

IN THE SENATE

SENATE BILL NO. 1347

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO JUDGES; AMENDING SECTION 1-2001, IDAHO CODE, TO REVISE PROVI-
2 SIONS REGARDING THE RETIREMENT OF JUDGES, TO PROVIDE THAT A JUDICIAL
3 VACANCY SHALL REMAIN VACANT UNTIL THE NEXT JUDICIAL ELECTION IN CERTAIN
4 INSTANCES, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMER-
5 GENCY AND PROVIDING AN EFFECTIVE DATE.
6

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

8 SECTION 1. That Section 1-2001, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 1-2001. SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT
11 JUDGES -- AGE OF RETIREMENT -- COMPENSATION ~~ON~~ UPON RETIREMENT.

12 (1) (a) Every person who served as a justice of the supreme court or
13 judge of the court of appeals or district judge of the district court and
14 who was receiving benefits from the judges' retirement fund before July
15 1, 2000, for such service, shall be entitled to benefits from the fund
16 according to the formula for calculating such benefits as provided in
17 ~~section 1-2001(2)(a), Idaho Code~~ subsection (2) (a) of this section.

18 (b) The term "retirement board" as used in this chapter shall mean the
19 retirement board created by section 59-1304, Idaho Code.

20 (2) Any person who is now serving or who shall hereafter serve as a jus-
21 tice of the supreme court, a judge of the court of appeals, or a district
22 judge of a district court of this state shall prior to retirement elect in
23 writing to retire under either paragraph (a) or (b) of this subsection, pro-
24 vided that a person who has first assumed office as a supreme court justice,
25 judge of the court of appeals or district judge on or after July 1, 2012, and
26 who is eligible to receive an annual retirement compensation only under the
27 criteria set forth in subsection (3) (c) of this section, may retire only un-
28 der paragraph (a) of this subsection. Any person who fails to make the elec-
29 tion provided for in this subsection prior to retirement shall receive re-
30 tirement compensation under the provisions of paragraph (a) of this subsec-
31 tion.

32 (a) (i) On or after July 1, 2000, any person who has served or who
33 is now serving or who shall hereafter serve as a justice of the
34 supreme court, a judge of the court of appeals, or a district judge
35 of a district court of this state may leave office or retire and
36 be entitled to receive, and to have paid from the date of his re-
37 tirement until death, an annual retirement compensation payable
38 in monthly installments on the first day of each month.

39 (ii) A person who assumed office as a supreme court justice, judge
40 of the court of appeals or district judge prior to July 1, 2012,
41 shall receive an annual retirement compensation based upon a per-
42 centage of the current annual compensation of the highest office

1 in which such person served, unless such person makes an irrevoca-
2 ble election no later than August 1, 2012, to receive upon retire-
3 ment an annual retirement compensation based upon the provisions
4 in this paragraph applicable to justices or judges who first as-
5 sumed such office on or after July 1, 2012.

6 (iii) A person who first assumed office as a supreme court justice,
7 judge of the court of appeals or district judge on or after July 1,
8 2012, shall receive an annual retirement compensation based upon
9 a percentage of the annual compensation at the time of such per-
10 son's retirement or resignation from the highest office in which
11 such person served, and such compensation shall be adjusted annu-
12 ally by the postretirement allowance adjustment established pur-
13 suant to section 59-1355, Idaho Code.

14 (iv) The percentage applicable to all retiring justices and
15 judges shall be equal to five percent (5%) multiplied by the number
16 of years served as either justice or judge, or both, for the first
17 ten (10) years of service plus two and one-half percent (2 1/2%)
18 multiplied by the remaining number of years served as either jus-
19 tice or judge, or both, but in any event the total percentage shall
20 not be greater than seventy-five percent (75%).

21 (b) (i) ~~On or after July 1, 2000, any~~ Any person who ~~is now~~ was
22 serving ~~or who shall hereafter serve~~ as a justice of the supreme
23 court, a judge of the court of appeals, or a district judge of a
24 district court of this state on April 1, 2024, may retire from of-
25 fice and be entitled to receive, and to have paid from the date
26 of his retirement until death, an annual retirement compensation
27 payable in monthly installments on the first day of each month.

28 (ii) A person who assumed office as a supreme court justice, judge
29 of the court of appeals or district judge prior to July 1, 2012,
30 shall receive an annual retirement compensation based upon a per-
31 centage of the current annual compensation of the highest office
32 in which such person served, unless such person makes an irrevoca-
33 ble election no later than August 1, 2012, to receive upon retire-
34 ment an annual retirement compensation based upon the provisions
35 ~~in~~ of this paragraph applicable to justices or judges who first as-
36 sumed such office on or after July 1, 2012.

37 (iii) A person who first assumed office as a supreme court justice,
38 judge of the court of appeals or district judge on or after July 1,
39 2012, and was serving on April 1, 2024, shall receive an annual re-
40 tirement compensation based upon a percentage of the annual com-
41 pensation at the time of such person's retirement or resignation
42 of the highest office in which such person served, and such compen-
43 sation shall be adjusted annually by the postretirement allowance
44 adjustment established pursuant to section 59-1355, Idaho Code.

45 (iv) The percentage applicable to all retiring justices and
46 judges shall be equal to five percent (5%) multiplied by the num-
47 ber of years served as either justice or judge, or both, for the
48 first ten (10) years of service plus two and one-half percent (2
49 1/2%) multiplied by the remaining number of years served as either
50 justice or judge, or both, plus two and one-half percent (2 1/2%)

1 multiplied by five (5) years senior judge service, but in any event
2 the total percentage shall not be greater than seventy-five per-
3 cent (75%).

4 (c) (i) A justice or judge electing to retire under paragraph (b)
5 of this subsection and who assumed office as a supreme court jus-
6 tice, judge of the court of appeals or district judge prior to July
7 1, 2012, shall serve as a senior judge, without compensation other
8 than annual health benefits, for thirty-five (35) days per year
9 for a period of five (5) years.

10 (ii) A justice or judge electing to retire under paragraph (b) of
11 this subsection who first assumed office as a supreme court jus-
12 tice, judge of the court of appeals or district judge on or after
13 July 1, 2012, shall serve as a senior judge, without compensation
14 other than annual health benefits, for sixty (60) days per year for
15 a period of five (5) years.

16 (iii) A justice or judge who serves more than the required number
17 of days per year may carry over the additional days to fulfill the
18 senior judge service obligation in future years. The terms and
19 conditions of such senior judge service shall be as provided under
20 section 1-2005, Idaho Code.

21 (iv) If a supreme court justice, judge of the court of appeals, or
22 district judge of the district court elects to retire under this
23 paragraph and does so at a time other than at the conclusion of his
24 term of office, the judicial vacancy created shall remain vacant
25 until a qualified candidate as a supreme court justice, judge of
26 the court of appeals, or district judge is successfully elected
27 to fill the vacancy. If a qualified candidate as a supreme court
28 justice, judge of the court of appeals, or district judge is not
29 elected, the vacant judicial position may then be filled by ap-
30 pointment of the governor pursuant to section 1-2102, Idaho Code.
31 Nothing in this subparagraph shall be interpreted to prohibit se-
32 nior judges from covering the docket of the retired judge until the
33 position can be filled through the next available judicial elec-
34 tion.

35 (d) Upon certification from the chief justice that any justice or judge
36 who retired under paragraph (b) of this subsection has failed to perform
37 the senior judge services required under paragraph (c) of this subsec-
38 tion, and has not been relieved of the obligations to perform those ser-
39 vices in the manner provided by this subsection, the judges' retirement
40 fund shall recalculate the retirement compensation benefits of the non-
41 complying justice or judge under paragraph (a) of this subsection, and
42 the noncomplying justice or judge shall thereafter receive only the re-
43 calculated amount.

44 (e) A justice or judge may be relieved of the senior judge service obli-
45 gation imposed by this subsection if he fails for good cause to complete
46 the obligation. A retired justice or judge who is relieved of the obli-
47 gation to serve as a senior judge shall continue to receive the retire-
48 ment allowance provided under paragraph (b) of this subsection.

49 (f) "Good cause" includes, but is not limited to:

1 (i) Physical or mental incapacitation of a justice or judge that
2 prevents the justice or judge from discharging the duties of judi-
3 cial office;

4 (ii) Failure of the supreme court to assign a senior judge to the
5 requisite amount of senior judge service, whether because of in-
6 sufficient need for senior judges, a determination by the supreme
7 court that the skills of a senior judge do not match the needs of
8 the courts, clerical mistake or otherwise; or

9 (iii) Death of a senior judge.

10 (g) "Good cause" does not include:

11 (i) A senior judge's refusal, without good cause, to accept se-
12 nior judge assignments sufficient to meet the required amount; or

13 (ii) A senior judge's affirmative voluntary act that makes him un-
14 qualified to serve as a judge of this state including, but not lim-
15 ited to, failure to maintain a residence within the state, com-
16 mencing the practice of law other than as a mediator, arbitrator
17 or similar alternative dispute resolution function, acceptance of
18 a position in another branch of state government or political sub-
19 division, or the acceptance of a position in the government of the
20 United States or of another state or nation.

21 (h) The supreme court may make rules for the implementation of this sub-
22 section.

23 (3) On or after July 1, 2000, each person who has served but is not re-
24 ceiving benefits or who is now serving or who shall hereafter serve who shall
25 leave office or retire as justice of the supreme court, judge of the court of
26 appeals, or district judge of a district court in this state shall be eligi-
27 ble to receive an annual retirement compensation when such person shall meet
28 one (1) of the following eligibility criteria:

29 (a) Attaining the age of sixty-five (65) years and having a minimum ser-
30 vice of four (4) years;

31 (b) Attaining the age of sixty (60) years and having a minimum service
32 of ten (10) years;

33 (c) Attaining the age of fifty-five (55) years and having a minimum ser-
34 vice of fifteen (15) years; or

35 (d) At any age after twenty (20) years of service.

36 (4) (a) On or after July 1, 2000, each justice or judge who is now serv-
37 ing or who shall hereafter be appointed or elected and who shall retire
38 by reason of disability preventing him from further performance of the
39 duties of his office, after a service in any or all of said courts of four
40 (4) years or more, shall, upon retirement, be entitled to receive and to
41 have paid to him until death an annual retirement compensation payable
42 in monthly installments on the first day of each month.

43 (b) A person who assumed office as a supreme court justice, judge of
44 the court of appeals or district judge prior to July 1, 2012, shall re-
45 ceive an annual retirement compensation based upon a percentage of the
46 current annual compensation of the highest office in which such person
47 served, unless such person makes an irrevocable election no later than
48 August 1, 2012, to receive upon retirement an annual retirement compen-
49 sation based upon the provisions in this subsection applicable to jus-
50 tices or judges who first assumed such office on or after July 1, 2012.

1 (c) A person who first assumed office as a supreme court justice, judge
2 of the court of appeals or district judge on or after July 1, 2012,
3 shall receive an annual retirement compensation based upon a percentage
4 of the annual compensation at the time of such person's retirement or
5 resignation from the highest office in which such person has served,
6 and such compensation shall be adjusted annually by the postretirement
7 allowance adjustment established pursuant to section 59-1355, Idaho
8 Code.

9 (d) The percentage applicable to all justices and judges who retire by
10 reason of disability shall be equal to five percent (5%) multiplied by
11 the number of years served as either justice or judge, or both, for the
12 first ten (10) years of service, plus two and one-half percent (2 1/2%)
13 multiplied by the remaining number of years served as either justice or
14 judge, or both, but such percentage shall not exceed seventy-five per-
15 cent (75%).

16 (5) All retirement compensation shall be paid out of the judges' re-
17 tirement fund, provided however, that a justice or judge who has served less
18 than four (4) years shall be entitled to have refunded to him all contribu-
19 tions made by him to the judges' retirement fund, with six and one-half per-
20 cent (6 1/2%) interest computed annually but shall not be entitled to any
21 other compensation from the fund.

22 (6) A person who has retired from the office of supreme court justice,
23 judge of the court of appeals or district judge prior to July 1, 2012, or
24 any other person receiving benefits as of July 1, 2012, may make an irrev-
25 ocable election no later than August 1, 2012, to thereafter receive an an-
26 nual retirement compensation or allowance equal to the amount of the annual
27 retirement compensation or allowance such person was receiving as of July
28 1, 2012, and to have such compensation or allowance thereafter adjusted an-
29 nually by the postretirement allowance adjustment established pursuant to
30 section 59-1355, Idaho Code.

31 (7) Notwithstanding any other provision of this section, any person
32 who makes an election to remain in the public employee retirement system of
33 Idaho as provided in section 1-2011, Idaho Code, shall not participate in
34 the judges' retirement fund established in this chapter, but shall continue
35 to participate in the public employee retirement system of Idaho and be
36 governed under the provisions of that system, except as provided in section
37 1-2005, Idaho Code.

38 SECTION 2. An emergency existing therefor, which emergency is hereby
39 declared to exist, this act shall be in full force and effect on and after
40 July 1, 2024.