

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 21

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION  
2 59-1303, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS SHALL BE DESIG-  
3 NATED AS POLICE OFFICER MEMBERS FOR RETIREMENT PURPOSES AND TO MAKE  
4 TECHNICAL CORRECTIONS; AND AMENDING SECTION 59-1334, IDAHO CODE, TO  
5 PROVIDE THAT CERTAIN POLICE OFFICERS AND FIREFIGHTERS WHOSE POSITIONS  
6 BECAME CLASSIFIED MAY REMAIN UNDER A CERTAIN CONTRIBUTION.  
7

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

9 SECTION 1. That Section 59-1303, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 59-1303. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS. (1) As  
12 used in this chapter, each of the terms defined in this section shall have the  
13 meaning given in this section unless a different meaning is clearly required  
14 by the context.

15 (2) Police officer membership status for retirement purposes may be  
16 fixed only by law or by order of the retirement board.

17 (3) Members holding or filling the following positions or offices are  
18 designated by law as police officer members for retirement purposes during  
19 the time of their appointment to that position or during their term of of-  
20 fice:

- 21 (a) (i) The director and deputy director of the Idaho state police-;  
22 (ii) Commissioned personnel of the Idaho state police holding posi-  
23 tions which involve active law enforcement services, for which  
24 current POST certification is required to continue in employment  
25 in the position, POST training coordinators, and Idaho state po-  
26 lice training coordinators-;  
27 (iii) Brand inspectors and brand inspector supervisors-;  
28 (iv) Employees of the Idaho state police serving in positions  
29 of personnel management, accounting, data processing, clerical  
30 services and in like general classifications found in departments  
31 throughout state government and not within the scope of active law  
32 enforcement service are not eligible for police officer member  
33 status.

- 34 (b) (i) County sheriffs;  
35 (ii) Deputy county sheriffs holding positions for which current  
36 POST certification is necessary to continue in employment in the  
37 position, and the principal duties of which are active law en-  
38 forcement service, accountability for the safety and safekeeping  
39 of persons confined in a county confinement facility, or active  
40 participation in county law enforcement activities pertaining  
41 to crime prevention or reduction. Deputy sheriffs, even though  
42 POST certified or required to be POST certified, holding posi-

1 tions whose principal full-time duties are those of a ~~telephone~~  
2 ~~operator, dispatcher,~~ clerk, stenographer, animal control offi-  
3 cer, records specialist, or duties not within the scope of active  
4 law enforcement service are not eligible for police officer mem-  
5 ber status. Deputy sheriffs that hold a current peace officer or  
6 detention officer certificate from the POST council that are pro-  
7 moted or hired to act in a supervisory capacity within a sheriff's  
8 office, that are not disqualified through disability from acting  
9 as peace officers or detention officers when called upon, shall  
10 not lose their police officer status as defined in this section.

- 11 (c) (i) City police chiefs;  
12 (ii) City police officers holding positions for which current  
13 POST certification is necessary to continue in employment in the  
14 position, and the principal duties of which are active law en-  
15 forcement service or active participation in city law enforcement  
16 activities pertaining to crime prevention or reduction. Police  
17 officers, even though POST certified or required to be POST cer-  
18 tified, holding positions whose principal full-time duties are  
19 those of a ~~telephone operator, dispatcher,~~ clerk, stenographer,  
20 animal control officer, records specialist, or duties not within  
21 the scope of active law enforcement service are not eligible for  
22 police officer member status. City police officers that hold a  
23 current peace officer or detention officer certificate from the  
24 POST council that are promoted or hired to act in a supervisory  
25 capacity within a city police department, that are not disquali-  
26 fied through disability from acting as peace officers or detention  
27 officers when called upon, shall not lose their police officer  
28 status as defined in this section.

29 (d) Employees of the department of fish and game serving in a conserva-  
30 tion officer position for which current POST certification is necessary  
31 to continue in employment in that position and which position has as its  
32 primary accountability the enforcement of wildlife protection laws and  
33 regulations.

- 34 (e) (i) The director of the department of correction, the deputy di-  
35 rector for probation and parole, and wardens of institutions;  
36 (ii) Employees of the department of correction accountable for  
37 the custody, safety, safekeeping or supervision of persons con-  
38 fined in a department confinement facility and whose work station  
39 is located within the confinement facility;  
40 (iii) Probation and parole supervisors, probation and parole in-  
41 vestigators, and probation and parole officers;  
42 (iv) Correctional peace officer training instructors;  
43 (v) Employees of the department of correction serving in posi-  
44 tions of personnel management, accounting, data processing, cler-  
45 ical services and in like general classifications found in depart-  
46 ments throughout state government and not within the scope of ac-  
47 tive law enforcement service are not eligible for police officer  
48 member status.

49 (f) Employees of the adjutant general and military division of the  
50 state where military membership is a condition of employment.

1 (g) Magistrates of the district court; justices of the supreme court,  
2 judges of the court of appeals, and district judges who have made an  
3 election under section 1-2011, Idaho Code; and court employees desig-  
4 nated by court order to have primary responsibility for court security  
5 or transportation of prisoners.

6 (h) Employees whose primary function requires that they are certified  
7 by the Idaho department of health and welfare as an emergency medical  
8 technician-basic, an advanced emergency medical technician-ambulance,  
9 an emergency medical technician-intermediate, or an emergency medical  
10 technician-paramedic.

11 (i) Criminal investigators of the attorney general's office, and crim-  
12 inal investigators of a prosecuting attorney's office.

13 (j) The director of security and the criminal investigators of the  
14 Idaho state lottery.

15 (k) Employees holding a position in a juvenile detention facility who  
16 are accountable for the custody, safety, safekeeping or supervision of  
17 persons confined in a confinement facility, whose work station is lo-  
18 cated within the confinement facility and whose positions require cur-  
19 rent POST certification to continue in employment in the position. Em-  
20 ployees who hold a current juvenile detention officer certificate from  
21 the POST council, who are promoted or hired to act in a supervisory ca-  
22 capacity within a juvenile detention facility, and who are not disquali-  
23 fied through disability from acting as detention officers when called  
24 upon shall not lose their police officer status as defined in this sec-  
25 tion.

26 (l) Employees holding a position in a juvenile probation or misdemeanor  
27 probation office for which current POST certification is necessary to  
28 continue in employment in the position. Employees who hold a current  
29 probation officer certificate from the POST council, who are promoted  
30 or hired to act in a supervisory capacity within a juvenile probation  
31 or misdemeanor probation office, and who are not disqualified through  
32 disability from acting as probation officers when called upon shall not  
33 lose their police officer status as defined in this section.

34 (m) Employees holding a position within the department of juvenile cor-  
35 rections for which current POST certification is necessary to continue  
36 in employment in the position and which position has as its primary  
37 accountability the custody, safety, safekeeping or supervision of per-  
38 sons confined in a juvenile correctional center. Employees who hold a  
39 current direct care staff certificate from the POST council, who are  
40 promoted or hired to act in a supervisory capacity within a juvenile  
41 correctional facility, and who are not disqualified through disability  
42 from acting as direct care staff when called upon shall not lose their  
43 police officer status as defined in this section.

44 (n) Employees holding a position with the Idaho state police, a county  
45 sheriff, a city police department or the Idaho department of health and  
46 welfare, as an emergency communications officer, meaning any emergency  
47 call taker or dispatcher whose primary responsibility is to receive or  
48 dispatch calls for emergency services in the state of Idaho. Employ-  
49 ees who are promoted or hired to act in a supervisory capacity within a  
50 public safety answering point and who are not disqualified through dis-

1        ability from acting as emergency communications officers when called  
2        upon shall not lose their police officer status as defined in this sec-  
3        tion.

4        (4) A member may be designated by the retirement board as a police offi-  
5        cer member for retirement purposes if the position held is one in which the  
6        principal duties involve hazardous law enforcement duties.

7        (a) For purposes of this section, "hazardous law enforcement duties"  
8        means principal duties which:

9            (i) Will reasonably expect to increase the probability of early  
10          superannuation;

11          (ii) Are associated with life-threatening risk or present a posi-  
12          tion of peril either to the member or to others, or which can place  
13          the public safety in jeopardy; and

14          (iii) Either compel others to observe the law, pertain to crime  
15          prevention, or pertain to crime reduction, including police,  
16          courts, prosecution, correction, or rehabilitation.

17        (b) If continued employment in a position is conditioned on maintain-  
18        ing current POST certification, such condition shall be evidence to be  
19        considered that the employee is a police officer member for retirement  
20        purposes. After July 1, 1999, a requirement for POST certification for  
21        classified state employees may be made only by the administrator of the  
22        division of human resources pursuant to chapter 53, title 67, Idaho  
23        Code.

24        (c) Occasional assignments to hazardous law enforcement duties do not  
25        create a condition for designation as a police officer member for re-  
26        tirement purposes.

27        (5) Any employer or agency that believes that any employee, not specif-  
28        ically designated as a police officer by law, is incorrectly classified as  
29        a nonpolice officer member, may petition the retirement board for inclusion  
30        of that employee's position as one to be filled by a police officer member  
31        for retirement purposes. The petition shall be in writing and shall explain  
32        in detail the principal duties of the position and include written evidence  
33        which establishes that the criteria of subsection (4) of this section are  
34        met. The board shall review the petition and evidence, together with such  
35        information and evidence as may be presented by the staff of the retirement  
36        system. The board may decide the matter based upon the information supplied,  
37        may request additional information, or may request an oral presentation be-  
38        fore the board. The decision of the board shall be final, but a similar peti-  
39        tion may be resubmitted after six (6) months.

40        (6) On and after July 1, 1985, no active member shall be classified as  
41        a police officer for retirement purposes unless the employer shall have cer-  
42        tified to the board, on a form provided by the board, that such member is an  
43        employee whose primary position with the employer is one designated as such  
44        within the meaning of this chapter, and the board shall have accepted such  
45        certification. Acceptance by the board of an employer's certification shall  
46        in no way limit the board's right to review and reclassify the position for  
47        retirement purposes based upon an audit or other relevant information pre-  
48        sented to the board.

49        (7) An active member classified as a police officer for retirement pur-  
50        poses whose position is reclassified to that of a general member for retire-

1 ment purposes as a result of a determination that the position does not meet  
2 the requirements of this chapter for police officer status for retirement  
3 purposes shall become a general member but shall not lose retirement bene-  
4 fits earned and accrued prior to the reclassification. If that member con-  
5 tinues to be employed in that same position until retired, that member then  
6 will be deemed to be a police officer member for the purposes of retirement  
7 eligibility.

8 SECTION 2. That Section 59-1334, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 59-1334. CONTRIBUTIONS -- FROM POLICEMEN AND FIREFIGHTERS. (1) The  
11 contribution for a member who is classified as a police officer or fire-  
12 fighter shall be seventy-two percent (72%) of the employer contribution  
13 rate determined pursuant to section 59-1322, Idaho Code, and rounded to the  
14 nearest one hundredth percent (.01%) of salary; provided, however, that such  
15 member rate effective October 1, 1985, shall remain at six and forty hun-  
16 dredths percent (6.40%) of salary until the first time after October 1, 1985,  
17 that the employer rate is changed from eight and eighty-nine hundredths per-  
18 cent (8.89%) of salary. The board is specifically authorized to certify to  
19 the state controller the necessary adjustments in the rate of member contri-  
20 butions.

21 (2) Members who had not been previously classified as a police offi-  
22 cer or firefighter whose positions became classified as a police officer or  
23 firefighter on or before July 1, 2017, may exercise the option to remain un-  
24 der the contributions set forth in section 59-1333, Idaho Code.