

State of Utah
Administrative Rule Analysis
Revised May 2024

DAR File No 56788

DATE FILED 9-5-2024

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R156-15A-231

Filing ID: Office Use Only

Date of Previous Publication (Only for CPRs): Click or tap to enter a date.

Agency Information

1. Title catchline: Commerce, Professional Licensing

Building: Heber M. Wells Building

Street address: 160 East 300 South

City, state: Salt Lake City, UT 84111-2316

Mailing address: PO Box 146741

City, state and zip: Salt Lake City, UT 84114-6741

Contact persons:

| Name: | Phone: | Email: |
|----------------|--------------|--|
| Matt Johnson | 801-530-6628 | mmjohnson@utah.gov |
| Steve Duncombe | 801-530-6628 | sduncombe@utah.gov |

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R156-15A-231. Administration of Building Code Inspector Training Fund, Building Code Construction-Related Training Fund, and Factory Built Housing Fees Account

3. Purpose of the new rule or reason for the change:

Utah Code Subsection 15A-1-209(5)(c) states that funds transmitted to the Division from the issuance of building permits be used for various educational purposes. Subsection R156-15A-231(4)(f)(i) establishes that instructors reimbursed from these funds may be reimbursed at a rate not to exceed \$150 per instruction hour without review and approval by the Education Advisory Committee of the Uniform Building Code Commission. During the Committee's meeting on March 19, 2024, the Committee voted to increase this amount to \$200 per instruction hour.

4. Summary of the new rule or change:

This amendment changes Subsection R156-15A-231(f)(i) to increase the maximum reimbursement rate for instruction that does not require additional approval from the Education Advisory Committee from \$150 to \$200. Also Subsections R156-15A-231(7) and (8) include a nonsubstantive change to the Division's title.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget. The updated rate (i) aligns with acceptable and recognized industry standards, and (ii) reflects the Committee's standard practice of approving this rate. The rule change will have no impact on how the Department functions or the parties to which it applies.

B) Local governments:

The proposed amendment will have no impact on local governments. The source of the funds from which the instructor reimbursement is paid is established by Utah Code Subsection 15A-1-209(5)(c). These funds are 85% of the revenue derived from fees collected by compliance agencies from the issuance of building permits. This amendment changes neither the total percentage transferred to the Division from the compliance agencies, nor the fees charged for building permits. A local government that acts as a compliance agency and issues building permits will continue to transfer 85% of the revenue derived from the fees collected from those permits.

C) Small businesses ("small business" means a business employing 1-49 persons):

The proposed amendments will have no impact on small businesses. This amendment does not change the fees charged for building permits to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The proposed amendment will have no impact on non-small businesses. The source of the funds from which the instructor reimbursement is paid is established by Utah Code Subsection 15A-1-209(5)(c). These funds are 85% of the revenue derived from fees collected by compliance agencies from the issuance of building permits. This amendment changes neither the total percentage transferred to the Division from the compliance agencies nor the fees charged for building permits.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

The proposed amendment will have no impact on persons other than small businesses, non-small businesses, state, or local government-entities. The source of the funds from which the instructor reimbursement is paid is established by Utah Code Subsection 15A-1-209(5)(c). These funds are 85% of the revenue derived from fees collected by compliance agencies from the issuance of building permits. This amendment changes neither the total percentage transferred to the Division from compliance agencies nor the fees charged for building permits.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

The amendment will reduce the costs associated with retaining building permit instructors and will be more reflective of current market rates. By more closely reflecting market rates, retaining instructors will not require Committee approval as frequently, reducing overall costs.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

| Regulatory Impact Table | | | |
|------------------------------|------------|------------|------------|
| Fiscal Cost | FY2025 | FY2026 | FY2027 |
| State Government | \$0 | \$0 | \$0 |
| Local Governments | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Cost | \$0 | \$0 | \$0 |
| Fiscal Benefits | FY2025 | FY2026 | FY2027 |
| State Government | \$0 | \$0 | \$0 |
| Local Governments | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits | \$0 | \$0 | \$0 |
| Net Fiscal Benefits | \$0 | \$0 | \$0 |

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

| | | |
|---------------------------|---------------------------|-------------------------|
| Subsection 58-1-106(1)(a) | Subsection 58-1-202(1)(a) | Subsection 15A-1-204(6) |
| Section 15A-1-205 | | |

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds or updates the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

| |
|---|
| Official Title of Materials Incorporated (from title page) |
| Publisher |
| Issue Date |
| Issue or Version |

B) This rule adds or updates the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

| |
|---|
| Official Title of Materials Incorporated (from title page) |
| Publisher |
| Issue Date |
| Issue or Version |

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 10/31/2024

B) A public hearing (optional) will be held:

| Date (mm/dd/yyyy): | Time (hh:mm AM/PM): | Place (physical address or URL): |
|--------------------|---------------------|--|
| 10/04/2024 | 2:00 PM | 160 East 300 South - Conference Room 475 Salt Lake City, Utah and also via Google Meet link below Google Meet joining info Video call link: https://meet.google.com/eyw-zgpk-hwa Or dial: (US) +1 314-325-6481 PIN: 853 925 725# More phone numbers: https://tel.meet/eyw-zgpk-hwa?pin=6286685690226 |

To the agency: If more than one hearing will take place, continue to add rows.

9. This rule change MAY become effective on: 11/07/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

| | | | |
|------------------------------------|-----------------------------------|-------|------------|
| Agency head or designee and title: | Mark Steinagel, Division Director | Date: | 09/05/2024 |
|------------------------------------|-----------------------------------|-------|------------|

R156. Commerce, Professional Licensing.

R156-15A. State Construction Code Administration and Adoption of Approved State Construction Code Rule.

R156-15A-231. Administration of Building Code Inspector Training Fund, Building Code Construction-Related Training Fund, and Factory Built Housing Fees Account.

Under Subsections 15A-1-209(5)(c) and 58-56-17.5(2)(c), and Section R156-15A-230, the following procedures, standards, and policies are established for the administration of the Building Code Inspector Training Fund, the Building Code Construction-Related Training Fund, and the Factory Built Housing Fees Account:

(1) The Division may not approve or deny education grant requests from a separate fund or account until the Education Advisory Committee has considered and made its recommendations on the requests.

(2) Appropriate funding expenditure categories include:

(a) for the Building Code Inspector Training Fund or the Factory Built Housing Fees Account, grants in the form of reimbursement funding to the following organizations that administer code-related training or factory built housing educational events, seminars, or classes:

(i) schools, colleges, universities, departments of universities, or other institutions of learning;

(ii) construction trade associations;

(iii) professional associations or organizations; and

(iv) governmental agencies;

(b) for the Building Code Construction-Related Training Fund, grants in the form of reimbursement funding to the following organizations that administer code-related training events, seminars, or classes:

(i) construction trade associations; or

(ii) professional associations;

(c) costs or expenses incurred as a result of code events, seminars, or classes directly administered by the Division;

(d) expenses incurred for the salary, benefits, or other compensation and related expenses resulting from the employment of a Board Secretary;

(e) office equipment and associated administrative expenses required for the performance of the duties of the Board Secretary, including computer equipment, telecommunication equipment and costs and general office supplies; and

(f) other related expenses as determined by the Division.

(g) Gift cards, door prizes, and the cost of food and food services provided to training participants are not appropriate funding expenditure categories, and may not be paid or reimbursed from any fund.

(3) The following procedure shall be used for submission, review, and payment of funding grants:

(a)(i) A funding grant applicant shall submit a completed application on Division forms;

(A) at least 15 days before the meeting at which the request is to be considered; and

(B) before the training event.

(ii) An application that does not comply with Subsection (3)(a) may be denied.

(b) Payment of approved funding grants shall be made as reimbursement after:

(i) the approved event, class, or seminar has been held; and

(ii) the required receipts, invoices, and supporting documentation, including proof of payment if requested by the Division or Committee, have been submitted to the Division.

(c) Approved funding grants shall be reimbursed only for eligible expenditures that have been executed in good faith with the intent to ensure the best reasonable value.

(d)(i)(A) A Request for Reimbursement of an approved funding grant shall be submitted to the Division within 60 days following the approved event, class, or seminar, unless an extenuating circumstance occurs.

(B) Written notice shall be given to the Division of an extenuating circumstance.

(ii) Failure to submit a Request for Reimbursement within 60 days shall result in non-payment of approved funds, unless an extenuating circumstance has been reviewed and accepted by the Division.

(4) The Committee shall consider the following in determining whether to recommend to the Division approval of a proposed funding request:

(a) the fund balance available;

(b) if the proposed request meets the overall training objectives of the fund, including the need for training:

(i) on the subject matter;

(ii) in the geographical area where the training is offered; and

(iii) on new codes being considered for adoption;

(c) if the grant applicant agrees to charge a cost for the training event, class, or seminar that is uniform across categories of attendees;

(d) the earlier record of the program sponsor in providing codes training, including if:

- (i) the subject matter taught was appropriate;
 - (ii) the instructor was appropriately qualified and prepared; and
 - (iii) the program sponsor followed appropriate and adequate procedures and requirements in providing the training and submitting requests for funding;
 - (e) costs of the facility, including:
 - (i) the location of a facility or venue, or the type of event, seminar, or class;
 - (ii) the suitability of the facility or venue for the anticipated attendance, or in connection with additional non-funded portions of an event or conference;
 - (iii) the duration of the proposed event, seminar, or class; and
 - (iv) if the proposed cost of the facility is reasonable compared to the cost of alternative available facilities;
 - (f) the estimated cost for instructor fees, including:
 - (i) a reimbursement rate for instruction activities not to exceed [~~\$150~~]\$200 per instruction hour without further review and approval by the Committee, and with preparation time, event coordination, course development costs, staff time, and travel time not separately reimbursable;
 - (ii) the experience or expertise of the instructor in the proposed training area;
 - (iii) the quality of training based upon events, seminars or classes that have been previously taught by the instructor;
 - (iv) the drawing power of the instructor, meaning the ability to increase the attendance at the proposed educational event, seminar, or class;
 - (v) travel expenses; and
 - (vi) if the proposed cost for the instructor or instructors is reasonable compared to the costs of similar events, seminars, or classes;
 - (g) the estimated cost of advertising materials, brochures, registration, and agenda materials, including:
 - (i) printing costs that may include creative or design expenses;
 - (ii) whether printed materials comply with Subsection (4)(b); and
 - (iii) delivery or mailing costs;
 - (h) other reasonable and comparable cost alternatives for each proposed expense item;
 - (i) other information the Committee reasonably believes may assist in evaluating a proposed expenditure; and
 - (j) a total reimbursement rate of the lesser of \$10 per student hour or the cost of the approved actual expenditures.
- (5) The Division, after consideration and recommendation of the Committee based upon the criteria in Subsection (4), may reimburse the following reasonable costs in addition to the lesser of \$10 per student hour or the cost of the approved actual expenditures:
- (a) text books, code books, or code update books;
 - (b) cost of one Division licensee mailing list per provider per two-year renewal period;
 - (c) cost incurred to upload continuing education hours into the Division's online registry for contractors, plumbers, electricians, or elevator mechanics; and
 - (d) cost of advertising materials, brochures, registration and agency materials, including:
 - (i) printing costs, which may include creative or design expenses; and
 - (ii) delivery or mailing costs.
- (6) Joint function.
- (a) "Joint function" means a proposed event, class, seminar, or program that provides code or code-related training or factory built housing education, and education or activities in other areas.
 - (b) Only the prorated portions of a joint function that apply to the purposes of a separate fund are eligible for a funding grant from that fund.
 - (c) In considering a proposed funding request that involves a joint function, the Committee shall consider if:
 - (i) the expenses subject to funding are reasonably prorated for the costs directly related to the purposes of the separate fund; and
 - (ii) the education being proposed will be reasonable and successful in the training objective in the context of the entire program or event.
- (7) Advertising materials, brochures, and agenda or training materials for a Building Code Training funded event, seminar, or class shall include a statement that acknowledges that partial funding of the program has been provided by the Utah Division of [~~Occupational and~~] Professional Licensing from the 1% surcharge funds on building permits.
- (8) Advertising materials, brochures, and agenda or training materials for a Factory Built Housing Fees Account funded educational event, seminar, or class shall include a statement that acknowledges that partial funding of the

training program has been provided by the Utah Division of [~~Occupational and~~] Professional Licensing from surcharge fees on factory built housing sales.

(9) If an approved event or joint event is not held, no amount is reimbursable except for the costs described in Subsection (5)(d).

KEY: contractors, building codes, building inspections, licensing

Date of Last Change: [~~October 25, 2023~~]2024

Notice of Continuation: May 20, 2021

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 15A-1-204(6); 15A-1-205