one-time fee equal to two one-hundredths of one percent (0.02% or two basis points) of the Total Debt Service. ( )

**b.** When Paid. School Districts shall remit the Guarantee Fee to the EFIB within five (5) days of the sale of bonds guaranteed by the Credit Enhancement Program. ( )

**c.** Use of Fee. The EFIB will deposit the Guarantee Fee in the Public School Endowment. ( )

**02. Administrative Fees.** ( )

**a.** Application Fee. ( )

**i.** Amount. School Districts shall submit to the EFIB an Application Fee of five hundred dollars (\$500). ( )

**ii.** When Paid. School Districts shall submit the Application Fee to the EFIB with the application materials. ( )

**iii.** Use of Fee. The EFIB will use Application Fees to pay costs of reviewing applications and administering the Credit Enhancement Program. At the conclusion of each fiscal

year, the EFIB will deposit unexpended Application Fees in the Public School Endowment.

( )

**b. Pass-through Fee.**

( )

i. Amount. The EFIB may incur a Pass-through Fee related to the review of an application in its discretion. The EFIB will not invoice a School District for Pass-through Fees related to the review of an application without the prior written approval of the School District. The EFIB may incur a Pass-through Fee related to the issuance of a note without prior approval of the School District. The EFIB will invoice School Districts for the full amount of any Pass-through Fees related to the issuance of a note.

( )

ii. When Paid. School Districts shall remit each invoiced Pass-through Fee to the EFIB within thirty (30) days of invoice.

( )

iii. Use of Fee. The EFIB will use a Pass-through Fee to pay the direct costs to the EFIB under the Credit Enhancement Program giving rise to the fee.

( )

**031. -- 039. (RESERVED).**

**040. APPROVAL AND DENIAL OF APPLICATIONS.**

**01. Review Periods.** The EFIB will provide written approval or denial of an application within twenty (20) days of the submission of all required materials. If the Board requests substantiating documentation, the EFIB will provide written approval or denial of the application within twenty (20) days of the submission of the substantiating documentation.

( )

**02. Delegation of Review and Approval.**

( )

**a. Staff Review.** The EFIB may delegate review of applications to EFIB staff.

( )

**b. Experts.** The EFIB may engage experts to review an application. Experts include legal, accounting, and financial professionals.

( )

**c. Staff Approval.** The EFIB may delegate approval of applications to the EFIB's manager of investments.

( )

**03. Discretionary Investment.** The EFIB will invest in a School District bond issuance under the Credit Enhancement Program in its sole discretion and within its fiduciary responsibilities as trustees of the financial assets of the Endowments. The EFIB may deny an application for participation in the Credit Enhancement Program if the EFIB determines the investment is not in the best interests of one (1) or more of the Endowments.

( )

**04. Denial of Application for Unpaid Fees.** The EFIB may deny an application for participation in the Credit Enhancement Program if a School District has not paid a fee under a pending application or a prior guarantee issued by the Credit Enhancement Program.

( )

**041. -- 999. (RESERVED).**