

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - PERSI RETIREMENT RULES

DOCKET NO. 59-0106-1401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 20, 2014.

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 59-1314(1) and 72-1405, 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 July 16, 2014.

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:

PERSI Retirement Rules currently contain 2 provisions addressing "retirement in place" related to members serving on small boards/commissions. Currently Retirement Rule 131 requires only that the member be eligible to retire, without reference to service retirement; Retirement Rule 132 requires that the member be eligible to service retire. The change will bring consistency and additional clarity to the 2 rules by providing that in order to qualify to retire in place, the member must be eligible to retire and be age 62 or over. Use of age 62 is permitted under applicable Internal Revenue Code provision 401(a)(36) for a qualified governmental retirement plan. Also, the rule change will provide clarity for small board and commission employers and employees with regard to retirement in place and will help small boards and commissions retain well qualified members who would otherwise separate/leave the board/commission as that is required so they can begin to receive a retirement allowance.

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

Benefits employers and employees by providing clarify and consistency.

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

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:

Any fiscal impact is considered insignificant. The potential number of employees who could fall into the amended rule is few and not all those will make the election provided.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, 287-9271.

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 July 23, 2014.

DATED this 20th day of May, 2014.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 59-0106-1401
(Only those Sections being amended are shown.)**

131. ELECTED OR APPOINTED OFFICIAL WORKING FOR MULTIPLE EMPLOYERS (RULE 131).
An active member separated from employment by one (1) employer for whom he or she did normally work twenty (20) hours or more per week and who is age 62 or older and eligible to retire but remains an elected or appointed official with a different employer, may retire and continue in that elected or appointed position provided that position is one in which he or she does not normally work twenty (20) hours or more per week. The member shall receive retirement allowances under the conditions provided by Rule 145.

Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. ~~(3-29-10)~~(5-20-14)T

132. ELECTED OR APPOINTED OFFICIAL RETIRING IN PLACE (RULE 132).
An active member serving as an elected or appointed official who does not normally work twenty (20) hours or more per week who ~~achieves service retirement eligibility~~ is age 62 or older and eligible to retire and who is not an eligible employee with another employer pursuant to Rule 101 of IDAPA 59.01.02, "Eligibility Rules of PERSI," may then retire and continue in that position. The member shall receive retirement allowances under the conditions provided by Rule 145.

Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. ~~(3-29-10)~~(5-20-14)T