

IN THE SENATE

SENATE BILL NO. 1157

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO JUDGES; AMENDING SECTION 1-2001, IDAHO CODE, TO REVISE PROVISIONS REGARDING JUDGES' RETIREMENTS, TO PROVIDE THAT CERTAIN JUDGES SHALL NOT BE ELIGIBLE TO SERVE AS A SENIOR JUDGE AND MAY NOT ELECT TO RECEIVE RETIREMENT COMPENSATION, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

(2) Any person who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state shall prior to retirement elect in writing to retire under either paragraph (a) or (b) of this subsection, provided that a person who has first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, and who is eligible to receive an annual retirement compensation only under the criteria set forth in subsection (3) (c) of this section, may retire only under paragraph (a) of this subsection. Any person who fails to make the election provided for in this subsection prior to retirement shall receive retirement compensation under the provisions of paragraph (a) of this subsection.

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

(ii) A person who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall receive an annual retirement compensation based upon a percentage 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 person who is now serving
22 or who shall hereafter serve as a justice of the supreme court, a
23 judge of the court of appeals, or a district judge of a district
24 court of this state may retire from office and be entitled to
25 receive, and to have paid from the date of his retirement until
26 death, an annual retirement compensation payable in monthly in-
27 stallments 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, shall receive an annual retirement compensation based upon a
40 percentage of the annual compensation at the time of such person's
41 retirement or resignation of the highest office in which such per-
42 son served, and such compensation shall be adjusted annually by
43 the postretirement allowance adjustment established pursuant to
44 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%)

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

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

(ii) A justice or judge electing to retire at the conclusion of his term of office under paragraph (b) of this subsection and who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall serve as a senior judge, without compensation other than annual health benefits, for sixty (60) days per year for a period of five (5) years.

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

(iv) A supreme court justice, judge of the court of appeals, or district judge of the district court who retires other than at the conclusion of his term of office shall not be eligible to serve as a senior judge under this section and may not elect to receive retirement compensation under paragraph (b) of this subsection.

(d) Upon certification from the chief justice that any justice or judge who retired under paragraph (b) of this subsection has failed to perform the senior judge services required under paragraph (c) of this subsection, and has not been relieved of the obligations to perform those services in the manner provided by this subsection, the judges' retirement fund shall recalculate the retirement compensation benefits of the non-complying justice or judge under paragraph (a) of this subsection, and the noncomplying justice or judge shall thereafter receive only the recalculated amount.

(e) A justice or judge may be relieved of the senior judge service obligation imposed by this subsection if he fails for good cause to complete the obligation. A retired justice or judge who is relieved of the obligation to serve as a senior judge shall continue to receive the retirement allowance provided under paragraph (b) of this subsection.

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

(i) Physical or mental incapacitation of a justice or judge that prevents the justice or judge from discharging the duties of judicial office;

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

(iii) Death of a senior judge.

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

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

4 (ii) A senior judge's affirmative voluntary act that makes him un-
5 qualified to serve as a judge of this state including, but not lim-
6 ited to, failure to maintain a residence within the state, com-
7 mencing the practice of law other than as a mediator, arbitrator
8 or similar alternative dispute resolution function, acceptance of
9 a position in another branch of state government or political sub-
10 division, or the acceptance of a position in the government of the
11 United States or of another state or nation.

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

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

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

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

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

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

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

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

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

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

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

14 (6) A person who has retired from the office of supreme court justice,
15 judge of the court of appeals or district judge prior to July 1, 2012, or
16 any other person receiving benefits as of July 1, 2012, may make an irrev-
17 ocable election no later than August 1, 2012, to thereafter receive an an-
18 nual retirement compensation or allowance equal to the amount of the annual
19 retirement compensation or allowance such person was receiving as of July
20 1, 2012, and to have such compensation or allowance thereafter adjusted an-
21 nually by the postretirement allowance adjustment established pursuant to
22 section 59-1355, Idaho Code.

23 (7) Notwithstanding any other provision of this section, any person
24 who makes an election to remain in the public employee retirement system of
25 Idaho as provided in section 1-2011, Idaho Code, shall not participate in
26 the judges' retirement fund established in this chapter, but shall continue
27 to participate in the public employee retirement system of Idaho and be
28 governed under the provisions of that system, except as provided in section
29 1-2005, Idaho Code.

30 SECTION 2. An emergency existing therefor, which emergency is hereby
31 declared to exist, this act shall be in full force and effect on and after
32 July 1, 2023.