

Dear Senators ANDREASON, Coiner & Malepeai, and  
Representatives SCHAEFER, Marriott & Ringo:

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

**IDAPA 59.01.03 - Contribution Rules for PERSI (Docket #59-0103-0901)**

**59.01.05 - Separation from Service Rules for PERSI (Docket #59-0105-0901)**

**59.01.06 - Retirement Rules of PERSI (Docket #59-0106-0902).**

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 8-7-09. 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 9-8-09.

\_\_\_\_\_ 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: July 21, 2009

SUBJECT: Public Employee Retirement System of Idaho

PERSI has submitted rules as discussed below.

1. IDAPA 59.01.03 – Contribution Rules for the Public Employee Retirement System of Idaho (Docket No. 59-0103-0901)

PERSI submits notice of proposed rulemaking at IDAPA 59.01.03 – Contribution Rules for the Public Employee Retirement System of Idaho. The proposed rule reflects the provisions of 2009 Senate Bill 1111 and provides for an additional employee contribution of .04 percent applicable to public safety officers. That legislation provides for a \$100,000 disability benefit for public safety officers and directs that such benefit shall be financed by the public safety officers' contributions.

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

2. IDAPA 59.01.05 – Separation from Service Rules for the Public Employee Retirement System of Idaho (Docket No. 59-0105-0901)

PERSI submits notice of proposed rulemaking at IDAPA 59.01.05 – Separation from Service Rules. This proposed rule is straightforward-- it provides for interest applicable to waiting period payments as provided for in section 59-1331(2), Idaho Code.

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

3. IDAPA 59.01.06 – Retirement Rules of the Public Employee Retirement System of Idaho (Docket No. 59-0106-0902)

PERSI submits notice of proposed rulemaking at IDAPA 59.01.06 – Retirement rules of the Public Employee Retirement System of Idaho. The proposed rule reflects and implements statutory changes stemming from 2009 House Bill 173. Aside from providing for correct code reference and internal cross-references, the proposed rule reflects the following changes: Rules 553, 554 and 576 are revised to remove a requirement relating to “group” insurance plans. Also, Rule 554.02 provides that premium payments will continue to be made from a retired member’s unused sick-leave account until such account is insufficient to make a premium payment or until such member’s death.

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

cc: Public Employee Retirement System of Idaho  
Don Drum

# IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

## 59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

### DOCKET NO. 59-0103-0901

#### 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 August 19, 2009.

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:

Add a new rule (Rule 102) to provide for an additional employee contribution of .04% applicable to public safety officers, as defined in Section 59-1352A, Idaho Code. Section 59-1352A, Idaho Code provides for a \$100,000 disability benefit for public safety officers and provides that the benefit shall be funded by public safety officer contributions (not employer contributions). Renumber existing Rule 102 as Rule 103.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: 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 resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, 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 Joanna L. Guilfoy, Deputy Attorney General, PERSI, 287-9271.

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 August 26, 2009.

DATED this 1st day of July 2009.

Don Drum  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8<sup>th</sup> Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-287-9230  
Fax: 208- 334-3408

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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 59-0103-0901

**102. PUBLIC SAFETY OFFICER DISABILITY CONTRIBUTIONS UNDER SECTION 59-1352A, IDAHO CODE (RULE 102).**

In accordance with Section 59-1352A, Idaho Code, public safety officers, as that term is used in Section 59-1352A, Idaho Code, shall pay an additional contribution rate of .04% of salary until next determined by the board. ( )

**1023. EMPLOYEE CONTRIBUTIONS BASED ON GROSS SALARY (RULE 1023).**

Employee contributions shall be based on the employee's total gross salary regardless of source or employer funds from which the employee is paid. (1-1-94)

**1034. -- 110. (RESERVED).**

# 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. 59-0105-0901

### 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 August 19, 2009.

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 103 to add a new Subsection 103.04 regarding interest applicable to waiting period payments.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: 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 resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, 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 Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

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 August 26, 2009.

DATED this 1st day of July, 2009.

Don Drum  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8<sup>th</sup> Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 59-0105-0901

**103. METHODS OF REPAYMENT OF SEPARATION BENEFITS (RULE 103).**

**01. Periodic and Lump-Sum Payments.** Where an active member elects to repay a separation benefit to reinstate previous service as provided in Section 59-1360, Idaho Code, the member may request that repayment be made in periodic payments or in a lump-sum payment. No service will be reinstated until the full repayment has been made. (3-30-01)

**02. Repayments Initiated on or After March 1, 2000.** For all repayments initiated on or after March 1, 2000, except as provided in Rule 101 of this chapter, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at the reinstatement rate in effect on the date of the first periodic payment. (3-30-01)

**03. Repayments Initiated Before March 1, 2000.** For all periodic repayments initiated before March 1, 2000, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at four point seventy-five percent (4.75%) interest. This is a grandfathered rate based on the rate in effect December 31, 1999, and will apply so long as payments exceed interest charges on a calendar year basis. If payments fail to exceed interest charges in any calendar year, the grandfathered rate will be forfeited and replaced by the reinstatement rate beginning in January immediately after the year in which the failure occurs. For purposes of these rules, a repayment is initiated by signing an agreement and making a payment. (3-30-01)

**04. Repayments Under Section 59-1331(2), Idaho Code.** For (waiting period) payments made pursuant to Section 59-1331(2), Idaho Code, a repayment amount shall be determined which shall be the sum of contributions that would have been made plus regular interest from December 31, 1975 until the date of the first payment. The repayment amount will be amortized over the payment period at the reinstatement rate in effect on the date of the first periodic payment. ( )

# IDAPA 59- PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

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

DOCKET NO. 59-0106-0902

### 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 August 19, 2009.

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 Rules 553, 554 and 576 to remove the requirement for "group" insurance related to retiree insurance for which unused sick leave dollars can be used to pay premiums. Amend Rule 554.02 to remove obligation on PERSI to deduct insurance premiums from retirement allowance once unused sick leave credits are exhausted. Make technical corrections to Rules 131, 132 and 146 to use correct cross-reference. Amend Rules 550, 552, 576 and 577 to change incorrect reference to Section 67-5339, Idaho Code to correct reference to Section 67-5333, Idaho Code.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: 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 resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, 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 Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

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 August 26, 2009.

DATED this 1st day of July, 2009.

Don Drum  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8<sup>th</sup> Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 59-0106-0902

**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 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 ~~Section 59-1356(2), Idaho Code~~ Rule 145.

Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. ~~(1-1-94)~~(\_\_\_\_)

**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 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 ~~Section 59-1356(2), Idaho Code~~ Rule 145.

Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. ~~(5-8-09)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**146. RETIRED MEMBER BECOMING AN ELECTED OR APPOINTED OFFICIAL (RULE 146).**  
A PERSI retired member who is subsequently elected or appointed by an employer to public office and who is not normally required to perform services of twenty (20) hours or more per week in that position may continue to receive retirement allowances in the status of a reemployed retired member under conditions outlined by ~~Section 59-1356(2), Idaho Code~~ Rule 145.

Statutory Reference: Section 59-1356, Idaho Code. ~~(1-1-94)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**550. COMPUTING VALUE OF SICK LEAVE (RULE 550).**  
For those members who accrue sick leave based upon each month of service, the rate of pay for purposes of computing the monetary value of a retired member's unused sick leave as outlined in Sections 59-1365, 67-5339~~3~~, and 33-2109A, Idaho Code, shall be the base hourly rate of compensation reported by the employer during the month of separation from employment prior to retirement, not including any temporary increases, bonuses, or payoffs. For those members employed on a contract basis under Section 33-1228, Idaho Code, the rate of pay for purposes of computing the monetary value of a retiring member's unused sick leave based upon each month of service shall be determined at a daily rate by dividing the annual contract amount by the required days of work. No temporary increases, bonuses or payoffs shall be included in the contract amount. Where the daily rate is affected by changes in the work week such as adoption of a four (4) day work week or similar events, adjustments shall be made to convert the daily rate to maintain equity within the pool. No other forms of leave may be converted to sick leave or otherwise considered in computing the value of unused sick leave. (Amended 3-30-01)(~~Amended 4-11-06~~) ~~(4-11-06)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**552. SICK LEAVE FUNDING RATES (RULE 552).**  
The sick leave pools shall be funded by employer contributions as follows: (3-30-01)

**01. State Agencies and Junior College Districts.** All employer groups participating in the pools established by Sections 33-2109A and 67-5339~~3~~, Idaho Code, shall contribute point sixty-five percent (.65%) of employee covered payroll. ~~(3-30-01)(\_\_\_\_\_)~~

**02. Schools.** All employer groups participating in the pool established by Section 33-1228, Idaho Code, shall contribute the percentage of employee covered payroll based on the number of days of paid sick leave permitted during the contract year for certified teachers as set forth in the following table:

Beginning:	July 1, 2006	July 1, 2011	July 1, 2012
9-10 days	1.16%	1.18%	1.21%
11-14 days	1.26%	1.35%	1.44%
More than 14 days	Individual rate to be set by the Retirement Board based on current cost and actuarial data and reviewed annually		

Where a four (4) day work week or similar policies have been adopted, adjustments shall be made to convert the number of days of paid sick leave to the contribution level necessary to maintain equity within the pool. (Amended 3-30-01) (Amended 4-11-06). ~~(3-1-09)T~~

**03. Subdivisions.** All employer groups participating in the pool established by Section 59-1365, Idaho Code, shall make contributions as provided in Rule 578. ~~(3-30-01)~~

**553. LIMITATION ON INSURANCE PROGRAMS (RULE 553).**

The ~~group~~ health, accident, and life insurance programs maintained by employers as outlined in Sections 59-1365, ~~67-5339~~, 33-1228, and 33-2109A, Idaho Code, are limited to ~~group~~ plans where the policy holder is the employer or a consortium of employers. Insurance programs outlined in Section 67-5333, Idaho Code, shall be maintained by the employer. The board may require ~~group~~ plans to sign an agreement before participating. ~~(3-30-01)(\_\_\_\_\_)~~

**554. PAYMENT OF INSURANCE PREMIUMS (RULE 554).**

Upon certification by the employer and the insurance carrier that a ~~group~~ plan qualifies under Rule 553, of this chapter, the board may pay the monthly premiums for a retired member using unused sick leave account funds as prescribed by Idaho Code. ~~(1-1-94)(\_\_\_\_\_)~~

**01. Adjustments.** Coverage and premium changes or adjustments must be submitted to PERSI no less than thirty (30) days prior to their effective date unless PERSI has previously agreed in writing to a shorter period. ~~(3-30-01)~~

**02. Duration of Payments.** Premium payments will continue to be made from the unused sick leave account until credits are insufficient to make a premium payment, or until the retiree's death, whichever first occurs. ~~Unless otherwise notified in writing by the member, when unused sick leave credits become depleted and are insufficient to meet additional premium payments, PERSI will continue to pay monthly premiums if the member's net monthly benefit is greater than the monthly premium, deducting the same from the member's monthly retirement allowance.~~ ~~(3-30-01)(\_\_\_\_\_)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**576. PARTICIPATION IN SUBDIVISION UNUSED SICK LEAVE POOL (RULE 576).**

Any PERSI employer meeting the following requirements may elect to participate in the unused sick leave pool authorized by Section 59-1365, Idaho Code: ~~(3-30-01)~~

**01. No Current Plan.** The employer does not participate in any other statutorily created plan that offers benefits for unused sick leave, including but not limited to, those plans created under Sections 33-1228, 33-2109, and 67-5339~~3~~, Idaho Code. ~~(3-30-01)(\_\_\_\_\_)~~

**02. All Inclusive Participation.** All of a participating employer's employees who are PERSI members and who accrue sick leave must be participants in the plan, except that employers may exclude certain distinctive classes of employees for legitimate business reasons. For example, a city could exclude employees covered by a collective bargaining agreement, or a county may choose to exclude elected officials. (3-30-01)

**03. No Other Options for Unused Sick Leave.** No employee may be given any option to receive benefits from unused sick leave other than through this plan. For example, no employee, other than those properly excluded under Subsection 576.02, may be given the option of exchanging sick leave for cash or other forms of payment or leave. (3-30-01)

**04. Fixed Annual Accrual of Sick Leave.** Employer must comply with a policy that offers a fixed amount of sick leave annually that is applicable to all employees or employee groups. A "personal leave" option that fails to distinguish between sick, vacation, or other forms of leave is not permitted. (3-30-01)

**05. Medicare Eligible Retirees.** Employer's ~~group~~ plan must provide coverage to all retired employees eligible for unused sick leave credits, including retirees that become Medicare eligible. ~~(3-30-01)~~(\_\_\_\_)

**577. OPERATION OF SUBDIVISION POOL (RULE 577).**

Upon separation from employment by retirement, in accordance with Chapter 13, Title 59, Idaho Code, every employee of a participating employer shall, upon payment by the employer under Rule 578, receive a credit for unused sick leave in the same manner and under the same terms as provided in Section 67-5339~~3~~(1), Idaho Code. ~~(3-30-01)~~(\_\_\_\_)