

IN THE SENATE

SENATE BILL NO. 1070, As Amended

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION
2 59-1302, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL
3 CORRECTIONS; AMENDING SECTION 59-1353, IDAHO CODE, TO PROVIDE THAT
4 WAGES EARNED WHILE RECEIVING DISABILITY RETIREMENT BENEFITS SHALL BE
5 DEDUCTED FROM A MEMBER'S BENEFIT AND TO MAKE TECHNICAL CORRECTIONS;
6 AND AMENDING SECTION 59-1354A, IDAHO CODE, TO PROVIDE THAT A MEMBER
7 RECEIVING A DISABILITY RETIREMENT MAY RETURN TO WORK UNDER CERTAIN CON-
8 DITIONS.
9

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

11 SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms
14 defined in this section shall have the meaning given in this section unless a
15 different meaning is clearly required by the context.

16 (2) "Active member" means any employee who is not establishing the
17 right to receive benefits through his or her employer's participation in any
18 other retirement system established for Idaho public employees, if such par-
19 ticipation is mandated by applicable Idaho statutes other than this chapter.
20 In no case will an employee be entitled to any benefit under this chapter
21 for public service if such employee is establishing retirement benefit en-
22 titlements by other Idaho statutes or federal statutes other than military
23 service or social security for that same service.

24 (3) "Accumulated contributions" means the sum of amounts contributed
25 by a member of the system, together with regular interest credit thereon.

26 (4) "Actuarial equivalent" means a benefit equal in value to another
27 benefit, when computed upon the basis of the actuarial tables in use by the
28 system.

29 (5) "Actuarial tables" means such tables as shall have been adopted by
30 the board in accordance with recommendations of the actuary.

31 (5A) "Alternate payee" means a spouse or former spouse of a member who is
32 recognized by an approved domestic retirement order as having a right to all
33 or a portion of the accrued benefits in the retirement system with respect to
34 such member.

35 (5B) "Approved domestic retirement order" means a domestic retirement
36 order that creates or recognizes the existence of an alternate payee's right
37 or assigns to an alternate payee the right to all or a portion of the accrued
38 benefits of a member under the retirement system, that directs the system to
39 establish a segregated account or disburse benefits to an alternate payee,
40 and that the executive director of the retirement system has determined
41 meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

1 (5C) "Average monthly salary" means the member's average salary during
2 the base period as calculated pursuant to rules adopted by the retirement
3 board.

4 (5D) (a) "Base period" means the period of fifty-four (54) consecutive
5 calendar months during which the member earned:

6 (i) The highest average salary; and

7 (ii) Membership service of at least one-half (1/2) the number of
8 months in the period, excluding months of service attributable to:

9 A. Military service;

10 B. Service qualifying as minimum benefit pursuant to sec-
11 tion 59-1342(5), Idaho Code; and

12 C. Worker's compensation income benefits.

13 (b) Effective October 1, 1993, the consecutive calendar months shall be
14 forty-eight (48). Effective October 1, 1994, the consecutive calendar
15 months shall be forty-two (42).

16 (c) Entitlement to a base period shall not vest until the effective date
17 of that base period. The retirement benefits shall be calculated on the
18 amounts, terms and conditions in effect at the date of the final contri-
19 bution by the member.

20 (d) If no base period exists for a member, the member's average monthly
21 salary shall be determined by the board, using standards not inconsis-
22 tent with those established in this subsection.

23 (e) To assure equitable treatment for all members, salary increments
24 inconsistent with usual compensation patterns may be disallowed by the
25 board in determining average monthly salary and base period.

26 (6) "Beneficiary" means the person who is nominated by the written des-
27 ignation of a member, duly executed and filed with the board, to receive the
28 death benefit.

29 (7) "Calendar year" means twelve (12) calendar months commencing on the
30 first day of January.

31 (7A) "Contingent annuitant" means the person designated by a member un-
32 der certain retirement options to receive benefit payments upon the death of
33 the member. The person so designated must be born and living on the effective
34 date of retirement.

35 (8) "Credited service" means the aggregate of membership service,
36 prior service and disabled service.

37 (9) "Date of establishment" means July 1, 1965, or a later date estab-
38 lished by the board or statute.

39 (10) "Death benefit" means the amount, if any, payable upon the death of
40 a member.

41 (11) "Disability retirement allowance" means the periodic payment be-
42 coming payable to a member who meets all applicable eligibility requirements
43 for disability retirement.

44 (12) "Disabled" means:

45 (a) That the member is prevented from engaging in any occupation or em-
46 ployment for remuneration or profit as a result of bodily injury or dis-
47 ease, either occupational or nonoccupational in cause, but excluding
48 disabilities resulting from service in the armed forces of any country
49 other than the United States, or from an intentionally self-inflicted
50 injury; and

1 (b) That the member will likely remain so disabled permanently and con-
2 tinuously during the remainder of the member's life.

3 It is not necessary that a person be absolutely helpless or entirely unable
4 to do anything worthy of compensation to be considered disabled. If the
5 person is so disabled that substantially all the avenues of employment are
6 reasonably closed to the person, that condition is within the meaning of
7 "disabled." A person is within the definition of "disabled" if he works or
8 volunteers ten (10) hours or less per week or earns twenty-five percent (25%)
9 or less of the minimum benefit threshold per week as determined in section
10 59-1342, Idaho Code. In evaluating whether a person is disabled, medical
11 factors and nonmedical factors including, but not limited to, education,
12 economic and social environment, training and usable skills may be consid-
13 ered.

14 Refusal to submit to a medical examination ordered by the board before
15 the commencement of a disability retirement allowance or at any reasonable
16 time thereafter shall constitute proof that the member is not disabled. The
17 board shall be empowered to select for such medical examination one (1) or
18 more physicians or surgeons who are licensed to practice medicine and per-
19 form surgery. The fees and expenses of such examination shall be paid from
20 the administration account of the fund. No member shall be required to un-
21 dergo such examination more often than once each year after he has received a
22 disability retirement allowance continuously for two (2) years.

23 (12A) "Disabled service" means the total number of months elapsing from
24 the first day of the month next succeeding the final contribution of a member
25 prior to receiving a disability retirement allowance to the first day of the
26 month following the date of termination of such disability retirement al-
27 lowance. During such period, the member shall remain classified in the mem-
28 bership category held during the month of final contribution. The total num-
29 ber of months of disabled service credited for a person first becoming dis-
30 abled after the effective date of this chapter shall not exceed the excess,
31 if any, of three hundred sixty (360) over the total number of months of prior
32 service and membership service.

33 (12B) "Domestic retirement order" means any judgment, decree, or order,
34 including approval of a property settlement agreement that relates to the
35 provision of marital property rights to a spouse or former spouse of a mem-
36 ber, and is made pursuant to a domestic relations law, including the commu-
37 nity property law of the state of Idaho or of another state.

38 (13) "Early retirement allowance" means the periodic payment becoming
39 payable to a member who meets all applicable eligibility requirements for
40 early retirement.

41 (14) (A) "Employee" means:

42 (a) Any person who normally works twenty (20) hours or more per week for
43 an employer, or a schoolteacher who works half-time or more for an em-
44 ployer and who receives salary for services rendered for such employer;

45 (b) Elected officials or appointed officials of an employer who receive
46 a salary;

47 (c) A person who is separated from service with fewer than five (5) con-
48 secutive months of employment and who is reemployed or reinstated by the
49 same employer within thirty (30) days; or

1 (d) A person receiving differential wage payments as defined in 26
 2 U.S.C. 3401(h) on or after July 1, 2009. A differential wage payment
 3 generally refers to an employer payment to an employee called to active
 4 duty in the uniformed services for more than thirty (30) days that rep-
 5 represents all or a portion of the compensation he would have received from
 6 the employer if he were performing services for the employer.

7 (B) "Employee" does not include employment as:

8 (a) A person rendering service to an employer in the capacity of an in-
 9 dependent business, trade or profession; or

10 (b) A person whose employment with any employer does not total five (5)
 11 consecutive months; or

12 (c) A person provided sheltered employment or made-work by a public em-
 13 ployer in an employment or industries program maintained for the bene-
 14 fit of such person; or

15 (d) An inmate of a state institution, whether or not receiving compen-
 16 sation for services performed for the institution; or

17 (e) A student enrolled in an undergraduate, graduate, or ~~professional-~~
 18 ~~career~~ technical program at and employed by a state college, univer-
 19 sity, community college or ~~professional-career~~ technical center when
 20 such employment is predicated on student status; or

21 (f) A person making contributions to the director of the office of
 22 personnel management under the United States civil service system re-
 23 tirement act except that a person who receives separate remuneration
 24 for work currently performed for an employer and the United States gov-
 25 ernment may elect to be a member of the retirement system in accordance
 26 with rules of the board; or

27 (g) A person not under contract with a school district or charter
 28 school, who on a day-to-day basis works as a substitute teacher replac-
 29 ing a contracted teacher and is paid a substitute wage as established
 30 by district policy or who on a day-to-day basis works as a substitute
 31 assistant replacing a staff instruction assistant or a staff library
 32 assistant and is paid a substitute wage as established by district pol-
 33 icy; or

34 (h) A person occupying a position that does not exceed eight (8) con-
 35 secutive months in a calendar year with a city, county, irrigation dis-
 36 trict, cemetery district or mosquito abatement district when the city,
 37 county, irrigation district, cemetery district or mosquito abatement
 38 district has certified, in writing to the system, the position is: (i)
 39 seasonal or casual; and (ii) affected by weather, including parks, golf
 40 course positions and irrigation positions; or

41 (i) A person in a position that: (i) is eligible for participation in
 42 an optional retirement program established under section 33-107A or
 43 33-107B, Idaho Code~~7~~; or (ii) would be eligible for participation in
 44 an optional retirement program established under section 33-107A or
 45 33-107B, Idaho Code, if the person was not working less than half-time
 46 or fewer than twenty (20) hours per week.

47 (15) "Employer" means the state of Idaho, or any political subdivision
 48 or governmental entity, provided such subdivision or entity has elected to
 49 come into the system. Governmental entity means any organization composed
 50 of units of government of Idaho or organizations funded only by government

1 or employee contributions or organizations that discharge governmental re-
 2 sponsibilities or proprietary responsibilities that would otherwise be per-
 3 formed by government. All governmental entities are deemed to be political
 4 subdivisions for the purpose of this chapter. Provided however, that on and
 5 after the effective date of this act, all new employers added to the public
 6 employee retirement system must be in compliance with internal revenue regu-
 7 lations governing governmental retirement plans.

8 (15A) "Final contribution" means the final contribution made by a mem-
 9 ber pursuant to sections 59-1331 through 59-1334, Idaho Code.

10 (16) "Firefighter" means an employee, including paid firefighters
 11 hired on or after October 1, 1980, whose primary occupation is that of pre-
 12 venting and extinguishing fires as determined by the rules of the board.

13 (17) "Fiscal year" means the period beginning on July 1 in any year and
 14 ending on June 30 of the next succeeding year.

15 (18) "Fund" means the public employee retirement fund established by
 16 this chapter.

17 (19) "Funding agent" means any bank or banks, trust company or trust
 18 companies, legal reserve life insurance company or legal reserve life insur-
 19 ance companies, or combinations thereof, any thrift institution or credit
 20 union or any investment management firm or individual investment manager
 21 selected by the board to hold and/or invest the employers' and members' con-
 22 tributions and to pay certain benefits granted under this chapter.

23 (20) "Inactive member" means a former active member who is not an em-
 24 ployee and is not receiving any form of retirement allowance, who has not re-
 25 quested a separation benefit, or for whom a separation benefit has not become
 26 payable.

27 (20A) "Ineligible" means:

28 (a) Not eligible to participate and not required to contribute as an em-
 29 ployee when:

30 (i) The employer is not a current member of the public employee
 31 retirement system of Idaho (PERSI);

32 (ii) The employee is not an employee as defined in subsection (14)
 33 of this section; or

34 (iii) The employee is participating in the judges retirement fund,
 35 the firefighters retirement fund or the optional retirement plan;

36 (b) Not eligible for retirement where there has been no termination of
 37 employment from an employer participating in PERSI, the judges retire-
 38 ment fund, the firefighters retirement fund or the optional retirement
 39 plan or a withdrawn employer; or

40 (c) Not eligible to receive a separation benefit where there has been
 41 no termination of employment from an employer participating in PERSI,
 42 the judges retirement fund, the firefighters retirement fund or the op-
 43 tional retirement plan or a withdrawn employer.

44 All state agencies, political subdivisions or governmental entities
 45 that qualify as an employer as defined in subsection (15) of this section
 46 or prior to April 4, 2017, were considered an employer and are currently
 47 participating in PERSI are, for purposes of PERSI, deemed one (1) employer
 48 beginning on the effective date of this act.

49 (20B) "Lifetime annuity" means periodic monthly payments of income by
 50 the retirement system to an alternate payee.

1 (20C) "Lump sum distribution" means a payment by the retirement system
2 of the entire balance in the alternate payee's segregated account, together
3 with regular interest credited thereon.

4 (21) "Member" means an active member, inactive member or a retired mem-
5 ber.

6 (22) "Membership service" means military service that occurs after
7 the commencement of contributions payable under sections 59-1331 through
8 59-1334, Idaho Code, and service with respect to which contributions are
9 payable under sections 59-1331 through 59-1334, Idaho Code, which, except
10 for benefit calculations described in sections 59-1342 and 59-1353, Idaho
11 Code, includes service transferred to a segregated account under an approved
12 domestic retirement order.

13 (23) "Military service" means any period of active duty service in the
14 armed forces of the United States including the national guard and reserves,
15 under the provisions of title 10, title 32, and title 37, United States code,
16 that commences fewer than ninety (90) days after the person ceases to be an
17 employee and ends fewer than ninety (90) days before the person again becomes
18 an employee. Provided, if a member fails to again become an employee as a re-
19 sult of his death while in active duty service, the member shall be entitled
20 to military service through the date of death. Provided further, if a member
21 fails to again become an employee due to a disability retirement resulting
22 from service in the armed forces of the United States, the member shall be en-
23 titled to military service through the date the disability allowance becomes
24 payable. In no event shall military service include:

25 (a) Any period ended by dishonorable discharge or during which termina-
26 tion of such service is available but not accepted; or

27 (b) Any active duty service in excess of five (5) years if at the conven-
28 nience of the United States government, or in excess of four (4) years
29 if not at the convenience of the United States government, provided
30 additional membership service may be purchased as provided in section
31 59-1362, Idaho Code.

32 (24) (a) "Police officer" for retirement purposes shall be as defined in
33 section 59-1303, Idaho Code.

34 (b) "POST" means the Idaho peace officer standards and training council
35 established in chapter 51, title 19, Idaho Code.

36 (25) "Prior service" means any period prior to July 1, 1965, of military
37 service or of employment for the state of Idaho or any political subdivision
38 or other employer of each employee who is an active member or in military ser-
39 vice or on leave of absence on the date of establishment, provided, however,
40 an employee who was not an active member or in military service or on leave
41 of absence on the date of establishment shall receive credit for the member's
42 service prior to July 1, 1965, on the basis of recognizing two (2) months of
43 such service for each month of membership service. For the purpose of com-
44 puting such service, no deduction shall be made for any continuous period of
45 absence from service or military service of six (6) months or less.

46 (26) "Regular interest" means interest at the rate set from time to time
47 by the board.

48 (27) "Retired member" means a former active member receiving a retire-
49 ment allowance.

1 (28) "Retirement" means the acceptance of a retirement allowance under
2 this chapter upon termination of employment and, unless otherwise provided
3 by law, requires a termination of employment from an employer participating
4 in PERSI, the judges retirement fund, the firefighters retirement fund or
5 the optional retirement plan.

6 (29) "Retirement board" or "board" means the board provided for in sec-
7 tions 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

8 (30) "Retirement system" or "system" means the public employee retire-
9 ment system of Idaho.

10 (31) (A) "Salary" means:

11 (a) The total salary or wages paid to a person who meets the definition
12 of employee by an employer for personal services performed and reported
13 by the employer for income tax purposes, including the cash value of all
14 remuneration in any medium other than cash.

15 (b) The total amount of any voluntary reduction in salary agreed to by
16 the member and employer where the reduction is used as an alternative
17 form of remuneration to the member.

18 (B) Salary in excess of the compensation limitations set forth in sec-
19 tion 401(a) (17) of the Internal Revenue Code shall be disregarded for any
20 person who becomes a member of the system on or after July 1, 1996. The sys-
21 tem had no limitations on compensation in effect on July 1, 1993. The compen-
22 sation limitations set forth in section 401(a) (17) of the Internal Revenue
23 Code shall not apply for an "eligible employee." For purposes of this subsec-
24 tion, "eligible employee" is an individual who was a member of the system be-
25 fore July 1, 1996.

26 (C) "Salary" does not include:

27 (a) Contributions by employers to employee-held medical savings ac-
28 counts, as those accounts are defined in section 63-3022K, Idaho Code.

29 (b) Lump sum payments inconsistent with usual compensation patterns
30 made by the employer to the employee only upon termination from service
31 including, but not limited to, vacation payoffs, sick leave payoffs,
32 early retirement incentive payments and bonuses.

33 (c) Differential wage payments as defined in 26 U.S.C. 3401(h). A dif-
34 ferential wage payment generally refers to an employer payment to an
35 employee called to active duty in the uniformed services for more than
36 thirty (30) days that represents all or a portion of the compensation he
37 would have received from the employer if he were performing services for
38 the employer.

39 (d) Employer payments to employees for or related to travel, mileage,
40 meals, lodging or subsistence expenses, without regard to the taxabil-
41 ity of such payments for federal income tax purposes and without regard
42 to the form of payment, including payment made as reimbursement of an
43 itemized expense voucher and payment made of an unvouchered expense al-
44 lowance.

45 (31A) "Segregated account" means the account established by the retire-
46 ment system for the alternate payee of a member who is not a retired member.
47 It shall include the months of credited service and accumulated contribu-
48 tions transferred from the member's account.

49 (32) "Separation benefit" means the amount, if any, pursuant to section
50 59-1359, Idaho Code.

1 (33) "Service" means being shown on an employer's payroll as an employee
 2 receiving a salary. For each calendar month, service is credited only when a
 3 member is an employee as defined in subsection (14) (A) of this section and is
 4 employed for fifteen (15) days or more during the calendar month. Employment
 5 of fourteen (14) days or less during any calendar month shall not be cred-
 6 ited. No more than one (1) month of service shall be credited for all service
 7 in any month.

8 (34) "Service retirement allowance" means the periodic payment becom-
 9 ing payable upon an active member's ceasing to be an employee while eligible
 10 for service retirement.

11 (35) "State" means the state of Idaho.

12 (35A) "Termination from employment" means the employee has separated
 13 from employment, the employee has ended service with the employer and the em-
 14 ployer has notified PERSI of the termination.

15 (36) "Vested member" means an active or inactive member who has at least
 16 five (5) years of credited service, except that a member, who at the time of
 17 his separation from service:

18 (a) Held an office to which he had been elected by popular vote or having
 19 a term fixed by the constitution, statute or charter or was appointed to
 20 such office by an elected official; or

21 (b) Was the head or director of a department, division, agency, statu-
 22 tory section or bureau of the state; or

23 (c) Was employed on or after July 1, 1965, by an elected official of
 24 the state of Idaho and occupied a position exempt from the provisions of
 25 chapter 53, title 67, Idaho Code; and

26 (d) Was not covered by a merit system for employees of the state of
 27 Idaho;
 28 is vested without regard to the length of credited service.

29 (37) The masculine pronoun, wherever used, shall include the feminine
 30 pronoun.

31 SECTION 2. That Section 59-1353, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 59-1353. COMPUTATION OF DISABILITY RETIREMENT ALLOWANCES. (1) The
 34 base disability retirement allowance of any member shall be equal to an
 35 initial service retirement allowance, as defined in section 59-1342, Idaho
 36 Code, based upon the years of service which would have been credited to
 37 the member had the member continued in eligible employment until service
 38 retirement eligibility age, as defined in section 59-1341, Idaho Code. Pro-
 39 vided, however, that the total years of credited service shall not exceed the
 40 greater of:

41 (a) Thirty (30) years; or

42 (b) The member's accrued membership and prior service.

43 (2) The annual amount of disability retirement allowance shall equal
 44 the excess, if any, of (a) over (b), where:

45 (a) Is the base disability retirement allowance provided in subsection
 46 (1) of this section; and

47 (b) Is the sum of:

48 (i) Any payment or portion of a payment under the provisions of
 49 any ~~workers'~~ worker's compensation law for income benefits be-

1 cause of the same disability, which payment is not being offset by
2 federal social security disability benefits; and

3 (ii) The service retirement allowance payable under the provi-
4 sions of section 59-1342, Idaho Code, where the member is the older
5 of either age sixty-two (62) or the respective service retirement
6 eligibility age provided in section 59-1341, Idaho Code.

7 (3) If a single payment is made under the provisions of any ~~workers'~~
8 worker's compensation law and such single payment is in lieu of periodic in-
9 come payments, for the purposes of this section, such single payment shall
10 be converted, pursuant to regulations adopted by the board, to equal peri-
11 odic payments of the same number of months for which the worker's compensa-
12 tion payment is awarded.

13 (4) Each adjustment in the payment of a disability retirement allowance
14 due to a change in the amount payable under the provisions of any ~~workers'~~
15 worker's compensation law shall take effect on the first of the month follow-
16 ing the month in which such change is effective.

17 (5) Any member receiving a disability retirement benefit and receiving
18 any wages, as described in section 72-1328, Idaho Code, whose annual gross
19 income exceeds annual gross benefits received shall be deemed not disabled.
20 Any member receiving disability retirement benefits shall annually, on or
21 before May 31, submit to PERSI his annual tax return and W-2 forms if the in-
22 dividual is required to file a tax return and has received a W-2 form. If an
23 individual is granted an extension to file tax returns by the internal rev-
24 enue service, then W-2 forms and proof of the extension must be submitted by
25 May 31. Tax returns filed by extension must be submitted within sixty (60)
26 days of the extended date for submission. Failure to timely submit a tax re-
27 turn with W-2 forms as provided in this subsection or a proof of extension
28 with W-2 forms by the required date constitutes proof that the member is not
29 disabled and shall result in the suspension of disability benefits unless an
30 extension is granted by PERSI.

31 (6) Any wages, as defined in section 72-1328, Idaho Code, earned while
32 receiving disability benefits shall be deducted from a member's monthly dis-
33 ability benefit in twelve (12) equal installments starting July 1 of the year
34 subsequent to the receipt of the W-2 forms, as required in subsection (5) of
35 this section. Any hours worked while on disability shall not be included in a
36 member's retirement as service hours.

37 SECTION 3. That Section 59-1354A, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 59-1354A. MEMBERS RECEIVING A DISABILITY RETIREMENT RETURNING TO
40 WORK. (1) A retired member receiving a disability retirement allowance may
41 return to work and work for more than ten (10) hours per week or earn more
42 than twenty-five percent (25%) of the minimum benefit threshold per week as
43 determined in section 59-1342, Idaho Code, under the following conditions:

44 (a) The retired member must notify the executive director in writing in
45 advance of the return to work; and

46 (b) The disability retirement allowance shall terminate upon such no-
47 tification.

48 (2) The disability retirement allowance of a retired member who returns
49 to work under subsection (1) of this section shall resume if:

1 (a) The retired member terminates his return to work within one hundred
2 fifty (150) days from the date of the notification required in subsec-
3 tion (1) (a) of this section;

4 (b) The retired member makes a written request to the board; and

5 (c) The board determines that the member is disabled, as defined in sec-
6 tion 59-1302(12), Idaho Code, and that the member could not success-
7 fully return to work because of the same disability on which his dis-
8 ability retirement was based.

9 (3) In making its decision, the board may require the member to submit
10 medical records in support of his request and may require the member to sub-
11 mit to a medical examination. The refusal to submit such records or to submit
12 to such examination shall constitute proof that the member is not disabled.
13 If the board requires a medical examination, any costs associated with such
14 examination must be paid by the member. A disability retirement allowance
15 that is resumed under this section shall be payable the first of the month af-
16 ter the board makes the determination described herein.

17 (4) If a retired member receiving a disability retirement allowance who
18 returns to work again meets the definition of employee as defined in section
19 59-1302(14) (A), Idaho Code, eligibility for disability retirement shall be
20 determined in accordance with sections 59-1302(12), 59-1352 and 59-1354,
21 Idaho Code.

22 (5) For the purposes of this section, "return to work" means being
23 engaged in any activity for which compensation is normally paid but shall
24 not include service on any state board or commission that is statutorily
25 required to meet once per month or less where the retired member is not an
26 employee as defined in this chapter by virtue of such service.