

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 399

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION  
2 59-1303, IDAHO CODE, TO DESIGNATE CERTAIN EMPLOYEES AS POLICE OFFICER  
3 MEMBERS, TO REMOVE A PROVISION REGARDING RETIREMENT ELIGIBILITY AND TO  
4 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 59-1334, IDAHO CODE, TO  
5 PROVIDE THAT CERTAIN EMPLOYEES MUST ELECT TO REMAIN UNDER CERTAIN CON-  
6 TRIBUTIONS; AND DECLARING AN EMERGENCY.  
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 workstation 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 and whose workstation is lo-  
 18 cated within the confinement facility. Employees who hold a current ju-  
 19 venile detention officer certificate who are promoted or hired to act in  
 20 a supervisory capacity within a juvenile detention facility and who are  
 21 not disqualified through disability from acting as detention officers  
 22 when called upon shall not lose their police officer status as defined  
 23 in this section.

24 (l) Employees holding a position in a juvenile probation or misdemeanor  
 25 probation office. Employees who hold a current probation officer cer-  
 26 tificate who are promoted or hired to act in a supervisory capacity  
 27 within a juvenile probation or misdemeanor probation office and who are  
 28 not disqualified through disability from acting as probation officers  
 29 when called upon shall not lose their police officer status as defined  
 30 in this section.

31 (m) Employees of the department of juvenile corrections:

32 (i) Superintendent of any juvenile corrections confinement fa-  
 33 ility;

34 (ii) Employees accountable for the custody, safety, safekeeping  
 35 or supervision of persons confined in a department confinement fa-  
 36 ility and whose workstation is located within the confinement fa-  
 37 ility; and

38 (iii) Juvenile peace officer training coordinators.

39 Employees of the department of juvenile corrections serving in posi-  
 40 tions of personnel management, accounting, data processing, clerical  
 41 services and in similar general classifications found in departments  
 42 throughout state government and not within the scope of active law en-  
 43 forcement service are not eligible for police officer member status.

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

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

49 (i) Will reasonably expect to increase the probability of early  
 50 superannuation;

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

4 (iii) Either compel others to observe the law, pertain to crime  
5 prevention, or pertain to crime reduction, including police,  
6 courts, prosecution, correction, or rehabilitation.

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

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

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

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

39 (7) An active member classified as a police officer for retirement pur-  
40 poses whose position is reclassified to that of a general member for retire-  
41 ment purposes as a result of a determination that the position does not meet  
42 the requirements of this chapter for police officer status for retirement  
43 purposes shall become a general member but shall not lose retirement bene-  
44 fits earned and accrued prior to the reclassification. ~~If that member con-~~  
45 ~~tinues to be employed in that same position until retired, that member then~~  
46 ~~will be deemed to be a police officer member for the purposes of retirement~~  
47 ~~eligibility.~~

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

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

12           (2) Current employees holding a position in a juvenile detention facil-  
13 ity, a juvenile probation or misdemeanor probation office or employees of  
14 the department of juvenile corrections holding positions set forth in sec-  
15 tion 59-1303(m), Idaho Code, and who did not have police officer status as  
16 defined in section 59-1303, Idaho Code, must make an irrevocable election on  
17 or before June 30, 2018, to remain under the contributions set forth in sec-  
18 tion 59-1333, Idaho Code. The election date notwithstanding, no change in  
19 the contribution shall commence before July 1, 2018.

20           SECTION 3. An emergency existing therefor, which emergency is hereby  
21 declared to exist, this act shall be in full force and effect on and after its  
22 passage and approval.