

Dear Senators ANDREASON, Coiner & Werk, and  
Representatives SCHAEFER, Bradford & Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed  
rules of the PERSI:

59.01.02 - Eligibility Rules of PERSI (Docket #59-0102-0801)

59.01.04 - PERSI Disability Rules (Docket #59-0104-0801)

59.01.05 - Separation from Service Rules for PERSI

(Rollovers 125.04) (Docket #59-0105-0801)

59.01.05 - Separation for Service Rules for PERSI (Amends 126 & 127)

(Docket #59-0105-0802)

59.01.05 - Separation for Service Rules for PERSI (Amends 100)

(Docket #59-0105-0803)

59.01.06 - Retirement Rules of PERSI (Docket #59-0106-0801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10-8-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 11-5-08.

\_\_\_\_\_The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

## MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce and Human Resources

FROM: Research & Legislation Staff - Eric Milstead

DATE: September 19, 2008

SUBJECT: Public Employee Retirement System of Idaho

PERSI has submitted rules as discussed below.

1. IDAPA 59.01.02 - Eligibility Rules of the Public Employee Retirement System of Idaho (Docket No. 59-0102-0801)

PERSI submits notice of proposed rulemaking at IDAPA 59.01.02 - Eligibility Rules of the Public Employee Retirement System of Idaho. The agency states that the proposed rule clarifies provisions regarding leave without pay to include the provision that an employee placed on leave of absence remains in employee status and is ineligible for payment of disability benefits. The proposed rule clarifies that if an employee on leave of absence without pay terminates employment without returning to work, the leave without pay status is negated. The agency states that negotiated rulemaking was not conducted because it would be inconsistent with the board's fiduciary responsibility.

PERSI's proposed rule appears to be authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

2. IDAPA 59.01.04 - Public Employee Retirement System of Idaho Disability Rules (Docket No. 59-0104-0801)

PERSI submits notice of proposed rulemaking at IDAPA 59.01.04 - PERSI Disability Rules. This proposed rule is straightforward-- it revises a requirement regarding eligibility for disability retirement. The proposed rule states that active members of PERSI with 5 years of credited service are eligible for disability benefits. This is a change from the current rule that

requires 10 years of service. The proposed rule also provides that general members are eligible for disability retirement beginning from the first day of employment when the disability is caused by occupational hazards.

The proposed rule appears to be authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

3. IDAPA 59.01.05 - Separation from Service Rules for the Public Employee Retirement System of Idaho (Docket No. 59-0105-0801)

PERSI submits notice of temporary and proposed rulemaking at IDAPA 59.01.05 - Separation from Service Rules for PERSI. The proposed rule relates to direct rollovers out of the PERSI base plan and now includes Roth IRAs as an eligible retirement plan.

The rule appears to be authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

4. IDAPA 59.01.05 - Separation from Service Rules for the Public Employee Retirement System of Idaho (Docket No. 59-0105-0802)

PERSI submits notice of temporary and proposed rulemaking at IDAPA 59.01.05 - Separation from Service Rules for PERSI. These changes reflect two things: (a) adoption of final federal regulations regarding required minimum distributions; and b) addition of a new rule allowing for non-spouse beneficiary rollovers from the PERSI base plan to an IRA.

The rule appears to be authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

5. IDAPA 59.01.05 - Separation from Service Rules of the Public Employee Retirement System of Idaho (Docket No. 59-0105-0803)

PERSI submits notice of proposed rulemaking at IDAPA 59.01.05 - Separation from Service Rules of PERSI. The proposed rule simply deletes an obsolete reference to the Optional Retirement Plan.

The proposed rule is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

6. IDAPA 59.01.06 - Retirement Rules of the Public Employee Retirement System of Idaho (Docket No. 59-0106-0801)

PERSI submits notice of proposed rulemaking at IDAPA 59.01.06 - Retirement Rules of the Public Employee Retirement System of Idaho. The proposed rule revises provisions relating

to elected or appointed officials and revises provisions relating to certain police officers and firefighters as to when benefits begin prior to reaching the age of sixty-two.

The proposed rule appears to be authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

cc: Public Employee Retirement System of Idaho  
Alan Winkle

# **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

## **59.01.02 - ELIGIBILITY RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

### **DOCKET NO. 59-0102-0801**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 October 15, 2008.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amend rule 122.03 to clarify leave without pay status and to clarify that if an employee on leave without pay terminates employment without returning to work, the leave without pay status is negated.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**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 resulting from this rulemaking: None

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Alan Winkle, Executive Director, PERSI, 334-2455.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2008.

DATED this 6th day of August, 2008.

Alan Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-2455  
Fax: 208- 334-3408

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0102-0801**

**122. LEAVE OF ABSENCE (RULE 122).**

A member is an inactive member ineligible to contribute and receive membership service credit while on leave of absence without pay or while on leave of absence with less than one-half (1/2) pay, unless the absence is occasioned by a worker's compensation claim approved by a surety. An active member separated from employment under conditions where both the member and the employer plan a later return to employment should be placed on leave of absence without pay during the planned period of absence. (1-1-94)

**01. Employer and Employee Contributions -- Leave of Absence.** During the leave of absence without pay, employer and employee contributions cease. If the member is on a leave of absence as a result of an approved worker's compensation claim, employer and employee contributions are due and payable on any salary paid to the member. The member is entitled to a month of membership service credit for each month the member remains on leave of absence as a result of an approved worker's compensation claim and receives salary in addition to income benefits. (1-1-94)

**02. Documentation of Leave of Absence.** The employer shall provide PERSI with documentation, on a form provided by PERSI, of a leave of absence to clarify the member's status and retirement benefit entitlement. (1-1-94)

**03. Status of Employee on Leave of Absence.** An employee placed on a leave of absence by an employer remains in an employee status and is ineligible for payment of any separation benefits or for payment of a service, early, disability, or vested retirement allowance. ~~A leave of absence without pay status is not a bar to the payment of disability retirement allowance as provided by Section 59-1354, Idaho Code. If a member on leave of absence without pay terminates employment without returning to work, the leave without pay status is negated.~~ (1-1-94)( )

**04. Leave of Absence -- Effect on Benefit Enhancement.** An employee shall not be placed on a leave of absence without pay prior to the effective date of a benefit enhancement and then return to work after the effective date of the benefit enhancement for the purpose of qualifying for the benefit enhancement. An employee placed on unpaid leave of absence prior to the date of the benefit enhancement who returns to work after the effective date of the benefit enhancement and subsequently applies for retirement shall include with the application for retirement, certification from the employer that the leave of absence was not granted for the purpose of allowing the person to qualify for the benefit enhancement. (1-1-94)

# IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

## 59.01.04 - PERSI DISABILITY RULES

DOCKET NO. 59-0104-0801

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 October 15, 2008.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amend rule 100 to state that five (5) years of credited service is required for disability eligibility and amend rule 101 to include reference to "general member".

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**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 resulting from this rulemaking: None

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Alan Winkle, Executive Director, PERSI, 334-2455. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2008.

DATED this 6th day of August, 2008.

Alan Winkle, Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702

P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-2455  
Fax: 208- 334-3408

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0104-0801

#### 100. GENERAL RULE (RULE 100).

Only active members of PERSI with ~~ten~~ five (~~10~~) years of credited service, ~~including at least six (6) months of membership service~~, are eligible for disability retirement. (4-5-00)( )

#### 101. SERVICE RELATED DISABILITY FOR POLICE, GENERAL MEMBERS, AND FIREFIGHTERS (RULE 101).

Police, general members, and certain firefighter members are eligible for disability retirement beginning from the first day of employment when the disability is caused by occupational hazards, as provided in Section 59-1352(2), Idaho Code. (4-5-00)( )

# IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

## 59.01.05 - SEPARATION FROM SERVICE RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0105-0801

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2008.

**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 October 15, 2008.

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:

Amend rule 125.04 to allow for rollovers from the base plan to a Roth IRA.

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

This rule change will make the rule comply with federal requirements and/or will confer a benefit on PERSI employees.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**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:

No negative fiscal impact to the general fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations and because the change is required by federal law for qualified plans.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Alan Winkle, Executive Director, PERSI, 334-2455.

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 October 22, 2008.

DATED this 6th day of August, 2008.

Alan Winkle, Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702

P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-2455  
Fax: 208-334-3408



**THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0105-0801**

**125. DIRECT ROLLOVERS OUT OF THE BASE PLAN (RULE 125).**

A direct rollover is a payment by the plan to an eligible retirement plan specified by the distributee. (5-3-03)

**01. Rollover Election.** This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this part, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars (\$500) paid directly to an eligible retirement plan specified by the distributee in a direct rollover. (5-3-03)

**02. Eligible Rollover Distribution.** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (5-3-03)

**a.** Any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; (5-3-03)

**b.** Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code (Code); (5-3-03)

**c.** Any amount that is distributed on account of hardship; (5-3-03)

**d.** The portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and (5-3-03)

**e.** Any other distribution(s) that is reasonably expected to total less than two hundred dollars (\$200) during a year. (5-3-03)

**03. After-Tax Contributions.** For purposes of the direct rollover provisions in Subsection 125.02, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. (5-3-03)

**04. Eligible Retirement Plan.** An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a Roth IRA described in Section 408A of the Code, an annuity plan described in section 403(a) of the Code, an annuity contract described in section 403(b) of the Code, an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, or a qualified plan described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. (5-3-03)(1-1-08)T

**05. Alternate Payees.** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Sections 59-1319 and 1320, Idaho Code, are distributees with regard to the interest of the spouse or former spouse. (5-3-03)

# IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

## 59.01.05 - SEPARATION FROM SERVICE RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0105-0802

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2008.

**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 October 15, 2008.

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:

Amend Rule 126 to reflect adoption of final federal regulations regarding required minimum distributions; add new rule 127 to allow for non-spouse beneficiary rollovers from the base plan to an IRA.

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

This rule change will make the rule comply with federal requirements and/or will confer a benefit on PERSI employees.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**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: No negative fiscal impact to the general fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations and because the change is required by federal law for qualified plans.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Alan Winkle, Executive Director, PERSI, 334-2455.

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 October 22, 2008.

DATED this 6th day of August, 2008.

Alan Winkle, Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702

P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-2455  
Fax: 208-334-3408

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0105-0802**

**126. REQUIRED MINIMUM DISTRIBUTIONS (RULE 126).**

**01. Default Application of Federal Requirements.** With respect to distributions under the Base Plan made in calendar years beginning on or after January 1, 2001, and except as provided in Subsection 126.026, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code (Code) in accordance with ~~the regulations under section 401(a)(9) that were proposed in January 2001~~ a good faith interpretation of section 401(a)(9), notwithstanding any provision of the Base Plan to the contrary. ~~This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) of the Code or such other date specified in guidance published by the Internal Revenue Service.~~ (5-3-03)(7-1-08)T

**02. Required Beginning Date.** Except as otherwise provided in Subsections 126.03 through 126.06, distributions under the Base Plan shall begin not later than April 1 following the later of (a) the commencement year and (b) the year in which the member retires. For purposes of Rule 126, the "commencement year" is the calendar year in which the member reaches age seventy and one-half (70 1/2). (7-1-08)T

**03. Lifetime Distributions.** Distribution shall be made over the life of the participant or the lives of the participant and his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary (7-1-08)T

**04. Timing of Required Distributions.** A required distribution shall be deemed to have been made during the commencement year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the commencement year. (7-1-08)T

**05. Adjustment of Required Distributions.** Benefits paid prior to the commencement year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein. (7-1-08)T

**026. Death Benefits.** All death benefits payable under the Base Plan will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. (5-3-03)

**127. TRANSFERS TO NON-SPOUSE BENEFICIARIES (RULE 127).**

This Section applies to distributions made on or after July 1, 2008. Notwithstanding any other provision of the Base Plan to the contrary that would otherwise limit the options of the beneficiary of a deceased member who is not the member's spouse, the administrator shall, upon the request of such a beneficiary, transfer a lump sum distribution to the trustee of an individual account established under Section 408 of the Code in accordance with the provisions of Section 402(e)(11) of the Code. (7-1-08)T

~~1278.~~ -- 999. (RESERVED).

# IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

## 59.01.05 - SEPARATION FROM SERVICE RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO.59-0105-0803

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 October 15, 2008.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amend rule 100 to remove obsolete reference to the Optional Retirement Plan.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**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 resulting from this rulemaking: None

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Alan Winkle, Executive Director, PERSI, 334-2455. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2008.

DATED this 6th day of August, 2008.

Alan Winkle, Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-2455; Fax: 208- 334-3408

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### THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0105-0803

#### 100. REPAYMENT OF SEPARATION BENEFITS -- EMPLOYEE STATUS (RULE 100).

Repayment of a separation benefit must commence while the member is an employee, as defined in Section 59-1302(14), Idaho Code. For purposes of this rule the term employee includes employees accruing benefits under the Department of Employment Retirement Plan, the Firefighters' Retirement Fund, and the Policeman's Retirement Fund, ~~and the Optional Retirement Program~~.

Statutory Reference: Section 59-1360, Idaho Code.

(1-1-94)( )

# IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

## 59.01.06 - RETIREMENT RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0106-0801

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 October 15, 2008.

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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amend rule 132 regarding the ability of an elected or appointed official to retire in place to replace "who is not a double employee" with "who is not an eligible employee with another employer", which is consistent with the reference to rule 101 of the Eligibility Rules; amend rule 178 to provide that the actuarially adjusted defined benefit dollar limitation applicable to a participant retiring prior to age sixty-two (62) does not apply to a participant with at least fifteen (15) years credited service for which the member was classified as a police officer or firefighter.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**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 resulting from this rulemaking: None

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Alan Winkle, Executive Director, PERSI, 334-2455.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2008.

DATED this 6th day of August, 2008.

Alan Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-2455  
Fax: 208- 334-3408

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0106-0801

**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 and who is not an ~~double~~ eligible employee with another employer pursuant to Rule 101 of Chapter 02, Eligibility Rules of PERSI, may then retire and continue in that position. The member shall receive retirement allowances under the conditions provided by Section 59-1356(2), Idaho Code.

Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code.

~~(1-1-94)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**178. DEFINED BENEFIT DOLLAR LIMITATION (RULE 178).**

Beginning effective January 1, 2002, the "defined benefit dollar limitation" is one hundred and sixty thousand dollars (\$160,000), as adjusted, effective January 1 of each year thereafter, under section 415(d) of the Internal Revenue Code (Code) in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies. The "maximum permissible benefit" is the defined benefit dollar limitation (adjusted where required, as provided in Subsection 178.01 and, if applicable, in Subsections ~~1778.02~~ ~~or~~ through 1778.034).

~~(5-3-03)~~( )

**01. Less Than Ten Years of Service.** If the participant has fewer than ten (10) years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction: (5-3-03)

a. The numerator of which is the number of years (or part thereof) of participation in the plan; and (5-3-03)

b. The denominator of which is ten (10). (5-3-03)

**02. Benefit Begins Prior to Age Sixty-Two.** If the benefit of a participant begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age sixty-two (62) (adjusted under Subsection 178.01, if required). The defined benefit dollar limitation applicable at an age prior to age sixty-two (62) is determined as set forth in IRS regulation under section 415(b)(2) of the Code. This Subsection 178.02 does not apply to participants who have at least fifteen (15) years of credited service for which the member was classified as a police officer or firefighter.

~~(5-3-03)~~( )

**03. Benefit Begins at Age Sixty-Five.** If the benefit of a participant begins after the participant attains age sixty-five (65), the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age sixty-five (65) (adjusted under Subsection 178.01, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as set forth in IRS regulation under section 415(b)(2) of the Code. (5-3-03)

**04. Transition.** Benefit increases resulting from the increase in the limitations of section 415(b) of the Code shall be provided to all current and former participants (with benefits limited by section 415(b)) who have an accrued benefit under the plan immediately prior to the effective date of this Section (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)). (5-3-03)